

INITIAL STATEMENT OF REASONS

January 2019

Title 14: Natural Resources

Division 7: Department of Resources Recycling and Recovery (the department or CalRecycle)

(New Chapter)

Chapter 12 Short-lived Climate Pollutants

(Amended Chapters)

Chapter 3 Minimum Standards for Solid Waste Handling and Disposal

Chapter 3.1 Composting Operation Regulatory Requirements

Chapter 3.2 In-Vessel Digestion Operations and Facilities Regulatory Requirements

Chapter 5 Enforcement of Solid Waste Standards and Administration of Solid Waste Facilities Permit; Loan Guarantees

Chapter 9. Planning Guidelines and Procedures for Preparing, Revising, and Amending Countywide or Regional Integrated Waste Management Plans

Title 27: Environmental Protection

Division 2: Solid Waste

(Amended Chapters)

Chapter 2 Definitions

Chapter 3 Criteria for All Waste Management Units, Facilities, and Disposal Sites

Chapter 4 Documents and Reporting for Regulatory Tiers Permits, WDRs, and Plans

PROBLEM ADDRESSED BY AND BENEFITS OF REGULATIONS

Implementation of SB 1383 (Lara, Chapter 395, Statutes of 2016) and the Short-Lived Climate Pollutant Reduction Strategy (SLCP Strategy) is an integral part of the state's climate change program outlined in the 2017 Climate Change Scoping Plan (Scoping Plan). The SLCP Strategy requires immediate reductions of the most potent greenhouse gases, and is expected to provide 35

percent of the greenhouse gas emission reductions needed to meet the state's 2030 greenhouse gas emission reduction targets. The success of the SLCP Strategy relies on a portfolio of policies and measures across various sectors. The measures required for the waste sector will foster the development of a more sustainable economy, reduce global emissions, reduce hunger, and safeguard public health.

SB 1383 and the SLCP Strategy require California to reduce organic waste disposal 50 percent below 2014 levels by 2020 and 75 percent by 2025. The organic waste disposal reduction targets required by SB 1383 are measured against a 2014 baseline of approximately 23 million tons of organic waste disposal. Using this baseline, the targets are as follows:

- **2020:** +/- 11.5 million tons (50 percent organic waste reduction from 2014 baseline)
- **2025:** +/- 5.75 million tons (75 percent organic waste reduction from 2014 baseline)

These targets will be more difficult to maintain as population and waste generation inevitably increase. CalRecycle projects population growth will result in the generation of approximately 26 million tons of organic waste annually by 2025. This results in the 2025 target requiring the state to source reduce, reuse, or recover approximately 20 million out of 26 million tons of organic waste in 2025, with the amount necessary to recover continuing to increase in subsequent years.

Removing organic waste from landfills prevents the creation of methane from the anaerobic breakdown of the material. This methane can work its way out of the landfill as fugitive emissions, and these emissions currently represent 21 percent of the state's methane emissions annually. Achieving these targets will reduce an increasing amount of greenhouse gas emissions, ultimately achieving annual reductions of at least 4 Million Metric Tons of CO₂ equivalents (MMT_{CO₂e}) annually by 2030. In addition, one year of waste diversion avoids 14 MMT_{CO₂e} of emissions over the lifetime of waste decomposition.

Further, SB 1383 requires actions that will reduce poverty-induced hunger by recovering 20 percent of the edible food that is currently disposed. In addition to avoiding landfill methane emissions, the recovery of edible food provides an opportunity to feed millions of food-insecure Californians. The overall food insecurity rate in California is 12.5 percent, meaning that approximately 1 out of every 8 Californians does not know where their next meal will come from. The rate for children is much higher, resulting in approximately 1 in 5 children going to bed hungry each night. Edible food rescue programs resulting from these regulations will increase the recovery of edible food for human consumption resulting in decreased food insecurity and healthier communities.

Benefits of the Regulation

Implementation of SB 1383 and the SLCP Strategy will help protect California's economy, environment, and residents, from the impacts of climate change. California is already experiencing the impacts of climate change today. Extreme temperatures, prolonged droughts, and reduced snowpack stemming from global warming are producing significant and measurable economic impacts. These climate events are also increasing the frequency of natural disasters such as

wildfires, which have a catastrophic effect on public health and the environment.¹ Safeguarding California from climate change impacts today requires immediate action. The California Air Resources Board (ARB), the agency charged with monitoring and regulating sources of the GHG emissions has found, “The only practical way to rapidly reduce the impacts of climate change is to employ strategies built on the tremendous body of science. The science unequivocally underscores the need to immediately reduce emissions of short-lived climate pollutants...”²

SB 1383 and the SLCP Strategy requires the state to rapidly employ strategies that will yield immediate reductions of short-lived climate pollutants that exert a warming influence that is exponentially more potent than carbon dioxide (CO₂). The warming influence of these gasses, such as methane released from landfills, occur over a much shorter period than CO₂ (which lasts for approximately 100 years in the atmosphere). Therefore, actions to reduce or eliminate these greenhouse gasses today will yield immediate climate change benefits as the presence of these gasses in the atmosphere declines and their significant warming potential is avoided.

The provisions of this regulation implement the waste sector aspects of SB 1383, The SLCP Strategy, and the Scoping Plan. This regulation is designed to achieve the organic waste reduction targets codified in SB 1383 by requiring programs and policies that divert organic waste from landfill disposal to recovery activities that prevent, reduce or eliminate the methane generation potential of organic waste.

Achieving the waste sector reductions required by SB 1383 and these regulations will result in significant public health, economic, and environmental benefits for the people of California.

Public Health Benefits include improved air quality, decreased hospitalization, and decreased mortality rates, collectively these benefits will avoid \$4.8 billion in costs.

Economic Benefits include improved state GDP as the state realizes \$17 billion in benefits from avoided disposal fees and new revenues from organic waste recycling facilities. Recycling organic waste will create 80-90 new or expanded in-state recycling and remanufacturing facilities and 11,700 green recycling jobs. This will also result in the creation of 4,500 temporary construction jobs.

Environmental Benefits are far-reaching and include improved soil water retention and carbon sequestration resulting from increased application of compost, reduced demand for landfill capacity and expansion, and reduced reliance on fossil fuels. Finally, reduced methane emissions (projected 4MMTCO₂e annually) will result in \$40-\$100 million annually in benefits from avoided climate change mitigation costs.

Initiating the SB 1383 rulemaking is both a necessary and an effective measure the state must take to meet its climate change goals, and safeguard California from the impacts of global warming.

¹ California Air Resources Board, California’s 2017 *Climate Change Scoping Plan*, ES-1. November 2017. https://www.arb.ca.gov/cc/scopingplan/scoping_plan_2017.pdf.

² California Air Resources Board: *Short-Lived Climate Pollutant Reduction Strategy*, Page 1. March 14, 2017. https://www.arb.ca.gov/cc/shortlived/meetings/03142017/final_slcp_report.pdf.

LOCAL MANDATE AND FISCAL DETERMINATIONS

The Department has determined that the regulations do not impose: a mandate on local agencies or school districts that requires State reimbursement pursuant to Part 7, commencing with section 17500 of Division 4 of the Government Code; significant costs or savings to any state agency; other non-discretionary costs or savings on local agencies; or, costs or savings in federal funding to the state.

Pursuant to SB 1383 (Lara, Chapter 395, Statutes of 2016):

- PRC, 42652.5 (b) A local jurisdiction may charge and collect fees to recover the local jurisdiction's costs incurred in complying with the regulations adopted pursuant to this section.
- SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

DUPLICATION OR CONFLICTS WITH CODE OF FEDERAL REGULATIONS

Pursuant to Government Code section 11346.2(b)(6), the Department found that there are no federal laws or regulations comparable to the proposed regulations; therefore, these regulations do not duplicate or conflict with any federal law or regulation. Accordingly, the Department is not adopting regulations differing from federal regulations

MANDATED USE OF SPECIFIC TECHNOLOGIES OR EQUIPMENT

The proposed regulations do not mandate the use of specific technologies or equipment.

FINDING ON NECESSITY OF REPORTS (GOVERNMENT CODE SECTION 11346.3(d))

CalRecycle has found that the reporting requirements of the proposed regulatory action, which apply to businesses, are necessary for the health, safety, and welfare of the people of the State of California.

REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION

The department considered two alternatives to the regulation (described below). Through this analysis The Department has determined that: 1) no alternative would be less burdensome and equally effective in achieving the purposes of the regulation in a manner that ensures full compliance with the authorizing statute or other law being implemented and made specific by the proposed regulations; and 2) no alternative would lessen adverse economic impact on small businesses while protecting human health, safety, and the environment. The Department has attempted to use reasonable performance standards rather than prescriptive standards to minimize

the impact on small businesses while still promoting health, safety, environmental benefits, and collecting the information required by statute.

Alternative One poses less stringent regulatory requirements on jurisdictions by eliminating their obligation to conduct enforcement over entities subject to their authority. This would result in lower overall cost for jurisdictions as fewer resources for enforcement would be necessary. Additionally, organic waste recycling infrastructure costs would be lower because less organic waste would be collected and therefore the demand for expanded recycling capacity would decrease. However, this alternative also results in fewer benefits since more organic waste would be disposed in landfills, less methane would be reduced, and the statutory mandate of 75 percent reduction in organic disposal by 2025 would not be achieved.

Alternative One was rejected because it will not result in meeting the SB 1383 mandate of 75 percent reduction in organic disposal by 2025. If local jurisdictions do not take enforcement actions on regulated entities, i.e., businesses, these entities may not fully participate with local organic waste recycling programs. Historical precedent supports this conclusion; AB 341 and AB 1826 require jurisdictions to offer commercial and organic waste recycling services to their businesses, but neither law requires that jurisdictions undertake enforcement that to ensure that their generators to use the service. In jurisdictions that are voluntarily enforcing these programs, participation rates are substantially higher than those in jurisdictions that have neglected to take enforcement for non-compliance. Based on the results from these jurisdictions, jurisdiction-level enforcement would be much more effective in ensuring the organic recycling goals and methane reductions are met, rather than relying solely on CalRecycle's limited enforcement role

Alternative Two poses greater benefits and greater costs than the proposed regulations. Alternative Two would include all of the proposed draft regulatory requirements, except that it would exclude provisions that allow for exemptions and waivers from the organic waste collection requirements (i.e., for de minimis generation, physical space constraints, emergencies, low population areas, and rural jurisdictions). CalRecycle estimates that these combined provisions currently allow approximately 5% of organic waste that is disposed to be waived from collection requirements (potentially resulting in the continued disposal of this material).

Alternative Two was rejected because it would increase costs, be more burdensome and reduce the cost-effectiveness of the regulations. For example, providing collection services in remote areas of the state will increase costs significantly by requiring collection vehicles to travel further distances between collection points, resulting in increased fuel costs for collection and increased distances to transport materials to processing facilities. Eliminating waivers will create unnecessary hardships on some jurisdictions and generators

Additionally, the increased organic waste recycling would be more costly, with a reduced cost-effectiveness due to the composition of the remaining 25 percent of organic material in the waste stream, which consists of material types that are harder to process, contain more contaminants. Therefore, while eliminating waivers would result in higher organic waste recycling, the negative implications noted make this approach not feasible to pursue at this time.

**INITIAL DETERMINATION THAT THE ACTION WILL NOT HAVE A
SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS**

Based on the findings in the attached Standardized Regulatory Impact Assessment (SRIA), the department concluded that the proposed regulations will not have a significant adverse economic impact on businesses and would not affect the ability of California businesses to compete with businesses in other states.

STANDARDIZED REGULATORY IMPACT ASSESSMENT

Attached

**TECHNICAL, THEORETICAL AND EMPIRICAL STUDY, REPORTS, OR
DOCUMENTS**

Burger, Zhu and Green: *Research to Evaluate Environmental Impacts of Direct Land Application of Uncomposted Green and Woody Wastes on Air and Water Quality*. Contractors Report Produced for CalRecycle March 30, 2015

California Air Resources Board: *Biomass Conversion*. September 17, 2013, <https://www.arb.ca.gov/cc/waste/biomassconversion.pdf>.

California Air Resources Board, California's 2017 *Climate Change Scoping Plan*, https://www.arb.ca.gov/cc/scopingplan/scoping_plan_2017.pdf.

California Air Resources Board: *CA-GREET3.0 Model and Simplified CI Calculators (proposed under 2018 amendments)*, <https://www.arb.ca.gov/fuels/lcfs/ca-greet/ca-greet.htm>.

California Air Resources Board: *Final Draft Method for Estimating Greenhouse Gas Emission Reductions from Diversion of Organic Waste from Landfills to Compost Facilities*. May 2017.

California Air Resources Board: *Short-Lived Climate Pollutant Reduction Strategy*. March 14, 2017. https://www.arb.ca.gov/cc/shortlived/meetings/03142017/final_slcp_report.pdf

California Energy Commission. *2017 Integrated Energy Policy Report*. 2017. California Energy Commission. Publication Number: CEC-100-2017-001-CMF. https://www.energy.ca.gov/2017_energypolicy/.

CalRecycle: *Disposal-Facility-Based Characterization of Solid Waste in California (DRRR-2015-1546)*. 2014. <https://www2.calrecycle.ca.gov/Publications/Details/1546>.

CalRecycle: *Standardized Regulatory Impact Assessment: Proposed Regulation for Short-Lived Climate Pollutants: Organic Waste Methane Emissions*. November 2019

Frasz et al., *Food Rescue Services, Barriers, and Recommendations in Santa Clara County*, pgs. 19, 26, & 41, 2015, <https://www.sccgov.org/sites/rwr/rwrc/Documents/FoodShiftFinalReport.pdf>

Gravuer, Kelly: Compost Application Rates for California Croplands and Rangelands for a CDFA Healthy Soils Incentives Program. July 22, 2016.

https://www.cdfa.ca.gov/oefi/efasap/docs/CompostApplicationRate_WhitePaper.pdf.

Institute of Scrap Recycling Industries, Inc., *Scrap Specifications Circular*, p.62 February 2018,

<http://www.scrap2.org/specs>.

IPCC 2006, *2006 IPCC Guidelines for National Greenhouse Gas Inventories*, Prepared by the National Greenhouse Gas Inventories Programme, Eggleston H.S., Buendia L., Miwa K., Ngara T. and Tanabe K. (eds). Published: IGES, Japan. https://www.ipcc-nggip.iges.or.jp/public/2006gl/pdf/5_Volume5/V5_3_Ch3_SWDS.pdf.

e.g., Thorman, Rachel & Williams, J.R. & Chambers, B.J. *Biosolids Recycling to Agricultural Land: Greenhouse Gas Emissions*. 14th European Biosolids and Organic Resources Conference and Exhibition. 2009.

United States Federal Trade Commission, *Guides for the Use of Environmental Marketing Claims; Final Rule*, October 2012. <https://www.ftc.gov/policy/federal-register-notices/guides-use-environmental-marketing-claims-green-guides>

SPECIFIC PURPOSE AND NECESSITY OF THE REGULATIONS

TITLE 14. NATURAL RESOURCES

DIVISION 7. DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

CHAPTER 12 SHORT-LIVED CLIMATE POLLUTANTS

GENERAL PROVISIONS

SECTION 18981.1. SCOPE OF CHAPTER

Subdivision (a)

The purpose of this section is to set forth the primary requirements of this chapter. This section identifies the primary entities subject to regulatory requirements in this chapter. Throughout the informal rulemaking process jurisdictions and other stakeholders requested inclusion of a section identifying the regulated entities and the basic requirements of the chapter. This section is necessary to provide clarity and ease of use for the regulated community.

Subdivision (b)

The purpose of this section is to provide an overview of the primary requirements and prohibitions included in this chapter. This section is necessary and useful because the chapter requires or prohibits certain actions by multiple entities. This section enables regulated entities to review the totality of the major requirements included in this chapter and quickly navigate to the sections that specifically pertain to them. This section is necessary to provide clarity and ease of use for the regulated community.

SECTION 18981.2. IMPLEMENTATION REQUIREMENTS ON JURISDICTIONS

This purpose of this section is to articulate the overarching role of jurisdictions in the implementation of the regulations. The necessity of this is discussed in the specific sections below.

Subdivision (a)

The purpose of this section is to establish a timeline for jurisdictions and regulated entities subject to a jurisdiction's oversight and authority to comply with the requirements of this chapter. This section requires jurisdictions to adopt ordinances or similarly enforceable mechanisms that incorporate the requirements of this chapter by 2022. This section also ensures that compliance with the regulations is initially monitored at the local level while reserving the state's oversight role for egregious situations, or situations where the local entity responsible for enforcement (in this case the jurisdiction) fails to act.

The model of delegated oversight enforcement authority is common among environmental regulations and enforcement programs. For example, Regional Water Quality Control Boards monitor compliance with regulations adopted by the State Water Resources Control Board; Tire Enforcement Agencies (typically county health departments) are delegated authority to monitor compliance with waste tire registration and hauling regulations adopted by CalRecycle; and local Air Quality Management Districts implement state and federal clean air mandates.

This section is necessary to extend implementation and oversight of environmental regulations embodied in this chapter to the local level where compliance can be monitored by local staff more familiar with unique local circumstances.

Subdivision (b)

The purpose of this section is to clarify that a jurisdiction may designate a public or private entity to fulfill its responsibilities under this chapter. This section responds to stakeholder feedback requesting clarity on the role of jurisdictions, and their ability to delegate their responsibilities to public or private entities.

This section clarifies that a jurisdiction may establish a contract with another entity to implement specific aspects of the regulations. This section enables local jurisdictions to leverage environmental enforcement staff and regulatory infrastructure that exists regionally. For example, Article 14 of this chapter requires local jurisdictions to monitor commercial edible food generators' compliance with the requirements of Article 10. In many cases, local public health departments (typically county public health staff) are already required to monitor these entities for compliance with food safety requirements established in the Health and Safety Code. This section allows cities to have county staff that inspect sites for compliance with other regulations to also inspect for these sites compliance with elements of these regulations. This, and other similar partnerships allowed by this section, can ultimately serve to reduce the number of resources local governments need to implement this regulation. This section is necessary to ensure that the regulations can be implemented in the most cost effective and least burdensome way.

Subdivision (c)

The purpose of this section is to clarify that while a jurisdiction is allowed to delegate authority to other entities, the jurisdiction remains ultimately responsible for fulfilling the regulatory obligations under this chapter. This section is necessary to clarify that the state will pursue enforcement against local jurisdictions for noncompliance, and not against the entity or entities that a jurisdiction has delegated authority to.

Subdivision (d)

The purpose of this section is to ensure that if a jurisdiction delegates authority to another entity, it maintains appropriate records regarding the delegation. This section is necessary to ensure that the department can verify a jurisdiction's compliance with the regulations.

ARTICLE 1. DEFINITIONS

SECTION 18982. DEFINITIONS

Subdivision (a)(1)

The purpose of this section is to define "activities that constitute landfill disposal." This section is necessary to define a key term in the regulations and differentiate between activities that constitute landfill disposal and activities that constitute organic waste recovery.

Subdivision (a)(2)

The purpose of this section is to define "alternative daily cover (ADC)." This section defines ADC by referencing the definition in 27 California Code of Regulations (CCR). This section is necessary to define a key term used in the regulations and to maintain consistency in the department's regulations.

Subdivision (a)(3)

The purpose of this section is to define "alternative intermediate cover (AIC)." This section defines AIC by referencing the definition in 27 CCR. This section is necessary to define a key term used in the regulations and to maintain consistency in the department's regulations.

Subdivision (a)(4)

The purpose of this section is to define "biosolids." This section defines biosolids by referencing the definition in 14 CCR. This section is necessary to define a key term used in the regulations and to maintain consistency in the department's regulations.

Subdivision (a)(5)

The purpose of this section is to define "blue container." This section specifies that for the purposes of this chapter a blue container is a container where the lid is entirely blue in color. In order to standardize container colors, which will help increase the recovery of organic waste, the regulations require organic waste collection services provided by jurisdictions to conform to specified color schemes by 2032. (The specific purpose and necessity of container color standardization is discussed in section 18984.1-18984.3 and 18984.7.) Stakeholders argued that the purpose and benefits of container color standardization could be achieved in a less

burdensome way if the regulations only required the container lids to conform to the color scheme. In response to this feedback, CalRecycle refined the definition to only require the lid of containers to conform to the color scheme. This section is necessary to define a key term used in the regulations.

Subdivision (a)(6)

The purpose of this section is to define “commercial business.” This section is necessary to define a key term used in the regulations.

Subdivision (a)(7)

The purpose of this section is to define “commercial edible food generator.” This term is used in the definitions of Tier One and Tier Two commercial edible food generators and is used throughout the edible food recovery regulations of this chapter. This section is necessary to define a key term used in the regulations.

Subdivision (a)(8)

The purpose of this section is to define “community composting.” This section is necessary to define a key term used in the regulations.

Subdivision (a)(9)

The purpose of this section is to define “compliance review.” This section is necessary to define a key term used in the regulations.

Subdivision (a)(10)

The purpose of this section is to define “compost.” This section defines compost by referencing the definition in 14 CCR. This section is necessary to define a key term used in the regulations and to maintain consistency in the department’s regulations.

Subdivision (a)(11)

The purpose of this section is to define “compostable material.” This section defines compostable material by referencing the definition in 14 CCR. This section is necessary to define a key term used in the regulations and to maintain consistency in the department’s regulations.

Subdivision (a)(12)

The purpose of this section is to define “compostable material handling operation or facility.” This section defines compostable material handling operation or facility by referencing the definition in 14 CCR. This section is necessary to define a key term used in the regulations and to maintain consistency in the department’s regulations.

Subdivision (a)(13)

The purpose of this section is to define “consumer.” This section defines consumer as having the same meaning as in Section 113757 of the Health and Safety Code. This section is necessary to define a key term used in the regulations.

Subdivision (a)(14)

The purpose of this section is to define “container contamination” or “contaminated container.” This section is necessary to define a key term used in the regulations.

Subdivision (a)(15)

The purpose of this section is to define “designee.” This section also clarifies that a designee may be a government entity, a hauler, a private entity, or a combination of those entities. This section is necessary to define a key term used in the regulations.

Subdivision (a)(16)

The purpose of this section is to define “diesel gallon equivalent.” This definition clarifies that “diesel gallon equivalent” is the unit of measurement for renewable transportation fuel, as referred to in Article 12 procurement regulations. Since the annual procurement target is in tons and procurement of renewable transportation fuel is an allowable method of compliance, it is necessary to have a conversion factor to determine the equivalence of liquid fuel volume as related to tonnage. This section is necessary to define a key term used in the regulations.

Subdivision (a)(17)

The purpose of this section is to define “direct service provider.” This section clarifies the relationship of a “direct service provider” to a jurisdiction in order to meet the procurement regulations of Article 12 since jurisdictions may comply either through their own actions or those of another entity providing services directly to the jurisdiction. This section is necessary to define a key term used in the regulations.

Subdivision (a)(18)

The purpose of this section is to define “edible food.” This term is central to this rulemaking and appears throughout the regulatory text. SB 1383 establishes statewide edible food recovery targets and thus it is essential to define the term. This term limits “edible food” to food products that are still fit for human consumption. This section is necessary to define a key term used in the regulations.

Subdivision (a)(19)

The purpose of this section is to define “enforcement action.” This section is necessary to define a key term used in the regulations.

Subdivision (a)(20)

The purpose of this section is to define “facility that recovers source separated organic waste.” This section is necessary to define a key term used in the regulations.

Subdivision (a)(21)

The purpose of this section is to define “food.” This section defines food as having the same meaning as in Section 113781 of the Health and Safety Code. This definition is already well-established through use in state food safety rules for retail food establishments and the department has determined it to be appropriate for use as applied to food for human consumption in this rulemaking to avoid duplication, conflict, or confusion. This section is necessary to define a key term used in the regulations.

Subdivision (a)(22)

The purpose of this section is to define “food employee.” This section defines food employee as having the same meaning as in Section 113788 of the Health and Safety Code. This definition is already well-established through use in state food safety rules for retail food establishments and the department has determined it to be appropriate for use as applied to food for human consumption in this rulemaking to avoid duplication, conflict, or confusion. This section is necessary to define a key term used in the regulations.

Subdivision (a)(23)

The purpose of this section is to define “food facility.” This section defines food facility as having the same meaning as in Section 113789 of the Health and Safety Code. This definition is already well-established through use in state food safety rules for retail food establishments and the department has determined it to be appropriate for use as applied to food for human consumption in this rulemaking to avoid duplication, conflict, or confusion. This section is necessary to define a key term used in the regulations.

Subdivision (a)(24)

The purpose of this section is to define “food recovery.” This section is necessary to define a key term used in the regulation.

Subdivision (a)(25)

The purpose of this section is to define “food recovery organization.” This section is necessary to define a key term used in the regulations.

Subdivision (a)(26)

The purpose of this section is to define “food recovery service.” This section is necessary to define a key term used in the regulations.

Subdivision (a)(27)

The purpose of this section is to define “food service distributor.” Food service distributors are identified in the regulations as a Tier One commercial edible food generator. This section is necessary to define a key term used in the regulations.

Subdivision (a)(28)

The purpose of this section is to define “gray container.” This section specifies that for the purposes of this chapter a gray container is a container where the lid is entirely gray or black in color. In order to standardize container colors, which will help increase the recovery of organic waste, the regulations require organic waste collection services provided by jurisdictions to conform to specified color schemes by 2032. (The specific purpose and necessity of container color standardization is discussed in Sections 18984.1-18984.3 and 18984.7.) Stakeholders argued that the purpose and benefits of container color standardization could be achieved in a less burdensome way if the regulations only required the container lids to conform to the color scheme. Further, stakeholders argued for clarity that a gray or black container could be used for disposal, as many jurisdictions currently use gray containers, and advised that black containers often fade to gray over time. In practice these colors are similar and the same purpose can be

achieved through use of gray or black containers. For ease of reference, the singular definition of “gray container” is used to refer to black or gray containers. This section is necessary to define a key term used in the regulations.

Subdivision (a)(29)

The purpose of this section is to define “green container.” This section specifies that for the purposes of this chapter a green container is a container where the lid is entirely green in color. In order to standardize container colors, which will help increase the recovery of organic waste, the regulations require organic waste collection services provided by jurisdictions to conform to specified color schemes by 2032. (The specific purpose and necessity of container color standardization is discussed in Sections 18984.1-18984.3 and 18984.7.) Stakeholders argued that the purpose and benefits of container color standardization could be achieved in a less burdensome way if the regulations only required the container lids to conform to the color scheme. In response to this feedback CalRecycle refined the definition to only require the lid of containers to conform to the color scheme. This section is necessary to define a key term used in the regulations.

Subdivision (a)(30)

The purpose of this section is to define “grocery store.” A grocery store is identified in the regulations as a Tier One commercial edible food generator. This section is necessary to define a key term used in the regulations.

Subdivision (a)(31)

The purpose of this section is to define “hauler.” This section defines hauler by referencing the definition in 14 CCR. This section is necessary to define a key term used in the regulations and to maintain consistency in the department’s regulations.

Subdivision (a)(32)

The purpose of this section is to define “health facility.” This section defines health facility as having the same meaning as in Section 1250 of the Health and Safety Code. Health facilities are identified as Tier Two commercial edible food generators. This section is necessary to define a key term used in the regulations

Subdivision (a)(33)

This purpose of this section is to define “high diversion organic waste processing facility.” This section is necessary to define a key term used in the regulations.

Subdivision (a)(34)

The purpose of this section is to define “hotel.” This section defines hotel as having the same meaning as in Section 17210 of the Business and Professions Code. Hotels are identified in the regulations as Tier Two commercial edible food generators. This definition is already well-established and the department has determined it to be appropriate for use in this rulemaking to avoid duplication, conflict, or confusion with existing law. This section is necessary to define a key term used in the regulations.

Subdivision (a)(35)

The purpose of this section is to define “inspection.” This section is necessary to define a key term used in the regulations.

Subdivision (a)(36)

The purpose of this section is to define “jurisdiction.” This section is necessary to define a key term used in the regulations.

Subdivision (a)(37)

The purpose of this section is to define “jurisdiction of residence.” This section is necessary to define a key term used in the regulations.

Subdivision (a)(38)

The purpose of this section is to define “large event.” Large events are identified in the regulations as Tier Two commercial edible food generators. This section is necessary to define a key term used in the regulations.

Subdivision (a)(39)

The purpose of this section is to define “large venue.” Large venues are identified in the regulations as Tier Two commercial edible food generators. This section is necessary to define a key term used in the regulations.

Subdivision (a)(40)

The purpose of this section is to define “local education agency.” Local education agencies are identified in the regulations as Tier Two commercial edible food generators. This section is necessary to define a key term used in the regulations.

Subdivision (a)(41)

The purpose of this section is to define “non-compostable paper.” This section is necessary to define a key term used in the regulations.

Subdivision (a)(42)

The purpose of this section is to define “non-local entity.” This section is necessary to define a key term used in the regulations.

Subdivision (a)(43)

This purpose of this section is to define “non-organic recyclables.” This section is necessary to define a key term used in the regulations.

Subdivision (a)(44)

The purpose of this section is to define “Notice and Order to Correct (NOTC).” This section is necessary to define a key term used in the regulations.

Subdivision (a)(45)

The purpose of this section is to define “Notice of Violation (NOV).” This section is necessary to define a key term used in the regulations.

Subdivision (a)(46)

The purpose of this section is to define “organic waste.” This term is central to this rulemaking and appears throughout the regulatory text. SB 1383 establishes statewide landfill diversion requirements on organic waste and thus it is essential to define the term. This term differentiates organic waste from other, non-organic waste streams. This section is necessary to define a key term used in the regulations.

Subdivision (a)(47)

This purpose of this section is to define “organic waste disposal reduction target.” This describes the overall goal from SB 1383 that the proposed regulations are implementing. This section is necessary to define a key term used in the regulations.

Subdivision (a)(48)

The purpose of this section is to define “organic waste generator.” This section is necessary to define a key term used in the regulations.

Subdivision (a)(49)

The purpose of this section is to define “organic waste recovery activities” or “recovery.” This section is necessary to define a key term in the regulations and differentiate between activities that constitute landfill disposal and activities that constitute organic waste recovery.

Subdivision (a)(50)

The purpose of this section is to define “organic waste recovery noncompliance inventory.” This section is necessary to define a key term in the regulations.

Subdivision (a)(51)

The purpose of this section is to define “paper products.” This section defines paper products by using the existing definition codified in the Public Contract Code 12207(a). This section is necessary to define a key term used in the regulations and to maintain consistency in the department’s regulations.

Subdivision (a)(52)

The purpose of this section is to define “paper purchase.” This definition denotes the specific types of qualifying paper categories referred to in the Article 12 procurement regulations. This section is necessary to define a key term in the regulations.

Subdivision (a)(52.5)

The purpose of this section is to define “permanent” This section is necessary to define a key term used in the regulations.

Subdivision (a)(53)

The purpose of this section is to define “person.” This section defines person as having the same meaning as in Section 40170 of the Public Resources Code. This section is necessary to define a key term used in the regulations and to maintain consistency in the department’s regulations.

Subdivision (a)(54)

The purpose of this section is to define “printing and writing papers.” This section defines paper products by using the existing definition in the Public Contract Code 12207(b). This section is necessary to define a key term used in the regulations and to maintain consistency in the department’s regulations.

Subdivision (a)(55)

The purpose of this section is to define “prohibited container contaminants.” This section is necessary to define a key term in the regulations.

Subdivision (a)(56)

The purpose of this section is to define “processing.” This section defines processing by referencing the definition in 14 CCR. This section is necessary to define a key term used in the regulations and to maintain consistency in the department’s regulations.

Subdivision (a)(57)

The purpose of this section is to define “property owner.” This section is necessary to define a key term in the regulations.

Subdivision (a)(58)

The purpose of this section is to define “Publicly Owned Treatment Works” or “POTW.” This section defines POTW by referencing the definition in 40 CCR, Section 403.3(g). This section is necessary to define a key term used in the regulations and to maintain consistency in the department’s regulations.

Subdivision (a)(59)

The purpose of this section is to define “recovered organic waste product procurement target.” This section describes the metric by which jurisdictions’ compliance with the Article 12 procurement regulations will be assessed. This section is necessary to define a key term in the regulations.

Subdivision (a)(60)

The purpose of this section is to define “recovered organic waste products.” This section is necessary to define a key term in the regulations.

Subdivision (a)(61)

The purpose of this section is to define “recycled content paper.” This definition clarifies the percentage of recovered fiber utilized in paper products and printing and writing papers that qualify as compliant products under the requirements of the Article 12 procurement regulations. This section is necessary to define a key term in the regulations.

Subdivision (a)(62)

The purpose of this section is to define “renewable transportation fuel.” This section is necessary to define a key term in the regulations.

Subdivision (a)(63)

The purpose of this section is to define “residual organic waste.” This section is necessary to define a key term in the regulations.

Subdivision (a)(64)

The purpose of this section is to define “restaurant.” Restaurants are identified in the regulations as Tier Two commercial edible food generators. This section is necessary to define a key term in the regulations.

Subdivision (a)(65)

The purpose of this section is to define “route review.” This section is necessary to define a key term in the regulations.

Subdivision (a)(66)

The purpose of this section is to define “self-hauler.” This section is necessary to define a key term in the regulations.

Subdivision (a)(67)

The purpose of this section is to define “sewage sludge.” This section is necessary to define a key term in the regulations.

Subdivision (a)(68)

The purpose of this section is to define “share table.” This section defines share table as having the same meaning as in Section 114079 of the Health and Safety Code. This definition is already well-established and the department has determined it to be appropriate for use in this rulemaking to avoid duplication, conflict, or confusion with existing law. This section is necessary to define a key term in the regulations.

Subdivision (a)(69)

The purpose of this section is to define “source-separated organic waste.” This section is necessary to define a key term in the regulations.

Subdivision (a)(70)

The purpose of this section is to define “subsequent violation.” This section is necessary to define a key term in the regulations.

Subdivision (a)(71)

The purpose of this section is to define “supermarket.” Supermarkets are identified in the regulations as Tier One commercial edible food generators. This section is necessary to define a key term in the regulations.

Subdivision (a)(72)

The purpose of this section is to define “the 2014 organic waste disposal baseline.” This section is necessary because the term “the 2014 organic waste disposal baseline” is used as a measurement factor in the definition of “organic waste disposal reduction target” in 14 CCR, Section 18982(a)(47).

Subdivision (a)(73)

The purpose of this section is to define “tier one commercial edible food generator.” This clarifies which edible food generators must comply with the requirements set forth in Section 18991.3 of this chapter commencing January 1, 2022.

The types of businesses, thresholds, and metrics established for Tier One commercial edible food generators were established through analyzing food waste research including, but not limited to: CalRecycle’s 2014 Waste Characterization Study, food recovery research, and through stakeholder engagement. The department analyzed food waste and food recovery research from organizations with expertise in food issues including, but not limited to, the Natural Resources Defense Council, Harvard Food Law and Policy Clinic, ReFED, the Northern California Recycling Association, and others to identify business types that generate the largest amounts of excess edible food. The department then engaged with key stakeholders (including, but not limited to, the California Association of Food Banks, the Natural Resources Defense Council, ReFED, Copia, the San Diego Food System Alliance, River City Food Bank, Waste Not Orange County, Alameda County Waste Management Authority, the City of Oceanside, and others) to verify that the businesses included as Tier One commercial edible food generators do, in fact, generate significant quantities of excess edible food that would otherwise be landfilled.

The department’s findings from interviews and research have shown that many Tier One edible food generators already have existing arrangements with food recovery organizations or food recovery services to collect a portion of their excess edible food. Tier One edible food generators typically generate larger volumes of excess edible food per collection than Tier Two edible food generators. In addition, Tier One edible food generators tend to have more shelf-stable excess edible food, which is less challenging to safely transport and store than prepared foods.

This section is necessary to define a key term in the regulations.

Subdivision (a)(74)

The purpose of this section is to define “tier two commercial edible food generator.” This clarifies which edible food generators that must comply with the requirements set forth in Section 18991.3 of this chapter commencing January 1, 2024.

The types of businesses, thresholds, and metrics established for Tier Two commercial edible food generators were established through analyzing food waste research including CalRecycle’s 2014 waste characterization study, food recovery research, and through stakeholder engagement. The department analyzed food waste and food recovery research from organizations including, but not limited to the Natural Resources Defense Council, Harvard Food Law and Policy Clinic, ReFED, Food Shift and others to identify business types to include as Tier Two commercial edible food generators.

Tier Two commercial edible food generators are entities that generate large amounts of excess edible food, but the food in many cases can be difficult to recover due to capacity constraints and logistical barriers. The department engaged with key stakeholders (including, but were not limited, to the California Association of Food Banks, Fresno Metro Ministry, Oakland Unified School District, San Diego Unified School District, the Sheraton Hotel San Diego, Natural

Resources Defense Council, ReFED, Waste Not Orange County, Alameda County Waste Management Authority, the City of Oceanside, and others) to verify that the businesses included as Tier Two commercial edible food generators do generate significant quantities of excess edible food that would otherwise be landfilled, but would benefit from having an extra two years to prepare for compliance.

This section is necessary to define a key term in the regulations.

Subdivision (a)(75)

The purpose of this section is to define “violation.” This section is necessary to define a key term in the regulations.

Subdivision (a)(76)

The purpose of this section is to define “wholesale food market.” Wholesale food markets are included in the regulations as Tier One commercial edible food generators. This section is necessary to define a key term in the regulations.

Subdivision (a)(77)

The purpose of this section is to define “yellow container.” In order to standardize container colors, which will help increase the recovery of organic waste, the regulations require organic waste collection services provided by jurisdictions to conform to specified color schemes by 2032. Section 18984.1(a)(6) responds to feedback from several jurisdictions and haulers that indicated that they supplement their three-container services by further segregating organic waste by allowing use of an additional yellow container for food waste. (The specific purpose and necessity of container color standardization is discussed in section 18984.1-18984.3 and 18984.7.). This section is necessary to define a key term used in the regulations.

ARTICLE 2. LANDFILL DISPOSAL AND REDUCTIONS IN LANDFILL DISPOSAL

The purpose of this article is to specify the facilities, operations, end-uses, processes, and activities that will be considered landfill disposal. The article additionally specifies facilities, operations, end-uses, processes and activities that will be considered reductions in landfill disposal for the purposes of this regulation.

Reductions in organic waste disposal are critical to the state’s efforts to reduce greenhouse gas emissions. This section describes the foundational climate change statutes, as well as statutorily required climate change policy documents that govern the design and implementation of this regulation. The state’s effort to address climate change is articulated in the following statutes: Assembly Bill (AB) 32 (Núñez, Chapter 488, Statutes of 2006), Senate Bill (SB) 32 (Pavley, Chapter 249, Statutes of 2016), and SB 1383 (Lara, Chapter 395, Statutes of 2016). These statutes codified specific greenhouse gas reduction targets and required the adoption and implementation of strategies that define the specific actions needed to achieve those targets. The Climate Change Scoping Plan (Scoping Plan) (developed pursuant to AB 32 and updated at least every five years) and the Short-lived Climate Pollutant Reduction Strategy (SLCP Strategy) (developed pursuant to SB 1383) further define actions the state must take to achieve the codified emission reduction targets. These statutes and the associated policy documents

collectively embody the state’s primary climate change objectives. The specifics of each statute and policy are described below. This regulation is designed to implement aspects of these statutes and policies which comprise the state’s efforts to keep organic waste out of landfills and reduce greenhouse gas emissions. In the sections that follow these policies are collectively referenced as “the state’s efforts to keep organic waste out of landfills and reduce greenhouse gas emissions”.

California committed to take action to address the threat of climate change through the adoption of the California Global Warming Solutions Act of 2006 (AB 32); AB 32 requires California to reduce greenhouse gas emissions to 1990 levels by 2020, identifies the California Air Resources Board (ARB) as the agency charged with monitoring and regulating sources of the GHG emissions that cause climate change, and charges ARB with developing a Scoping Plan that outlines the state’s strategy to achieve the 2020 emissions target. This plan must be updated at least every five years. The most recent update to the Climate Change Scoping Plan³ (2017 Scoping Plan Update) was adopted by the Board in December 2017.

The Legislature reaffirmed California’s commitment to address climate change by adopting SB 32, which further directs ARB to ensure that the state’s greenhouse gas emissions are reduced to at least 40 percent below the 1990 level by 2030. This commitment was furthered by the adoption of SB 1383, which added sections 39730.5-39730.8 to Division 26 of the Health and Safety Code. Section 39730.5 required ARB to approve and implement the SLCP Strategy, which includes strategies to reduce emissions of greenhouse gases such as methane 40 percent below 2013 levels by the year 2030.

“HSC 39730.5 (a) No later than January 1, 2018, the state board shall approve and begin implementing the comprehensive short-lived climate pollutant strategy developed pursuant to Section 39730 to achieve a reduction in the statewide emissions of methane by 40 percent, hydrofluorocarbon gases by 40 percent, and anthropogenic black carbon by 50 percent below 2013 levels by 2030...”

Section 39730.6 of the Health and Safety Code, established landfill disposal reduction targets as a part of the SLCP Strategy. This requires the landfill reduction targets to be consistent with emission reduction goals in the SLCP Strategy approved by ARB pursuant to Section 39730.5:

“HSC 39730.6 (a) Consistent with Section 39730.5, methane emissions reduction goals shall include the following targets to reduce the landfill disposal of organics:

- (1) A 50-percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2020.
- (2) A 75-percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2025...”

³ California Air Resources Board, California’s 2017 *Climate Change Scoping Plan*, https://www.arb.ca.gov/cc/scopingplan/scoping_plan_2017.pdf.

SB 1383 also codified Sections 42652-42654 in Division 30 of The Public Resources Code (PRC), which requires CalRecycle, in consultation with ARB, to adopt regulations to achieve the 2020 and 2025 organic waste reduction levels specified in the Health and Safety Code.

“PRC 42652.5. (a) The department [CalRecycle], in consultation with the State Air Resources Board, shall adopt regulations to achieve the organic waste reduction goals for 2020 and 2025 established in Section 39730.6 of the Health and Safety Code...”

The Integrated Waste Management Act as codified by AB 939 (Sher, Chapter 1095, Statutes of 1989) defines activities that constitute diversion of landfill disposal and activities that constitute disposal for the purposes of diversion mandates that apply to cities and counties. However, Section 42654.5 specifically requires the regulations to implement and achieve the reductions established in Section 39730.6 of the HSC. The HSC does not define “landfill disposal of organics” or “disposal of organic waste.” Further, it does not define activities that constitute a reduction in the “landfill disposal of organics” or a reduction in “disposal of organic waste.” This requires the regulations to clarify the purpose of the statute by defining activities that -- consistent with Section 39730.6 of the HSC and the SLCP Strategy approved by ARB pursuant to Section 39730.5 of the HSC -- constitute landfill disposal of organics and activities that constitute a reduction in landfill disposal of organics.

In compliance with Section 39730.5 of the HSC, ARB approved the SLCP Strategy in March of 2017. In order to achieve the 40 percent reduction in statewide emissions by 2030 (measured from 2013 emission levels) as specified in Section 39730.5 of the HSC, the SLCP Strategy calls for emission reductions of at least 4 million metric tons of carbon dioxide equivalents (MMTCO_{2e}) annually from landfills by 2030 see Figure 1:

Table 2: Summary of Proposed New SLCP Measures and Estimated Emission Reductions (MMTCO₂e)¹

Measure Name	2030 Annual Emission Reductions	2030 Annual Emissions
<u>BLACK CARBON (ANTHROPOGENIC)</u>		
2030 BAU ²		26
Residential Fireplace and Woodstove Conversion	3	
State Implementation Plan Measures and Clean Energy Goals ³	4	
2030 BAU with new measures		19
<u>METHANE</u>		
2030 BAU ²		117
Dairy and Other Livestock (Manure and Enteric Fermentation)	26	
Landfill	4	
Wastewater, industrial and Other Miscellaneous Sources	7	
Oil and Gas Sector	8	
2030 BAU with new measures		71⁴
<u>HYDROFLUOROCARBONS</u>		
2030 BAU ²		65
Financial Incentive for Low-GWP Refrigeration Early Adoption	2	
HFC Supply Phasedown (to be achieved through the global HFC phasedown) ⁵	19	
Prohibition on sales of very-high GWP refrigerants	5	
Prohibition on new equipment with high-GWP Refrigerants	15	
2030 BAU with new measures		24

¹Using 20-year GWPs from the 4th Assessment report of the IPCC for methane and HFCs, and 5th Assessment report for black carbon (the first report to define a GWP for black carbon)

²Business As Usual (BAU) forecasted inventory includes reductions from implementation of current regulations

³Future emission reduction measures that will be developed to help the State meet its air quality and climate change goals are also expected to help the State meet the black carbon target by 2030

⁴The specific annual reduction values shown above do not sum exactly to the total shown due to rounding error.

⁵A global HFC production and consumption phasedown was agreed to on October 15, 2016, in Kigali, Rwanda. ARB is currently evaluating the impact upon HFC emission reductions in California and plans to utilize the results from the assessment to inform future updates to BAU projections for HFC emissions.

Figure 1 (Table 2 from SLCP Strategy)⁴

Additionally, in codifying the chapter of the PRC requiring CalRecycle to adopt regulations to achieve the SB 1383 reductions, the Legislature provided further guidance for implementation

⁴California Air Resources Board: *Short-Lived Climate Pollutant Reduction Strategy*, Page 12, Table 2. March 14, 2017. https://www.arb.ca.gov/cc/shortlived/meetings/03142017/final_slcp_report.pdf.

and design of the regulations in Section 42652 of the PRC. In this section, the Legislature added findings and declarations that included the following:

“PRC 42652. The Legislature finds and declares all of the following:
(a) The organic disposal reduction targets are essential to achieving the statewide recycling goal identified in Section 41780.01 [The State’s 75 Percent Source Reduction, Recycling and Composting Policy Goal]...”

This language demonstrates legislative intent that CalRecycle consider activities that help the state achieve the 75 percent statewide solid waste recycling goal to be “recovery activities” for the purposes of SB 1383, provided that the activities also reduce landfill disposal and contribute to achieving the minimum level of required waste sector greenhouse gas emission reductions of 4 MMTCO₂e annually by 2030. Similar to the disposal reduction levels codified in SB 1383, the recycling goal codified in PRC 41780.01 is a statewide target, not a target for individual cities and counties to meet:

“PRC 41780.01.
(a) The Legislature hereby declares that it is the policy goal of the state that not less than 75 percent of solid waste generated be source reduced, recycled, or composted by the year 2020, and annually thereafter.
(b) Notwithstanding subdivision (a), the department shall not establish or enforce a diversion rate on a city or county that is greater than the 50 percent diversion rate established pursuant to Section 41780.”

In specifically referencing the organic waste disposal reduction levels in HSC 39730.6 and the state policy goal in PRC 41780.01, and not referencing the suite of activities identified as diversion under the AB 939 50 percent diversion mandate for jurisdictions, the Legislature solidified two aspects of legislative intent governing the implementation of SB 1383. First, the reference indicates that, when considering which activities count as disposal reductions or recovery activities, emphasis should be placed on activities that are determined to reduce landfill disposal under PRC 41780.01, whereas activities that count as diversion for cities and counties under AB 939 should not be considered recovery activities under SB 1383 unless the activities actually reduce landfill disposal and reduce greenhouse gas emissions. Second, the implementation and design of the Organic Waste Reduction Regulations should serve as a statewide average target and not as a minimum requirement for each jurisdiction.

Consistent with the legislative direction codified in Sections 42652 and 42652.5 of the PRC, CalRecycle consulted with ARB, the agency responsible for developing and adopting the Scoping Plan and approving the SLCP Strategy, to determine activities that constitute landfill disposal of organic waste and activities that constitute a reduction in landfill disposal of organic waste for the purposes of Sections 39730.5, and 39730.6 of the HSC.

CalRecycle and ARB determined that any activity that results in the physical placement of organic waste in a landfill must constitute landfill disposal for the purposes of the statute and regulations. Further, to maintain consistency with the state’s efforts to keep organic waste out of landfills and reduce greenhouse gas emissions, activities that constitute a reduction in landfill

disposal (or “recovery”) must reduce greenhouse gas emissions. Therefore, in order for an activity to constitute a reduction in landfill disposal, it must reduce the physical presence of organic waste in landfills, and reduce greenhouse gas emissions.

To determine activities that meet these two tests, the statutory guidance in Section 42652 of the PRC and Sections 39730.5-39730.6 of the HSC were considered. Per the Findings and Declarations in PRC 42652, activities under 41870.01 that reduce landfill disposal and are known to reduce landfill greenhouse gas emissions are considered to be activities that constitute a reduction of landfill disposal for the purposes of the Organic Waste Reduction Regulations (note, specific conditions that ensure greenhouse gas emissions reductions are necessary for some of these activities and are discussed in the section 18983.1. Additionally, activities specifically identified in the SLCP Strategy as methods of reducing organic waste disposal were determined to count as activities that constitute a reduction in landfill disposal. Finally, for activities that are not identified in statute or in the SLCP Strategy, CalRecycle and ARB considered the underlying emissions reduction assumptions that support the SLCP Strategy.

The SLCP Strategy calculated the 4 MMTCO_{2e} emissions reduction from landfills by identifying and calculating the emissions reductions of composting and anaerobically digesting organic waste rather than sending it to landfills. Therefore, in order to be consistent with the emissions reduction target, activities not already identified as achieving reductions in landfill disposal in the SLCP Strategy or through statutory reference in SB 1383, an activity must result in greenhouse gas emission reductions similar to those achieved by composting when compared to landfilling the same organic waste. For activities known to achieve greater greenhouse gas emission reductions than composting or anaerobic digestion, the activity is noted in subdivision (b) of Section 18983.1 as an activity that reduces landfill disposal. For activities not explicitly listed in this section, they may still be determined to constitute a reduction in landfill disposal if they comply with the requirements in Section 18983.2 by demonstrating that they achieve permanent greenhouse gas emissions reductions equivalent to those achieved by composting the same organic waste.

This regulation is designed to implement aspects of these statutes and policies which comprise the state’s efforts to keep organic waste out of landfills and reduce greenhouse gas emissions. The regulation sets forth the activities that constitute landfill disposal of organic waste, and activities that constitute a reduction in landfill disposal of organics in a manner that is consistent with the state’s effort to keep organic waste out of landfills and reduce greenhouse gas emissions. The specific activities that constitute landfill disposal of organic waste, and the activities that constitute a reduction in landfill disposal of organics waste are enumerated and explained in their respective sections below.

This article is necessary to ensure that the activities identified as landfill disposal, and the activities identified as reductions in landfill disposal are consistent with the statutes that comprise the state’s effort to keep organic waste out of landfills and reduce greenhouse gas emissions.

SECTION 18983.1 LANDFILL DISPOSAL AND RECOVERY

Subdivision (a)

The purpose of this section is to specify which facilities, operations, end-uses, processes, and activities constitute landfill disposal of organic waste (hereafter collectively referred to as “landfill disposal activity” or “landfill disposal activities”) for the purposes of this regulation. Throughout the regulations, regulated entities are subject to compliance requirements that depend on the disposition of organic waste resulting from their respective authority (e.g. the generation of the waste as a generator, the management and recovery of the waste as a jurisdiction, hauler or facility). Various entities are required to play a role in ensuring the recovery of organic waste; it is therefore necessary to identify activities that constitute recovery, as well as activities that constitute landfill disposal. This section is necessary to differentiate activities that count as landfill disposal of organic waste from those that count as a reduction in landfill disposal and recovery of organic waste.

Subdivision (a)(1)

The purpose of this section is to specify that depositing organic waste into a landfill is considered a landfill disposal activity for the purposes of this regulation. The final deposition of waste in a landfill is expressly included as disposal in statute. It is included here for purposes of clarity since leaving it off this list might result in confusion.

Further, organic waste deposited into a landfill will break down anaerobically and generate methane, a greenhouse gas and short-lived climate pollutant. This regulation is required to implement the state’s efforts to keep organic waste out of landfills and reduce greenhouse gas emissions. Landfill disposal results in the physical placement of organic waste in a landfill, which generates greenhouse gas emissions; therefore, it must be considered disposal.

Throughout the informal workshop process stakeholders requested clarification regarding whether technologies that actively reduce or eliminate greenhouse gas emissions could be considered “recovery activities” even if the handled organic waste is ultimately buried in a landfill. These practices fail to reduce the amount of organic waste that is physically placed in landfills. Rendering material inert from a greenhouse gas emissions standpoint or volumetrically reducing the material is not the sole purpose of the statute and does not align with the state’s efforts to keep organic waste out of landfills and reduce greenhouse gas emissions.

The statute requires the state to reduce the presence of organic waste in landfills. Regardless of the sophistication of a pre-landfill treatment practice, if material is ultimately deposited in a landfill, the deposition cannot rationally be considered anything other than landfill disposal for the purposes this regulation and the state’s efforts to keep organic waste out of landfills and reduce greenhouse gas emissions.

This section is necessary to make clear that this activity does not constitute a reduction in landfill disposal.

Subdivision (a)(2)

The purpose of this section is to specify that organic waste used as alternative daily cover (ADC) or alternative intermediate cover (AIC) at a landfill will be considered a landfill disposal activity for the purposes of this regulation. Under a different regulatory scheme (AB 939) ADC and AIC

were considered to be diversion from landfill disposal (PRC 41781.3). This section is necessary to make clear that, for the purposes of this regulation these activities are not considered reductions in landfill disposal.

Federal solid waste regulations require owners or operators at municipal solid waste landfills to cover disposed solid waste with six inches of earthen material at the end of the operating day to control odors, vectors, fires, litter, and scavenging. The federal regulations also allow states to approve alternative materials if landfill operators demonstrate that the alternative material achieves the same objectives. Organic waste such as green waste is commonly used as “alternative” cover materials.

Materials used as ADC or AIC are ultimately incorporated into the landfill and break down in the same manner as materials directly deposited in the landfill. Activities that result in the final deposition of waste in a landfill cannot rationally be considered anything other than landfill disposal, regardless of whether the material was beneficially reused prior to its placement in a landfill.

The purpose of this section is also to specify that material known as “Material Recovery Fines” do not constitute landfill disposal when they are used as cover material. This section is necessary to clarify that those materials, when used as ADC and AIC, would still constitute a reduction in landfill disposal.

“Material Recovery Fines” are materials sourced from a material recovery facility that have a general consistency similar to dust or dirt. This material can be used as landfill cover on a case-by-case basis. Prior to use as cover material, the material is subject to a site-specific demonstration project to demonstrate its suitability as cover material. The use of the material as cover must be approved by the Enforcement Agency (EA), with CalRecycle concurrence.

The general composition of material recovery fines is not uniform and can vary greatly. The amount of organic waste present in material recovery fines is not verified to a degree that CalRecycle can definitively deem this material to be organic waste. Numerous stakeholders requested clarity on how this material of unknown composition will be treated under this regulation. If material recovery fines expand in usage as cover material, CalRecycle, through its role in concurring in the use, will seek a material characterization of the fines to determine the organic content. However, until such information becomes available, use of material recovery fines as cover might not constitute organic waste disposal, as the material might not be organic in nature.

Subdivision (a)(3)

The purpose of this section is to specify that any deposition of organic waste not specifically identified in Subdivision (b) as an activity that constitutes a reduction of landfill disposal shall constitute landfill disposal. This section is necessary to clarify that depositions of organic waste other than those identified in the regulations constitute landfill disposal.

Subdivision (b)

The purpose of this section is to specify facilities, operations, end-uses, processes and activities that will be considered reductions in landfill disposal (hereafter referred to as “recovery activity” or “recovery activities”) because they contribute to the state’s efforts to keep organic waste out of landfills and reduce greenhouse gas emissions. This section also clarifies that organic waste sent to an identified recovery activity is only considered to have reduced organic waste disposal if the material is not subsequently sent to landfill disposal. Stakeholders requested clarity regarding whether material transported to a recovery facility can be considered recovered once the material “arrives” at a facility that recovers organic waste. This section clarifies that simply transporting organic waste to, or passing organic waste through a facility that recovers organic waste does not necessarily reduce the landfill disposal of organic waste.

The SLCP Strategy specifically identified certain activities as pathways to reduce organic waste disposal:

“Organic waste constitutes a significant portion of California’s waste stream, and as with dairy manure, a holistic approach is needed to effectively divert and manage it. This means keeping organics out of landfills, either through source reduction or recycling, but also improving the infrastructure for diverting and/or recycling organics, including minimizing and recovering edible food wastes; and fostering composting, anaerobic digestion and other processes for energy recovery.“⁵ [Emphasis added]

These activities identified in the SLCP Strategy are all methods for “keeping organics out of landfills” and constitute management practices that reduce greenhouse gas emissions. These activities are enumerated in this section as recovery activities and are further elaborated on in their respective sections.

The state’s efforts to keep organic waste out of landfills and reduce greenhouse gas emissions require a 75 percent reduction in the amount of organic waste that is disposed of in landfills by 2025, and a 40 percent reduction in all greenhouse gas emissions by 2030. CalRecycle worked in consultation with ARB to identify the suite of organic waste management activities that contribute to the state’s efforts.

This section is necessary to specify those types of activities regulated entities can utilize to comply with the requirements to achieve a reduction in landfill disposal.

Subdivision (b)(1)

The purpose of this section is to specify that recycling constitutes a reduction of landfill disposal and is therefore considered a recovery activity for the purpose of this regulation. Recycling organic waste through the methods identified in the referenced sections prevents the landfill disposal of this material and reduces greenhouse gas emissions. This supports the state’s efforts to keep organic waste out of landfills and reduce greenhouse gas emissions, and is therefore considered a recovery activity for the purposes of this regulation.

⁵ California Air Resources Board: *Short-Lived Climate Pollutant Reduction Strategy*, Page 72. March 14, 2017.

This section is necessary to specify those types of activities regulated entities can utilize to comply with the requirements to achieve a reduction in landfill disposal.

Subdivision (b)(2)

The purpose of this section is to specify that composting constitutes a reduction of landfill disposal and is therefore considered a recovery activity for the purpose of this regulation. Composting organic wastes through the methods identified in the referenced sections prevents the landfill disposal of this material and reduces greenhouse gas emissions. This supports the state's efforts to keep organic waste out of landfills and reduce greenhouse gas emissions, and is therefore considered a recovery activity for the purposes of this regulation.

This section is necessary to specify those types of activities regulated entities can utilize to comply with the requirements to achieve a reduction in landfill disposal.

Subdivision (b)(3)

The purpose of this section is to specify that anaerobic digestion constitutes a reduction of landfill disposal and is therefore considered a recovery activity for the purpose of this regulation. Anaerobically digesting organic waste through the methods identified in the referenced sections prevents the landfill disposal of this material and reduces greenhouse gas emissions. This supports the state's efforts to keep organic waste out of landfills and reduce greenhouse gas emissions, and is therefore considered a recovery activity for the purposes of this regulation.

This section is necessary to specify those types of activities that regulated entities can utilize to comply with the requirements to achieve a reduction in landfill disposal.

Subdivision (b)(4)

The purpose of this section is to specify that biomass conversion constitutes a reduction of landfill disposal and is therefore considered a recovery activity for the purpose of this regulation. This section also clarifies that biomass conversion only constitutes recovery if it meets the feedstock categories for biomass conversion identified in section 40106 of the PRC, which specifically limits biomass feedstock to woody materials and non-recyclable pulp. The acceptance of non-authorized materials by biomass conversion facilities is not allowed and is referenced here to prevent confusion.

For the purposes of PRC 41870.01, biomass conversion of organic waste as identified in section 40106 of the PRC is considered "de-facto diversion" which prevents the landfill disposal of this material. Biomass conversion facilities also reduce emissions and can play a role in achieving California's goals for reducing greenhouse gas emissions and reducing the volume of material deposited in landfills.⁶ This supports the state's efforts to keep organic waste out of landfills and reduce greenhouse gas emissions, and is therefore considered a recovery activity for the purposes of this regulation.

This section is necessary to specify those types of activities regulated entities can utilize to comply with the requirements to achieve a reduction in landfill disposal.

⁶ California Air Resources Board: [Biomass Conversion](https://www.arb.ca.gov/cc/waste/biomassconversion.pdf), September 17, 2013, <https://www.arb.ca.gov/cc/waste/biomassconversion.pdf>

Subdivision (b)(5)

The purpose of this section is to specify that organic waste used as a soil amendment for erosion control, revegetation, slope stabilization or landscaping is considered a recovery activity for the purpose of this regulation, provided that certain conditions mitigating greenhouse gas emissions relative to the material's final deposition are met. This section also outlines specific conditions for these applications. Since these activities, under the circumstances prescribed in this section, can reduce in greenhouse gas emissions, this supports the state's efforts to keep organic waste out of landfills and reduce greenhouse gas emissions, and is therefore considered a recovery activity for the purposes of this regulation.

Unlike organic waste used as cover material (e.g. ADC or AIC), organic waste used for erosion control, revegetation, slope stabilization or landscaping at a landfill is not necessarily incorporated into the landfill and therefore does not necessarily result in the final deposition of the material in a landfill. Subdivision (b)(5)(A)-(D) establishes the conditions under which these applications constitute a reduction in landfill disposal.

This section is necessary to specify those types of activities regulated entities can utilize to comply with the requirements to achieve a reduction in landfill disposal.

Subdivision (b)(5)(A)

The purpose of this section is to clarify that organic waste used for erosion control, revegetation, slope stabilization or landscaping at a landfill must be processed at a solid waste facility. This requirement ensures that these materials are appropriately processed at a regulated facility to remove prohibited waste materials prior to application. Existing solid waste regulations limit the types of organic waste materials that may be legally applied for this purpose and establish maximum contaminant levels. Further commingling non-organic waste with organic waste could create anaerobic conditions, which would lead to the generation of methane emissions. This section is necessary to maintain consistency with existing regulations and prevent applications that could create greenhouse gas emissions.

Subdivision (b)(5)(B)

The purpose of this section is to clarify that in order for the use of organic waste to constitute a recovery activity it must conform with existing solid waste regulatory requirements specified by section 21600 (of Title 27 CCR). This section is necessary to clarify that this regulation only defines when the activity counts as recovery and does not allow unlawful uses of organic waste at a landfill that conflict with existing public health and safety requirements.

Subdivision (b)(5)(C)

The purpose of this section is to clarify that organic waste used as a soil amendment at a landfill may only be considered a reduction in landfill disposal if the application of the material never exceeds a depth of 12 inches. This section is necessary to limit the depth of material so that it does not breakdown anaerobically and generate methane. Existing research demonstrates that organic waste suitable for use as a soil amendment reduces net emissions if the depth does not

exceed 12 inches.⁷ Applications that exceed 12 inches can lead to anaerobic conditions, which leads to the generation of greenhouse gases. This section is necessary to ensure applications only constitute recovery of organic waste when it is used in a manner that supports the state's efforts to keep organic waste out of landfills and reduce greenhouse gas emissions.

Subdivision (b)(5)(D)

The purpose of this section is to clarify that organic waste used as a soil amendment at a landfill only constitutes a reduction in landfill disposal if it is never incorporated into the landfill for final deposition. Organic waste used as a soil amendment at a landfill has the potential to be incorporated into the landfill if that portion of the facility is opened up for use. This section clarifies that if this commingling happens, the material cannot be considered recovered. Activities that result in the final deposition of waste in a landfill cannot rationally be identified as "keeping organics out of landfills," regardless of the emissions reductions achieved through beneficial reuse, pre-treatment or landfill management. Further, organic waste incorporated into a landfill will break down anaerobically and generate greenhouse gas emissions. Therefore, it must be considered disposal.

This section is necessary to specify those types of activities regulated entities can utilize to comply with the requirements to achieve a reduction in landfill disposal.

Subdivision (b)(6)

The purpose of this section is to clarify that land application, as defined in Section 17852(a)(24.5) (14 CCR), of organic waste constitutes a reduction in landfill disposal provided that it complies with minimum standards included in this section to ensure the material is used in a manner that supports the state's efforts to keep organic waste out of landfills and reduce greenhouse gas emissions. The necessity of this is discussed in the specific sections below.

Subdivision (b)(6)(A)

The purpose of this section is to specify that land application of green material or green waste only constitutes a reduction in landfill disposal if the material is processed prior to application and is limited to the definition of green waste established in existing regulations relative to land application. This requirement ensures these materials are appropriately processed at a regulated facility to remove prohibited waste materials and contaminants prior to application. Existing solid waste regulations limit the types of organic waste materials that may be legally applied and establish maximum contaminant levels and application depths (12 inches).

Requiring processing at a solid waste facility to ensure materials meet existing regulatory contaminant levels and depth requirements ensures the organic waste does not breakdown anaerobically and generate greenhouse gas emissions when it is applied. Existing research demonstrates that organic waste suitable for use as a soil amendment reduces net emissions if the depth does not exceed 12 inches.⁸ Applications that exceed 12 inches can lead to anaerobic conditions, which leads to the generation of greenhouse gases. Further, if the material is not

⁷ Burger, Zhu and Green: *Research to Evaluate Environmental Impacts of Direct Land Application of Uncomposted Green and Woody Wastes on Air and Water Quality*. Contractors Report Produced for CalRecycle March 30, 2015

⁸ Burger, Zhu and Green: *Research to Evaluate Environmental Impacts of Direct Land Application of Uncomposted Green and Woody Wastes on Air and Water Quality*. Contractors Report Produced for CalRecycle March 30, 2015

processed to remove non-organic wastes prior to application, the material could breakdown anaerobically, which would lead to the generation of emissions. This section is necessary to ensure that land application only constitutes recovery of organic waste if is performed in a manner that supports the state's efforts to keep organic waste out of landfills and reduce greenhouse gas emissions. Further, this section is necessary to clarify that, while this regulation defines land application as recovery, it does not allow unlawful land application of organic wastes in conflict with existing public health and safety regulations and requirements.

This section is necessary to specify those types of activities regulated entities can utilize to comply with the requirements to achieve a reduction in landfill disposal.

Subdivision (b)(6)(B)

The purpose of this section is to clarify that land application of biosolids constitutes a reduction in landfill disposal provided that the application complies with minimum standards. This section is necessary respond to stakeholder requests for clarity regarding whether this activity constitutes a reduction in landfill disposal.

This section specifies that to be considered a reduction in landfill disposal for the purposes of this regulation, land application of biosolids must comply with existing regulatory requirements and have undergone composting or anaerobic digestion. This section is necessary to clarify that while this regulation defines land application as recovery, this regulation does not allow land application of biosolids be done in a manner that conflicts with existing public health and safety regulations and requirements. Land application of composted or anaerobically digested biosolids results in a net reduction in greenhouse gas emissions when applied to land.⁹ Land application of composted or digested biosolids prevents the landfill disposal of this material and reduces greenhouse gas emissions. This supports the state's efforts to keep organic waste out of landfills and reduce greenhouse gas emissions, and is therefore considered a recovery activity for the purposes of this regulation.

This section is necessary to specify those types of activities regulated entities can utilize to comply with the requirements to achieve a reduction in landfill disposal.

Subdivision (b)(6)(C)

The purpose of this section is to clarify that land application of digestate constitutes a reduction in landfill disposal provided that the application complies with minimum standards. This section is necessary to respond to stakeholder requests for clarity regarding whether this activity constitutes a reduction in landfill disposal.

This section specifies that, to be considered a reduction in landfill disposal for the purposes of this regulation, land application of digestate must comply with existing regulatory requirements and have undergone anaerobic digestion. This section is necessary to clarify that while this regulation defines land application as recovery, this regulation does not allow land application of digestate to be done in a manner that conflicts with existing public health and safety regulations and requirements. Digestate that has undergone anaerobic digestion has already had the

⁹ e.g., Thorman, Rachel & Williams, J.R. & Chambers, B.J. *Biosolids Recycling to Agricultural Land: Greenhouse Gas Emissions*. 14th European Biosolids and Organic Resources Conference and Exhibition. 2009.

greenhouse gas emissions from the original organic waste captured in the digestion process. Therefore, land application of anaerobically digested digestate has already reduced greenhouse gas emissions and it keeps organic waste out of landfills. This supports the state's efforts to keep organic waste out of landfills and reduce greenhouse gas emissions, and is therefore considered a recovery activity for the purposes of this regulation.

This section is necessary to specify those types of activities regulated entities can utilize to comply with the requirements to achieve a reduction in landfill disposal.

Subdivision (b)(7)

The purpose of this section is to clarify that lawful use of organic waste as animal feed constitutes a reduction in landfill disposal. Diverting organic waste from landfills to feed animals keeps organic waste out of landfills, thereby reducing greenhouse gas emissions. This supports the state's efforts to keep organic waste out of landfills and reduce greenhouse gas emissions, and is therefore considered a recovery activity for the purposes of this regulation.

This section is necessary to specify those types of activities regulated entities can utilize to comply with the requirements to achieve a reduction in landfill disposal.

Subdivision (b)(8)

The purpose of this section is to clarify that operations or facilities not explicitly listed in this section that reduce greenhouse gas emissions may still be determined to constitute a reduction in landfill disposal if they comply with the requirements in Section 18983.2. This section is necessary to allow flexibility for new technologies and processes that reduce disposal of organic waste.

This section is necessary to specify that activities not already outlined in this section may go through a process for determination of whether they achieve a reduction in landfill disposal.

Subdivision (c)

The purpose of this section is to specify that the use of the term landfill within this section is not limited to permitted landfills, but also includes landfills that require permits but may not have them, the out-of-state export of waste, and other activities outlined in Section 40192(c) of the PRC. Organic waste managed in an unpermitted landfill or exported out-of-state results in the deposition of organic waste in landfills. This waste falls out of CalRecycle's oversight, and thus the greenhouse gas emissions or reduction potential cannot be verified.

This section is necessary to make clear that this activity does not constitute a reduction in landfill disposal.

Subdivision (d)

The purpose of this section is to specify that edible food recovered for human consumption is an activity that reduces landfill disposal. Diverting organic waste from landfills to feed people reduces that amount of material that is physically placed in landfills and results in significant greenhouse gas reductions. This supports the state's efforts to keep organic waste out of landfills

and reduce greenhouse gas emissions, and is therefore considered a recovery activity for the purposes of this regulation.

This section is necessary to specify those types of activities regulated entities can utilize to comply with the requirements to achieve a reduction in landfill disposal.

SECTION 18983.2 DETERMINATION OF TECHNOLOGIES THAT CONSTITUTE A REDUCTION OF LANDFILL DISPOSAL

The purpose of this section is to specify which facilities, operations, end-uses, processes, technologies, and activities (proposed recovery activities) could constitute as a reduction in landfill disposal of organic waste for the purposes of this regulation. This section is necessary to allow flexibility for recovery processes that reduce disposal of organic waste and achieve greenhouse gas emission reductions in comparison to landfilling the same organic waste, but that are not listed in section 18983.1. The intent of this section is to provide a process for an applicant to provide necessary information about the proposed recovery activity, and a procedure that ARB and CalRecycle will use to determine whether that proposed recovery activity constitutes a reduction in landfill disposal of organic waste under this regulation. The necessity of this is discussed in the specific sections below

Subdivision (a)

The purpose of this section and subdivisions (a)(1)(A)-(I) is to clearly outline the necessary information to be submitted to the department, which, in consultation with ARB, will make a determination for the applicant on whether or not the proposed recovery activity constitutes a reduction in landfill disposal. The necessity of this is discussed in the specific sections below.

Subdivision (a)(1)(A)

The purpose of this section is to require applicants to provide contact information. This section is necessary so that ARB and CalRecycle have appropriate contact information for the applicant.

Subdivision (a)(1)(B)

The purpose of this section is to require the applicant to provide detailed information about the proposed recovery activity such that ARB and CalRecycle have the appropriate background information on the activity. This section is necessary because this information is required for staff assessing the proposed recovery activity to understand the processes occurring and, resultantly, the potential emissions or emissions reductions that could occur from the proposed recovery activity.

Subdivision (a)(1)(C)

The purpose of this section is to require the applicant to submit information about the potential amount and type of organic waste that will be processed using the proposed recovery activity. This section is necessary because information regarding the amount of organic waste is needed by type to allow ARB and CalRecycle to most accurately estimate the potential greenhouse gas emission reductions from the proposed recovery activity.

Subdivision (a)(1)(D)

The purpose of this section is to require the applicant to submit information about materials left over after the organic waste is processed through the proposed recovery activity. This section is necessary because this information is required to allow ARB and CalRecycle to most accurately estimate potential greenhouse gas emission reductions as compared to landfilling the organic waste, including emissions that may occur after residual material is disposed of or used.

Subdivision (a)(1)(E)

The purpose of this section is to require the applicant to submit information on any calculation, assumption, or emission factor used to determine the permanent greenhouse gas emissions reduction potential of the proposed recovery activity, as well as calculate greenhouse gas emissions associated with the proposed recovery activity and residual materials, if any. This section is necessary because this information is required to allow ARB and CalRecycle to validate the methods used to calculate emissions and emissions reductions, as well as to reproduce the emissions and emissions reductions calculations themselves.

Subdivision (a)(1)(F)

The purpose of this section is to require the applicant to submit information that each emission factor submitted pursuant to Subdivision (a)(1)(E) was peer reviewed or otherwise scientifically vetted. This section is necessary because this information is required to ensure that emission factors utilized in calculating greenhouse gas emissions reductions conform to rigorous scientific standards.

Subdivision (a)(1)(G)

The purpose of this section is to require the applicant to submit an explanation of how the proposed recovery activity results in a permanent reduction in greenhouse gas emissions. This section is necessary because this submission is required for ARB and CalRecycle to understand, replicate, and validate how the applicant has applied any calculation, assumption, or emission factor pursuant to Subdivision (a)(1)(E).

Subdivision (a)(1)(H)

The purpose of this section is to require the applicant to attest to the truthfulness, accuracy, and completeness of the materials submitted pursuant to subdivision (a). This section is necessary because this attestation will help ensure that applicants understand that they must submit valid materials and that they are responsible for vetting the validity of the information submitted.

Subdivision (a)(1)(I)

The purpose of this section is to allow the CalRecycle Director to request additional information to enable CalRecycle and ARB to validate any information submitted pursuant to subdivision (a). This section is necessary because additional information may be required to fully validate the information submitted on the proposed recovery activity.

Subdivision (a)(2)

The purpose of this section is to leverage ARB staff expertise in greenhouse gas emissions quantification to assist CalRecycle in determining whether or not the proposed recovery activity results in permanent reductions in greenhouse gas emissions when compared to landfilling the

same organic wastes. This section is necessary because this enables CalRecycle to determine whether or not the proposed recovery activity counts as a reduction in landfill disposal.

Subdivision (a)(3)

The purpose of this section is to state that the proposed recovery activities must reduce emissions by a minimum of 0.30 MTCO₂e per short ton organic waste processed to qualify as a recovery activity under this regulation. This greenhouse gas emissions reduction benchmark by which new technologies or processes will be measured is equivalent to those achieved by composting rather than landfilling the same organic wastes. Composting was selected as the benchmark because the lifecycle greenhouse gas emissions reductions achieved from composting are similar to those achieved from utilizing existing organic waste recovery activities listed in section 18983.1, with the exception of source reduction and recycling technologies that achieve greater reductions. Recycling and source reduction recovery activities are considered closed-loop processes where the commodity “replaces itself” in the supply chain, as such, these are the only technologies that discount upstream greenhouse gas emissions from the resource extraction of the virgin materials used to make the commodity.

The quantification methodology used to determine this benchmark follows that used by ARB’s Draft Method for Estimating Greenhouse Gas Emission Reductions from Diversion of Organic Waste from Landfills to Compost Facilities¹⁰ (CERF). The model used to quantify fugitive emissions from landfills in the CERF is based on Intergovernmental Panel on Climate Change’s (IPCC) first-order decay model.¹¹ For this regulation, staff used a decay rate used to represent dry conditions found in Southern California’s landfills.¹² The following modifications were made to the CERF in order to maintain consistency between the lifecycle assessments performed for the existing organic recovery activities listed in section 18983.1, and to appropriately apply the CERF within the context of the state’s efforts to keep organic waste out of landfills and reduce greenhouse gas emissions:

- Characteristics of mixed organic waste were from CalRecycle’s 2014 Waste Characterization Study.¹³
- Reflects the compost application rates used for California Department of Food and Agriculture’s Healthy Soils Incentive Program in determining the avoided emissions from displacing the production of synthetic fertilizer. The fertilizer benefit from compost

¹⁰ California Air Resources Board: *Final Draft Method for Estimating Greenhouse Gas Emission Reductions from Diversion of Organic Waste from Landfills to Compost Facilities*. May 2017.
<https://www.arb.ca.gov/cc/waste/cerffinal.pdf>.

¹¹ IPCC 2006, 2006 IPCC Guidelines for National Greenhouse Gas Inventories, Prepared by the National Greenhouse Gas Inventories Programme, Eggleston H.S., Buendia L., Miwa K., Ngara T. and Tanabe K. (eds). Published: IGES, Japan. https://www.ipcc-nggip.iges.or.jp/public/2006gl/pdf/5_Volume5/V5_3_Ch3_SWDS.pdf. This is a publicly available model and the same model used in ARB’s greenhouse gas emission inventory for the waste sector, as well as for [ARB’s Landfill Gas Tool](#).

¹² Dry conditions represent the floor in terms of avoided emissions from not landfilling organic waste. Using a decay rate constant for average moisture conditions would increase the avoided emissions from not landfilling the waste.

¹³ CalRecycle: Disposal-Facility-Based Characterization of Solid Waste in California (DRRR-2015-1546). 2014. <https://www2.calrecycle.ca.gov/Publications/Details/1546>. Use of the 2014 waste characterization study is consistent with the 2020 and 2025 statewide reduction targets for organic waste disposal from 2014 levels that was established in SB 1383 (Section 39730.6 of the Health and Safety Code).

application is for the avoided greenhouse gas emissions from the production of mineral nitrogen, phosphorous, and potassium fertilizer. During the development of the Healthy Soils Initiative quantification method, California-specific data showed that only a portion of the nitrogen from compost was bioavailable to the plants.¹⁴ Using California-specific rates of nitrogen bioavailability and assuming that phosphorus and potassium also follow the same 10-year bioavailability rates, the benefits of avoided fertilizer production referenced in the Healthy Soils Incentive Program compared to the CERF decreased from 0.15 to 0.035 MTCO_{2e}/ton of feedstock.

- Did not consider any off-site impacts of utilizing the compost. While compost application includes real and tangible environmental benefits, such as increased soil health, soil carbon storage, improved soil permeability, improved soil water holding capacity and erosion control, these benefits are not incorporated into the emission reduction factor calculated for this regulation because these emissions reductions are not permanent meaning that they do not last for the lifetime of carbon dioxide in the atmosphere (~100 years).

Using the benchmark of 0.30 MMTCO_{2e} per short ton organic waste is consistent with the estimated emissions reductions used in ARB's SLCP Strategy, which calls for greenhouse gas emission reductions of at least 4 MMTCO_{2e}. The greenhouse gas emission factor for mixed municipal solid waste of 0.223 MMTCO_{2e} was utilized to estimate the approximate emission reductions from meeting organic waste reduction targets set forth in SB 1383. The 0.30 MMTCO_{2e} benchmark is set slightly higher than that used to develop the targets since the readily compostable organic fraction of mixed municipal solid waste comprises of approximately 40 percent of the waste stream and has a higher methane emission potential than the other municipal solid waste anaerobically decomposing within a landfill. Ultimately this benchmark is a conservative approach because it only considers the avoided emissions from not landfilling the organic wastes within the driest part of the state, where the majority of the waste is generated.

This section is necessary to ensure that activities deemed to constitute a reduction in landfill disposal through this process support the state's efforts to keep organic waste out of landfills and reduce greenhouse gas emissions.

Subdivision (b)

The purpose of this section is to provide transparency regarding which recovery activities have been deemed by CalRecycle and ARB to constitute a reduction of landfill disposal of organic waste. This section is necessary to specify those types of activities regulated entities can utilize to comply with the requirements to achieve a reduction in landfill disposal.

Subdivision (c)

The purpose of this section is to allow an applicant to request that CalRecycle consider additional information not otherwise required in Article 2 that shows that the applicant's proposed recovery activity should be considered identical or equivalent to a proposed recovery

¹⁴ Gravuer, Kelly: Compost Application Rates for California Croplands and Rangelands for a CDFA Healthy Soils Incentives Program. July 22, 2016.

https://www.cdfa.ca.gov/oefi/efasap/docs/CompostApplicationRate_WhitePaper.pdf.

activity already deemed by CalRecycle, through the process outlined in 18983.2(a), to result in a reduction in landfill disposal. This section is necessary to clarify that applicants may submit additional information to CalRecycle for consideration.

ARTICLE 3. ORGANIC WASTE COLLECTION SERVICES

The purpose of this article is to establish the standards for organic waste collection services required under this chapter. The foundational requirement of the SB 1383 rulemaking is the mandate that each jurisdiction, or a designee (typically a hauler) acting on behalf of a jurisdiction, provide organic waste collection services to all generators (residential and commercial). The structure of the statute requires that the state dispose of no more than 5.7 million tons of organic waste annually on and after January 1, 2025 (a 75 percent reduction from the 2014 organic waste disposal level of 23 million tons). CalRecycle projects that population growth will result in the generation of approximately 26-27 million tons of organic waste in 2025, requiring the recovery of more than 20 million tons of organic waste annually in order for the state to meet the statutory targets to reduce organic waste disposal and greenhouse gas emissions.

The proposed regulations require jurisdictions to provide organic waste collection services to their generators that are responsible for 90 percent of organic waste that is currently disposed. Approximately 50 percent of disposed organic waste is attributable to residential properties, 40 percent is attributable to commercial businesses, and the balance is self-hauled to landfills. The proposal to require jurisdictions to provide universal residential and commercial organic waste collection and recycling services was proposed at the outset of the informal rulemaking process in February of 2017. The state cannot achieve the required reductions in SB 1383 if jurisdictions do not require organic waste collection from the entities responsible for 90 percent of organic waste disposal. Through 13 public workshops, no reasonable, or statutorily permissible alternative to this foundational requirement was proposed. Requirements for local jurisdictions to collect and recover organic waste from their residential and commercial generators are critical for the state's efforts to keep organic waste out of landfills and reduce greenhouse gas emissions.

The legislative intent of SB 1383 precludes CalRecycle from requiring an individual city or county to achieve a performance standard of 75 percent recovery of its generated organic waste. This prevents CalRecycle from setting a recovery rate as a performance standard that jurisdictions must meet and then holding jurisdictions to that standard. The law requires that CalRecycle treat the organic waste disposal reduction targets as statewide targets and not individual targets for each city and county. This requires CalRecycle to prescribe the types of programs that regulated entities must implement in order to achieve the state's targets.

The statutory constraints of SB 1383 require CalRecycle to take a prescriptive approach to the design of the regulations. Absent the authority to set a jurisdiction-specific recycling target, or ban landfill disposal of organic waste, CalRecycle is required to develop regulations that require jurisdictions and other entities to implement specific programs and meet minimum standards necessary to achieve the state's targets. The prescriptive approach necessitated by the statute is reflected in the design of the entire set of regulations, and is most apparent in the collection requirements described in this article. This is a paradigm shift for jurisdictions, which is why

CalRecycle conducted two years of informal workshops to vet the specifics of the regulatory requirements included in this article and throughout the regulations.

This article requires jurisdictions to provide organic waste collection services to their residential and commercial generators and specifies that organic waste collection services provided must either: (A) separate organic waste from other materials into a separate container at the point of collection for recycling (source-separated curbside collection), or (B) collect organic waste with garbage and other wastes and separate the material for recovery at a receiving facility (mixed waste processing).

The draft regulations originally prohibited jurisdictions from implementing new mixed waste processing systems after 2022, and required all new services to implement source-separated curbside collection as a means of ensuring that collected organic waste would be clean and recoverable. In response to stakeholder feedback, CalRecycle eliminated the prohibition on new mixed waste processing systems provided that the receiving facilities demonstrate they are capable of recovering 75 percent of the organic content received from the mixed waste stream on an annual basis. The performance standard addresses stakeholder concerns about limiting flexibility, without compromising the goal for the regulations to achieve the statutory requirements.

The primary collection requirements in the first sections of this article are supported by a series of secondary requirements, including education requirements, contamination monitoring requirements, container requirements and recordkeeping requirements. Given the necessity of a prescriptive regulatory approach, these supporting sections are essential to ensure a level playing field across regulated entities. These secondary requirements ensure regulated entities are held to the same minimum standards, and provide recordkeeping necessary for CalRecycle to ensure compliance.

This article is necessary to ensure that organic waste is collected and recovered in a manner which supports the state's efforts to keep organic waste out of landfills and reduce greenhouse gas emissions.

SECTION 18984.

Subdivision (a)

This purpose of this section is to set forth the primary organic waste collection requirements included in this article. The collection requirements included in this article are foundational to the state's ability to achieve the organic waste reduction targets established in the statute. These requirements also reflect the primary actions that jurisdictions are required to implement. Throughout the informal rulemaking process jurisdictions and other stakeholders requested inclusion of a section setting forth the primary organic waste collection requirements. This section is necessary to respond to provide clarity and ease of use for the regulated community.

Subdivision (b)

The purpose of this section is to provide an overview of the organization and various requirements within this article. This section is necessary and useful because the article provides

several options for compliance (i.e., not every jurisdiction will have to comply with every section). This overview enables jurisdictions and other regulated entities to quickly review the totality of requirements included in this article and navigate to the sections that specifically pertain to them. This section is necessary to provide clarity and ease of use for the regulated community.

SECTION 18984.1. THREE-CONTAINER ORGANIC WASTE COLLECTION SERVICES

The purpose of this section is to specify that a jurisdiction can comply with their obligation to provide an organic waste collection service by providing a “three-container” service to their residential and commercial generators. Under this section a three-container service requires generators to source-separate organic waste from other materials into a separate container for recycling at the point of collection (source-separated curbside collection). This section is necessary because source-separated collection, as provided for in this section, is a proven method for effectively collecting and recovering organic waste as it keeps material separate from other solid waste, clean, and recoverable.

Source-separating organic waste keeps the material clean and separate from other materials which maintains the recoverability of the organic waste and the other materials that are not mixed with organic waste. With very few exceptions, unique materials can only be processed and recovered when they are kept separate from other materials. This is primarily due to the fact that distinct materials are recovered through separate processes that are specifically designed to handle only that type of material. For example, metals, paper, and plastics are remanufactured through distinct processes (e.g., metal is smelted, paper is pulped and washed). Largely because of this, while material may be valuable as a homogenous commodity, it can become difficult or impossible to recycle when it is contaminated with other materials (e.g., many materials lose their value when they are commingled with other materials). This principle holds true, and is perhaps more of a factor in the recovery of organic waste. Required source-separation of organic waste helps ensure that organics are kept clean, separate, and recoverable.

Organic waste is highly recoverable when it is kept separate from non-organic waste. Most types of organic waste can be commingled with other organic wastes (e.g., food waste and green waste) during the collection or processing of that material and can still be recovered/remanufactured into new materials using the same processes/activity (e.g., composting, digestion etc.). However, when organic waste is mixed with non-organic waste the recoverability of both materials is compromised, the recovery options become increasingly limited, and the value of at least one material can be lost (e.g., broken glass mixed in with food waste can render each material exceedingly more expensive and technically challenging to recover). This loss in value and recoverability can be mitigated for materials that can be effectively re-segregated through manual or mechanical sorting.

Certain technologies have proven that specific materials can be effectively re-segregated after they have been mixed with other materials (e.g. metals and certain plastics). However most organic wastes are wet and putrescible and once commingled with other wastes cannot be effectively separated from other wastes and therefore cannot be recovered. This is due to two

factors; first, the nature of organic waste (wet and putrescible) makes it difficult to separate from other materials; second, the recovery activities allowed for organic waste under article two and the products created through those activities are subject to strict quality standards such as minimum pathogen reduction levels and maximum contaminant levels to ensure the protection of public health and safety. There is a lack of data demonstrating that a commercially viable process that can effectively separate organic waste and process it in a manner that meets the final product standards exists.

This section is necessary to require generators to separate organic waste from other wastes, which is a proven method of ensuring that organic waste can be collected and recovered.

Subdivision (a)

The purpose of this section is to specify the minimum standards that apply to a three-container collection service that a jurisdiction provides to its generators. This section specifies that to comply with the minimum requirements of a three-container service, a jurisdiction must provide each generator with a green container, a blue container, and a gray container. This section further specifies the materials that a jurisdiction can allow generators to collect in each type of container, and where the contents of the container must be transported to. The container color and material specifications included in this and subsequent sections will standardize the colors and minimum levels of acceptable materials for collection containers provided across the state, regardless of jurisdiction, and ensure that organic wastes are transported to appropriate facilities for recovery.

Throughout the informal rulemaking process, several jurisdictions, as well as members of the public identified frustration and concerns with the fact that an individual can live in a jurisdiction where a green container is used for the collection and recycling of organic waste, and work in a jurisdiction where a green container is used for the collection and disposal of mixed wastes. Further jurisdictional boundaries can result in the use of one set of containers with a color scheme and material collection limitations that are distinct from the set of containers used in the neighboring jurisdiction. The confusion created by these distinctions is similar to the confusion that would arise if traffic signals across the state varied by jurisdictional boundaries.

The collection container uniformity required by this and subsequent sections is necessary to respond to stakeholder feedback, enhance consumer education about organic waste recycling, reduce contamination, and maintain the highest degree of recoverability for source separated organic wastes. This will enhance the education of generators regardless of their location in California. This requirement was recommended by various stakeholders to create consistency and reduce generators' confusion about which container to place organic waste into and thus will result in less contamination and maximize organic waste recovery.

The necessity of the specific container colors chosen and material limitations associated with those containers are discussed in the sections that follow.

Subdivision (a)(1)

The purpose of this section is to specify that only organic waste should be collected in the green container and the types of facilities that the materials must be transported to for processing.

This section, in conjunction with Sections 18984.2 and 18984.7 ensures that every Californian can be confident that any green container used for curbside collection in California is only intended for the collection and recovery of organic waste, and should not be used for the collection of any non-organic waste.

In California, many curbside organic waste collection programs established across the state already use green containers for the collection of at least some categories of organic waste, and consumers often associate “green” containers with compostable materials. At the public workshops CalRecycle held throughout the informal process, stakeholders raised concerns about potential financial and logistical challenges associated with meeting a newly established statewide container color scheme, but did not object to the specific colors proposed for organics (green) or propose alternative container colors. To accommodate financial concerns, CalRecycle added language in the definitions of each container and in Section 18984.7 allowing additional time and flexibility to phase in containers (discussed more in those sections).

This section ensures that organic waste collected in a green container is transported to a facility that recovers source-separated organic waste. This section is necessary to ensure that source-separated organic waste is not mixed with non-organic waste after collection, or transported directly to disposal facilities. This ensures that the maximum amount of organic waste is kept clean so it can be recovered, and that clean material is not disposed. This section is necessary to ensure the state is able to meet organic waste recovery targets established in statute and provide consumers with confidence that material they are consciously separating for recovery is actually recovered.

Subdivision (a)(2)

The purpose of this section is to specify what materials should be collected in the blue container and the types of facilities that the materials must be transported to for processing.

In proposing requirements to separate organic waste for recovery, many stakeholders indicated that certain types of organic waste (specifically paper, cardboard, wood and textiles) are already included in blue recycling containers provided to generators and can be recovered in a more cost-effective way when they are not mixed with other organic wastes. This subcategory of organic waste is distinct in that it is not typically putrescible like food waste or green waste, and when kept dry can effectively be separated from other dry “non-organic recyclables” (defined in Section 18982) such as bottles and cans for recovery. While this subcategory of organic waste is technically compostable and digestible, there are other methods of recovery specifically identified in Article 2 that can be applied to these materials when they are kept separate from other organic wastes and putrescible garbage.

The use of blue containers for dry recyclables as allowed in this section is well established and common across the state. At the public workshops CalRecycle held throughout the informal process, stakeholders raised concerns about potential financial and logistical challenges associated with meeting a newly established statewide container color scheme, but did not object to the specific colors proposed for recyclables (blue) or propose alternative container colors. To accommodate financial concerns, CalRecycle added language in the definitions of each container

and in Section 18984.7 allowing additional time and flexibility to phase in containers (discussed more in those sections).

This section also ensures that recyclables collected in a blue container, including organic waste, are only transported to a facility that actually recovers the organic waste and non-organic recyclables designated for collection in that container. Allowing a jurisdiction to designate specific materials for collection in a blue container when that specific material is not one that is actually recovered by the receiving facility unnecessarily introduces contamination into the blue container collection stream. This potentially reduces the amount of organic waste that can be recovered as result. This also threatens to undermine consumer confidence in the integrity or purpose of separating any material for recycling.

This section is necessary to require generators to separate organic waste from other wastes, and allow certain types of organic waste to be collected in a blue container for recovery, which is a proven method of ensuring that organic waste can be collected and recovered.

Subdivision (a)(3)

The purpose of this section is to specify what materials may be collected in the gray container for

The use of gray containers for the collection and disposal as allowed in this section is well established and common across the state. Initially CalRecycle sought to require that all containers used for disposal collection would be black. At the public workshops CalRecycle held throughout the informal process stakeholders raised concerns that many jurisdictions use gray containers instead of black containers, and that black containers can be difficult to see at night. As a result, CalRecycle revised the definition of gray container to allow the disposal container to be a gray or black container (see Section 18982(a)(28)). Additionally, at the public workshops stakeholders raised concerns about potential financial and logistical challenges associated with meeting a newly established statewide container color scheme. To accommodate financial concerns, CalRecycle added language in the definitions of each container and in Section 18984.7 allowing additional time and flexibility to phase in containers (discussed more in those sections).

This section is necessary to ensure that non-organic wastes are collected in a separate container (or containers) and that non-organic wastes are not mixed with organic wastes that are collected in the blue or green container (with the exception of a defined set of “non-organics recyclables” specifically allowed in Subdivision (a)(2)). This section is also necessary to prohibit the placement of organic waste in the gray container to ensure that organic waste is collected for recovery (in the green or blue container) and not collected for disposal as that would compromise the state’s efforts to keep organic waste out of landfills, and reduce greenhouse gas emissions.

Subdivision (a)(4)

The purpose of this section is to clarify that a jurisdiction may comply with the container requirements of this section by providing a container or containers that are split or divided into segregated sections in-lieu of providing an entirely separate container. This section clarifies that this is allowable, as long as the lids of the separate sections of a split container comply with the container color requirements and material limitations specified in this section (e.g., a single container that is divided with a hard barrier and has a green lid on half the container for

collection of materials listed in (a)(1) and a blue lid on the other half of the container for collection of materials listed in (a)(2).

At the public workshops CalRecycle held throughout the informal process stakeholders noted that many jurisdictions segregate materials by splitting containers with a hard barrier that keeps material clean and separate from other materials. In practice, this segregation accomplishes the same purpose of Sections (a)(1)-(a)(3) as using a separate collection container. Including this section reduces the burden of implementation, particularly for jurisdictions that already implement this type of container scheme and provides jurisdictions additional flexibility in implementing their collection program. Further, this can help where jurisdictions have space challenges associated with collection locations that cannot accommodate three separate full-sized containers. This section is necessary to respond to stakeholder requests for flexibility regarding collection container requirements.

Subdivision (a)(5)

The purpose of this section is to specify the materials that shall not be collected in the green container. This section specifies that carpets, non-compostable paper, and hazardous wood waste should not be collected in the green container. Stakeholders requested this clarification as these materials are either not compostable, not typically collected in curbside recycling programs or both.

This section is necessary as these specifically identified organic wastes, though technically recoverable, generally cannot be technically recovered with other organic wastes identified in the green container (e.g., carpets, non-compostable paper, and hazardous wood waste cannot be composted). Additionally, these materials often cannot legally or safely be recovered with other organic waste (e.g., hazardous wood waste should not be handled or received at a compost facility). This results in these organic wastes acting as contaminants and potentially compromising the recoverability of the other organics collected in the green container.

Subdivision (a)(6)

The purpose of this section is to specify that a jurisdiction may require additional segregation of source-separated organic waste by providing multiple source-separated organic waste containers or additional sections of split containers in addition to the green container. This section responds to feedback from several jurisdictions and haulers that indicated that they supplement their three-container services by further segregating organic waste with additional containers or additional split containers.

At the public workshops CalRecycle held throughout the informal rulemaking process, stakeholders indicated that several jurisdictions collect green waste and food waste in separate containers that are limited to those specific subcategories of organic waste. This allows the jurisdiction to send the green waste to composting or other recovery activities outlined in Article 2 and the food waste to anaerobic digestion. This additional segregation can reduce contamination and maximize recovery options. There are more than 100 compost facilities that can process green waste, but only 25 that can process green waste and food waste. Additionally, waste water treatment plants can recover food waste through anaerobic digestion, but are not suited to accept or handle green waste. Keeping these organic waste separate improves the

likelihood that recovery options will be available for all organics collected by the jurisdiction. This section is necessary to provide jurisdictions additional flexibility and maximize recovery of organic waste

Subdivision (b)

The purpose of this section is to clarify that a jurisdiction that provides a three-container collection service that complies with the requirements of subdivision (a), may process the contents of the gray container for recovery at a facility that is not a high diversion organic waste processing facility. This section also clarifies that a jurisdiction may allow carpets and textiles, even though they may be organic, to be collected in the gray container without triggering the requirement to send the material to a high diversion organic waste processing facility. However, if any type of organic wastes other than carpets and textiles are allowed to be collected in the gray container, the provisions of subdivision (c) of this section would apply, requiring the gray container to be transported to a high diversion organic waste processing facility.

This section is necessary to maximize the recovery of organic waste. At the public workshops held throughout the informal rulemaking process several jurisdictions indicated that even though they prohibit their generators from placing organic waste in the gray container, as prescribed in subdivision (a), they supplement the organic waste recovery achieved through source-separation by implementing technologies and systems that process any incidental or remnant organic waste that may end up in the gray disposal container. This section is necessary to distinguish this type of supplemental recovery action from services that do not require source-separation of organic waste for recovery. Under Sections 18984.1(c), 18984.2, and 18984.3 jurisdictions are allowed to require their generators to use a service that does not provide the generators the opportunity to separate their organic waste for recovery at the curb. In order to ensure that the state can achieve the statutory organic waste reduction targets, those collections services are required to transport the containers that include organic waste to high diversion organic waste processing facilities that meet minimum organic content recovery rates (content recovery rates are specified in Section 18984.3).

This section clarifies that the facility recovery standards do not apply to collection services that meet the standards established in subdivision (a). This section responds to stakeholder requested clarity that the requirement to transport containers to a facility that meets the minimum recovery standards is only triggered for services where the jurisdiction intentionally allows for organic waste to be contaminated with non-organic waste (This is allowed under the collection services described in Sections 18984.1(c), 18984.2, and 18984.3). This section is necessary because applying that standard to gray containers that are a part of three-container collection services would discourage cities and counties from attempting to remove and recover organic waste from the gray container, ultimately reducing the amount of organic waste that is recovered.

Further, this section clarifies that a jurisdiction's three-container collection service may allow carpets and textiles to be collected in the gray container for disposal without triggering the organic waste facility recovery standards that apply to jurisdictions that provide collection services that do not require source-separation of organic waste. This section is necessary. While these specific materials often include organic components, they are not wholly organic and are not typically recoverable with other organics. This results in these organic wastes acting as

contaminants and potentially compromising the recoverability of the other organics collected in the green container. Finally, carpets and textiles do not comprise a significant portion of the state's organic waste stream. Requiring jurisdictions to transport gray containers to a high diversion organic waste processing facility if they allow carpets and textiles to be collected in the gray container could lead to jurisdictions requiring that these materials be collected in the green or blue container (as applicable) which could contaminate and reduce the recovery of the other organics collected in those containers for recovery. This section is necessary as requiring these specifically identified organic wastes, to be collected in the green container could contaminate and reduce the recoverability of the other organic waste in the green container which would compromise the state's efforts to keep organic waste out of landfills, and reduce greenhouse gas emissions.

Subdivision (c)

The purpose of this section is to specify that a jurisdiction providing a three-container collection service may allow organic waste to be collected in the gray container if specified conditions are met. This section responds to stakeholder requested flexibility. This section is necessary to establish conditions that ensure that the flexibility provided at the request of stakeholders does not compromise the state's efforts to keep organic waste out of landfills, and reduce greenhouse gas emissions.

Subdivision (c)(1)

The purpose of this section is to specify that if a jurisdiction provides a collection service that allows organic waste (other than textiles and carpets which are specifically identified in the previous subdivision) to be collected in the gray container then the contents of the gray containers that are a part of that service must be transported to a high diversion organic waste processing facility (described in Section 18984.3).

As noted above, mixing organic waste with non-organic waste forfeits the opportunity to keep the material separate, clean, and recoverable. When organic waste is mixed with non-organic waste the recoverability of both materials is compromised, the recovery options become increasingly limited, and the value of at least one material can be lost (e.g., broken glass mixed in with food waste can render each material exceedingly more expensive and technically challenging to recover). To mitigate the increased likelihood of disposal that occurs when materials are mixed, this section requires the contents of these containers to be transported to high diversion organic waste processing facilities. This section is necessary to ensure that if a jurisdiction foregoes requiring full separation of organic waste, as specified in subdivision (a), a minimum amount of organic waste is still recovered in support of the state's efforts to keep organic waste out of landfills, and reduce greenhouse gas emissions.

Subdivision (c)(2)

The purpose of this section is to clarify that a service that uses gray containers for collection of organic waste as allowed in this section must be labeled properly.

This section is necessary to specify that when a jurisdiction allows organic waste in the gray container of a three-container organic waste collection service, the container must be clearly

labeled to specify what materials are allowed to be placed in the gray container and explain to generators which types of organic waste may be included in the gray container.

Subdivision (c)(3)

The purpose of this section is to clarify that if a jurisdiction provides a service that uses gray containers for collection of organic waste as allowed in this section, the green and blue containers must still meet the requirements of subdivision (a) (e.g., waste material limitations).

This section clarifies that that when a jurisdiction allows organic waste in the gray container of a three-container organic waste collection system, the jurisdiction is still required to provide the other two containers in a manner that complies with the regulations (e.g., non-organic waste cannot be collected in the green container). This section is necessary to ensure that a three-container organic waste collection service does not become a de-facto two-container, or unsegregated single container collection service since those services are subject to a distinct set of requirements.

Subdivision (d)

The purpose of this section is to clarify that when complying with the preceding subdivision (a) of this section, the contents of containers may be initially transported to a consolidation site as defined in Section 17402 that complies with the requirements of Section 17409.5.10.

This section clarifies that while the contents of each container must eventually be transported to a destination appropriate for that container (e.g., the facility recovers source-separated organic waste or is a high diversion organic waste processing facility depending on the type of container), they may be first transported to a consolidation site without violating the requirements of this chapter. As specified in Section 17409.5.10, these facilities are not performing any material processing on-site and simply serve as a material consolidation point. This section is necessary to ensure that material can first be transported to a location where materials from multiple hauling vehicles can be combined, and then transported to the proper facility for proper handling of the materials collected.

SECTION 18984.2. TWO-CONTAINER ORGANIC WASTE COLLECTION SERVICES

Subdivision (a)

The purpose of this section is to specify that a jurisdiction can comply with their obligation to provide an organic waste collection service by providing a two-container service to their residential and commercial generators that requires generators to partially source-separate organic waste from other materials into a separate container for recycling at the point of collection.

As stated above, source-separating organic waste keeps the material clean and separate from other materials which maintains the recoverability of the organic waste and the other materials that are not mixed with organic waste. With very few exceptions, unique materials can only be processed and recovered when they are kept separate from other materials. This is primarily due to the fact that distinct materials are recovered through separate processes that are specifically designed to handle only that type of material. For example, metals, paper, and plastics are

remanufactured through distinct processes (e.g., metal is smelted, paper is pulped and washed). Largely because of this, while material may be valuable as a homogenous commodity, it can become difficult or impossible to recycle when it is contaminated with other materials (e.g., many materials lose their value when they are commingled with other materials). This principle holds true, and is perhaps more of a factor in the recovery of organic waste. Required source-separation of organic waste helps ensure that organics are kept clean, separate and recoverable.

However; throughout the informal regulatory engagement process stakeholders raised concerns about potential costs associated with providing commercial and residential generators with a third container in order to allow for source-separation of organic waste. Stakeholders also noted that several cities and counties currently implement what are commonly referred to as “wet/dry” collection systems that consist of a blue container for “dry recyclables” and a green container for “wet material” (primarily organic waste). Stakeholders argued that allowing the use of a two-container collection system is a viable and cost-effective alternative that can still help the state meet the statutory organic waste recovery targets. To respond to stakeholder requests for additional flexibility, CalRecycle crafted this section and Section 18984.3. These sections allow alternatives to providing a three-container source-separated organic waste collection service. Under these sections jurisdictions are allowed to require their generators to use a service that does not provide the generators the opportunity to separate their organic waste for recovery at the curb. In order to ensure that the state can achieve the statutory organic waste reduction targets, these collection services are required to transport the containers that include organic waste to high diversion organic waste processing facilities that meet minimum organic content recovery rates (content recovery rates are specified in Section 18984.3).

As stated above, when organic waste is mixed with non-organic waste the recoverability of both materials is compromised, the recovery options become increasingly limited, and the value of at least one material can be lost (e.g., broken glass mixed in with food waste can render each material exceedingly more expensive and technically challenging to recover). This loss in value and recoverability can be mitigated for materials that can be effectively re-segregated through manual or mechanical sorting.

Certain technologies have proven that specific materials can be effectively re-segregated after they have been mixed with other materials (e.g., metals and certain plastics). However, most organic wastes are wet and putrescible and, once commingled with other wastes, cannot be effectively separated from other wastes and therefore cannot be recovered. This is due to two factors; first, the nature of organic waste (wet and putrescible) makes it difficult to separate from other materials; second, the recovery activities allowed for organic waste under Article 2 and the products created through those activities are subject to strict quality standards such as minimum pathogen reduction levels and maximum contaminant levels to ensure the protection of public health and safety. There is a lack of data demonstrating that a commercially viable process that can effectively separate organic waste and process it in a manner that meets the final product standards exists.

While there is a lack of data demonstrating that organics can be effectively separated from other materials and still be recovered at a rate necessary to meet the statutory targets, a significant portion of stakeholders argued that such technologies are in development and should not be

stymied by this regulation. To respond to stakeholders, this section provides the flexibility requested and lays out minimum standards for a two-container organic waste collection service. These standards are explained in the sections that follow.

This section is necessary to provide stakeholders the flexibility to implement the least burdensome collection service that ensures organic waste is collected and recovered in a manner which supports the state's efforts to keep organic waste out of landfills and reduce greenhouse gas emissions.

Subdivision (a)(1)

The purpose of this section is to specify that only organic waste should be collected in the green container and the types of facilities that the materials must be transported to for processing.

This section, in conjunction with Sections 18984.1 and 18984.7 is necessary to ensure that every Californian can be confident that any green container used for curbside collection in California is only intended for the collection of organic waste, and should not be used for the collection of any non-organic waste.

In California, many curbside organic waste collection programs established across the state already use green containers for the collection of at least some categories of organic waste, and consumers often associate green containers with compostable materials. At the public workshops CalRecycle held throughout the informal process, stakeholders raised concerns about potential financial and logistical challenges associated with meeting a newly established statewide container color scheme, but did not object to the specific colors proposed for organics (green) or propose alternative container colors. To accommodate financial concerns, CalRecycle added language in the definitions of each container and in Section 18984.7 allowing additional time and flexibility to phase in containers (discussed more in those sections).

This section is also necessary to ensure that organic waste collected in a green container is transported to a facility that recovers source-separated organic waste. This section is necessary to ensure that source-separated organic waste is not mixed with non-organic waste after collection, or transported directly to disposal facilities. This ensures that the maximum amount of organic waste is kept clean so it can be recovered, and that clean material is not disposed. This section is necessary to ensure the state is able to meet organic waste recovery targets established in statute and provide consumers with confidence that material they are consciously separating for recovery is actually recovered.

This section is necessary to provide stakeholders the flexibility to implement the least burdensome collection service that ensures organic waste is collected and recovered which supports the state's efforts to keep organic waste out of landfills and reduce greenhouse gas emissions

Subdivision (a)(2)

The purpose of this section is to specify what materials should be collected in the blue container and the types of facilities that the materials must be transported to for processing.

In proposing requirements to separate organic waste for recovery, many stakeholders indicated that certain types of organic waste (specifically paper, cardboard, wood and textiles) are already included in blue recycling containers provided to generators and can be recovered in a more cost-effective way when they are not mixed with other organic wastes. This subcategory of organic waste is distinct in that it is not typically putrescible like food waste or green waste, and when kept dry can effectively be separated from other dry “non-organic recyclables” (defined in Section 18982) such as bottles and cans for recovery. While this subcategory of organic waste is technically compostable and digestible, there are other methods of recovery specifically identified in Article 2 that can be applied to these materials when they are kept separate from other organic wastes and putrescible garbage.

The use of blue containers for dry recyclables as allowed in this section is well established and common across the state. At the public workshops CalRecycle held throughout the informal process stakeholders raised concerns about potential financial and logistical challenges associated with meeting a newly established statewide container color scheme, but did not object to the specific colors proposed for recyclables (blue) or propose alternative container colors. To accommodate financial concerns, CalRecycle added language in the definitions of each container and in Section 18984.7 allowing additional time and flexibility to phase in containers (discussed more in those sections).

This section also ensures that recyclables collected in a blue container, including organic waste, are only transported to a facility that actually recovers the organic waste and non-organic recyclables designated for collection in that container. Allowing a jurisdiction to designate specific materials for collection in a blue container when that specific material is not one that is actually recovered by the receiving facility unnecessarily introduces contamination into the blue container collection stream and reduces the amount of organic waste that can be collected and recovered. This potentially reduces the amount of organic waste that can be recovered as result. This also threatens to undermine consumer confidence in the integrity or purpose of separating any material for recycling.

This section is necessary to provide stakeholders the flexibility to implement the least burdensome collection service that ensures organic waste is collected and recovered which supports the state’s efforts to keep organic waste out of landfills and reduce greenhouse gas emissions

Subdivision (a)(3)

The purpose of this section is to specify that if either container in a two-container collection service is intended for the collection of both organic waste and non-organic waste, then the contents of that container shall be transported to a high diversion organic waste processing facility that meets or exceeds the organic waste content recovery requirements specified in Section 18984.3.

In a two-container system, there will still be refuse generated by residents and businesses that does not fit into the categories described in subdivision (a)(1) (organic waste) or (a)(2) (specified organic waste and non-organic recyclables). In the absence of a gray container for the collection of refuse, the refuse that is not recovered by a facility that receives material from that collection

service inevitably must be deposited in at least one of the containers that is provided, the green container or the blue container. This ultimately results in the contamination of at least one of the containers. This section provides jurisdictions the flexibility to determine which container will be designated for the collection of that refuse.

This section also specifies that in a two-container collection service whichever container is designated for the collection of waste that would not be allowed in that container in a three-container collection system must be transported to a high diversion organic waste processing facility (e.g., if the jurisdiction designates the blue container for the collection of diapers, broken plates and other wastes that are not recovered by the receiving facility, the contents of the blue container must be transported to a high diversion organic waste processing facility). Similarly, if non-organic waste is designated for collection in the green container, that container would need to be transported to a high diversion organic waste processing facility.

Organic waste collection services that intentionally mix organic waste with non-organic waste compromise the recoverability of both materials. In these systems the recovery options become increasingly limited, and the value of at least one material can be lost (e.g., broken glass mixed in with food waste can render each material exceedingly more expensive and technically challenging to recover). This section is necessary to mitigate the risk these collection service poses to the state's targets by ensuring that a minimum level of the organic content is recovered.

Subdivision (a)(4)

The purpose of this section is to specify that a jurisdiction shall, consistent with Section 18984.8 of this article, clearly identify the types of wastes accepted in each container, and which container shall be used for the collection of any unidentified materials. This section is necessary to specify that when a jurisdiction allows organic waste in the green or blue container of a two-container organic waste collection service, that the bin is clearly labeled with the applicable container collection requirements and limitations of this article.

Subdivision (a)(5)

The purpose of this section is to specify the materials that shall not be collected in the green container. This section specifies that carpets, non-compostable paper, and hazardous wood waste should not be collected in the green container. Stakeholders requested this clarification as these materials are either not compostable, not typically collected in curbside recycling programs or both.

This section is necessary as these specifically identified organic wastes, though technically recoverable, generally cannot be recovered with other organic wastes identified in the green container (e.g., carpets, non-compostable paper, and hazardous wood waste cannot be composted). Additionally, these materials often cannot legally or safely be recovered with other organic waste (e.g., hazardous wood waste should not be handled or received at a compost facility). This results in these organic wastes acting as contaminants and potentially compromising the recoverability of the other organics collected in the green container.

Subdivision (b)

The purpose of this section is to clarify that when complying with the preceding subdivision (a) of this section, the contents of containers may be initially transported to a consolidation site as defined in Section 17402 that complies with the requirements of Section 17409.5.10.

This section clarifies that while the contents of each container must eventually be transported to a destination appropriate for that container (e.g., the facility recovers source-separated organic waste or is a high diversion organic waste processing facility depending on the type of container), they may be first transported to a consolidation site without violating the requirements of this chapter. As specified in Section 17409.5.10, these facilities are not performing any material processing on-site and simply serve as a material consolidation point. This section is necessary to ensure that material can first be transported to a location where materials from multiple hauling vehicles can be combined, and then transported to the proper facility for proper handling of the materials collected.

SECTION 18984.3. UNSEGREGATED SINGLE-CONTAINER COLLECTION SERVICES

Subdivision (a)

The purpose of this section is to specify that a jurisdiction can comply with their obligation to provide an organic waste collection service by providing an “unsegregated single-container” service to their residential and commercial generators.

As stated above source-separating organic waste keeps the material clean and separate from other materials which maintains the recoverability of the organic waste and the other materials that are not mixed with organic waste. With very few exceptions, unique materials can only be processed and recovered when they are kept separate from other materials. This is primarily due to the fact that distinct materials are recovered through separate processes that are specifically designed to handle only that type of material. For example, metals, paper, and plastics are remanufactured through distinct processes (e.g. metal is smelted, paper is pulped and washed). Largely because of this, while material may be valuable as a homogenous commodity, it can become difficult or impossible to recycle when it is contaminated with other materials (e.g. many materials lose their value when they are commingled with other materials.) This principle holds true, and is perhaps more of a factor in the recovery of organic waste. Required source-separation of organic waste helps ensure that organics are kept clean, separate and recoverable.

However; throughout the informal regulatory engagement process stakeholders raised concerns about potential costs associated with providing commercial and residential generators with a third container to source separate organic waste. Stakeholders also noted that several cities and counties implement single container collection services and process all the collected material for recovery. Stakeholders argued that allowing the use of a single-container collection system is a viable and cost-effective alternative that can help the state meet that statutory organic waste recovery targets.

To respond to stakeholder requests for additionally flexibility CalRecycle crafted this section and Section 18984.2. These sections allow alternatives to providing a three-container source-separated organic waste collection service. Under these section jurisdictions are allowed to

require their generators to use a service that does not provide the generators the opportunity to separate their organic waste for recovery at the curb. In order to ensure that the state can achieve the statutory organic waste reduction targets, these collections services are required to transport the containers that include organic waste to high diversion organic waste processing facilities that meet minimum organic content recovery rates (content recovery rates are specified in Subdivision (b) of this section).

As stated above, when organic waste is mixed with non-organic waste the recoverability of both materials is compromised, the recovery options become increasingly limited, and the value of at least one material can be lost (e.g., broken glass mixed in with food waste can render each material exceedingly more expensive and technically challenging to recover). This loss in value and recoverability can be mitigated for materials that can be effectively re-segregated through manual or mechanical sorting.

Certain technologies have proven that specific materials can be effectively re-segregated after they have been mixed with other materials (e.g. metals and certain plastics). However most organic wastes are wet and putrescible and once commingled with other wastes cannot be effectively separated from other wastes and therefore cannot be recovered. This is due to two factors; first, the nature of organic waste (wet and putrescible) makes it difficult to separate from other materials; second, the recovery activities allowed for organic waste under article two and the products created through those activities are subject to strict quality standards such as minimum pathogen reduction levels and maximum contaminant levels to ensure the protection of public health and safety. There is a lack of data demonstrating that a commercially viable process that can effectively separate organic waste and process it in a manner that meets the final product standards exists.

While there is a lack of data demonstrating that organics can be effectively separated from other materials and still be recovered at a rate necessary to meet the statutory targets, a significant portion of stakeholders argued that such technologies are in development and should not be stymied by this regulation. To respond to stakeholders this section provides the flexibility requested and lays out minimum standards for an unsegregated single-container organic waste collection service. These standards are explained in the sections that follow.

This section is necessary to provide stakeholders the flexibility to implement the least burdensome collection service that ensures organic waste is collected and recovered which supports the state's efforts to keep organic waste out of landfills and reduce greenhouse gas emissions.

Subdivision (b)

The purpose of this section is to clarify the standards that a receiving facility must meet in order to be considered a high-diversion organic waste processing facility that a jurisdiction providing an unsegregated single-container collection service could transport gray container waste to. This section, by reference specifies that a high diversion organic waste processing facility is a facility that demonstrates that it meets the annual average mixed waste organic content recovery rates required in 18982(a)(33) (50 percent by 2022 and 75 percent by January 1, 2025). The standards that apply a high-diversion organic waste processing facility as defined in that section and in this

section also apply to other collection services that are required to transport material to a high diversion organic waste processing facilities for the reasons specified in those sections.

These minimum recovery rates are necessary because when the opportunity to recover material through source separation is lost, the state must ensure that minimum recovery levels are met at processing facilities. While this section provides additional flexibility to jurisdictions, CalRecycle must consider its obligation to ensure that the regulations are designed to achieve the statutory targets. If 100 percent of jurisdictions employed this collection option in 2022 the state could not meet the mandatory recovery target of 50 percent unless at least 50 percent of the organic waste collected from these services is recovered. Similarly, if 100 percent of jurisdictions employed this collection option in 2025 the state could not meet the mandatory recovery target of 75 percent unless 75 percent of the organic waste collected from these services is recovered. Therefore, in order to meet the recovery targets specified in statute and the state's ultimate climate goals the recovery standards included in this section are the minimum standards necessary.

As generation of organic waste increases with population growth, these minimum recovery rates may need to be revisited. As stated previously the organic waste reduction targets are linked to a 2014 baseline of 23 million tons. This requires the state to dispose of no more than 5.7 million tons by 2025. If, as CalRecycle projects, generation increases to 26 million tons of organic waste by 2025, recovering 75 percent of 25 million tons will only reduce disposal to slightly more than 6 million tons, resulting in the state missing its organic waste recovery targets. The need for this rate increase could be mitigated if higher recovery rates are achieved through source separation, or if efforts to increase source reduction through food recovery and other methods are successful. However, the recovery rates established in this regulation should be considered an absolute minimum.

This section additionally establishes that a facility does not qualify as a high diversion organic waste processing facility if it fails to meet the annual recovery rates specified in section 18982(a)(33) for two consecutive quarterly reporting periods or three quarterly reporting periods within three years. The purpose of this section is to ensure that a facility has an opportunity to improve its organic content recovery rate and maintain its status as a high diversion organic waste recovery facility. This ensures that a single quarter with lower than average recovery rates does not disqualify the facility from its status as a high diversion organic waste processing facility.

This section is necessary to clarify the standards that timelines and standards that apply to high diversion organic waste processing facilities and to provide stakeholders the flexibility to implement the least burdensome collection service that ensures organic waste is collected and recovered which supports the state's efforts to keep organic waste out of landfills and reduce greenhouse gas emissions.

Subdivision (c)

The purpose of this section is to specify that a jurisdiction is in violation of this section if employs a gray container collection service that sends the organic waste it collects to a facility that fails to qualify as a high diversion organic waste processing facility.

This section also clarifies that if a jurisdiction is found in violation of this section and subject to the enforcement process in section 18996.2, the enforcement process may include a corrective action plan as specified in that section. This section is necessary to respond to stakeholder feedback requesting that CalRecycle clarify that if a jurisdiction fails to meet the requirements of this section it may qualify for additional time to come in to compliance if it meets the requirements of 18996.2 (e.g., the jurisdiction has made substantial effort or there are factors outside the jurisdictions control as defined in section 18996.2). This section is necessary because if a jurisdiction invests in a facility that fails to achieve the necessary organic content recovery rates by the timelines outlined above, the jurisdiction may need time to identify a new facility to receive its waste, implement a three-container collection system that can meet the requirements of the chapter, or invest in facility improvements that result in the facility achieving the minimum recovery rates of a high diversion organic waste processing facility.

This section is necessary to ensure that a jurisdiction is not sending unsegregated organic waste to a facility that recovers less than the levels required of a high diversion organic waste processing facility as that would compromise the state's ability to meet the recovery targets established in the statute these regulations are designed to achieve.

Subdivision (d)

The purpose of this section is to clarify that when complying with the preceding subdivision (a) of this section, the contents of containers may be initially transported to a consolidation site as defined in Section 17402 that complies with the requirements of Section 17409.5.10.

This section clarifies that while the contents of each container must eventually be transported to a destination appropriate for that container (e.g., the facility recovers source-separated organic waste or is a high diversion organic waste processing facility depending on the type of container), they may be first transported to a consolidation site without violating the requirements of this chapter. As specified in Section 17409.5.10, these facilities are not performing any material processing on-site and simply serve as a material consolidation point. This section is necessary to ensure that material can first be transported to a location where materials from multiple hauling vehicles can be combined, and then transported to the proper facility for proper handling of the materials collected.

Subdivision (e)

The purpose of this section is to specify that a jurisdiction may allow organic waste specified for collection in the gray container to be placed in bags for collection. This section was included in response to stakeholder requests for clarity. This section is necessary because using bags for organic waste that is mixed with other waste may help increase the recovery rates of organic waste received at the processing facility as it partially segregates the material from other wastes.

SECTION 18984.4. RECORDKEEPING REQUIREMENTS FOR COMPLIANCE WITH ORGANIC COLLECTION

Subdivision (a)

The purpose of this section is to specify that a jurisdiction shall include certain documents in the Implementation Record required by section 18995.2 of this chapter. This section specifies that documents and records related to organic waste collection services must be kept by the jurisdiction. In response to stakeholder feedback CalRecycle consolidated many reporting requirements into recordkeeping requirements that are accessible to the department but are not required to be reported on a regular basis to CalRecycle. This section is necessary to ensure that CalRecycle can access records to verify that a jurisdiction is in compliance with the requirements of this chapter.

Subdivision (a)(1)

The purpose of this section is to specify that a jurisdiction shall retain a description of which collection method(s) it will use to comply with Article 3. This section is necessary to ensure that CalRecycle can verify the type of collection method a jurisdiction employs. This section is necessary to ensure that CalRecycle can access records necessary to verify that a jurisdiction is in compliance with the minimum requirements of this chapter.

Subdivision (a)(2)

The purpose of this section is to specify that a jurisdiction shall retain information about the geographic area that each collection method is employed in. This section is necessary to ensure that CalRecycle can verify the type of collection method a jurisdiction employs to serve its generators. This section is necessary to ensure that CalRecycle can access records necessary to verify that a jurisdiction is in compliance with the minimum requirements of this chapter.

Subdivision (a)(3)

The purpose of this section is to specify that if a jurisdiction is using a service that requires the contents of containers provided by the jurisdiction to be transported to a high diversion organic waste processing facility, the jurisdiction shall keep specified records related to these facilities. Specifically, this section requires that the jurisdiction maintain records identifying the high diversion organic waste processing facilities receiving waste collected in the jurisdiction, the recovery rate of those facilities, a list of the haulers approved to transport materials to those facilities, and the service areas that this collection service is provided to. These records are necessary to demonstrate that a jurisdiction's collection service is in compliance with this article. This section is necessary to ensure that CalRecycle can access records necessary to verify that a jurisdiction is in compliance with the minimum requirements of this chapter.

SECTION 18984.5. CONTAINER CONTAMINATION MINIMIZATION

Subdivision (a)

The purpose of this section is to require jurisdictions that provide a three-container or two-container collection service to monitor collection containers for contaminants. As stated above, when organic waste is mixed with non-organic waste the recoverability of both materials is compromised, the recovery options become increasingly limited, and the value of at least one material can be lost (e.g. broken glass mixed in with food waste can render each material exceedingly more expensive and technically challenging to recover). This section is necessary to reduce contamination of organic waste collected in fully or partially source-separated organic waste containers so that the material can be recovered.

Subdivision (b)

The purpose of this section is to specify that a jurisdiction must conduct periodic route reviews for prohibited container contaminants. This section specifies that a jurisdiction shall conduct a route review (visual inspection) for prohibited container contaminants on randomly selected containers in a manner that results in all collection routes being reviewed quarterly. This section does not require visual inspections of a minimum number of randomly selected containers. CalRecycle originally proposed requiring inspections of no less than five containers per day per collection route. CalRecycle revised route review frequency to quarterly in response to stakeholder feedback indicating that this flexibility could yield similar results while placing less of a burden on the jurisdiction. Applying a route review schedule less frequent than quarterly could reduce the effectiveness of this requirement by decreasing the amount of reviews and the amount of education generators are provided about contamination. This section is necessary to ensure that a minimum level of contamination inspections are done to reduce contamination. Requiring quarterly reviews is necessary to ensure that there is a sufficient frequency of review and education of generators.

Subdivision (b)(1)

The purpose of this section is to specify that upon finding prohibited container contaminants in a container, the jurisdiction shall contact the generator or provide written notice to the generator. This section specifies that the notice must include information about the generators obligation to properly source separate organic waste and that the notice may be placed on the generators container at the time of the violation.

Educating generators is necessary to ensure that organic waste is properly separated and collected in a manner that preserves the recoverability of the material. If the material is contaminated, some or all of it may not be recovered, which will hinder the state's ability to achieve the organic waste reduction targets. This section is necessary to ensure that generators are aware of their obligation to properly separate waste for recovery under section 18984.9.

Subdivision (b)(2)

The purpose of this section is to allow a jurisdiction to dispose of green or blue containers that were intended for the collection of source separate organic waste if those containers are heavily contaminated. Containers are frequently collected on routes where the contents of multiple green containers are combined in a single collection vehicle. If a hauler checks a green container and sees that it is heavily contaminated with non-organic waste, collecting that container and mixing the contents of that container with the other organic waste in the collection vehicle may compromise the recoverability of all of the organic waste in the collection vehicle. This section allows the hauler to dispose of the contents of this container rather than contaminate the other organic waste in the collection vehicle. This section is intended to be treated as a contingency and is not designed allow a jurisdiction to dispose of the contents of a significant number of green or blue containers which would be a violation of Sections 18984.1(a)(1)-(2) and 18984.2 (a)(1).

This section is necessary to provide flexibility that ensures that contaminants can be kept separate from organic waste and ultimately increase the amount of organic waste that is recovered.

Subdivision (b)(3)

The purpose of this section is to specify that a jurisdiction may impose contamination processing fees or penalties on generators that constantly contaminate their containers. This section clarifies that a jurisdiction, may under their own authority levy fees or penalties in order to increase recovery of organic waste. This article and the enforcement articles in this chapter do not require jurisdictions to levy fees or penalties against generators for contamination, however several jurisdictions currently do this. Stakeholders sought clarification from CalRecycle that the regulations do not prohibit jurisdictions from continuing their activities of issuing fees or penalties when they detect contamination. Contaminated material is more expensive to process and recover and ultimately increases the total cost of recovering material. Allowing jurisdictions to levy fees or penalties allows them to recoup the increased cost of processing contaminated material and discourage contamination. This section is necessary because allowing jurisdictions to issue fees or penalties for contamination helps increase the recoverability of collected organic waste which will help the state meet the organic waste reduction targets.

Subdivision (c)

The purpose of this section is to specify that if contaminants are observed after containers are collected and transported to a facility that recovers the materials designated for collection in that container, that the jurisdiction is responsible for taking action as outlined in this section. This section specifies that if a jurisdiction is informed by a solid waste facility operator pursuant to sections 17409.5, 17867, or 17896.25.1 of this division, that the waste collected from the jurisdiction and transported to the facility contains prohibited container contaminants, then the jurisdiction shall take additional action to minimize contamination. This section is necessary to reduce contamination of organic waste collected in fully or partially source-separated organic waste containers so that the material can be recovered.

Subdivision (c)(1)

The purpose of this section is to specify that if a jurisdiction is informed by a solid waste facility that material hauled to the facility from that jurisdiction is contaminated, that the jurisdiction must inspect containers along the routes that the material was collected from to determine the source of the contamination. This section also specifies that the jurisdiction must educate the generators along that collection route, or the individual generators (if the source is identified), of their obligation to properly sort organic waste for recovery.

Educating generators is necessary to ensure that organic waste is properly separated and collected in a manner that preserves the recoverability of the material. If the material is contaminated, some or all of it may not be recovered, which will hinder the state's ability to achieve the organic waste reduction targets. This section is necessary to ensure that generators that are aware of their obligation to properly separate waste for recovery under section 18984.9.

Subdivision (d)

The purpose of this section is to ensure that if a jurisdiction complies with the requirements of this section through a designee, then the designee must provide certain information to the jurisdiction to demonstrate compliance and implementation. The information the designee is required to provide the jurisdiction is the same information the jurisdiction would collect if it were implementing the requirements of this section.

This section is necessary to ensure that records demonstrating compliance are available to the jurisdiction and that CalRecycle can access records necessary to verify that a jurisdiction is in compliance with the requirements of this chapter.

Subdivision (e)

The purpose of this section is to specify that nothing in this section limits a jurisdiction from adopting contamination standards that are more stringent than the requirements of this section. This section is necessary to specify that if a jurisdiction has, or would like to, set more aggressive requirements for contamination review, nothing in this section prohibits that capability.

SECTION 18984.6. RECORDKEEPING REQUIREMENTS FOR CONTAINER CONTAMINATION MINIMIZATION

Subdivision (a)

The purpose of this section is to specify that a jurisdiction shall include certain documents in the Implementation Record required by section 18995.2 of this chapter. This section specifies that documents and records related to container contamination minimization efforts must be kept by the jurisdiction. In response to stakeholder feedback CalRecycle consolidated many reporting requirements into recordkeeping requirements that are accessible to the department but are not required to be reported on a regular basis to CalRecycle. This section is necessary to ensure that CalRecycle can access records to verify that a jurisdiction is in compliance with the requirements of this chapter.

Subdivision (a)(1)

The purpose of this section is to specify that a jurisdiction must keep an account of how it determines what constitutes contamination in a recycling collection container and to what level. This section specifies that a jurisdiction shall retain a description of the jurisdiction's process for determining the level of container contamination. This section is necessary to ensure that CalRecycle can access records necessary to verify that a jurisdiction is in compliance with the minimum requirements of this chapter.

Subdivision (a)(2)

The purpose of this section is to specify that a jurisdiction must keep a record of the relevant records demonstrating their implementation of, and documenting the results of, its route reviews required by this chapter. This section is necessary to ensure that CalRecycle can access records necessary to verify that a jurisdiction is in compliance with the minimum requirements of this chapter.

Subdivision (a)(3)

The purpose of this section is to ensure that this basic record keeping requirements are met. This section specifies that a jurisdiction shall retain documentation of all written notices, violations, education, and enforcement actions issued or given to the generator with prohibited container contaminants, and as noted in the following section, any direct contact with generators. This record keeping requirement is foundational to implementation of any compliance or enforcement program. Absent this basic documentation, an entity could not reasonably implement compliance measures as it would lack documentation and evidence necessary to demonstrate non-compliance. This section is necessary to ensure that CalRecycle can access records necessary to verify that a jurisdiction is in compliance with the minimum requirements of this chapter.

Subdivision (a)(4)

. The purpose of this section is to ensure that a jurisdiction is keeping records that demonstrate actions it took to comply with the requirements with section 18984.5(c). This section is necessary to ensure that CalRecycle can access records necessary to verify that a jurisdiction is in compliance with the minimum requirements of this chapter.

SECTION 18984.7. CONTAINER COLOR REQUIREMENTS

Subdivision (a)

The purpose of this section is to clarify that the organic waste collection service that a jurisdiction provides to its generators must use the container colors specific to the containers used in that type of collection service. The container color and material specifications included in sections 18984.1-18984.3 and this section will standardize container colors and minimum levels of acceptable materials for collection containers provided across the state, regardless of jurisdiction, and ensure that organic wastes are transported to appropriate facilities for recovery.

Throughout the informal rulemaking process, several jurisdictions, as well as members of the public identified frustration, and concerns with the fact that an individual can live in a jurisdiction where a green container is used for the collection and recycling of organic waste, and work in a jurisdiction where a green container is used for the collection and disposal of mixed wastes. Further jurisdictional boundaries can result in the use of one set of containers with a color scheme and material collection limitations that are distinct from the set of containers used in the neighboring jurisdiction. The confusion created by these distinctions is similar to the confusion that would arise if traffic signals across the state varied by jurisdictional boundaries.

The collection container uniformity required by this and subsequent sections is necessary to respond to stakeholder feedback, enhance consumer education about organic waste recycling, reduce contamination, and maintain the highest degree of recoverability for source separated organic wastes. This will enhance the education of generators regardless of their location in California. This requirement was recommended by various stakeholders to create consistency and reduce generators' confusion about which container to place organic waste into and thus will result in less contamination and maximize organic waste recovery.

This section is necessary to ensure that a jurisdiction complies with the applicable container color requirements specified in section 18984.1-18984.3.

Subdivision (b)

The purpose of this section is to reduce the potential for stranded assets (containers that do not conform to the color scheme required in this chapter) by allowing jurisdictions several years to retire and replace containers through natural attrition. This section allows jurisdictions to continue to use containers that do not conform to the color requirements of this chapter through 2032. At the public workshops CalRecycle held throughout the informal process stakeholders raised concerns about potential financial and logistical challenges associated with meeting a newly established statewide container color scheme, but did not object to the specific colors proposed for containers or propose alternative container colors.

To accommodate the financial concerns, CalRecycle contacted waste companies to inquire on the typical useful life of collection containers. Waste companies contacted indicated that they typically plan for containers to last 7-10 years. Based on this information CalRecycle provided until 2032 (10 years after the effective date of the regulations) for container replacement. To the extent that collection containers that are in use today do not meet the color requirements of this section jurisdictions would not have to replace those containers for nearly 15 years (2019-2032).

This section ensures that new containers purchased by jurisdictions conform to the color requirements of this chapter, but allows a reasonable timeframe for jurisdictions to replace containers through attrition, or when they select a new waste hauler over the next decade. This section is necessary to ensure that the educational benefits of container color standardization are realized within a reasonable timeframe while reducing the cost of compliance for regulated entities.

SECTION 18984.8. CONTAINER LABELING REQUIREMENTS

Subdivision (a)

The purpose of this section is to ensure that as new containers are provided to generators, the containers include labels that inform the generator of which materials can be placed in each container. This section specifies that commencing January 1, 2022, a jurisdiction shall place and maintain a label on each new container or lid provided to generators consistent with the applicable container collection requirements and limitations of this article that specify what materials are allowed to be placed in each container.

This section is necessary to reduce contamination of organic waste which is necessary to ensure that collected organic waste is clean and recoverable.

Subdivision (b)

The purpose of this section is to specify how a generator may comply the labeling requirements. This section specifies that a jurisdiction may comply by placing a label (e.g. sticker or hot-print) with text or graphics indicating acceptable materials for that container on the body or lid of the container, or by imprinting text or graphics on the body or lid of the container that indicate which materials may be accepted in that container. The labeling requirements were refined through the public rulemaking process to accommodate the various types of labels jurisdictions currently use on their containers. Stakeholders indicated that these types of labels are effective and durable.

This section is necessary to ensure that containers are properly labeled which is necessary to ensure that collected organic waste is clean and recoverable.

Subdivision (c)

The purpose of this section is to clarify that the department will provide model labels that meet the requirements of this section that jurisdictions can use. This section was added in response to stakeholder requests for clarity on whether the department would assist with compliance with this section. This section is necessary to clarify that a jurisdiction can use model labels developed by the department to comply with this section

SECTION 18984.9 ORGANIC WASTE GENERATOR REQUIREMENTS.

Subdivision (a)

The purpose of this section is to ensure that organic waste generators properly sort organic waste for collection as required by the applicable collection service provided by their jurisdiction, or self-haul organic waste to a facility that recovers source-separated organic waste.

Approximately 50 percent of disposed organic waste is attributable to residential properties, 40 percent is attributable to commercial businesses, and the balance is self-hauled to landfills. This section is necessary to complement the jurisdiction requirement to provide organic waste collection services to their generators. The state cannot achieve the required reductions if generators do not arrange to have their organic waste collected and recovered, or self-haul their organic waste to a facility for recovery. This section is necessary to ensure organic waste generators comply with the requirements of this chapter and the service provided by their jurisdiction.

Subdivision (b)

The purpose of this section to place an additional set of specified requirements on organic waste generators that are commercial businesses. This section is necessary to increase the amount of organic waste recovered.

Subdivision(b)(1)

The purpose of this section is to specify that commercial businesses provide containers for the collection of organic waste and non-organic recyclables in all areas, except for restrooms, of the business where they provide disposal containers for customers. This section also specifies that the collection containers provided by the business shall conform to the containers provided by the organic waste recovery service provided by their jurisdiction.

This section is necessary. This section establishes that commercial businesses must locate organic waste and recycling containers near disposal containers that customers can access at that business. It also establishes that containers provided by the commercial business conform to the containers used throughout the jurisdiction's organic waste recovery service, as a method to further reduce customer confusion and limit contamination of collection containers. This section is necessary to allow customers of a commercial business that is an organic waste generator, the opportunity to recycle their organic waste, thereby helping to limit disposal of organic waste.

As 40 percent of organic waste is generated at commercial businesses, this section helps ensure that organic waste recovery options are available in nearly all places that commercial waste is generated. This section is necessary to ensure the state is able to meet the organic waste recovery targets established in the statute. This section is necessary to ensure generators have access to organic waste recovery options wherever they discard material, including in public locations. This helps educate consumers and underscores the importance of recovering organic waste in, and outside the home

Subdivision (b)(2)

The purpose of this section is to reduce contamination of organic waste.

As stated above, when organic waste is mixed with non-organic waste the recoverability of both materials is compromised, the recovery options become increasingly limited, and the value of at least one material can be lost (e.g., broken glass mixed in with food waste can render each material exceedingly more expensive and technically challenging to recover). This section is necessary to reduce contamination of organic waste collected in fully or partially source-separated organic waste containers so that the material can be recovered.

Subdivision (b)(3)

The purpose of this section is to reduce the contamination of organic waste and increase employee awareness about the requirements for generators to increase recovery of organic waste by placing the material in the correct containers.

As stated above, when organic waste is mixed with non-organic waste the recoverability of both materials is compromised, the recovery options become increasingly limited, and the value of at least one material can be lost (e.g., broken glass mixed in with food waste can render each material exceedingly more expensive and technically challenging to recover). This section is necessary to reduce contamination of organic waste collected in fully or partially source-separated organic waste containers so that the material can be recovered.

Subdivision (c)

The purpose of this section is to respond to stakeholder inquiries requesting that CalRecycle clarify that these regulations do not prohibit onsite management or use of a community scale composting activity. These management options are viable methods of recovering organic waste and should not be discouraged. However, pursuant to this chapter a generator is required to recover all of their organic waste, not a select sub portion that lends itself to boutique management options. Managing some organic waste onsite does not relieve a generator from the requirement to arrange for the recovery of the balance of their organic waste, either through collection or self-hauling. This section is necessary because these management options are viable methods of recovering organic waste and should not be discouraged, and can help the state achieve the organic waste reduction targets.

SECTION 18984.10. PROPERTY AND BUSINESS OWNER RESPONSIBILITIES

Subdivision (a)

The purpose of this section is to ensure that organic waste generators have access to the applicable collection service provided by their jurisdiction so that they can comply with their obligations under this chapter.

Approximately 50 percent of disposed organic waste is attributable to residential properties, 40 percent is attributable to commercial businesses, and the balance is self-hauled to landfills. This section is necessary to complement the jurisdiction requirement to provide organic waste collection services to their generators. The state cannot achieve the required reductions if generators do not arrange to have their organic waste collected and recovered, or self-haul their organic waste to a facility for recovery. This section is necessary to ensure that generators can comply with the requirements of this chapter.

Subdivision (b)

The purpose of this section is to ensure that organic waste generators are aware of their requirements under this chapter. This section is necessary to ensure that organic waste is properly separated and collected in a manner that preserves the recoverability of the material. If the material is contaminated, some or all of it may not be recovered, which will hinder the state's ability to achieve the organic waste reduction targets.

Subdivision (c)

The purpose of this section is to ensure that jurisdictions are able to conduct the inspections required by article 14 of this chapter. This section is not intended to authorize a jurisdiction or CalRecycle to conduct an inspection within an individual tenant's unit or home. This section is necessary to ensure that inspections are not inhibited due to not being able to access the applicable area of the property.

SECTION 18984.11. WAIVERS AND EXEMPTIONS GRANTED BY A JURISDICTION

Subdivision (a)

The purpose of this section is to provide jurisdictions the authority to grant waivers to select generators from the collection requirements of this chapter under specified circumstances. Throughout the rulemaking process stakeholders indicated, that it is not cost effective to attempt to collect organic waste from certain generators. CalRecycle agrees that some flexibility is necessary, but in order to ensure that the organic waste reduction targets are still achieved, has included conditions on the types of waivers that jurisdictions can grant. These conditions ensure that use of organic waste collection waivers does not impede the state's ability to achieve the organic waste reduction targets. This section is necessary to provide jurisdictions with the flexibility to focus their organic waste collection efforts in the most cost-effective manner.

Subdivision (a)(1)

The purpose of this section is to authorize jurisdictions to exempt commercial businesses that generate de-minimis amounts of organic waste from the organic waste collection requirements of this chapter. This section considers de-minimis amounts of organic waste to be 20 gallons per week for businesses that produce 2 cubic yards of organic waste per week and 10 gallons per week for businesses that produce 1 cubic yard of organic waste per week.

The de-minimis threshold was established based on input from stakeholders including jurisdictions that implement organic waste collection services that are similar to those required in the regulations. According to jurisdictions that already require their generators to subscribe to organic waste collection services, the de-minimis amounts of 10 and 20 gallons respectively equate to roughly 10 percent of waste generation for those generators. According to jurisdictions implementing these waivers there are very few businesses that qualify for this waiver, and collecting organic waste from these generators would not be cost effective.

To ensure that these waivers do not compromise the state's ability to achieve the organic waste reduction targets, this section requires jurisdictions to verify the amount of organic waste a commercial business generates prior to authorizing a waiver, and to verify the amounts annually. Further, this section requires jurisdictions to discontinue a business's waiver if at any time the jurisdiction discovers that the business's organic waste generation exceeds the amount allowed in this section.

This section is to allow an appropriate level of flexibility for jurisdictions to exempt commercial businesses that do not generate more than de-minimis amounts of organic waste from compliance with the requirements of this section. This section is necessary to allow jurisdictions to focus their limited resources on more effective recovery efforts which may ultimately increase the amount of organic waste recovered.

Subdivision (a)(2)

The purpose of this section is to authorize jurisdictions to exempt businesses with legitimate space constraints from the obligation to set out an organic waste collection container. This provision mirrors waiver conditions authorized in jurisdictions that currently require their generators to subscribe to organic waste collection services that are similar to the collection requirements of this chapter. According to these jurisdictions there are very few businesses that can demonstrate the existence of space constraints that cannot be addressed, and therefore few of these waivers are issues.

This waiver is only applicable in limited scenarios and should decrease in use over the years. There are few instances where a business's existing waste collection space could not accommodate an additional organic waste recycling container if the existing containers were downsized (e.g. two 90-gallon bins could be replaced with three 60-gallon bins and occupy the same space). Further, this chapter specifically authorizes jurisdictions to provide split containers to their generators in order to segregate organic waste. This flexibility allows jurisdictions or their businesses to modify containers rather than requiring an extra container. Finally, the California State Building Code, referenced in article 8 of this chapter requires new construction to include space for organic waste collection containers.

This section is necessary to allow businesses with legitimate and cost-prohibitive space constraints to obtain waived from the requirements of this chapter.

Subdivision (a)(3)

The purpose of this section is to allow jurisdictions to implement the most cost-effective collection services possible. If a jurisdiction can effectively collect gray and blue container waste

on a bi-weekly basis, it can significantly reduce the cost of collection and reduce vehicle emissions.

This section allows a jurisdiction to authorize a generator to subscribe to bi-weekly collection of its blue and gray containers if the generator is using a service that requires the placement of all organic waste in the green container (with the exception of organic waste specifically allowed for collection in the blue container in a three-container collection service). This section requires that prior to authorizing this collection frequency the jurisdiction or its authorized hauler must demonstrate to the solid waste local enforcement agency that this collection frequency will not propagate vectors or other public health concerns.

This section is necessary to allow flexibility that can provide local jurisdictions the ability to focus solid waste and recovery efforts on compliance with the organic waste reduction requirements of this chapter which could increase the recovery of organic waste.

Subdivision (b)

The purpose of this section is to clarify that nothing in this chapter allows a jurisdiction to exempt businesses from the organic waste recycling requirements of Section 42649.91 of the PRC. This section of the PRC requires businesses to subscribe to organic waste recycling service based on the amount of waste they generate. This section is necessary to provide clarity that the authority for waivers included in this section do not allow jurisdictions to waive businesses from their existing obligations in a separate and distinct statute.

SECTION 18984.12. WAIVERS AND EXEMPTIONS GRANTED BY THE DEPARTMENT

Subdivision (a)

The purpose of this section is to allow low populations areas of the state to apply to the department for a waiver from the organic waste collection requirements in this article. The necessity of this is discussed in the specific sections below.

Subdivision (a)(1)

The purpose of this section is to outline the two conditions by which an application for a low-population waiver may be granted. These conditions are that the jurisdiction disposed of less than 5,000 tons of solid waste in 2014 as reported in the Disposal Reporting System, and that the jurisdiction has a total population of less than 5,000 people. Representatives for these jurisdictions argued that it would be exceedingly expensive for these jurisdictions to comply with the collection service requirements and that these jurisdictions represent a relatively small portion of the organic waste stream. Further these jurisdiction representatives noted that unlike most cities and counties in the state, many of these jurisdictions do not currently provide solid waste collection services to their generators.

Based on CalRecycle's analysis of jurisdiction disposal, this provision would potentially cover approximately 20 jurisdictions that cumulatively account for 0.03 percent of total statewide organic waste disposal; allowing waivers for this amount of material will not significantly impact the state's ability to achieve the 75 percent disposal reduction target, but it avoids placing

disproportionate economic cost on a small portion of the state's population. These jurisdictions would still contribute to the state's organic waste reduction targets through compliance with other sections of the regulation include procurement and edible food recovery. This section is necessary to respond to stakeholder feedback and provide flexibility to small jurisdictions.

Subdivision (a)(2)

The purpose of this section is to allow specific portions of unincorporated county lands to be granted a waiver from the requirements of this article. Based on CalRecycle's analysis of jurisdiction disposal, this provision would potentially cover census tracts that cumulatively account for 2.1 percent of total statewide organic waste disposal; allowing waivers for this amount of material will not significantly impact the state's ability to achieve the 75 percent disposal reduction target. This section is necessary to ensure that counties can focus on collecting organic waste from high density areas where the most organic waste can be collected for recovery.

Subdivision (b)

The purpose of this section is to establish a timeframe for waivers granted by the department. This section specifies that waivers issued pursuant to subdivision (a) of this section shall be good for a period of up to two years and shall be approved by the CalRecycle if the jurisdiction submits information demonstrating that the area it is seeking a waiver for meets the criteria of (a)(1) or (a)(2). This section is necessary to ensure that demographic changes over the years can be considered. The two-year timeframe ensures that demographic changes can be accounted for as populations change (e.g. a jurisdiction's population could increase in the future making it ineligible for a low population waiver).

Subdivision (c)

The purpose of this section is to allow counties with a population of less than 70,000 persons to be exempt from the organic waste collection requirements of this article if the state meets organic waste reduction articulated in PRC 42649.81 (50 percent reduction in the disposal of a subcategory of organic waste). This section specifies that a jurisdiction that meets the definition of "rural jurisdiction" in section 42649.8 of the Public Resources Code, is exempt from this article if the governing body of the jurisdiction adopts a resolution stating the need for the exemption and certain state organic waste reduction milestones are met.

Under PRC 42649.82 rural jurisdictions are exempt from early implementation of commercial organic waste reduction requirements. Exempting those jurisdictions from early implementation requirements of mandatory commercial organic waste recycling requirements of AB 1826 provided additional time for these jurisdictions to phase in organic waste recycling requirements. Consequently, these jurisdictions were not required to undergo the same organic waste recycling program expansion as jurisdictions that were subject to AB 1826 and therefore may need additional time to comply with the requirements of this article.

Exemptions granted by CalRecycle must be measured against the statutory timelines and targets. Specifically, to comply with the department's obligation to implement regulations designed to achieve the organic waste reduction targets required by statute, the department must consider whether an exemption will threaten the state's ability to achieve the organic waste reduction

targets. Based on CalRecycle analysis of jurisdiction disposal, this provision would potentially cover rural jurisdictions that cumulatively account for 1.4 percent of total statewide organic waste disposal; allowing waivers for this amount of material will not significantly impact the state's ability to achieve the 75 percent disposal reduction target. Exempting these jurisdictions until 2025 (or later if the state meets organic waste reduction targets) is reasonable as it will not significantly impact the state's ability to achieve the organic waste reduction targets established by SB 1383. These jurisdictions will still contribute to the state's organic waste reduction targets through compliance with other sections of the regulation include procurement and edible food recovery. This section is necessary to respond to stakeholder feedback and provide flexibility and additional time to rural jurisdictions.

Subdivision (d)

This section specifies that nothing in this section of the regulation exempts a jurisdiction from complying with the other requirements to promote and provide information to generators about waste prevention, community composting, managing organic waste on-site, and other means of recovering organic waste, or any other requirements of this chapter. The purpose of this section is to clarify that jurisdictions granted waivers under this section must still fulfill other obligations to reduce overall solid waste disposal, through methods of education and source reduction practices. This section is necessary to clarify that the exemptions authorized under this section only apply to the collection requirements of this article, and do not exempt jurisdictions from their obligation to comply with other articles of this chapter.

SECTION 18984.13. EMERGENCY CIRCUMSTANCES

Subdivision (a)

The purpose of this section is to establish the conditions under which emergency waivers allowing temporary dispose of organic waste may authorized. The necessity of this is discussed in the specific sections below.

Subdivision (a)(1)

The purpose of this section is to define the circumstances under which an emergency waiver that allows for disposal of organic waste may be granted by a jurisdiction. This section is necessary to ensure that jurisdictions and facility operators have sufficient time to correct unforeseen barriers such as equipment failure.

Subdivision (a)(2)

The purpose of this section is to ensure that CalRecycle is notified of the location of the recycling or recovery facility experiencing an operational failure in a timely fashion. This section is necessary to allow the department to determine the impact operational failures may have on the state's ability to achieve the organic waste reduction targets. This section is also necessary to ensure that CalRecycle has a record indicating which jurisdictions are authorized to temporarily dispose of organic waste without facing compliance action from CalRecycle.

Subdivision (b)

The purpose of this section is to establish the conditions under which disaster and emergency circumstance waivers to temporarily dispose of organic waste may be granted by a jurisdiction.

Specific conditions, detailed in this section, can require significant amounts of solid waste to be removed expeditiously in order to protect public health and safety and the environment from the impacts of unmanaged solid waste. This section is necessary to ensure that the organic waste collection requirements of this chapter do not impede these efforts and potentially imperil the public and the environment.

Subdivision (b)(1)

The purpose of this section is to define the circumstances under which a disaster debris waiver that allows for disposal of organic waste may be granted by a jurisdiction. In the case of disasters such as wildfires, a significant amount of debris must be removed in a short period. This is often necessary to prevent erosion and sediment build-up in waterways, to mitigate the risk of mudslides, to protect the general public from exposure to solid waste, and for other public health and environmental reasons. This section ensures that when such circumstances exist, a jurisdiction is not obligated to collect and recycle the organic portion of that waste beyond the diversion requirements required under existing regulations that apply to disaster scenarios. This section is necessary to ensure that this waste can be managed efficiently following natural disasters.

Subdivision (b)(2)

The purpose of this section is to define the circumstances under which a jurisdiction that has sediment debris is allowed to dispose of the organic waste in the sediment. This flexibility was requested by stakeholders who indicated that debris removal for flood control infrastructure such as those identified in this section can be time sensitive, and that the debris removed is often subject to discharge requirements that restrict the average organic content of the debris. This section is necessary to ensure that the requirements of this chapter are not an impediment to potentially time sensitive removal of material that is predominantly non-organic.

SECTION 18984.14. RECORDKEEPING REQUIREMENTS FOR WAIVERS AND EXEMPTIONS

Subdivision (a)

The purpose of this section is to specify that a jurisdiction shall include certain documents in the Implementation Record required by Section 18995.2 of this chapter. This section specifies that documents and records related to waivers and exemptions must be kept by the jurisdiction. In response to stakeholder feedback CalRecycle consolidated many reporting requirements into recordkeeping requirements that are accessible to the department but are not required to be reported on a regular basis to CalRecycle. This section is necessary to ensure that CalRecycle can access records to verify that a jurisdiction is in compliance with the requirements of this chapter.

Subdivision (a)(1)

The purpose of this section is to specify that a jurisdiction shall retain records related to an event that triggers a processing facility temporary equipment or operations failure waiver. This section is necessary to ensure that CalRecycle can access records necessary to verify that a jurisdiction is in compliance with the minimum requirements of this chapter.

Subdivision (a)(2)

The purpose of this section is to specify that a jurisdiction shall retain a description of the jurisdiction's process for issuing waivers and the frequency of inspections by the jurisdiction to verify the validity of waivers. This section is necessary to ensure that CalRecycle can access records necessary to verify that a jurisdiction is in compliance with the minimum requirements of this chapter.

Subdivision (a)(3)

The purpose of this section is to specify that a jurisdiction shall retain copies of all de-minimis waivers, including the location, date issued, and name of generators. This section is necessary to ensure that CalRecycle can access records necessary to verify that a jurisdiction is in compliance with the minimum requirements of this chapter.

Subdivision (a)(4)

The purpose of this section is to specify that a jurisdiction shall retain copies of all physical space waivers including the location, date issued, and name of generators. This section is necessary to ensure that CalRecycle can access records necessary to verify that a jurisdiction is in compliance with the minimum requirements of this chapter.

Subdivision (a)(5)

The purpose of this section is to specify that a jurisdiction shall retain copies of all collection frequency waivers including the location, date issued, and name of generators. This section is necessary to ensure that CalRecycle can access records necessary to verify that a jurisdiction is in compliance with the minimum requirements of this chapter.

ARTICLE 4. EDUCATION AND OUTREACH

Article 4 specifies the requirements of jurisdictions to provide education and outreach to organic waste generators (as defined in Article 1, Section 18982 (a)(48)) concerning their obligation to reduce the disposal of organic waste (as defined in Article 1, Section 18982 (a)(46)), and outlines the frequency and type of education and outreach that must be provided.

SECTION 18985.1. ORGANIC WASTE RECOVERY EDUCATION AND OUTREACH

Subdivision (a)

The purpose of this section is to require that a jurisdiction, starting February 1, 2022, and annually thereafter, provide education and outreach to its organic waste generators that are subscribed to a three-container or two-container organic waste collection service. This section is necessary because the 2020 and 2025 reduction of organic waste disposal targets required by statute cannot be achieved unless organic waste generators are aware of their obligation to reduce disposal of organic waste.

Subdivision (a)(1)

The purpose of this section is to require jurisdictions to provide information to organic waste generators regarding the generator's requirements to properly separate materials in appropriate

containers pursuant to this chapter. This section is necessary to ensure that the maximum amount of organic waste is collected and that contamination is reduced.

Subdivision (a)(2)

The purpose of this section is to require jurisdictions to provide information on methods for prevention of organic waste generation, recycling organic waste on-site, sending organic waste to community composting, and any other local requirements regarding organic waste. This section is necessary to ensure that organic waste generators are aware of the options for managing organic waste in addition to collection services. This will help ensure that the maximum amount of organic waste is collected and that contamination is reduced.

Subdivision (a)(3)

The purpose of this section is to require jurisdictions to provide information on the methane reduction benefits of reducing the disposal of organic waste. This section is necessary to ensure that organic waste generators are aware of the environmental and health benefits that result when methane is reduced by not disposing of organic waste in landfills and understand why they should prevent organic waste generation and recycle organic waste.

Subdivision (a)(4)

The purpose of this section is to require jurisdictions to provide organic waste generators with a list of approved haulers and information on how to recycle organic waste. This section is necessary to ensure that organic waste generators know how to recycle and that they must subscribe to the approved list of haulers. This will help ensure that the maximum amount of organic waste is collected and that contamination is reduced.

Subdivision (a)(5)

The purpose of this section is to require jurisdictions to provide information related to the public health and safety and environmental impacts associated with the disposal of organic waste. This section is necessary to make organic waste generators aware of the environmental and health benefits that result when methane is reduced by not disposing of organic waste in landfills. This will help ensure that the maximum amount of organic waste is collected.

Subdivision (a)(6)

The purpose of this section is to require jurisdictions to provide information regarding programs for the donation of edible food. This section is necessary to ensure that commercial edible food generators know how to donate edible food which will help achieve the statute's requirement to recover at least 20 percent of edible food that is currently disposed by January 1, 2025.

Subdivision (b)

The purpose of this section is to require that, prior to February 1, 2022, and annually thereafter, a jurisdiction shall provide self-haulers with information regarding the requirements of Section 18988.3 of this chapter. This will help ensure that the maximum amount of organic waste is collected and that contamination is reduced. This section is necessary to ensure that self-haulers understand the requirements for recycling organic waste.

Subdivision (c)

The purpose of this section is to require that, prior to February 1, 2022, and annually thereafter, a jurisdiction shall provide to organic waste generators using an unsegregated single-container collection service with the information in subdivisions (a)(2), (3), and (4) along with information that the organic waste is being processed at a high diversion organic waste processing facility. This section is necessary to ensure that organic waste generators that have unsegregated single-container collection service are aware of: (1) their options for reducing generation and otherwise managing organic waste, (2) the environmental and health benefits of reducing methane gas by not disposing organic waste from landfills, and (3) how their material is being processed for recycling. This will help ensure that the maximum amount of organic waste is collected and that contamination is reduced.

Subdivision (d)

The purpose of this section is to provide that a jurisdiction may comply with the requirements of this section through a variety of methods including print, electronic media, and direct contact. This provides flexibility for the jurisdictions to determine the most effective approach for educating their organic waste generators. This section is necessary to ensure that jurisdictions know that they can comply using a variety of approaches.

Subdivision (d)(1)

The purpose of this section is to specify that a jurisdiction may provide information required by this section through print or electronic media. This will help ensure that the maximum amount of organic waste is collected and that contamination is reduced. This section is necessary to inform jurisdictions that they can comply using print or electronic media and provides flexibility for the jurisdictions to determine the most effective approach for educating their organic waste generators. .

Subdivision (d)(2)

The purpose of this section is to specify that a jurisdiction may provide information required by this section through direct contact with generators through workshops, meetings, or on-site visits. This provides flexibility for the jurisdictions to determine the most effective approach for educating their organic waste generators. This will help ensure that the maximum amount of organic waste is collected and that contamination is reduced. This section is necessary to inform jurisdictions that they can comply using direct contact with generators.

Subdivision (e)

The purpose of this section is to specify that a jurisdiction may comply with the requirements of this section through their authorized haulers. This provides flexibility for the jurisdictions to determine the most effective approach for educating their organic waste generators. This will help ensure that the maximum amount of organic waste is collected and that contamination is reduced. This is section necessary to ensure that jurisdictions know that they can utilize their haulers to conduct education and outreach activities.

Subdivision (f)

The purpose of this section is to require that, if more than five percent of a jurisdiction's generators are defined as "Limited English Speaking Households" or "linguistically isolated" as defined by the U.S. Census Bureau, a jurisdiction must provide information required in this

section in a language or format (including, but not limited to, graphics and websites) that will ensure that the information is understood by those generators. If generators are linguistically isolated and they do not have information in their language, they will not be able to properly participate in the organics recycling program. This will help ensure that the maximum amount of organic waste is collected and that contamination is reduced. This section is necessary to set a threshold for providing education information in appropriate languages, in accordance with widely accepted environmental justice principles. Environmental justice is about meaningful engagement of all people in the decision-making process.

SECTION 18985.2. EDIBLE FOOD RECOVERY EDUCATION AND OUTREACH

Subdivision (a)

The purpose of this section is to require that on or before February 1, 2022, a jurisdiction shall develop and maintain a list of food recovery organizations and food recovery services operating within the jurisdiction. This section is necessary

Through developing this list, local governments will gain a better understanding of the current food recovery operations and food recovery capacity within the jurisdiction. This section is necessary because many jurisdictions in California are not fully aware of the food recovery organizations and services operating in their area and they do not maintain a list that contains specific information that will help facilitate food recovery such as the location, hours of operation, and the collection service area. This requirement will serve to help jurisdictions with the food recovery capacity planning requirements set forth in Article 11 of this chapter.

The purpose of making the list available on the jurisdiction's website is to ensure that commercial edible food generators can easily access the information. Making the list available on the jurisdiction's website will help educate edible food generators about food recovery organizations and services that are capable of collecting or receiving their excess edible food on a routine basis. Providing this education will help facilitate additional food recovery between edible food generators and food recovery entities, thereby enhancing the efficacy of food recovery efforts in each jurisdiction. This requirement serves as an educational resource to help edible food generators comply with the commercial edible food generator requirements set forth in Section 18991.3 of this chapter.

This section is necessary to generate information to assist jurisdictions in achieving the edible food diversion requirements in SB 1383.

Subdivision (b)

The purpose of this section is to require that at least annually a jurisdiction shall provide commercial businesses that generate edible food with information about the jurisdiction's edible food recovery program established pursuant to Section 18991.1 of this chapter, and educate them about the commercial edible food generator requirements specified in Article 10. This section is necessary to educate edible food generators about the requirements for edible food diversion to assist in achieving the edible food diversion goals in SB 1383.

In order to maximize edible food recovery, commercial edible food generators must become aware of the jurisdiction's food recovery program. Providing education to commercial edible food generators is vital to ensure compliance with the edible food recovery requirements of this chapter. This education must occur at least annually to keep existing edible food generators updated about changes to the jurisdiction's edible food recovery program. Furthermore, providing this education on an annual basis will ensure that all new edible food generators that open each year will be aware of the food recovery requirements. This section is necessary to ensure that edible food generators are aware of the commercial edible food generator requirements and the jurisdiction's edible food recovery program set forth in this chapter.

SECTION 18985.3. RECORDKEEPING REQUIREMENTS FOR A JURISDICTION'S COMPLIANCE WITH EDUCATION AND OUTREACH REQUIREMENTS

Subdivision (a)

The purpose of this section is to require that a jurisdiction include all relevant documents supporting its compliance with Article 4 in the "Implementation Record" required by Section 18995.2. This section specifies all relevant documents that are required for a jurisdiction to demonstrate compliance with the education and outreach requirements set forth in this article. This section is necessary to provide records to allow the department to monitor each jurisdiction's compliance with the education and outreach requirements of this chapter.

Subdivision (a)(1)

The purpose of this section is to specify the documents that are required for a jurisdiction to demonstrate their compliance with the education and outreach requirements set forth in this article. This section is necessary for the department to determine that the jurisdiction has provided sufficient education to organic waste and edible food generators.

Subdivision (a)(2)

The purpose of this section is to specify that jurisdictions must include the date the educational information was sent out, and the entities the information was distributed to. This section is necessary so the department can determine if a jurisdiction has complied with both the initial and annual edible food recovery education and outreach requirements of this section. In addition, this requirement is included in the regulations so the department can verify that organic waste generators and commercial edible food generators received the education required by this article.

Subdivision (a)(3)

The purpose of this section is to specify that a copy of any electronic educational materials disseminated must also be included in the Implementation Record. This section is necessary for the department to determine if a jurisdiction complies with the initial and annual education and outreach requirements of this article.

Subdivision (a)(4)

The purpose of this section is to specify documentation that must be included in the Implementation Record. This section is necessary so the department can verify that a jurisdiction that relies on a designee meet its educational requirements is in compliance with the education and outreach requirements set forth in this article.

ARTICLE 5. GENERATORS OF ORGANIC WASTE

Article 5 specifies the requirements of non-local entities and local education entities that are organic waste generators (as defined in Article 1, Section (a)(48)), to reduce the disposal of organic waste (as defined in Article 1, Section 18982 (a)(46)), and outlines the waiver process for these entities in specified scenarios.

SECTION 18986.1. NON-LOCAL ENTITIES REQUIREMENTS

Subdivision (a)

The purpose of this section is to require non-local entities that are organic waste generators to comply with the requirements of this chapter to prevent and reduce the generation of organic waste. This section is necessary to specify that non-local entities that are not subject to the authority of a local jurisdiction must adhere to the regulation to prevent and reduce the generation of organic waste.

Subdivision (a)(1)

The purpose of this section is to provide that non-local entities may recycle their organic waste by subscribing to and complying with the requirements of an organic waste collection service that meets the requirements of Article 3 of this chapter. This section is necessary to ensure that non-local entities that generate organic waste are accountable for the organic waste they generate and to allow CalRecycle to ensure that non-local entities are recycling their organic waste. This section is necessary to ensure that the maximum amount of organic waste is collected and contamination is reduced.

Subdivision (a)(2)

The purpose of this section is to provide that non-local entities may recycle their organic waste by self-hauling organic waste to a facility that processes source-separated organic waste in a manner that complies with the requirements of Article 7 of this chapter. This section is necessary to require non-local entities that generate organic waste and choose to self-haul instead of subscribing to an organic waste collection service, to reduce disposal of organic waste by self-hauling their organic waste to a facility that processes source-separated organic waste. The section is also necessary to allow CalRecycle the ability to ensure that non-local entities are recycling their organic waste and that the maximum amount of organic waste is collected and contamination is reduced.

Subdivision (b)

The purpose of this section is to require non-local entities to provide containers for the collection of organic waste and non-organic recyclables in all areas where disposal containers are located, and that the containers provided shall conform to the requirements of the containers provided through the organic waste recovery service to which the non-local entity subscribes. This section is necessary to provide CalRecycle the ability to ensure that non-local entities are providing proper containers for the collection of organic waste and that the maximum amount of organic waste is collected and contamination is reduced.

Subdivision (c)

The purpose of this section is to require that non-local entities prohibit their employees from placing organic waste in a container not designated for organic waste. This section is necessary to ensure that non-local entities are accountable for organic waste handled by their employees by requiring the employees to safely reduce the disposal of organic waste. This section is also necessary to provide CalRecycle with the ability to ensure that non-local entities are not contaminating containers used for the collection of organic waste.

Subdivision (c)(1)

The purpose of this section is to provide that certain organic waste types shall not be collected in the green container or blue container provided by non-local entities. This section is necessary to ensure that non-local entities are accountable for organic waste they generate and that it is properly handled by not placing certain types of organic waste in blue or green containers. This section is also necessary to provide CalRecycle with the ability to ensure that non-local entities are not contaminating containers used for the collection of organic waste so that the maximum amount of organics is collected and contamination is reduced.

Subdivision (d)

The purpose of this section is to require non-local entities to periodically inspect organic waste containers for contamination and, if the containers are contaminated, to inform employees of the requirement to only use those containers for organic waste. This section is necessary to ensure that non-local entities are accountable for their organic waste by maintaining awareness of the contents of their organic waste collection container, communicating to employees when containers are contaminated, and when needed, educating employees about the proper use of organic waste containers. This section is also necessary to provide CalRecycle with the ability to ensure that non-local entities are not contaminating containers used for the collection of recyclables and organic waste so that the maximum amount of organic waste is collected and contamination is reduced.

Subdivision (e)

The purpose of this section is to require non-local entities to provide information to employees on methods for the prevention of organic waste generation. This section is necessary to ensure that employees of non-local entities are informed of the methods for preventing and recycling organic waste and to provide CalRecycle with the ability to ensure that non-local entities are reducing their initial creation of organic waste.

Subdivision (f)

The purpose of this section is to clarify that nothing in this section prohibits a non-local entity from preventing waste generation, managing organic waste on-site, or using a community composting site. This section is necessary to ensure that non-local entities are informed about additional options available to prevent the creation of, as well as recycle, organic waste beyond subscribing to an organic waste collection service or self-hauling their organic waste to a facility that processes source-separated organic waste.

SECTION 18986.2. LOCAL EDUCATION AGENCIES REQUIREMENTS

Subdivision (a)

The purpose of this section is to require local education agencies (as defined in Article 1, Section 18982 (a)(40)) to comply with the requirements of this chapter to prevent and reduce the generation of organic waste. This section provides CalRecycle with the ability to ensure that local education agencies are recycling organic waste. This section is necessary to require local education agencies who are not subject to the control of city or county regulations related to solid waste to adhere to the regulation and prevent and reduce the generation of organic waste.

Subdivision (a)(1)

The purpose of this section is to specify that local education agencies may recycle their organic waste by subscribing to and complying with the requirements of an organic waste collection service that meets the requirements of Article 3 of this chapter. This section is necessary to ensure that local education agencies who generate organic waste are accountable for the organic waste they generate and to provide CalRecycle with the ability to ensure that local education agencies are recycling organic waste.

Subdivision (a)(2)

The purpose of this section is to provide that local education agencies may recycle their organic waste by self-hauling organic waste to a facility that processes source-separated organic waste in a manner that complies with the requirements of Article 7 of this chapter. This section is necessary because it requires local education agencies that generate organic waste and self-haul instead of subscribing to an organic waste collection service, to reduce disposal of organic waste by self-hauling their organic waste to a facility that processes source-separated organic waste.

Subdivision (b)

The purpose of this section is to require local education agencies that are organic waste generators to provide containers for the collection of organic waste and non-organic recyclables in all areas where disposal containers are located and that the containers provided shall conform to the requirements of the containers provided through the organic waste recovery service to which the local education agency subscribes. This section is necessary to allow CalRecycle to ensure that local education agencies are providing proper containers for the collection, and recycling of, organic waste so that the maximum amount of organic waste is collected and contamination is reduced.

Subdivision (c)

The purpose of this section is to require local education agencies to provide information to employees and students on methods for the prevention of organic waste generation. This section is necessary to ensure that employees and students of local education agencies are informed of the methods for preventing and recycling organic waste and to provide CalRecycle with the ability to ensure that local education agencies are reducing their initial creation of organic waste.

Subdivision (d)

The purpose of this section is to clarify that nothing in this section prohibits a local education agency from preventing waste generation, managing organic waste on-site, or using a community composting site. This section is necessary to ensure that local education agencies are informed about additional options available to prevent the creation of, as well as recycle, organic waste

beyond subscribing to an organic waste collection service or self-hauling their organic waste to a facility that processes source-separated organic waste.

SECTION 18986.3 WAIVERS FOR NON-LOCAL ENTITIES AND LOCAL EDUCATION AGENCIES

Subdivision (a)

The purpose of this section is to require CalRecycle to waive a non-local entity's or local education agency's obligation to comply with some or all of the organic waste collection service requirements of this article if it provides documentation demonstrating any one of four scenarios. This section is necessary to provide that non-local entities who are not subject to the authority of a city or county may receive a waiver from the requirements outlined in this section, if so determined by CalRecycle. This section is also necessary to allow CalRecycle to grant a waiver in certain scenarios where non-local entities and local education agencies do not generate specified amounts of organic waste, have space limitations, or are located in jurisdictions that have been granted a waiver by CalRecycle. The waivers authorized under this section align with the waivers allowed in Sections 189894.11 and 18984.12.

Subdivision (a)(1)

The purpose of this section is to specify that a waiver may be granted for a non-local entity or local education agency if the total solid waste collection service subscribed to is two cubic yards or more per week and organic waste comprises less than 20 gallons per week of the entity or agency's total waste.

The de-minimis threshold was established based on input from stakeholders including jurisdictions that implement organic waste collection services that are similar to those required in the regulations. According to jurisdictions that already require their generators to subscribe to organic waste collection services, the de-minimis amounts of 10 and 20 gallons respectively equate to roughly 10 percent of waste generation for those generators. This section is necessary to allow a non-local entity or local education agency that meets these thresholds the opportunity to apply for a waiver exempting them from the other requirements of this article.

Subdivision (a)(2)

The purpose of this section is to specify that a waiver may be granted for a non-local entity or local education agency if the total solid waste collection service subscribed to is less than two cubic yards per week and organic waste comprises less than 10 gallons per week of the entity or agency's total waste.

The de-minimis threshold was established based on input from stakeholders including jurisdictions that implement organic waste collection services that are similar to those required in the regulations. According to jurisdictions that already require their generators to subscribe to organic waste collection services, the de-minimis amounts of 10 and 20 gallons respectively equate to roughly 10 percent of waste generation for those generators. This section is necessary to allow a non-local entity or local education agency that meets these thresholds the opportunity to apply for a waiver exempting them from the other requirements of this article.

Subdivision (a)(3)

The purpose of this section is to specify that a waiver may be granted for a non-local entity or local education agency if it provides documentation from a hauler, licensed architect, engineer, or a similarly qualified entity, that demonstrates that there is not adequate space for separate organic waste containers. This waiver is only applicable in limited scenarios and should decrease in use over the years. There are few instances where an existing waste collection space could not accommodate an additional organic waste recycling container if the existing containers were downsized (e.g., two 90-gallon bins could be replaced with three 60-gallon bins and occupy the same space).

This section is necessary to allow non-local entities or local education agencies, who do not have room for organic waste collection containers in the pick-up or drop-off area near their normal solid waste pick-up or collection area (if self-hauling), the opportunity to apply for a waiver exempting them from the other requirements of this article.

Subdivision (a)(4)

The purpose of this section is to specify that a waiver may be granted for a non-local entity or local education agency if the entity is located within a jurisdiction or census tract that has been granted a waiver by CalRecycle pursuant to Section 18984.12. This section is necessary to provide that non-local entities or local education agencies located within a low population or rural jurisdiction that has received a waiver from CalRecycle are also subject to the provisions of that waiver.

ARTICLE 6. BIOSOLIDS GENERATED AT A PUBLICLY OWNED TREATMENT WORKS (POTW)

SECTION 18987.1. BIOSOLIDS GENERATED AT A POTW

Subdivision (a)

The purpose of this section is to clarify that POTWs are not subject to requirements found in Article 3 of this chapter, and the transfer/processing operations and facilities measurement and recording keeping requirements found in Sections 17409.5.1 – 17409.5.8, and 17414.2. This section is necessary because POTWs do not have the same type of collection services as other organic waste generators. This section is also necessary to clarify that POTWs are not permitted as transfer/processing operations or facilities and need not comply with the requirements of transfer/processing operations or facilities.

Subdivision (b)

The purpose of this section is to clarify that waste that is transported to a POTW not approved as set forth in Section 17896.6 shall not be considered as a reduction in landfill disposal. This section is necessary to differentiate which type of waste received and processed at a POTW will be deemed to be or not to be a reduction in landfill disposal.

SECTION 18987.2. BIOSOLIDS AND SEWAGE SLUDGE HANDLING AT A POTW

The purpose of this section is to specify to which types of facilities or recovery activities biosolids generated at a POTW can be transported in order to constitute recovery. It further clarifies that sewage sludge and biosolids that cannot be recovered may be disposed at a permitted facility as approved by appropriate agencies. This section is necessary in order to clarify that sewage sludge and biosolids that cannot be recovered because they do not meet the standards or requirements at receiving facilities or the standards or requirements for recovery activities in Section 18983.1 may be disposed.

ARTICLE 7. REGULATIONS OF HAULERS

Article 7 specifies the requirements for jurisdiction approval of haulers (as defined in Article 1, Section 18982(a)(31)) and self-haulers (as defined in Article 1, Section 18982 (a)(66)) of organic waste, as well as the recordkeeping requirements for compliance with jurisdiction hauler program requirements.

SECTION 18988.1. JURISDICTION APPROVAL OF HAULERS AND SELF-HAULERS

Subdivision (a)

The purpose of this section is to provide that a jurisdiction shall require haulers providing residential, commercial, or industrial organic waste collection services to generators within its boundaries to meet the requirements and standards of this chapter as a condition of approval of a contract, agreement, or other authorization to collect organic waste. This section is necessary to ensure that any entity that hauls organic waste within a jurisdiction adheres to all of the requirements within this regulation as a pre-condition to hauling organic waste within that jurisdiction's borders. This section is also necessary is to provide CalRecycle with the ability to ensure that jurisdictions are requiring organic waste haulers to follow all standards contained within the regulation.

Subdivision (a)(1)

The purpose of this section is to provide that a jurisdiction shall require haulers to identify the facilities to which they will transport organic waste as a requirement for the jurisdiction's approval of those haulers. This section is necessary to require that any entity that intends to haul organic waste collected from within a jurisdiction must inform the jurisdiction of the facilities to which it intends to transport the organic waste, prior to the jurisdiction authorizing that hauler to operate within its borders. The section is also necessary to provide jurisdictions with the ability to verify the facilities where their organic waste is being transported and how it may be processed based on that facility's operations. This section is also necessary because, pursuant to Article 3, a jurisdiction may be found out of compliance if it approves or authorizes a hauler that transports organic waste materials collected within the jurisdiction's borders to a processing facility that does not meet specified recovery rates.

Subdivision (a)(2)

The purpose of this section is to provide that a jurisdiction shall require haulers providing an organic waste collection service to comply with the applicable requirements of Article 3 of this chapter. This section is necessary to specify that any entity that intends to haul organic waste within a jurisdiction must adhere to the requirements of Article 3 of this chapter which includes

provisions related to: collection system type (e.g., three-container, two-container, or unsegregated single-container), labeling of the containers, container color requirements, minimizing contamination within the containers, various recordkeeping requirements, organic waste generator and property owner requirements, waiver requirements, and emergency requirements. This section is necessary to CalRecycle will have the ability to verify that jurisdictions are requiring organic waste haulers to follow all standards contained within Article 3 of this chapter.

Subdivision (b)

The purpose of this section is to require that, if a jurisdiction allows generators within its boundaries to self-haul organic waste, it shall adopt an ordinance or a similarly enforceable mechanism that requires compliance with the requirements in Section 18988.3 of this article. This section is necessary to ensure that self-hauling of organic waste will be conducted by self-haulers in compliance with this article. This section also necessary because jurisdictions need to have a mechanism by which it can enforce specified hauling activities to ensure that organic waste is being recycled.

Subdivision (c)

The purpose of this section is to clarify that, notwithstanding Subdivision (a), this section is not applicable to two specified situations outlined in Subdivision (c)(1) and Subdivision (c)(2). This section is necessary to ensure that jurisdictions will not impede the safe transport of source-separated organic waste within the limits of the specified situations.

Subdivision (c)(1)

The purpose of this section is to specify that, if a hauler is transporting source-separated organic waste to a community composting site in a manner that is consistent with Article 1, Chapter 9, Part 2, Division 30, commencing with Section 41950 of the PRC, then the rest of Article 7 of this regulation does not apply to that hauler. This section is necessary to ensure that the safe and lawful transport of source-separated organic waste to community composting sites is unimpeded.

Subdivision (c)(2)

The purpose of this section is to specify that, if a hauler is transporting construction and demolition debris in compliance with Section 18989.1 of this regulation, then the rest of Article 7 of this regulation does not apply to that hauler. Existing CALGreen requirements limit transport of construction and demolition debris to facilities that recover a minimum of 65 percent of the non-hazardous construction and demolition waste. This section is necessary to ensure that the requirements of this section are not applied to construction and demolition debris as hauling of construction and demolition debris is already subject to requirements under the CALGreen Code which are referenced in Article 8 of this chapter.

SECTION 18988.2. ORGANIC WASTE HAULER REQUIREMENTS

Subdivision (a)

The purpose of this section is to require a hauler that is providing residential, commercial, or industrial organic waste collection services to comply with provisions referenced in the following sections. This section is necessary to require that a jurisdiction has a mechanism by

which it can enforce specified sections of this regulation that will increase the amount of organic waste recycled. This section is also necessary to provide jurisdictions and CalRecycle with the ability to ensure that organic waste haulers follow all standards contained within the following sections, which will ensure the maximum amount of organic waste is recovered.

Subdivision (a)(1)

The purpose of this section is to specify that organic waste collected by the hauler shall be transported to a facility, operation, activity, or property that recovers organic waste as defined in Article 2, Section 18983.1 of this regulation. This section is necessary to provide jurisdictions and CalRecycle with the ability to ensure that organic waste haulers transport materials to appropriate facilities, operations, or activities that result in a reduction of landfill disposal in compliance with this chapter.

Subdivision (a)(2)

The purpose of this section is to specify that an organic waste hauler shall obtain any applicable approval issued by the jurisdiction pursuant to Section 18988.1 of this regulation. This section is necessary to require that haulers of organic waste follow previously outlined provisions within this article to obtain jurisdiction approval prior to transporting organic waste collected within a jurisdiction's boundaries. This section is also necessary to provide jurisdictions and CalRecycle with the ability to ensure that organic waste haulers follow all standards contained in that Section of this regulation.

Subdivision (b)

The purpose of this section is to require that a hauler keep a record of the documentation of its approval by the jurisdiction to haul organic waste within the jurisdiction's boundaries. By including this in the regulation, jurisdictions and CalRecycle will have the ability to ensure that organic waste haulers have been approved by the jurisdiction and are following all standards contained in the regulation. This section is necessary to ensure that haulers of organic waste have proof of their approval or authorization to operate within that jurisdiction's borders

Subdivision (c)

The purpose of this section is to clarify that, notwithstanding subdivision (a), this section is not applicable to two specified situations outlined in Subdivision (c)(1) and Subdivision (c)(2). This section is necessary to provide CalRecycle with the ability to ensure that jurisdictions are not limiting the ability of haulers to transport organic waste in the situations described in the following sections.

Subdivision (c)(1)

The purpose of this section is to specify that, if a hauler is transporting source-separated organic waste to a community composting site in a manner consistent with Article 1, Chapter 9, Part 2, Division 30, commencing with Section 41950 of the PRC, then the rest of Article 7 of this regulation does not apply to that hauler. This section is necessary to provide CalRecycle with the ability to ensure that the safe and lawful transport of source-separated organic waste to community composting sites is unimpeded.

Subdivision (c)(2)

The purpose of this section is to specify that, if a hauler is transporting construction and demolition debris in compliance with Section 18989.1 of this regulation, then the rest of Article 7 of this regulation does not apply to that hauler. Existing CALGreen requirements limit transport of construction and demolition debris to facilities that recover a minimum of 65 percent of the non-hazardous construction and demolition waste. This section is necessary to ensure that the requirements of this section are not applied to construction and demolition debris as hauling of construction and demolition debris is already subject to requirements under the CALGreen Code which are referenced in Article 8 of this chapter.

SECTION 18988.3. SELF-HAULERS OF ORGANIC WASTE

Subdivision (a)

The purpose of this section is to provide that generators of organic waste may, in compliance with Section 18988.1 of this chapter, self-haul their own organic waste. This section is necessary to require that a self-hauler of organic waste obtain jurisdiction authorization or approval to self-haul organic waste within the jurisdiction's boundaries and to provide jurisdictions and CalRecycle with the ability to ensure that self-haulers follow all standards contained within this section of the regulation.

Subdivision (b)

The purpose of this section is to require a generator of organic waste who is a self-hauler of organic waste to comply with provisions referenced in the following sections. This section is necessary to require that a jurisdiction has a mechanism by which it can enforce specified sections of this regulation that will increase the amount of organic waste recovered by generators who self-haul organic waste. This section is also necessary to provide jurisdictions and CalRecycle with the ability to ensure that generators who self-haul organic waste follow all standards contained within the following sections.

Subdivision (b)(1)

The purpose of this section is to provide that a generator shall source-separate all organic waste generated on site in a manner consistent with Sections 18984.1 and 18984.2 of this chapter. This section is necessary to specify that a generator will source-separate organic waste and to provide jurisdictions and CalRecycle with the ability to ensure that generators who self-haul organic waste follow the same standards as those participating in organic waste collection services provided by the jurisdiction. This section is also necessary to ensure that the maximum amount of organic waste is collected and that contamination is reduced.

Subdivision (b)(2)

The purpose of this section is to provide that a generator shall self-haul source-separated organic waste to a solid waste facility operation, activity, or property that processes or recovers source-separated organic waste. This section is necessary to ensure that the organic waste generated by a self-hauler be processed in a manner that increases the amount of organic waste recycled within the jurisdiction. This section is also necessary to provide jurisdictions and CalRecycle with the ability to ensure that generators who self-haul organic waste follow the same standards as those

participating in organic waste collection systems authorized by the jurisdiction thereby ensuring that the maximum amount of organic waste is collected and that contamination is reduced.

Subdivision (b)(3)

The purpose of this section is to require a generator to maintain a record of the amount of organic waste delivered to each solid waste facility, operation, activity, or property that processes or recovers organic waste and that this record shall be subject to inspection by the jurisdiction. This section also clarifies that a generator who self-hauls organic waste to its residence is not required to keep a record. This section is necessary to require that a generator of organic waste, who is a self-hauler of organic waste, maintain adequate records of transport, delivery, and tons of organic waste sent to processing locations as specified in the following section of the regulation.

Subdivision (b)(4)

The purpose of this section is to require a self-hauler to annually report to the jurisdiction in which it is located, the total tons of source-separated organic waste that was self-hauled and the location of each entity that accepted such waste from the generator. This section is necessary to provide jurisdictions and CalRecycle with the ability to ensure that generators who self-haul organic waste follow the same standards as those participating in organic waste collection systems authorized by the jurisdiction.

Subdivision (b)(5)

The purpose of this section is to specify that a residential organic waste generator that self-hauls organic waste is not required to record or report the information identified in Subdivisions (b)(3) and (b)(4). This section is necessary to clarify that a residential organic waste generator that self-hauls organic waste will not be subject to the recordkeeping and reporting requirements in the two preceding sections and to provide jurisdictions.

Subdivision (c)

The purpose of this section is to specify that a generator that is located in a jurisdiction or area that received a waiver under Section 18984.12 of this division and is not a business subject to the requirements of Section 42649.81 of the PRC, is not required to comply with the requirements of this section. This section is necessary to clarify the types of self-haulers of organic waste that are not subject to the requirements of this section.

SECTION 18988.4. RECORDKEEPING REQUIREMENTS FOR COMPLIANCE WITH JURISDICTION HAULER PROGRAM

Subdivision (a)

The purpose of this section is to specify that a jurisdiction shall include certain documents in the Implementation Record required by Section 18995.2 of this chapter. This section specifies that documents and records related to the regulations must be kept by the jurisdiction. In response to stakeholder feedback CalRecycle consolidated many reporting requirements into recordkeeping requirements that are accessible to the department but are not required to be reported on a regular basis to CalRecycle. This section is necessary to ensure that CalRecycle can access records to verify that a jurisdiction is in compliance with the requirements of this chapter.

Subdivision (a)(1)

The purpose of this section is to require jurisdictions to maintain documentation of ordinances, contracts, franchise agreements, policies, procedures, or programs relevant to this section. This section is necessary to specify the types of documents that must be retained by the jurisdiction. This section is necessary to ensure that CalRecycle can access records necessary to verify that a jurisdiction is in compliance with the minimum requirements of this chapter.

Subdivision (a)(2)

The purpose of this section to require jurisdictions to maintain a description of the jurisdiction's hauler program, including information referenced in the following sections of the regulation. This section is necessary to ensure that CalRecycle can access records necessary to verify that a jurisdiction is in compliance with the minimum requirements of this chapter.

Subdivision (a)(3)

The purpose of this section is to require jurisdictions to maintain a record of hauler compliance with local ordinance(s) and the requirements of this article, including the information referenced in the following sections of the regulation and to provide CalRecycle with the ability to ensure that jurisdictions are requiring organic waste haulers and self-haulers to retain copies of reports required by haulers, copies of reports from self-haulers, and copies of all written approvals, denials and revocations. This section is necessary to ensure that CalRecycle can access records necessary to verify that a jurisdiction is in compliance with the minimum requirements of this chapter.

Subdivision (b)

The purpose of this section is to specify that all records required by this article shall include the date of action, the name of the hauler, and the type of the action taken by the jurisdiction. This section is necessary to ensure that CalRecycle can access records necessary to verify that a jurisdiction is in compliance with the minimum requirements of this chapter.

ARTICLE 8. CALGREEN BUILDING CODES

Article 8 specifies the requirements of newly constructed multifamily residential and non-residential buildings to provide adequate space for organic waste (as defined in Article 1, Section 18982(a)(46)) recycling opportunities as well as the recycling of organic waste from construction and demolition debris.

SECTION 18989.1 CALGREEN BUILDING CODES.

Subdivision (a)

The purpose of this section is to require a jurisdiction to adopt an ordinance or other enforceable measure that requires compliance with the California Green Building Code (CALGreen Building Code or Code) sections referenced in the following sections. This section is necessary to require that jurisdictions have a mechanism by which they can enforce specified sections of the CALGreen Building Code that will increase the amount of organic waste recycled by generators within the jurisdiction. This section is also necessary to provide CalRecycle with the ability to ensure that jurisdictions are implementing the Code.

Subdivision (a) (1)

The purpose of this section is to specify that jurisdictions enforce the provisions of CALGreen Building Code sections 4.410.2 or 5410.1. This section is necessary to specify that adoption of CALGreen Building Code 4.410.2 and 5410.1 by ordinance or other enforceable requirement is essential to creating adequate organics collection and recovery opportunities in new residential multifamily building construction and new non-residential buildings in the state. This section is also necessary to provide CalRecycle with the ability to ensure that jurisdictions are implementing the Code.

Subdivision (a)(2)

The purpose of this section is to specify that jurisdictions enforce the provisions of CALGreen Building Code sections 4.408.1 and 5.408. This section is necessary to specify that adoption of CALGreen Building Code 4.408.1 and 5.408 by ordinance or other enforceable requirement is essential to recycling organics waste created by the construction and demolition waste of new residential building construction and new non-residential building construction in the state. This section is also necessary to provide CalRecycle with the ability to ensure that jurisdictions are implementing the Code.

ARTICLE 9. LOCALLY ADOPTED STANDARDS AND POLICIES

SECTION 18990.1. ORGANIC WASTE RECOVERY STANDARDS AND POLICIES

Subdivision (a)

The purpose of this section is to clarify that this chapter does not limit a jurisdiction in adopting more stringent standards than the ones outlined in this chapter. This section is necessary to clarify and ensure consistency with the state’s efforts to keep organic waste out of landfills and reduce greenhouse gas emissions, as well as various provisions of Division 30 of the Public Resources Code.

Subdivision (b)

The purpose of the specific limitations set forth in paragraphs 1-5 of this section are to ensure that jurisdictions do not impose restrictions on the movement and handling of waste and waste-derived recyclables in a manner that would interfere with or prevent meeting the organic waste recovery.

Specific limitations set forth in paragraphs 1-5 of this section are consistent with the goals set forth in the California Integrated Waste Management Act (CIWMA) (PRC 40000 et seq.). The purpose of the CIWMA is to reduce the amount of solid waste entering landfills. This supports the state’s efforts to keep organic waste out of landfills and reduce greenhouse gas emissions. Specifically, PRC Section 41780.1 mandates that:

“(a) The Legislature hereby declares that it is the policy goal of the state that not less than 75 percent of solid waste generated be source reduced, recycled, or composted by the year 2020, and annually thereafter...”

The limitations set forth in paragraphs 1-5 of this section are necessary to meet the state’s solid waste reduction goals and to be consistent with the legislature’s direction in PRC Sections 40001 and 40002:

“The Legislature declares that the responsibility for solid waste management is a shared responsibility between the state and local governments. The state shall exercise its legal authority in a manner that ensures an effective and coordinated approach to the safe management of all solid waste generated within the state and shall oversee the design and implementation of local integrated waste management plans...” (Emphasis added)

“As an essential part of the state’s comprehensive program for solid waste management, and for the preservation of health and safety, and the well-being of the public, the Legislature declares that it is in the public interest for the state, as sovereign, to authorize and require local agencies, as subdivisions of the state, to make adequate provision for solid waste handling, both within their respective jurisdictions and in response to regional needs consistent with the policies, standards, and requirements of this division and all regulations adopted pursuant to this division. This division, which authorizes and requires local agencies to provide adequate solid waste handling and services, and the actions of local agencies taken pursuant to this division, are intended to implement this state policy.” (Emphasis added)

Thus, the specific provisions of this section are necessary to comply with statute and prohibit locally adopted permit conditions, initiatives, standards, procedures, policies, or ordinances, hereinafter in this section referred to as “action/actions/an action”, which would prevent lawful recovery activities that are necessary to meet the goals of statute.

Subdivision (b)(1)

The purpose of this section is to prevent jurisdictions from adopting actions that that would prohibit the lawful the recovery of organic wastes within their boundaries. This section does not limit a jurisdiction’s ability to enforce reasonable restrictions and conditions on solid waste management facilities, and is consistent with PRC Section 40053:

“This division, or any rules or regulations adopted pursuant thereto, is not a limitation on the power of a city, county, or district to impose and enforce reasonable land use conditions or restrictions on solid waste management facilities in order to prevent or mitigate potential nuisances, if the conditions or restrictions do not conflict with or impose lesser requirements than the policies, standards, and requirements of this division and all regulations adopted pursuant to this division.” (Emphasis added)

Adopting actions that prevent certain recovery activities logically leads to increased organic waste disposal, which is in direct conflict with the goals of the CIWMA (PRC 40000 et seq.), and the organic waste disposal reduction requirements codified in HSC Section 39730.6 and Chapter 13.1 of the PRC. Statewide adoption of organic waste recovery is crucial to meeting the organic waste disposal reduction targets.

A specific example of why this section is necessary are the 38 counties in the state that currently have enactments actions enacted that prohibit the land application of organic waste, specifically certain types of biosolids. Land application of biosolids that is conducted in compliance with the requirements in Article 2 of this chapter is an activity that constitutes a reduction in landfill disposal. The United States Environmental Protection Agency (US EPA) has established a regulatory framework to manage the use and disposal of biosolids (Title 40 of the Code of Federal Regulations (CFR), Appendix B, Section A; 40 CFR Part 503.). US EPA has deemed Class A, Class B, and EQ biosolids as suitable for land application. CalRecycle relies on US EPA's rigorously reviewed standards to determine safe levels of density and quality metals in regards to land application of biosolids. This section is necessary to prevent the enactment of local standards that prevent this type of recovery from occurring. The prohibition of recovery activities would lead to increased organic waste disposal, which is in direct conflict with PRC 40000 et seq.

Subdivision (b)(2)

The purpose of this section is to prohibit a jurisdiction from restricting the importation of organic waste for the lawful recovery of that waste as that would be inconsistent with the legislature's direction in PRC Sections 40001 and 40002. In addition to the text of those sections quoted above, PRC Section 40002 (b) provides that:

“The Legislature further declares that restrictions on the disposal of solid waste that discriminate on the basis of the place of origin of the waste are an obstacle to, and conflict with, statewide and regional policies to ensure adequate and appropriate capacity for solid waste disposal.”

The courts have further elaborated on this limitation when ruling on Kern County's enactment of a ban on the land application of imported biosolids in 2007. The voter approved initiative, Measure E, was later struck down. The courts held that Measure E created a barrier to a recovery activity that reduces the amount of waste disposed of in landfills, and that upholding the action would grant all other jurisdictions freedom to ban the recovery activity in question, which would be in direct conflict with CIWMA's waste reduction goals. (Note: the case went through multiple appeals and remands. The final decision – not appealed – related to the preemption issue can be found at City of Los Angeles v. County of Kern (2017) Tulare Superior Court Case No. VCU242057 (included in the materials relied upon).

The court ruled that preemption by CIWMA (PRC 40000 et seq.) and the approval of the practice of land application by US EPA was sufficient reason for the court to invalidate the measure.

Despite statute and that ruling, other jurisdictions continue to limit the importation of organic waste for recovery. Imperial County currently has an ordinance, Measure X, which prohibits the importation of biosolids for land application, from other jurisdictions. This section is necessary to clarify the limits of local authority and expressly prohibit these types of restrictions as they are in direct conflict with CIWMA and hinder the state's ability to achieve the state's organic waste reduction targets.

Subdivision (b)(3)

The purpose of this section is to prohibit actions that limit the export of organic waste to a facility, operation, property, or activity for recovery. A generator or hauler may not have access to recovery activities within their jurisdiction, and limiting the export of materials would then eliminate their ability to recover those materials. The materials would then be disposed of, which is in direct conflict with the state's efforts to keep organic waste out of landfills and reduce greenhouse gas emissions. This section is necessary because limiting the export of materials outside a jurisdiction inherently limits recovery activities available to generators and haulers to utilize in order to comply with this chapter and facilitate state's efforts to keep organic waste out of landfills and reduce greenhouse gas emissions

Subdivision (b)(4)

The purpose of this section is to clarify that a jurisdiction cannot prevent organic waste from being properly recovered by requiring that material be transported to a facility that does not recovery or process organic waste. Transporting organic waste to a solid waste facility that does not process or recover organic waste will logically lead to that material being disposed of, which is in direct conflict with the state's efforts to keep organic waste out of landfills and reduce greenhouse gas emissions.

This section is necessary because jurisdictions have previously adopted actions that require a generator or hauler to transport waste to a specific facility without considerations for a facility's capacity to recover materials. For example, San Joaquin County adopted an ordinance (San Joaquin County Code § 5-2702) that requires that all solid waste collected from both cities and the unincorporated areas of the county be deposited only at a solid waste facility that the Director of Public Works designates. Failure to utilize the specific facility designated by the Director results in a financial penalty. This is not necessarily in conflict with the statute if the designated facilities recover organic waste, however the ordinance does not include provisions concerning the designated facility's capacity to recover materials.

Actions like this create an artificial barrier to recovering organic wastes. Without this section, an organic waste hauler in San Joaquin County could be subject to financial penalties for taking material to a facility that recovered their material, or be forced to take material to a facility that will dispose of the material. This section is necessary to prohibit local policies that conflict with the state's efforts to keep organic waste out of landfills and reduce greenhouse gas emissions.

Subdivision (b)(5)

The purpose of this section is to prevent a jurisdiction from requiring a generator to use a collection service that does not recover material that the generator previously had recovered through their collection services. For example, if a generator has a collection service that collects and recovers cardboard, a jurisdiction cannot require the generator to start using a service that does not collect and recover cardboard. Maintaining recovery services is important to keep the level of recovery consistent with the statewide goals. Requiring a generator to use a collection service that disposes of organic waste that the generator previously had collected for recovery would inevitably lead to increased disposal of organic waste, and would be an artificial barrier the state's efforts to keep organic waste out of landfills and reduce greenhouse gas emissions.

This section is necessary to ensure that the state is able to meet the statutory requirements noted above by ensuring that opportunities to recover organic waste are available to generators.

Subdivision (c)

This section is necessary to clarify what this chapter does not prohibit or allow. This section is necessary as numerous stakeholders inquired and requested clarification in the informal rulemaking process.

Subdivision (c)(1)

The purpose of this section is to clarify that a solid waste facility is not required to accept waste that does not meet the quality standards of the facility (e.g., too contaminated). This section is necessary because during the informal rulemaking process, stakeholders expressed concerns that this section would supersede a facility's own quality control standards when accepting organic waste. There were concerns that the provisions prohibiting a jurisdiction from banning import of waste would prevent a facility from rejecting waste from another jurisdiction that is heavily contaminated. This section is also necessary to clarify that while a facility operator cannot reject organic waste based solely on origin, they can reject organic waste if it doesn't meet their quality standards.

Subdivision (c)(2)

The purpose of this paragraph is to clarify that this section does not prohibit a jurisdiction from arranging for guaranteed permitted capacity with a solid waste facility or operation. This clarifies that this section does not prevent a jurisdiction from reserving capacity at a facility, but that a jurisdiction may not limit access to capacity that it is not using at a facility or operation. This section is necessary to maintain consistency with Section 40059.3 of the PRC.

Subdivision (c)(3)

The purpose of this section is to clarify that this chapter does not prohibit a jurisdiction from adopting operational zoning limits, setting facility hours, and other standards provided that the action is lawful and is consistent with Section 40053 of the PRC. This section is necessary in order to provide clarity to stakeholders who had raised concerns that this section could potentially prohibit a jurisdiction or facility from adopting reasonable operational zoning limits.

Subdivision (c)(4)

The purpose of this section is to clarify that a jurisdiction may require material to be hauled to specific facilities or operations for recovery, as long as those decisions are consistent with the organic waste disposal reduction targets established as a part of the state's efforts to keep organic waste out of landfills and reduce greenhouse gas emissions. This section is necessary because stakeholders asked for clarification during the informal rulemaking process.

Subdivision (c)(5)

The purpose of this section is to clarify that nothing in this chapter exempts generators from complying with the regulations adopted by other agencies that apply or may apply to organic waste that is regulated under this chapter. Throughout the informal rulemaking process, stakeholders and other regulatory agencies asked CalRecycle to clarify that generators still must adhere to existing health and safety regulations established and enforced by the California

Department of Toxic Substances Control and the California Department of Food and Agriculture. This section is necessary to clarify that these regulations do not exempt regulated entities from compliance with other health and safety regulations.

SECTION 18990.2. EDIBLE FOOD RECOVERY STANDARDS AND POLICIES

Subdivision (a)

The purpose of this section is to clarify that a jurisdiction cannot limit a generator or food recovery organization from recovering edible food. This section is necessary to ensure that there are not significant barriers to expanding food recovery efforts in order to maintain consistency with PRC Section 42652.5(a)(2), which mandates that CalRecycle adopt regulations that: “Shall include requirements intended to meet the goal that not less than 20 percent of edible food that is currently disposed of is recovered for human consumption by 2025.” This section is necessary to eliminate barriers to expand food recovery efforts in order to enable the state to meet its food recovery goals established in the PRC.

Subdivision (b)

The purpose of this section is to specify that local education agencies cannot prohibit share tables in schools. Section 114079 of the HSC authorizes the use of share tables:

“(c) (1) A local educational agency may do both of the following to minimize waste and to reduce food insecurity:

(A) Provide sharing tables where food service staff, pupils, and faculty may return appropriate food items consistent with subparagraph (B) and make those food items available to pupils during the course of a regular school meal time...”

This section is necessary because share tables are a tool to improve food recovery and reduce disposal of edible food in landfills. Allowing edible food to be redistributed to pupils or food recovery organization prevents the edible food from being disposed of. The prohibition of share tables would limit and impede the state’s efforts to keep organic waste out of landfills and reduce greenhouse gas emissions.

Subdivision (c)

The purpose of this section is to clarify that nothing in this chapter shall be construed to limit or conflict with the provisions of the California Good Samaritan Act of 2017. Stakeholders expressed concern regarding potential liabilities associated with donating edible food as required by the regulations. This section is necessary to clarify that the liability protections in the California Good Samaritan Act (that significantly limit the potential for liability) apply to this chapter.

Subdivision (d)

The purpose of this section is to clarify that this chapter does not prohibit an edible food recovery service or organization from refusing to accept edible food from a generator for reasons including but not limited to: food that is unfit for human consumption, food that does not satisfy the nutrition standards of the organization or service, or food that the organization or service

does not have the capacity to handle. This section is necessary to clarify that an edible food recovery service or organization is not obligated to accept edible food if it does not meet their quality or safety standards.

ARTICLE 10. JURISDICTION EDIBLE FOOD RECOVERY PROGRAMS, FOOD GENERATORS, AND FOOD RECOVERY

This article specifies the edible food recovery requirements for jurisdiction's edible food recovery programs, edible food recovery and recordkeeping requirements for commercial edible food generators, and recordkeeping requirements for food recovery organizations and food recovery services.

SECTION 18991.1 JURISDICTION EDIBLE FOOD RECOVERY PROGRAM

Subdivision (a)

The purpose this section is to require jurisdictions to implement an edible food recovery program. This requirement will help achieve the edible food diversion goals of SB 1383 by assisting commercial edible food generators with compliance and expand food recovery in the jurisdiction by providing food recovery education, increasing access to food recovery organizations, and increasing food recovery capacity where sufficient capacity does not exist.

In California, there is a significant lack of food recovery infrastructure and capacity available to recover excess edible food (Frasz et al., 2015). Under subdivision (a) local governments will be responsible for providing critical food recovery resources to commercial edible food generators and to food recovery entities operating in the jurisdiction. In addition, jurisdictions will be responsible for monitoring commercial edible food generators' compliance with the requirements set forth in Section 18991.3 of this chapter. This section is necessary to close some of the infrastructure and capacity gaps that exist, which will result in increased diversion of edible food from landfills.

Subdivision (a)(1)

The purpose of this section is to require that jurisdictions educate edible food generators as set forth in section 18985.2 of this chapter. Educational outreach will help commercial edible food generators throughout California better understand the edible food recovery requirements they are subject to, and will provide them with helpful information to assist with compliance. This section is necessary to ensure that commercial edible food generators are aware of the edible food generator requirements set forth in section 18991.3 of this chapter, and that they are aware of food recovery organizations and services that they could potentially contract with to comply.

Subdivision (a)(2)

The purpose of this section is to specify that jurisdictions are accountable for increasing commercial edible food generators' access to food recovery organizations and services. Some jurisdictions in California might not have any food recovery organizations or services that operate in their area. If jurisdictions do not increase access to these critical organizations and services, edible food generators will not have an outlet for donation of their excess edible food. This could ultimately result in millions of pounds of edible food being disposed of in landfills,

rather than being put to its highest and best use of feeding people in need. This section is necessary because many jurisdictions in California have thousands of commercial edible food generators, but have limited food recovery resources available to collect, process, and distribute the excess edible food generated.

Subdivision (a)(3)

The purpose of this section is to specify that jurisdictions are responsible for enforcing the commercial edible food generator requirements of this chapter. This section is necessary to ensure commercial edible food generators are complying with the edible food recovery requirements of section 18991.3 and recordkeeping requirements of section 18991.4 of this chapter.

Subdivision (a)(4)

The purpose of this section is to specify that jurisdictions must assess their existing capacity to recover excess edible food, and increase that capacity if sufficient capacity to meet the demand of food donations does not exist.

Investing in human and infrastructure capacity is essential to effectively expand food rescue efforts, reduce wasted food and feed people in need (Frasz et al., 2015). Capacity can be increased in many different ways. For example, capacity can be increased through purchasing refrigeration equipment and vehicles, purchasing new kitchen equipment, using food donation matching software, leveraging partnerships with other food recovery organizations to recover more food and feed more people, hiring staff, hiring drivers, training more volunteers, and using education and outreach to recruit new volunteers.

This requirement was added to the regulations in response to the policy recommendations of prominent food recovery research and key stakeholders including but not limited to the California Association of Food Banks, Natural Resources Defense Council, Waste Not Orange County, and the San Diego Food System Alliance.

Food recovery groups often do not have the capacity to collect, process, and distribute food donations. This lack of capacity is in many cases is due to a lack of sustainable funding. If a jurisdiction lacks sufficient capacity to meet their food recovery needs, it could result in large amounts of edible food being disposed rather than going to feed people in need. This section is necessary to address the food recovery capacity gaps that exist throughout California and ensure jurisdictions are taking necessary actions to increase capacity in areas where it is needed.

Subdivision (b)

The purpose of this section is to specify some of the mechanisms jurisdictions may use to fund their food recovery program. Including this provision in the regulations provides latitude for local governments to best determine how to fund needed food recovery program expansion and capacity growth in their jurisdiction. This will foster sustainable funding sources to support food recovery operations and capacity. This section is necessary to allow the jurisdictions to develop and implement food recovery programs in a way that will help achieve the edible food recovery targets which were codified as a part of the state's efforts to keep organic waste out of landfills and reduce greenhouse gas emissions.

SECTION 18991.2 RECORD KEEPING REQUIREMENTS FOR JURISDICTION EDIBLE FOOD RECOVERY PROGRAM

Subdivision (a)

The purpose of this section is to specify the documents that must be included in the Implementation Record. This section is necessary in order to enable the department to determine a jurisdiction's compliance with the food recovery program requirements set forth in section 18991.1 of this chapter.

Subdivision (a)(1)

The purpose of this section is to specify the information that must be included in the Implementation Record. This section is necessary for the department to evaluate a jurisdiction's compliance with monitoring commercial edible food generator compliance with section 18991.3 of this chapter.

Subdivision (a)(2)

The purpose of this section is to specify the information that must be included in the Implementation Record. This section is necessary in order for the department to evaluate if a jurisdiction has sufficient edible food recovery capacity to serve edible food generators and meet the food recovery demand within the jurisdiction.

Subdivision (a)(3)

The purpose of this section is to specify the information that must be included in the Implementation Record. This section is necessary in order for the department to ensure the jurisdiction has a robust food recovery program capable of meeting its edible food recovery needs.

SECTION 18991.3. COMMERCIAL EDIBLE FOOD GENERATORS

Subdivision (a)

The purpose of this section is to specify that commercial edible food generators are responsible for donating their surplus edible food to food recovery organizations and services.

This section specifies that there are different years in which commercial edible food generators will be required to begin donating their surplus edible food. The year in which edible food generators will be required to begin donating depends on the tier that the generator is defined under (tier one or tier two). The department performed qualitative and quantitative research to identify the most suitable business types to include in each commercial edible food generator tier. Food recovery organizations and food recovery services in California raised concerns to the department regarding the significant lack of food recovery infrastructure and food recovery capacity throughout the state. In particular, the concern regarding the lack of capacity to recover prepared foods was highlighted. To address these issues, CalRecycle determined that the commercial edible food generator requirements should be phased in over a two-year time span to allow for food recovery capacity to expand sustainably in California.

Throughout the state, there is a significant lack of food recovery infrastructure, capacity, and sustainable funding for food recovery operations (Frasz, et al., 2015). Requiring all commercial edible food generators to donate in 2022 would inundate California's food recovery network with food that edible food recovery organizations and services in many cases will not have the ability to collect and handle. The phased-in generator mandate is necessary in order to ensure that jurisdictions and food recovery organizations and services are given sufficient time to build food recovery infrastructure and capacity over the two-year timeframe from 2022 to 2024. Utilizing a phased-in operator mandate will cultivate robust food recovery networks throughout California and foster an environment of sustainable food recovery growth. This section is necessary to ensure excess edible food that would otherwise be disposed is diverted for human consumption.

Subdivision (b)

The purpose of this section is to specify that commercial edible food generators are responsible for donating their excess edible food. This requirement therefore provides that commercial edible food generators can be subject to enforcement action if it is determined that the generator is not donating their excess edible food to food recovery organizations or services. This section is necessary in order to ensure excess edible food is diverted to feed people in need and not disposed in landfills.

Subdivision (b)(1)

The purpose of this section is to specify a method that commercial edible food generators can utilize to comply with the requirements set forth in this section. This section is necessary to help commercial edible food generators understand how they can comply with the requirements set forth in section 18991.3.

Subdivision (b)(2)

The purpose of this section is to specify a second option for compliance with the requirements of this section. Historically, food recovery organizations have had to collect excess edible food from generators and pay for the collection costs themselves. Allowing for self-hauling of excess edible food to a food recovery organization will help reduce some of the collection costs for food recovery organizations and increase food recovery overall. This section is necessary to specify that edible food generators can self-haul their excess edible food to food recovery organizations.

Subdivision (c)

The purpose of this section is to specify that surplus edible food shall not be intentionally spoiled, and that if it is found that an edible food generator is intentionally spoiling their excess edible food, the local government may take enforcement action against them. Including this requirement in the regulations will help ensure that food recovery from edible food generators is being maximized to achieve the edible food diversion goals set in SB 1383. This section is necessary in order to ensure that edible food generators do not intentionally spoil edible food that could go to feed people in need.

SECTION 18991.4. COMMERCIAL EDIBLE FOOD GENERATORS RECORDKEEPING

Subdivision (a)

The purpose of this section is to specify that commercial edible food generators must maintain records to demonstrate their compliance with the commercial edible food generator requirements set forth in section 18991.3 of this chapter. This section is necessary in order to provide an essential mechanism for jurisdictions to evaluate a commercial edible food generator's compliance and to source reduce food waste to help achieve the edible food diversion goals set in SB 1383.

Subdivision (a)(1)

The purpose of this section is to specify that commercial edible food generators must maintain records of the food recovery groups they contract with. This section is necessary to ensure commercial edible food generators have sufficient documentation to demonstrate their compliance with the commercial edible food generator requirements set forth in section 18991.3 of this chapter.

Subdivision (a)(2)

The purpose of this section is to specify the materials that commercial edible food generators must maintain in their records. This section requires that edible food generators subject to the requirements of Article 10 maintain a copy of contracts, written agreements, or other documents between the edible food generator and a food recovery service or organization. This section is necessary to ensure that edible food generators have records that sufficiently demonstrate their compliance with the commercial edible food generator requirements set forth in section 18991.3 of this chapter.

Subdivision (a)(3)

The purpose of this section is to specify the information that commercial edible food generators must maintain. This section requires that edible food generators that comply with the requirements of Article 10 through contracting with a food recovery organization or food recovery service as allowed in section 18991.3 shall keep a record of specific information for each food recovery organization or food recovery service with which the edible food generator contracts. This section is necessary to ensure edible food generators have records to sufficiently demonstrate their compliance with the commercial edible food generator requirements of section 18991.3 of this chapter.

SECTION 18991.5. EDIBLE FOOD RECOVERY SERVICES AND ORGANIZATIONS

Subdivision (a)

The purpose of this section is to require that a food recovery organization or a food recovery service that collects or receives six tons or more of edible food from edible food generators per year shall maintain records. Subdivisions (a)(1)-(5) specify the information that the records must include.

According to the California Association of Food Banks, there are approximately 6,000 food recovery organizations operating in California. Many of these organizations are very small charities. These small charities often receive edible food from larger food recovery organizations and services and then provide that food to the community. In most cases, these smaller charities

lack funding, resources, and staff to track food donation data. Since many of these smaller charities are receiving edible food from larger food recovery organizations, it is more efficient to capture data from larger facilities that provide food to these smaller organizations. The department held targeted stakeholder meetings with the California Association of Food Banks, food bank and food pantry directors, and food recovery staff to identify an appropriate recordkeeping threshold for food recovery organizations and services. Based on the feedback received, the department established a requirement that a food recovery organization or a food recovery service that collects or receives six tons or more of edible food from edible food generators per year shall maintain records. This section is necessary for compliance monitoring, and data tracking and measurement purposes for the department to evaluate progress toward the edible food diversion goals set in SB 1383.

Subdivision (a)(1)

The purpose of this section is to specify the information that food recovery organizations and services must maintain a record of. This section specifies that the record must include the name, address, and contact information for each edible food generator from which the service or organization receives edible food. These requirements help jurisdictions and the department better understand the distances traveled to transport excess edible food from generators to food recovery organizations. This requirement also serves as a mechanism to verify that commercial edible food generators have contracts with the food recovery entities with which they claimed to have an arrangement. This section is necessary to evaluate achievement of the edible food diversion goals set in SB 1383 by allowing the jurisdiction and the department to gain a comprehensive understanding of the commercial edible food generator business types that are complying with the edible food recovery requirements of this chapter.

Subdivision (a)(2)

The purpose of this section is to specify that the record must include the quantity (in pounds) of edible food collected from each edible food generator per month. Through interviews and meetings with California based food recovery organizations and services, the department determined that most food recovery organizations that collect six tons of edible food or more each year already track this data. Comprehensive statewide data on the total pounds of edible food recovered does not exist. In addition, this requirement will ensure jurisdictions may request this data for the purposes of jurisdiction annual reporting. This requirement serves as a mechanism for jurisdictions to verify that commercial edible food generators are donating the maximum amount of edible food as is economically feasible for them. This requirement therefore will assist the jurisdiction with the requirement to monitor commercial edible food generator compliance. This section is necessary to track data and measure statewide edible food recovery progress for the department to evaluate compliance with the edible food diversion goals set in SB 1383.

Subdivision (a)(3)

The purpose of this section is to specify that the record must include the quantity in pounds of edible food transported to each edible food recovery organization per month. This section is necessary to provide measurements of the quantity of edible food recovered by food recovery services and delivered to food recovery organizations.

Subdivision (a)(4)

The purpose of this section is to track data and measure statewide edible food recovery progress. This section specifies that the record must include the total number of meals served per month if applicable. While many larger-scale food recovery organizations and services collect and distribute food, there is limited data showing the number of larger-scale operations that serve meals. Comprehensive statewide data on the total number of meals served by food recovery organizations in California does not currently exist. This section is necessary to help to achieve the edible food diversion goals of SB 1383 by assisting jurisdictions in evaluating their food recovery capacity by giving them a greater understanding of the larger-scale food recovery operations that serve meals.

Subdivision (a)(5)

The purpose of this section is to specify that food recovery services must also include in their record the name, address and contact information for each food recovery organization that the service transports edible food to for food recovery. The information is expected to illustrate areas where additional attention may be required to adequately and efficiently divert edible food to better achieve the goals of the statute. This requirement also serves as a mechanism to verify that food recovery services are in fact distributing the excess edible food they collect to food recovery organizations for the sole purpose of food recovery in order to evaluate compliance with the regulations. This section is necessary to allow jurisdictions and the department to better understand food recovery networks throughout California and help achieve the edible food diversion goals of SB 1383.

ARTICLE 11. ORGANIC WASTE RECYCLING CAPACITY PLANNING

Article 11 specifies the requirements of jurisdictions related to organic waste recycling capacity planning, edible food recovery capacity, and the schedule for reporting by jurisdictions for the two sections. This article expands on information that counties and regional agencies are required to report regarding long-term planning for organics infrastructure, pursuant to AB 876 (McCarty, Chapter 593, Statutes of 2015). CalRecycle analyzed the data submitted in August 2017 pursuant to AB 876 and concluded that the existing process does not include many key stakeholders and cannot provide a full and accurate picture of future organics processing capacity needed to meet the requirements of SB 1383. For example, SB 1383 has a broader definition of organics and also includes requirements regarding edible food recovery. The proposed requirements in this article are designed to address these issues and therefore include provisions to: (1) address SB 1383's broader definition and food recovery requirements; (2) ensure reported capacity is not double counted and is verified as being available; (3) ensure collaboration among jurisdictions, facility operators, local task forces, and others to facilitate a common understanding of capacity and future planning needs; and (4) hold cities, counties, and regional agencies responsible for planning and identifying new capacity if they lack access to sufficient existing, new, or planned capacity.

SECTION 18992.1. ORGANIC WASTE RECYCLING CAPACITY PLANNING

Subdivision (a)

The purpose of this section is to require counties, in coordination with cities and regional agencies located within the county, to comply with provisions referenced in the following sections, and to provide CalRecycle with the ability to ensure that counties, cities, and regional agencies are cooperating on their overall organic waste capacity planning. The purpose of this section is to require that counties, and other local entities within their boundaries, work in conjunction with each other when compiling information related to estimating their organic waste tonnage, identifying existing organic waste recycling capacity, and estimating organic waste recycling capacity that will be needed. The capacity planning required by this section is necessary to ensure local jurisdictions are aware of and can address their capacity shortfalls and secure access to facilities that recovery organic waste. This will help increase organic waste recovery in California.

Subdivision (a)(1)

The purpose of this section is to require that counties, in coordination with cities and regional agencies located within the county, estimate the amount of all organic waste in tons that will be disposed by the county by either: (1) multiplying the percentage of organic waste reported as disposed in the CalRecycle's most recent waste characterization study by the total amount of disposal attributed to the county and each jurisdiction located within the county as reported in the Recycling and Disposal Reporting System, or (2) using a jurisdiction-specific waste characterization study on the tons disposed by the county or a jurisdiction within the county, if the study is more recent than the department's most recent waste characterization study and the jurisdiction-specific study includes a statistically significant sampling of solid waste disposed of by the jurisdiction.

This section is necessary to specify the acceptable parameters for estimating the amount of organic waste tonnage that could be disposed by the county and jurisdictions located within the county.

Subdivision (a)(2)

The purpose of this section is to require that counties, in coordination with cities and regional agencies located within the county, identify the amount in tons of existing organic waste recycling infrastructure capacity, located both in the county and outside of the county that is verifiably available to the county and jurisdictions located within the county. The county may demonstrate the capacity that is verifiably available through a contract, permit, franchise, or other documentation guaranteeing access to existing capacity or providing that new capacity will be available prior to the end of the reporting period. This section is necessary to specify the acceptable parameters identifying the existing organic waste capacity.

Subdivision (a)(3)

The purpose of this section is to require that counties, in coordination with cities and regional agencies located within the county, estimate the amount of new or expanded organic waste recycling facility capacity that will be needed to process the organic waste identified pursuant to subdivision (a)(1) in addition to the existing capacity identified in subdivision (a)(2) of this section. This section is necessary to provide jurisdictions with the ability to identify how much additional capacity they will need at new or existing facilities that are inside or outside of its

boundaries, and assist in identifying capacity at facilities that may become oversubscribed if other jurisdictions identify the same facilities.

Subdivision (b)

The purpose of this section is to require a city or regional agency contacted by a county pursuant to subdivision (a) to respond to the county's request for the information necessary to comply with the requirements of this article within 120 days of receiving the request from the county. This section is necessary to ensure that the county can submit the capacity planning information to CalRecycle in the time required by the regulation.

Subdivision (c)

The purpose of this section is to require jurisdictions to comply with provisions referenced in the following sections. This section is necessary to specify which local entities, non-local entities, businesses, and other entities that jurisdictions must coordinate with concerning their organic waste recycling capacity planning efforts, as well as community outreach that may be needed in conjunction with these efforts. This section is also necessary to allow CalRecycle to ensure that jurisdictions engage with important entities that play a role in organic waste recycling capacity planning efforts. Such engagement will provide more accuracy in determining the organic waste capacity needed to meet the reduction in organic waste disposal goals required by statute.

Subdivision (c)(1)

The purpose of this section is to require that jurisdictions consult with the Enforcement Agency and the local task force created pursuant to Section 40950 of the PRC on the status of locations for new or expanded solid waste facilities and locations, including the potential capacity increase each facility may provide if approved. This section is necessary to provide CalRecycle with the ability to ensure that jurisdictions are engaging with the entities that have the primary responsibility for ensuring the correct operation and closure of solid waste facilities in the state and for guaranteeing the proper storage of and transportation of solid waste, as well as engaging with the group that assists in coordinating the development of local jurisdictional planning documents related to solid waste and recycling.

Subdivision (c)(2)

The purpose of this section is to require that jurisdictions consult with the haulers and owners of facilities, operations, and activities that recover organic waste, including but not limited to compost facilities, in-vessel digestion facilities, and POTWs to gather information on the existing capacity and potential new or expanded capacity at those facilities, operations, and activities. Additional sections require that these entities respond when contacted for information related to organic waste recycling capacity planning. This section is necessary to provide CalRecycle with the ability to ensure that jurisdictions are receiving information from the businesses and other local entities that may control the operational infrastructure needed to recycle organic waste and sufficiently plan for additional infrastructure that may be needed.

Subdivision (c)(3)

The purpose of this section is to require that counties conduct community outreach regarding locations being considered for new or expanded facilities, operations, or activities to seek feedback on the benefits and impacts that may be associated with new or expanded facilities,

operations, or activities. This section is necessary to specify the information and process for this outreach including options for the format of outreach, other entities that could be involved, and details for outreach to disadvantaged communities that may or may not include outreach in additional languages. This section is also necessary to provide CalRecycle with the ability to ensure that counties are involving local communities in their organic waste recycling capacity planning efforts.

Subdivision (c)(4)

The purpose of this section is to require that counties consult with community composting operators to estimate the amount of organic waste the county anticipates will be handled at community composting activities. This section is necessary to require the county to coordinate with small-scale community composting operators that may be able to recycle additional organic waste outside of conventional organic waste processing infrastructure that may be available. This section is also necessary to provide CalRecycle with the ability to ensure that counties are involving local communities in their organic waste recycling capacity planning efforts.

Subdivision (d)

The purpose of this section is to specify that, if a county determines that organic waste recycling capacity, in addition to the existing and proposed capacity identified pursuant to subdivision (a) of this section, is needed within that county, the county shall notify the jurisdiction or jurisdictions that lack sufficient capacity that they are required to follow provisions referenced in the following sections. This section is necessary to specify that some jurisdictions within counties will have specified parameters that must be followed if their county identifies a lack of organic waste recycling capacity and a shortfall of capacity within their jurisdictions and will provide CalRecycle with the ability to ensure that jurisdictions within counties are cooperating on their overall organic waste capacity planning.

Subdivision (d)(1)

The purpose of this section is to require that a jurisdiction submit an implementation schedule to CalRecycle that demonstrates how it will ensure there is enough new or expanded capacity to recover the organic waste currently disposed of by generators within their jurisdiction by the end of the report period. This section is necessary to specify that a jurisdiction with a shortfall of organic waste recycling capacity will submit a plan to CalRecycle that will include: obtaining funding to increase infrastructure, identifying existing locations that could be used for additional capacity, and identifying locations for proposed new or expanded organic waste recycling facilities that will be used to recycle organic waste. The county is required to notify the jurisdiction that lacks sufficient capacity that the county has reported a list of these jurisdictions to CalRecycle. This section is also necessary to provide CalRecycle with the ability to ensure that jurisdictions that have been identified as having a lack of capacity are participating in an individual organic waste capacity planning process.

Subdivision (e)

The purpose of this section is to specify that for capacity planning organic waste shall only include the following types of materials: food, green waste, landscape and pruning waste, wood, paper products, printing and writing paper, digestate, and biosolids. This section is necessary to specify that, when jurisdictions are engaged in organic waste recycling capacity planning

outlined within this section, the focus is on these particular organic waste types rather than the larger group of materials that comprise “organic waste” (as defined in Article 1, Section 18982(a)(46)) of this chapter. This section is also necessary to require jurisdictions that host facilities that generate digestate (e.g., in-vessel digester) and biosolids (waste water treatment plants) to have to plan for the recycling capacity for these materials.

SECTION 18992.2. EDIBLE FOOD RECOVERY CAPACITY

Subdivision (a)

The purpose of this section is to require that jurisdictions comply with provisions referenced in the following sections and to provide CalRecycle with the ability to ensure that counties, cities, and regional agencies are coordinating on their overall edible food recovery capacity planning. This section does not require projections to be exact, rather it requires that the estimate is conducted in compliance with the requirements of this section. This section is necessary to require that counties and cities within the county work in collaboration with each other when compiling information related to estimating the amount of edible food that will be disposed, which will provide a more complete picture on capacity needed.

Subdivision (a)(1)

The purpose of this section is to require jurisdictions to estimate the amount of edible food that will be disposed of by commercial edible food generators that are located within the county boundaries and to provide CalRecycle with the ability to ensure that jurisdictions are identifying and estimating the edible food disposed by the commercial edible food generators. This section is necessary to specify how much edible food a county and its jurisdictions may dispose of from commercial edible food generators only. The information required by this section is necessary to measure progress toward the edible food recovery target, and to provide information to the department about additional actions that may be necessary to achieve the recovery target.

Subdivision (a)(2)

The purpose of this section is to require that counties identify existing capacity at edible food recovery organizations that is available to commercial edible food generators located within the county. This section is necessary to measure progress toward the edible food recovery target, and to provide information to the department about additional actions that may be necessary to achieve the recovery target.

Subdivision (a)(3)

The purpose of this section is to require jurisdictions to estimate the amount of new or expanded edible food recovery facility capacity that will be needed to process the edible food identified pursuant to Subdivision (a)(1) in addition to the existing capacity identified in Subdivision (a)(2) of this section. This section is necessary to allow jurisdictions to identify how much additional capacity will be needed in Subdivision (a)(4).

Subdivision (a)(4)

The purpose of this section is to require jurisdictions to estimate the amount of edible food recovery capacity that is necessary to recover 20 percent of the estimated edible food in Subdivision (a)(1) and to compare that amount to the amount of capacity identified in

Subdivision (a)(2) and (a)(3). This section is necessary to provide jurisdictions with the ability to identify how much, if any, additional capacity is necessary.

Subdivision (b)

The purpose of this section is to specify that, if a jurisdiction determines that the edible food recovery capacity (existing, proposed, and new) identified pursuant to Subdivision (a) of this section is not sufficient, then jurisdiction(s) within that county that lack sufficient capacity shall follow provisions referenced in the following sections. This section is necessary to specify that some jurisdictions within counties will have to submit implementation schedules if they identify a lack of capacity and to allow CalRecycle to ensure that jurisdictions are conducting the necessary planning to ensure adequate capacity, so the state can achieve the 20 percent edible food recovery target.

Subdivision (b)(1)

The purpose of this section is to require a jurisdiction to submit an implementation schedule to CalRecycle that demonstrates how it will ensure that there is enough new or expanded capacity to recover the edible food identified in Subdivision (a)(4).

This planning is critical and requires identifying sustainable funding to support edible food recovery organizations, which typically have limited funding and often are staffed by volunteers. The Natural Resources Defense Council's October 2017 report entitled "Modeling the Potential to Increase Food Rescue" concluded that "while some participating organizations may have capacity to handle additional food within their existing infrastructure, others are already constrained by existing limitations in their operating budgets and physical infrastructure." To achieve the required edible food recovery goals, jurisdictions will need to coordinate with organizations and provide sustainable funding. As a result, edible food recovery organizations will be able to process and distribute the edible food to those people in the jurisdiction that are hungry. The purpose of including this in the regulation is to provide CalRecycle with the ability to ensure that jurisdictions are conducting the necessary planning to ensure adequate capacity. By allowing jurisdictions to submit a schedule and demonstrate they are doing the necessary planning, CalRecycle is providing jurisdictions with flexibility and acknowledging that planning for capacity takes time. This section is necessary to require that a jurisdiction with a shortfall of edible food recovery capacity to submit an implementation schedule to CalRecycle that includes timelines and milestones to demonstrate how it will ensure enough capacity, so the state can achieve the 20 percent edible food recovery target.

Subdivision (b)(2)

The purpose of this section is to require a jurisdiction to consult with edible food recovery organizations and edible food recovery services regarding existing, new, and expanded capacity that could be available to a jurisdiction's commercial edible food generators. This coordination is necessary to ensure that jurisdictions have an understanding of the types and amounts of edible food that can be recovered and distributed to food insecure people, as well as the type of funding needed for increasing or building new capacity. Based upon feedback from stakeholders, it is critical that jurisdictions work closely with edible food recovery organizations to understand what is necessary to increase capacity. With this collaboration, these organizations can inform the jurisdictions about what is needed to expand or create new capacity (e.g., types of equipment,

staffing, facility needs, etc.). This section is necessary to provide CalRecycle with the ability to ensure that jurisdictions are involving edible food recovery organizations/services in their capacity planning efforts so the state can achieve the 20 percent edible food recovery target.

SECTION 18992.3. SCHEDULE FOR REPORTING

Subdivision (a)

The purpose of this section is to specify the schedule for counties, in coordination with cities and regional agencies, to conduct the capacity planning required in Article 11. These timeframes are necessary to provide the jurisdictions with the specified periods for conducting the planning activities in Article 11. The timeframes were developed as a result of stakeholder input (e.g., the timelines that stakeholders felt were reasonable to gather the required data and still provide long term planning to ensure adequate capacity as the population increases for organics recycling and edible food recovery). These timeframes were developed recognizing the time necessary for gathering the required data and collaborating with affected entities, such as organic waste recycling facilities, small-scale community composting organizations, and edible food recovery organizations. This section is necessary to ensure that there is adequate organics recycling and edible food recovery capacity into the future.

Subdivision (a)(1)

The purpose of this section is to specify that the report due date is February 1, 2022, for the reporting period of January 1, 2022 through December 31, 2024. This section is necessary to inform the counties of the reporting timeframe and report due date.

Subdivision (a)(2)

The purpose of this section is to specify that the report due date is August 1, 2024 for the reporting period of January 1, 2025 through December 31, 2034. This section is necessary to inform counties of the reporting timeframe and report due date.

Subdivision (a)(3)

The purpose of this section is to specify that the report due date is August 1, 2029 for the reporting period of January 1, 2030 through December 31, 2039. This section is necessary to inform counties of the timeframe and report due date.

Subdivision (a)(4)

The purpose of this section is to specify that the report due date is August 1, 2034 for the reporting period January 1, 2035 through December 31, 2044. This section is necessary to inform counties of the timeframe and report due date.

Subdivision (b)

The purpose of this section is to ensure that jurisdictions are aware of the timeframe for submitting the implementation schedule. This section is necessary to provide a timeframe for a jurisdiction to gather the required data for submitting to CalRecycle.

ARTICLE 12. PROCUREMENT OF RECOVERED ORGANIC WASTE PRODUCTS

18993.1. RECOVERED ORGANIC WASTE PRODUCT PROCUREMENT TARGET

Subdivision (a)

The purpose of this section is to establish requirements on jurisdictions to meet an annual recovered organic waste procurement target effective January 1, 2022. PRC 42652.5 provides general authority to require what is necessary to “achieve the organics waste reduction goals for 2020 and 2025 established in section 39730.6 of the Health and Safety Code.” Furthermore, PRC 42653(a)(3) and (b) refer to requirements related to “markets for products generated by organics recycling facilities.” Likewise, HSC 39730.8, also in SB 1383, refers to the department considering recommendations in the 2017 Integrated Energy Policy Report (IEPR) for the use of biomethane and biogas, and this section is consistent with the recommendations that “state agencies should consider and, as appropriate, adopt policies and incentives to significantly increase the sustainable production and use of renewable gas.” Finally, the SLCP Strategy states, “CalRecycle will continue to work towards strengthening state procurement requirements relative to use of recycled organic products.” This section is necessary to help achieve the organic waste diversion goals in SB 1383 by ensuring an end use for diverted organic waste.

Subdivision (b)

The purpose of this section is to explain the methodology the department will use to calculate each jurisdiction's recovered organic waste product procurement target. The per capita procurement target, as described in Subdivision (b)(1), shall be multiplied by the jurisdiction population, using estimates published by the California Department of Finance (DOF). The purpose is to create a transparent method to establish the requirement for local governments to create markets for products generated by organics recycling facilities that is proportional to the number of residents in a jurisdiction. Using the method, statewide procurement of recovered organic waste products by local governments equals approximately 2.8 million tons, which accounts for approximately 13% of the organics that must be diverted from landfills by 2025. This section is necessary to regulate how the department will be establishing the procurement target in a transparent manner.

Subdivision (b)(1)

The purpose of this section is to establish the per capita procurement target of 0.07 tons, or the amount of diverted organic waste per California resident per year. Approximately 21,300,000 tons of organics must be diverted in order to meet the 2025 organic waste diversion target mandated by SB 1383. In order to create markets for products generated by organic waste recycling facilities, local governments will be required to purchase a percentage of this diverted organic waste in the form of recovered organic waste products. The department determined this percentage based on local government's share of statewide gross domestic product (GDP), which has averaged 13 percent over the most recent 10 years of data from the United States Bureau of Economic Analysis (BEA). The tons of organic waste that need to be diverted from landfill disposal in 2025 is multiplied by the government share of GDP and then divided by statewide population to obtain the per capita procurement target, as shown below:

$$\frac{(21,300,00 \text{ tons} \times 13\% \text{ govt GDP share})}{41,321,565 \text{ statewide population}} = 0.07 \text{ tons/person}$$

This metric, 0.07 tons/person, will be applied to each jurisdiction's population to determine the recovered organic waste product procurement target and will be updated every five years in accordance with Subdivision (d). This section is necessary to provide a required numerical component to calculate the recovered organic waste product procurement target.

Subdivision (b)(2)

The purpose of this section is to explain how the department will determine the jurisdiction population. The purpose is for the department to determine the population of a jurisdiction using the most recent data as reported by the DOF. Population data ensures that the recovered organic waste product procurement target is proportional to the number of residents in a jurisdiction. This section is necessary to provide a required numerical component to calculate the recovered organic waste product procurement target.

Subdivision (c)

The purpose of this section is to state the methods the department will use to notify each jurisdiction of its recovered organic waste product procurement target. The department will make the notice available publically via the department website and provide direct written notice to the jurisdiction. This section is necessary to ensure jurisdictions are informed of their target.

Subdivision (d)

The purpose of this section is to explain the timing and method for recalculating the recovered organic waste product procurement target. The purpose is to clarify that January 1, 2022 is the date the regulations take effect and on that date, jurisdictions shall be responsible for procuring recovered organic waste products. The department will recalculate each jurisdiction's procurement target every five years. The purpose of setting the procurement target at five-year intervals is to provide the stability needed for jurisdictions to plan and budget appropriately in order to meet the target. Recalculating the recovered organic waste product procurement target every five years ensures that over time the requirement for local governments to create markets for products generated by organics recycling facilities accounts for changes in population. This section is necessary because the procurement target will require readjustment based on changing jurisdictional population.

Subdivisions (e)

The purpose of this section is to inform a jurisdiction as to the acceptable methods to comply with the requirements in Subdivision (a). This section is necessary to inform jurisdictions that they may comply not only through their own procurement but also through direct service providers, which may use recovered organic waste products while subject to contractual control by the jurisdictions and thus provide a useful pathway to increase procurement.

Subdivision (e)(1)

The purpose of this section is to clarify that a jurisdiction may directly procure recovered organic waste products in order to meet the procurement target. This section is necessary to clarify how a jurisdiction can comply with this article.

Subdivision (e)(2)

The purpose of this section to clarify that a jurisdiction may meet the procurement target through its direct service providers, meaning that a separate entity that has signed a direct contract with the jurisdiction could procure a sufficient quantity of recovered organic waste product(s) to meet the requirement. It is common practice for contractors to procure and utilize recovered organic waste products in order to comply with a jurisdiction's requirements. For example, a contracted waste hauler may fuel refuse trucks with renewable transportation fuel, or a contracted landscaper may use compost. The purpose of this section is to provide jurisdictions flexibility to comply with the procurement target. This section is necessary to clarify how a jurisdiction can comply with this article.

Subdivision (f)

The purpose of this section is to identify the specific recovered organic waste products that jurisdictions may procure to comply with Subdivision (a). This section is necessary to limit the universe of recovered organic waste products to those that are readily available and align with policies and mandates for methane reduction as described in the SLCP Strategy.

Subdivision (f)(1)

The purpose of this section is identify compost as an eligible recovered organic waste product that jurisdictions may procure to comply with Subdivision (a). The use of compost aligns with policies and mandates for methane reduction as described in the Air Resources Board's SLCP Strategy. The Economic Analysis conducted for the SLCP Strategy notes several scenarios that can achieve the needed reductions in short-lived climate pollutants from the waste sector, and every scenario modeled includes new compost facilities. The SLCP Strategy states that sufficient chip and grind capacity exists and the profits cover the cost of processing and transportation of mulch. In contrast, the SLCP Strategy notes that for compost only the tipping fee accounts for revenue and not the sale of compost products due to the variation and uncertainty in processing costs and demand. Therefore, the purpose of a compost procurement requirement is to establish markets for compost, which is a product generated by organics recycling facilities which the SLCP Strategy identified as in need of market development.

Compost made from biosolids digestate from a publicly owned treatment works (POTW) qualifies as a recovered organic waste product since biosolids are defined as a solid waste per Public Resources Code 40191 and are included in the article 1 definition of organic waste. This section is necessary to identify a type of product a jurisdiction can procure to meet the requirements of this article.

Subdivision (f)(2)

The purpose of this section identify renewable transportation fuel as an eligible recovered organic waste product that jurisdictions may procure to comply with Subdivision (a). Per the article 1 definition, renewable transportation fuel must be made from diverted organic waste and processed at an in-vessel digestion facility that is permitted or otherwise authorized by Title 14. The purpose is to be consistent with SB 1383 language that specifies the adoption of policies that incentivize biomethane derived from solid waste facilities. In-vessel digestion facilities are solid waste facilities which allows the department to verify that these facilities are reducing the

disposal of organic waste. Renewable transportation fuel derived solely from sewage sludge at a POTW will not count towards procurement targets because POTWs are not solid waste facilities and therefore not in the scope of the legislative intent of SB 1383. Sewage sludge is also not typically destined for a landfill, so its use does not help achieve SB 1383's landfill diversion goals. However, while POTWs that accept food waste can technically do so without a solid waste facility permit, they are explicitly authorized to do so per Title 14, making it functionally similar to incentivizing biomethane from a solid waste facility.

Similar to compost, procurement of renewable transportation fuel aligns with policies and mandates for methane reduction as described in the SLCP Strategy. The SLCP Economic Analysis notes several scenarios that can achieve the needed reductions in short-lived climate pollutants from the waste sector; every scenario modeled includes new or expanded anaerobic digestion (AD) facilities producing renewable transportation fuel from diverted organic waste. The SLCP Strategy states that transportation fuel represents the highest value use of biomethane generated through organic waste diversion, and identified barriers such as the economic uncertainty associated with RIN and LCFS prices. A renewable transportation fuel procurement requirement would help mitigate the uncertainty associated with federal and state credit programs by strengthening the markets for renewable transportation fuel generated by organics recycling facilities. In addition to the SLCP Strategy, the Energy Commission's 2017 Integrated Energy Policy Report (IEPR) identified renewable natural gas (RNG) used as transportation fuel in near-zero emission, heavy-duty vehicles as the most likely near-term, cost-effective solution to maximizing greenhouse gas emissions reduction benefits.

This section is necessary to identify a type of product a jurisdiction can procure to meet the requirements of this article.

Subdivision (g)

The purpose of this section is to identify the factors to convert one ton of organic waste products into equivalent amounts of recovered organic waste products (i.e. compost and renewable transportation fuel). This section is necessary because tons of organic waste and volumes of finished compost and renewable transportation are not directly equivalent absent conversion factors.

Subdivision (g)(1)(A)

The purpose of this section is to establish that one ton of organic waste is equivalent to 19 diesel gallon equivalents (DGE) of renewable transportation fuel. This section is necessary to provide a method for jurisdictions to convert the organic waste product procurement target, measured in tons, to DGE of renewable transportation fuel. This conversion is based on the Air Resources Board's "Simplified CI Calculator for Biomethane from Anaerobic Digestion of Organic Waste" and CA-GREET3.0

Subdivision (g)(1)(B)

The purpose of this section is to establish that one ton of organic waste is equivalent to 0.58 tons of compost, based on the Air Resources Board quantification methodology, "Method for Estimating Greenhouse Gas Emission Reductions from Diversion of Organic Waste from Landfills to Compost Facilities," May 2017. This section is necessary to provide a method for

jurisdictions to convert the organic waste product procurement target, measured in tons, to tons of finished compost. Tons of organic waste and finished compost are not equivalent due to mass reduction that occurs during the composting process.

Subdivision (h)

The purpose of this section is to provide jurisdictions with a method to lower the procurement target calculated in Subdivision (b). The purpose is to ensure that the recovered organic waste procurement target does not result in the jurisdiction procuring more recovered organic waste products than it can use. Given the potential difficulty of determining conversion factors for comparable products to compost, jurisdictions have the option to use their previous year's procurement of transportation fuel and renewable transportation fuel, which have readily available organic waste conversion factors, to lower their procurement target. The department selected the time interval of the preceding 12 months to reduce the impact of seasonal variation in procurement of fuel when determining if a lower procurement target for recovered organic waste products is appropriate for a jurisdiction. The focus on fuels is intended to simplify the process by which a jurisdiction can lower its procurement target. Although this mechanism relies only on fuel procurement, a jurisdiction can still choose to meet its lowered procurement target with either compost and/or renewable transportation fuel. This section is necessary to provide a regulatory adjustment in those extraordinary cases where the procurement target exceeds jurisdictional need for recovered organic waste products.

Subdivision (i)

The purpose of this section is to require jurisdictions to identify additional procurement opportunities for compost and/or renewable transportation fuel. The purpose is to require a jurisdiction to identify all opportunities where products can be replaced with recovered organic waste products, and to do so in order to meet the procurement target. For example, a jurisdiction can identify the use of petrochemical fertilizer for a landscaping project as an opportunity to replace it with compost, or the replacement of diesel buses with RNG. However, procurement is often decentralized within a jurisdiction which results in a number of different divisions and departments purchasing products that could be replaced with recovered organic waste products. This section clarifies that a jurisdiction must identify all procurement opportunities, not just those procurement opportunities within the division or department that is assigned primary responsibility for ensuring the jurisdiction is complying with these regulations. This section is necessary to ensure that jurisdictions do not inadvertently miss procurement opportunities that would assist in meeting their procurement target.

18993.2 RECOVERED ORGANIC WASTE PRODUCT PROCUREMENT TARGET RECORD KEEPING REQUIREMENTS

Subdivision (a)

The purpose of this section is to explain the record keeping requirements for jurisdictions to demonstrate compliance with section 18993.1. This section is necessary to ensure that CalRecycle can access records necessary to verify that a jurisdiction is in compliance with the minimum requirements of this chapter.

Subdivision (a)(1)

The purpose of this section is to require jurisdictions to include a description of how they will comply with the recovered organic waste procurement target. This section is necessary to ensure that CalRecycle can access records necessary to verify that a jurisdiction is in compliance with the minimum requirements of this chapter.

Subdivision (a)(2)

The purpose of this section is to require jurisdictions to maintain the name, physical location, and contact information of the entity from which they procured recovered organic waste products. This section is necessary to ensure that CalRecycle can access records necessary to verify that a jurisdiction is in compliance with the minimum requirements of this chapter.

Subdivision (a)(3)

The purpose of this section is to require jurisdictions to maintain invoices or similar records of procurement. This section is necessary to ensure that CalRecycle can access records necessary to verify that a jurisdiction is in compliance with the minimum requirements of this chapter.

Subdivision (a)(4)

The purpose of this section is to require jurisdictions to maintain all records of procurement by a direct service provider on behalf of a jurisdiction, if applicable. This section is necessary to ensure that CalRecycle can access records necessary to verify that a jurisdiction is in compliance with the minimum requirements of this chapter.

18993.3 RECYCLED CONTENT PAPER PROCUREMENT REQUIREMENTS

Subdivision (a)

The purpose of this section is to require jurisdictions to procure recycled content paper. The department considers procurement requirements on local governments to be necessary for achieving the ambitious goals in statute. PRC 42652.5 provides general authority to require what is necessary to “achieve the organics waste reduction goals for 2020 and 2025 established in section 39730.6 of the Health and Safety Code.” According to the department’s 2014 Waste Characterization Study, paper accounts for 17.4 percent of the disposed waste stream. Requirements on jurisdictions to meet the same recycled content paper procurement requirements as state agencies will help grow markets for recycled content paper. The Bureau of Economic Analysis reports that local government share of statewide employment is 8 percent, and state government share is 2 percent; expanding the existing state government recycled paper procurement requirement to local governments could quadruple the amount of recycled paper purchased. Given the prevalence of paper in the disposal stream, increased procurement of recycled paper is needed to grow the market for recycled paper in order to achieve the organic waste reduction goals. This section is necessary to help achieve the organic waste diversion goals in SB 1383 by ensuring an end use for diverted organic waste.

Subdivision (b)

The purpose of this section is to establish the required compliance targets for the recycled content paper procurement requirements as of January 1, 2022. This section is necessary to provide certainty in compliance and enforcement for jurisdictions and the department.

Subdivision (b)(1)

The purpose of this section is to establish the requirement that at least 75 percent of a jurisdiction's paper product purchases shall be recycled content paper, defined in Article 1 as 30 percent postconsumer recycled content. These requirements will result in jurisdictions meeting the same recycled content purchasing standards that apply to state agencies under the State Agency Buy Recycled Campaign (SABRC), Public Contract Code 12200 to 12217. According to the department of General Services (DGS), a wide range of paper products (i.e. janitorial, office supply, etc.) containing a minimum of 30 percent postconsumer recycled content is widely available at or near the same cost as virgin paper. This section is necessary to help achieve the organic waste diversion goals in SB 1383 by ensuring an end use for diverted organic waste.

Subdivision (b)(2)

This The purpose of this section is to establish the requirement that at least 75 percent of printing and writing paper purchases shall be recycled content paper, defined in Article 1 as 30 percent postconsumer recycled content. These requirements will result in jurisdictions meeting the same recycled content purchasing standards that apply to state agencies under SABRC, Public Contract Code 12200 to 12217. According to DGS, printing and writing paper containing a minimum of 30 percent postconsumer recycled content is widely available at or near the same cost as virgin paper. This section is necessary to help achieve the organic waste diversion goals in SB 1383 by ensuring an end use for diverted organic waste.

Subdivision (b)(3)

The purpose of this section is to establish the requirement that jurisdictions procure recycled paper products that are eligible to be labeled with the unqualified recyclable label, as defined in the Federal Trade Commission "Guides for the Use of Environmental Marketing Claims." As specified in the "Guides for the Use of Environmental Marketing Claims," marketers can make unqualified recyclable claims when "recycling facilities are available to a substantial majority of consumers or communities where the item is sold," where "substantial majority" means at least 60 percent. Currently, multi-material products (e.g. plastic-lined paper cups) are not recyclable and get landfilled. The Institute of Scrap Recycling Industries in its "Scrap Specifications Circular" (February 2018), notes that non-preferable or prohibited paper products in curbside recyclables inbound to material recovery facilities includes multi-material products such as, "wax paper," "clean, dry double-polycoat food packages," "cardboard lined with plastic," and "waxed/waterproof cardboard." The purpose of this section is to ensure that jurisdictions comply with the procurement requirement by purchasing recyclable items. This section is necessary because allowing a jurisdiction to meet the procurement requirement by purchasing non-recyclable paper products that have to be landfilled would undermine the overall efforts to meet the organic waste reduction goals established in section 39730.6 of the Health and Safety Code.

Subdivision (c)

The purpose of this section is to clarify that a jurisdiction must require businesses it purchases paper products and printing and writing paper from pursuant to provide written certifications as to recycled content and recyclability. This section is necessary to provide a documentary record of jurisdictional compliance such that this article may properly be enforced. This section is necessary to notify the jurisdiction of the requirement to obtain written certifications as they are subject to the record keeping requirements pursuant to Section 118993.4.

Subdivision (c)(1)

The purpose of this section is to clarify what must be included in the written certification the jurisdiction obtains from a business. The written certification supplied by the business must state the minimum percentage of postconsumer material in the product in order for the department to verify the product is in compliance with Subdivision (b). This section also clarifies that the requirement to obtain a written certification from a business may be waived if the postconsumer material percentage can be verified by a product label, catalog, invoice or a manufacturer or vendor website. This section is necessary to provide a jurisdiction the ability to waive the requirement to obtain a written certification from a business is needed to prevent an unnecessary administrative burden for jurisdictions.

Subdivision (c)(2)

The purpose of this section is to clarify what a business must certify in writing regarding the products sold to the jurisdiction that are eligible for an unqualified recyclable label as defined in 16 Code of Federal Regulations Section 260.12. If a product is eligible for an unqualified recyclable label it, means that recycling facilities are available to at least 60 percent of the consumers or communities where the product is sold. This certification is necessary for the department to verify that jurisdictions are complying with the procurement requirement by purchasing recyclable paper products. Allowing a jurisdiction to meet the procurement requirement by purchasing non-recyclable paper products that have to be landfilled would undermine the overall efforts to meet the organics waste reduction goals established in section 39730.6 of the Health and Safety Code. This section is necessary to clarify what must be included in the written certification the jurisdiction obtains from a business

18993.4 RECORD KEEPING REQUIREMENTS FOR RECYCLED CONTENT PAPER PROCUREMENT

Subdivision (a)

The purpose of this section is to explain the record keeping requirements for jurisdictions to demonstrate compliance with section 18993.3. This section is necessary to ensure that CalRecycle can access records necessary to verify that a jurisdiction is in compliance with the minimum requirements of this chapter.

Subdivision (a)(1)

The purpose of this section is to require jurisdictions maintain all records and receipts for paper purchases. This section is necessary to ensure that CalRecycle can access records necessary to verify that a jurisdiction is in compliance with the minimum requirements of this chapter.

Subdivision (a)(2)

The purpose of this section is to require jurisdictions to maintain all certifications or other verification required under section 18993.3. This section is necessary to ensure that CalRecycle can access records necessary to verify that a jurisdiction is in compliance with the minimum requirements of this chapter.

ARTICLE 13. REPORTING

SECTION 18994.1. INITIAL JURISDICTION COMPLIANCE REPORT

Subdivision (a)

The purpose of this section is to provide the department the information necessary to determine initial compliance with the regulations after they take effect January 1, 2022. The regulations will be adopted several years prior to the effective date of the regulations, providing jurisdictions time to take actions necessary, such as adopting an ordinance, to be in compliance with the regulation by January 1, 2022. As the regulations do not take effect until two years after the 2020 50 percent organic waste reduction target, this section is necessary to ensure that CalRecycle can expeditiously verify compliance with the requirements designed to meet that target.

SECTION 18994.2. JURISDICTION ANNUAL REPORTING

Subdivision (a)

The purpose of this section is to require jurisdictions to report on information that is indicative of compliance with the regulatory requirements of this chapter. In response to stakeholder feedback CalRecycle consolidated many reporting requirements into recordkeeping requirements that are accessible to the department but are not required to be reported on a regular basis to CalRecycle. The information required to be reported in this section summarizes elements of the implementation record that a jurisdiction must keep to demonstrate compliance with this chapter. This section specifies that jurisdictions must report the information required in this section every August. This requirement aligns the reporting dates with the existing reporting dates that jurisdictions report information on their solid waste programs to CalRecycle. This section is necessary to ensure that CalRecycle can verify jurisdiction compliance with the requirements of this chapter.

Subdivision (b)

The purpose of this section is to require jurisdictions to report information that demonstrates compliance with the organic waste collection requirements of Article 3 of this chapter. This section requires jurisdictions to report information that indicates, the type of collection service it provides its generators, the number of generators receiving each service, and if applicable, the RDRS number of any high-diversion organic waste processing facility serving the jurisdiction. This section is necessary to ensure that information demonstrating a jurisdiction's compliance with the requirements of Article 3 is reported to CalRecycle.

Subdivision (c)

The purpose of this section is to require jurisdictions to report information that demonstrates compliance with the contamination monitoring requirements of Article 3 of this chapter. This section requires jurisdictions to identify the number of route reviews conducted, the number and type of contamination notices issued to generators and the number of contamination notices received from a solid waste facility. This section is necessary to ensure that information demonstrating a jurisdiction's compliance with the requirements of Article 3 is reported to CalRecycle.

Subdivision (d)

The purpose of this section is to require jurisdictions to report information that demonstrates compliance with the implementation of waivers as allowed in Article 3 of this chapter. This section requires jurisdictions to report on the number of de-minimis and physical space waivers issued by a jurisdiction. This section also requires jurisdictions to report on the number of emergency waivers implemented and the tons of organic waste that were disposed of as a result of the waiver. Reporting on the tons of organic waste disposed under an emergency waiver will help the department determine the impact these waivers have on the state's ability to achieve the organic waste reduction targets. Finally, this section requires jurisdictions that have received a waiver from complying with the collection service requirements of this chapter to report on the number of generators that are unserved as a result of the waiver. This section is necessary to ensure that information demonstrating a jurisdiction's compliance with the requirements of Article 3 is reported to CalRecycle.

Subdivision (e)

The purpose of this section is to require jurisdictions to report information that demonstrates compliance with the education and outreach requirements of Article 4 of this chapter. This section requires jurisdictions to identify the number of generators that received education information required by Article 4. This section is necessary to ensure that information demonstrating a jurisdiction's compliance with the requirements of Article 4 is reported to CalRecycle.

Subdivision (f)

The purpose of this section is to require jurisdictions to report information that demonstrates compliance with the hauler oversight requirements of Article 7. This section requires jurisdictions to identify the number of haulers and self-haulers approved to operate in the jurisdiction, the location of facilities that receive organic waste from haulers serving the jurisdiction, and the amount of source-separated organic waste reported as being self-hauled to the jurisdiction. This section is necessary to ensure that information demonstrating a jurisdiction's compliance with the requirements of Article 7 is reported to CalRecycle.

Subdivision (g)

The purpose of this section is to require jurisdictions to report information that demonstrates implementation of the Cal-Green requirements specified in Article 8 of this chapter. This section requires jurisdictions to identify the number of construction and demolition debris removal activities are conducted in compliance with Article 8. This section is necessary to ensure that information demonstrating a jurisdiction's compliance with the requirements of article 8 is reported to CalRecycle.

Subdivision (h)

The purpose of this section is to require jurisdictions to report information that demonstrates compliance with the edible food recovery requirements of Article 11. Specifically, this section requires jurisdictions to report the number of commercial edible food generators located in the jurisdiction. This section also specifies that jurisdictions must require edible food recovery services and organizations that recover more than six tons of edible food annually to report the amount of food they recover to the jurisdiction. Finally, this section requires jurisdictions to report the amount of edible food recovered by organizations and services that recover more than

six tons of edible food annually. This section is necessary to provide CalRecycle key data points to measure progress toward the 20 percent edible food recovery target and to verify that jurisdictions are in compliance with the requirements of Article 10 of this chapter.

Subdivision (i)

The purpose of this section is to require jurisdictions to report information that demonstrates compliance with the capacity planning requirements of Article 11. This section is necessary to distinguish between county reporting requirements and reporting requirements for other jurisdictions.

Subdivision (i)(1)

This section requires counties to report on the amount of organic waste that will be generated for disposal, the amount of capacity available, the amount of capacity needed and the locations suitable for new or expanded recycling facilities. This section also requires counties to identify jurisdictions that are required to submit implementation schedules to the department. This section is necessary to identify jurisdictions that are required to submit implementation schedules and to provide CalRecycle information demonstrating a county's compliance with the requirements of Article 11.

Subdivision (i)(2)

The purpose of this section is to require jurisdictions that lack access to sufficient organic waste recycling capacity to submit an implementation schedule to CalRecycle. This section is necessary to ensure that information demonstrating a jurisdiction's compliance with the requirements of Article 11 is reported to CalRecycle.

Subdivision (i)(3)

The purpose of this section is to clarify that the items reported under Subdivision (e) are subject to a distinct reporting schedule specified in Article 11. This section is necessary because reporting on the capacity planning elements is on a distinct schedule that provides jurisdictions additional time to submit their implementation schedule.

Subdivision (j)

The purpose of this section is to require jurisdictions to report information that demonstrates implementation of the procurement requirements specified in Article 12 of this chapter. This section requires jurisdictions to identify: the volume of recovered organic waste products procured by the jurisdiction, the total dollar amount spent on paper purchases, the total dollar amount spent on recycled content paper purchases, the volume of transportation fuel purchases made if the jurisdiction procures an amount of recovered organic waste products that is less than the jurisdiction's target, and any additional internal procurement opportunities identified by the jurisdiction. This section is necessary to ensure that information demonstrating a jurisdiction's compliance with the requirements of Article 12 is reported to CalRecycle.

Subdivision (k)

The purpose of this section is to require jurisdictions to report information that demonstrates implementation of the compliance monitoring and enforcement requirements in Articles 14, 15

and 16. This section is necessary to ensure that information demonstrating a jurisdiction's compliance with the requirements of articles 14, 15, and 16 is reported to CalRecycle.

ARTICLE 14. ENFORCEMENT REQUIREMENTS

Through the creation of Public Resources Code, Division 30, Part 3, Chapter 12.9, and most recently Chapter 13.1 (SB 1383), the California Legislature has recognized the need for local jurisdictions to have an active role in ensuring generators of organic waste participate in local organic recycling programs in order to meet the state's mandate under AB 341 to recycle 75 percent of all waste by 2020 and SB 1383 to reduce the statewide level of disposal of organic waste by 50 percent by 2020 and 75 percent by 2025.

PRC Section 42649.8 et seq. requires jurisdictions to identify and monitor business compliance with mandatory organics recycling requirements. SB 1383 set additional state goals to recycle organic waste due to the known impacts of landfilling organic waste on GHG emissions and provided the department authority to set minimum requirements on entities to ensure state goals are met, which this chapter does in previous articles. In order to meet the state mandates, all entities regulated under this chapter must comply with the minimum standards set forth in this chapter.

The purpose to this article is to ensure compliance with this chapter, ensure a fair playing field for all entities regulated by this chapter, and to specify that jurisdictions have the primary responsibility in monitoring compliance and taking enforcement on entities failing to comply with the chapter. Since the chapter allows flexibility to consider jurisdiction differences, jurisdictions shall fulfill this oversight role by adopting their own enforceable ordinances or other enforceable mechanisms, and through compliance reviews or inspections and enforcement of those ordinances or policies.

This article is necessary to specify the minimum oversight a jurisdiction is required to have on regulated entities by setting minimum compliance activities. Activities include record reviews, inspections and route reviews, and visual reviews of the compliance of an entity within the jurisdiction. Furthermore, this article is needed to set minimum requirements for recordkeeping by jurisdictions so the department can review a jurisdiction's compliance with these requirements and other requirements of this chapter, including but not limited to a jurisdiction's implementation and enforcement of the chapter within the jurisdiction.

SECTION 18995.1 JURISDICTION INSPECTION AND ENFORCEMENT REQUIREMENTS

Subdivision (a)

The purpose of this section is to set forth that a jurisdiction must have an inspection and enforcement program meeting enumerated requirements that ensures compliance with this chapter and is equivalent or stricter than required in this chapter. This section is necessary to inform the jurisdiction of the minimum requirements, the expected beginning date and the frequency in which to perform these minimum requirements to comply with the chapter. A

jurisdiction has the flexibility to develop an inspection and enforcement plan that best fits its individual needs.

Subdivision (a)(1)(A)-(a)(1)(A)1.

The purpose of this section is to require a jurisdiction using a three bin, or two bin collection service to complete an annual compliance review of all garbage accounts for commercial businesses subject to its authority and determine compliance with organic waste generator requirements and self-haul requirements. This section is necessary to ensure adequate regulatory oversight of commercial businesses that generate two cubic yards or more per week of solid waste and produce organic waste. This section requires the jurisdiction to complete a compliance review of all garbage accounts for commercial businesses generating two cubic yards per week.

The jurisdiction may conduct a compliance review in the office, by verifying its normal business records such as billing accounts demonstrating that organic waste generators are subscribing to green waste recycling services and complying with the collection service provided by the jurisdiction. A compliance review does not require a physical inspection of each commercial business that is subscribing to a collection service unless the jurisdiction believes that it is the best process to determine if a business is complying with the requirements. This section is necessary to ensure that jurisdictions take actions to verify compliance with this chapter.

Subdivision (a)(1)(A)2.

The purpose of this section is to require jurisdictions to conduct route reviews of commercial businesses and residential areas for compliance with organic waste generator requirements set forth in section 18984.9 and container contamination requirements set forth in section 18984.5. This section is necessary to ensure adequate regulatory oversight of relevant commercial businesses because the compliance review alone is not sufficient to determine compliance; the jurisdiction will need to visually inspect routes as well to determine if the program is operating properly.

Subdivision (a)(1)(B)

The purpose of this section is to require jurisdictions to perform an annual compliance review of all garbage accounts for commercial businesses that generate two cubic yards or more per week of solid waste and produce organic waste and use an unsegregated single-container collection service. This section is necessary to ensure adequate regulatory oversight of relevant businesses.

Subdivision (a)(1)(B)1.

The purpose of this section is to require jurisdictions to determine the regulatory compliance of relevant commercial businesses with organic waste generator requirements in Section 18984.9 and check documentation of transport to high diversion organic waste processing facilities. This section is necessary to ensure adequate regulatory compliance by verifying that commercial businesses are in compliance with Section 18984.9 by taking their solid waste to a high diversion solid waste facility that recovers 50 percent (in 2022) and 75 percent (in 2025) of the organic waste that comes into the facility. This ensures that jurisdictions and businesses opting for a single bin system are still contributing to the overall state goal to remove organics from landfill disposal. Furthermore, this section is necessary to ensure that there is a level playing field across all jurisdictions independent of the type of compliance method chosen by the jurisdictions.

Subdivision (a)(1)(B)2.

The purpose of this section is to require jurisdictions to determine the compliance of relevant commercial businesses with the self-hauling requirements in Section 18988.3 including whether a business is complying through back-hauling organic waste. This section is necessary to ensure adequate regulatory compliance by ensuring that a business is not circumventing regulatory requirements by taking the material to a landfill or other solid waste facility that may have a lower tip fee or not recover organic waste.

Subdivision (a)(2)

The purpose of this section is to specify that a jurisdiction shall conduct inspections on commercial edible food generators and the dates by which such inspections shall commence. Jurisdictions have the opportunity to designate a public or private entity, such as a local environmental health department, to fulfill responsibilities of this requirement, pursuant to section 18981.2 (b). All counties are required to have a food safety program that requires inspections of all food establishments. Jurisdictions could have agreements with the county health department to fulfill this requirement. This section is necessary to ensure that jurisdictions are adequately enforcing the edible food regulatory requirements of Article 10.

Subdivision (a) (3)

The purpose of this section is to clarify that jurisdictions shall conduct investigations, route reviews or compliance reviews when investigating a complaint. This section is necessary for the department to verify that a jurisdiction has addressed the complaint, and maintained this information in the Implementation Record, and to ensure that jurisdictions are adequately enforcing the regulatory requirements and a level playing field for the regulated community.

Subdivision (a) (4) and (5)

The purpose of these sections is to establish jurisdictional enforcement requirements for relevant regulated entities. These sections clarify that if an organic waste generator, self-hauler, hauler, commercial edible food generator, or other entity does not comply with this chapter between January 1, 2022 and until January 1, 2024, the jurisdiction shall provide educational material to the entity. On and after January 1, 2024, if an entity is not in compliance, the jurisdiction shall document the violation and take enforcement action. The necessity of requiring enforcement through education from January 1, 2022 through January 1, 2024 is because SB 1383 does not allow the department to require a jurisdiction to impose penalties until after January 1, 2024. However, SB 1383 still requires that the state meet a 50 percent reduction in statewide disposal of organic waste by 2020 and 75 percent in 2025. Thus, it is necessary to require interim enforcement measures through education in order to ensure organic waste generators are aware of regulatory requirements to assist in meeting diversion goals in the short term. Jurisdictions must monitor businesses, check for compliance and provide education as soon as possible for the state to meet those goals. The earliest the department has authority to require jurisdictions to provide education is January 1, 2022. Without this enforcement accountability, there may be inconsistent enforcement throughout the state. These sections are necessary to ensure compliance with regulatory requirements.

Subdivision (a)(6)

The purpose of this section is to clarify that jurisdictions shall verify through inspection or route review that businesses are meeting the requirements of de-minimis and physical space waivers pursuant to section 18984.11. Since a jurisdiction may waive a commercial business' obligation to comply with some or all of the organic waste requirements of this article when the commercial business' organic waste generation is below the specified threshold, or if the commercial business can document or a jurisdiction has evidence to support that the premises lack adequate space for separate organic waste containers, the department requires the jurisdiction to annually verify that the commercial business' organic waste generation annually meets the waiver requirements set forth in 18984.11. Annual verification will help determine if these generators need to subscribe to organic waste collection services. This section is necessary to ensure compliance with regulatory requirements because commercial businesses may have fluctuating amounts of organic waste generation due to seasonality or business practices, etc.

Subdivision (b)

The purpose of this section is to clarify that a jurisdiction is required to conduct a sufficient number of inspections on regulated entities to ensure that they are complying with this chapter and the necessity to inspect more frequently entities that are more likely to be out of compliance. This includes the need to conduct a sufficient amount of compliance reviews, inspections and route reviews to ensure compliance with this chapter to the degree that is reasonable. This section is necessary to ensure compliance with regulatory requirements while allowing jurisdictions flexibility to conduct the number of inspections needed within its jurisdiction and set a minimum standard that a jurisdiction must meet when developing an inspection and enforcement plan.

Subdivision (c)

The purpose of this section is to specify that a jurisdiction shall generate a written report for each inspection, route review, and compliance review as well as the required minimum information that must be included in each report. This section is necessary to ensure an adequate evidentiary record for enforcement purposes allowing the department to evaluate whether a jurisdiction is collecting the required information and conducting compliance reviews, route reviews and inspections for compliance as required. Furthermore, this section is necessary to ensure that when entities are notified of violations there is minimum documentation to support enforcement of the chapter and that the entity is clearly notified of a jurisdiction's findings. This documentation is necessary for any penalty actions, to refer back to past enforcement action, or if the entity disputes the violation or has any questions for the jurisdiction and/or inspector regarding the violation.

Subdivision (d)

The purpose of this section is to specify the minimum records a jurisdiction shall include in the Implementation Record and how to maintain the records, including copies of all route reviews, compliance reviews, inspections, and enforcement, for review by the department. This section is necessary to provide the department, as an oversight agency, evidence that a jurisdiction is meeting its requirements for compliance reviews, inspections, route reviews, educational material and enforcement actions.

Subdivision (e)

The purpose of this section is to specify that a jurisdiction may have a designee conduct inspections required by this section, pursuant to section 18981.2. This section is necessary to allow jurisdictions to have a contract or agreement with public or private entity to fulfill its responsibilities when such entities are in a better position to gather evidence regarding regulatory compliance.

SECTION 18995.2 IMPLEMENTATION RECORD AND RECORDKEEPING REQUIREMENTS

Subdivisions (a) through (e)

The purpose of sections (a) through (e) is to require certain records be retained by a jurisdiction in its Implementation Record and to describe how such records shall be maintained. This provides a sufficient evidentiary record for the department to ensure jurisdictional compliance with regulatory requirements. The department requires a jurisdiction to maintain records for five years so it may have access to a history of violations to determining if a new violation is a first, second, third or subsequent offense. The department requires the most recent reporting period to be updated in the Implementation Record and available for review within one day. The most recent reporting period coincides with the quarterly reporting period for solid waste facilities subject to recycling and disposal reporting requirements. This section is necessary to allow the department to easily review records and have an overall picture of the jurisdiction's activities, to verify the information reported in the annual report pursuant to section 18994.2 and evaluate the jurisdiction's compliance with the chapter.

Subdivision (f)

The purpose of this section is to provide a list of the records that a jurisdiction must maintain in the Implementation Record. This section is necessary to establish, with clarity, the extent of recordkeeping requirements for a jurisdiction, including the requirement to have copies of ordinances and the jurisdiction's enforcement plan in the Implementation Record.

Subdivision (g)

The purpose of this section is to clarify that all records in the Implementation Record are subject to the California Public Records Act. This section is necessary for jurisdictions to be aware that all required recordkeeping may be subject to disclosure to the public.

SECTION 18995.3 JURISDICTION INVESTIGATION OF COMPLAINTS OF ALLEGED VIOLATIONS

The purpose of this section is to provide for a process by which any person may file a complaint with a jurisdiction if they have information that a regulated entity is in violation of the chapter. This section is necessary to enhance regulatory enforcement and compliance by allowing members of the public a method to bring potential violations to the attention of a jurisdiction. The public may be in a position to be aware of regulatory violations that go undetected by a jurisdiction despite regular inspections and other enforcement requirements.

SECTION 18995.4 ENFORCEMENT BY A JURISDICTION

The main purpose of this section is to require a jurisdiction to take enforcement action against a regulated entity in violation of this chapter and to do so in the manner described. Flexibility is built into the enforcement requirements first by allowing an entity the opportunity to remedy a violation before a jurisdiction must impose penalties. Second, this section provides entities with a generous amount of time to come into compliance after a violation has occurred and includes allowances for time extensions due to extenuating circumstances and limitations related to local infrastructure and capacity deficiencies that may prevent compliance. This section is necessary to ensure regulatory compliance by ensuring financial consequences for violations while allowing enforcement flexibility in the event of extenuating circumstances or infrastructure limitations. Requiring jurisdictions to pursue penalties for violations consistent with this section is expected to encourage compliance with regulatory requirements.

This section additionally clarifies the contents of notices of violation or other enforcement notices. This section is necessary to ensure regulated entities receive adequate legal notice of the nature of the cited violations to allow entities to correct violations or stage an informed defense. Finally, consistent with Section 18984.5, this section clarifies that jurisdictions may, but are not required to, levy fees or penalties against generators that the jurisdiction identifies as having contaminated containers. This section is necessary to align the provisions of this article with provisions in Article 3 of this chapter.

ARTICLE 15. ENFORCEMENT OVERSIGHT BY THE DEPARTMENT

Through the creation of Public Resources Code, Division 30, Part 3, Chapter 12.9, and most recently Chapter 13.1 (SB 1383), the California Legislature has recognized the need for the department to have oversight and enforcement authority over jurisdictions who have a role in carrying out organic recycling requirements to meet the state mandates. The requirements of SB 1383 do not, and cannot require jurisdictions, or any other regulated entities to meet the statewide targets of 50 and 75 percent. This regulation requires regulated entities to implement and comply with regulatory requirements that are entirely within their authority. . The purpose of this article ensures that all entities regulated under this chapter comply with the minimum standards set forth in this chapter or be subject to enforcement.

The purpose of this article is to outline the process by which jurisdictions and other entities subject to requirements in this chapter are: subject to the department's review and inspection, notified of violations, and able to come into compliance prior to being subject to penalties.

This article is necessary to ensure entities in violation receive proper notice and to provide time for an entity to correct the violation or provide evidence that it has complied with the chapter. Furthermore, this article is needed to ensure compliance with the chapter is achieved in a timely manner.

SECTION 18996.1 DEPARTMENT EVALUATION OF JURISDICTION COMPLIANCE

The purpose of this section is to require the department to evaluate a jurisdiction's compliance with this chapter and specify the process the department will use to do so, including reviewing

the Implementation Record, conducting inspections, compliance reviews and route reviews. This section is necessary to clarify the department has oversight and enforcement authority over jurisdictions to ensure they comply with the requirements of this chapter and to provide transparency as to the method by which it will occur.

SECTION 18996.2 DEPARTMENT ENFORCEMENT ACTION OVER JURISDICTIONS

The purpose of this section is to outline the department's enforcement process for a jurisdiction in violation of this chapter while retaining flexibility in cases where additional time to remedy violations may be justified, such as where a jurisdiction is making substantial efforts or when extenuating circumstances or lack of infrastructure or capacity may be present. This avoids forcing penalties where violations may be corrected in a reasonably timely manner or where a delay in penalties may be justified under the circumstances. Jurisdictions have a generous amount of time to come into compliance after a violation has occurred and issued notice of violation.

If the department finds a jurisdiction in violation, the department shall issue a notice of violation within 90 days of the date of the violation. A jurisdiction may request a 90-day extension if it submits evidence the additional time to comply is needed and includes the steps the jurisdiction will take to comply within 180 days. The department may extend the timeframe beyond the 180 days if the jurisdiction has demonstrated it has made substantial effort to comply and there are extenuating circumstance that has prevented it from complying. Once this timeline is exhausted, the department may issue a Corrective Action Plan (CAP) providing up to an additional 24 months to achieve compliance. Technically, a jurisdiction is allowed 180 days or 6 months to remedy a violation, or it may request an extension (CAP) for a total of 30 months or 2 ½ years to come into compliance.

A Corrective Action Plan may include critical milestones. The CAP may have penalties associated with failing to meet these milestones. For clarity, critical milestones include, but are not limited to, receiving approval by a decision-making body, permit application submittals and obtaining approvals, and tasks associated with local contract approvals.

Substantial effort is defined as meaning a jurisdiction has taken all practical actions to comply. It does not include circumstances where a decision-making body of a jurisdiction has not taken the necessary steps within their authority to comply with the chapter, including, but not limited to, a failure to provide staff resources, a failure to provide sufficient funding to ensure compliance or failure to adopt ordinances.

Extenuating circumstances is defined as meaning a delay in compliance due to circumstances outside a jurisdiction's control; including acts of God and declared emergencies or delays in obtaining discretionary permits or other government agency approvals, and long-term infrastructure or capacity changes, which require a longer length of time to achieve compliance.

Jurisdictions that made a substantial effort to comply with SB 1383 after its adoption in 2016 should be able to remedy noncompliance within the required timeframes before the department imposes penalties as listed in section 18997.3. These sections conform to the department's

general procedure of written notice of potential failure and a reasonable timeline for remedy. This section is necessary to establish a transparent enforcement procedure while also having procedures in place, once a violation of the chapter has occurred, to allow a jurisdiction the opportunity to remedy the situation before the department imposes penalties.

SECTION 18996.3 DEPARTMENT ENFORCEMENT ACTION WHEN JURISDICTION FAILS TO ENFORCE

The purpose of this section is to clarify that if a jurisdiction fails to enforce the requirements set forth in the chapter, the department may take enforcement action against an entity pursuant to section 18996.9 and take enforcement action against the jurisdiction for failing to take enforcement action pursuant to 18996.2. This section is necessary to ensure that if the jurisdiction is not fulfilling its obligation to enforce the requirements of this chapter, the department may intervene and take enforcement action on entities not complying. This section is necessary for the department to meet the overall state mandates, to discourage jurisdictions from not taking enforcement, and ensure an even playing field.

SECTION 18996.4 ACCESS FOR INSPECTION BY THE DEPARTMENT

The purpose of this section is to clarify that regulated entities must provide the department access to conduct inspections and investigations. This section is necessary to ensure the department has access as needed to evaluate and verify compliance with this chapter and pursue enforcement action if needed pursuant to section 18996.9.

SECTION 18996.5 ENFORCEMENT ACTION AGAINST ORGANIC WASTE GENERATORS LOCATED IN MULTIPLE JURISDICTIONS AND NON-LOCAL ENTITIES

The purpose of this section is to provide a process by which a local jurisdiction may refer organic waste generators with locations in more than one jurisdiction or a non-local entity to the department for enforcement action. This section is necessary because a local jurisdiction does not have authority to take enforcement action against entities outside their boundaries and a process is necessary to allow the state to undertake unified enforcement in such situations for effective enforcement that is not piecemeal. This section also requires a jurisdiction to take certain due diligence steps prior to making a referral to the department, allowing the department to refuse enforcement if a referral does not meet certain requirements, and requiring a jurisdiction to suspend enforcement if the department takes over enforcement. This section is necessary to ensure jurisdictions are doing everything in their authority to enforce prior to handing off responsibility to the state, preventing the department from being required to enforce when the circumstances do not justify it, and preventing overlapping or conflicting action between the state and local jurisdictions when the department undertakes enforcement.

SECTION 18996.6 DEPARTMENT INSPECTIONS AND COMPLIANCE REVIEWS OF STATE AGENCIES AND FACILITIES

The purpose of this section is to establish progressive enforcement procedures to be taken by the department if it finds a state agency or state facility is in violation of Article 5 or Article 10 of this chapter. This section is necessary because local jurisdictions do not have authority to enforce against the state, and special procedures are necessary because enforcement action against a state agency or state facility is fundamentally different in nature from enforcement action against other regulated entities.

SECTION 18996.7 DEPARTMENT ENFORCEMENT ACTION REGARDING LOCAL EDUCATION AGENCIES

The purpose of this section is to establish the enforcement procedures to be taken by the department if it finds a local education agency is in violation of this chapter. This section is necessary because local education agencies, as defined, are not subject to local solid waste control and special procedures are necessary to allow the department to enforce. Enforcement action against a local education agency is fundamentally different than enforcement action against other regulated entities.

SECTION 18996.8 COMPLAINTS OF ALLEGED VIOLATIONS OF JURISDICTION AND ENTITIES

The purpose of this section is to outline the process for filing a complaint with the department by a person alleging a jurisdiction or regulated entity is in violation of requirements of this chapter. This section is necessary to ensure there is a process to notify the department of suspected entities or jurisdictions that may be out of compliance with the requirements of this chapter since members of the public, in some circumstances, may be in a better position to discover potential violations due to practical limitations on the inspection reach of the department. This allows the department the opportunity to receive complaints, investigate complaints and determine if the allegations are true, and if so, issue a violation. This will also facilitate the process of identifying non-compliant activities or actions previously unknown to the department.

SECTION 18996.9 DEPARTMENT ENFORCEMENT ACTIONS AGAINST ENTITIES

Subdivisions (a) and (b)

The purpose of sections (a) and (b) is to provide the department with the authority to enforce this chapter in lieu of a local jurisdiction and to establish a process the department shall follow. This section is necessary to ensure proper enforcement of this chapter when a local jurisdiction fails to enforce or where the regulated entity is beyond the enforcement authority of a local jurisdiction. The enforcement process gives a regulated entity an opportunity to remedy a violation before the department imposes penalties, just as if the jurisdiction was taking enforcement action. These sections conform to the department's general procedure of written notice of potential failure and a reasonable timeline for remedy.

Subdivision (c)

The purpose of this section is to detail the department's criteria and procedures for granting extensions to entities issued a Notice of Violation or a Notice and Order to Correct. This allows the entity additional time to comply if the department finds the entity is making timely progress,

or has extenuating circumstances, including if the jurisdiction in which the entity resides, is on a Corrective Action Plan pursuant to section 18996.2 due to long-term infrastructure or capacity deficiencies. This section is necessary because immediate penalty enforcement may be unduly punitive under such circumstances.

Subdivision (d)

The purpose of this section is to detail the information the department shall include in a Notice of Violation or other enforcement notices when the department is taking enforcement action against an entity. This section is necessary to provide proper legal notice to regulated parties by clearly identifying the violation, documenting the responsible party, giving a clear description of the violation, the compliance deadline and the penalty associated with the violation. This section is also necessary for transparency, to retain clear records of enforcement actions and to reference past violations.

ARTICLE 16 ADMINISTRATIVE CIVIL PENALTIES FOR VIOLATIONS OF REQUIREMENTS OF THIS CHAPTER

Through the creation of Public Resources Code, Division 30, Part 3, Chapter 12.9, and most recently Chapter 13.1 (SB 1383), the California Legislature has recognized the need for the department to have oversight and enforcement authority over jurisdictions who have a role in carrying out organic recycling requirements to meet the state mandates. In order to meet the state mandates, all entities regulated under this chapter must comply with the minimum standards set forth in this chapter and the overarching purpose of this article is to ensure compliance with this chapter and ensure a fair playing field for all entities regulated by this chapter.

The purpose of this article is to outline the department's process for assessing penalties for failing to comply with the requirements of the chapter, including the method for determining penalty amounts for each violation type. The department set minimum penalty thresholds to discourage jurisdictions from not complying with the requirements of the chapter. This article also outlines the minimum standards a jurisdiction must meet for assessing penalties against noncompliant entities. The penalty amounts provide jurisdictions a discretionary range of penalty amounts. The range is consistent with the amounts specified in Government Code Sections 53069, 25132 and 36900. This allows jurisdictions the flexibility to impose equivalent or stricter penalties and the penalty ranges allow a jurisdiction the discretion to penalize smaller businesses at the minimum penalty and levy a more substantial penalty against larger businesses that may be contributing more to the organic waste stream. Furthermore, this article sets the process and timeframes for conducting hearings, if requested by the respondent.

This article is necessary to ensure assessed penalties are in proportion to the type and severity of a violation and applied in a consistent manner. Furthermore, this article allows respondents to appeal an accusation and ensure proper noticing and due process consistent with the Administrative Procedure Act.

SECTION 18997.1 SCOPE

Subdivision(a)

The purpose of this section is to clarify that the department may impose administrative civil penalties authorized by PRC 42652.5 in accordance with the procedures set forth in this article. This section is necessary to establish that the department is implementing its statutory authority to impose penalties for non-compliance with the chapter.

Subdivision (b)

The purpose of the section is to state that a jurisdiction shall adopt ordinance(s) and enforceable mechanisms to impose penalties that are equivalent or stricter than the penalty amounts in section 18997.2 of this chapter. This section is necessary to ensure local jurisdictions have an adequate local enforcement mechanism while allowing flexibility to accommodate the specialized needs of the jurisdiction as long as local requirements meet the minimum standards in this chapter.

SECTION 18997.2 PENALTY AMOUNTS

Subdivision (a)

The purpose of this section is to clarify that a jurisdiction shall impose penalties equivalent or stricter than those listed in Table 1. This section is necessary to establish an easily understood and transparent description of how penalties will be calculated and to set the minimum penalty levels depending on the type of violation and its severity.

Subdivision (b)

The purpose of this section is to provide the base penalty range for each type of violation and severity level. This section is necessary to associate a monetary amount for each violation severity level (Level 1, 2, 3,) to clarify the penalty chart in Table 1. The penalty amount specified in each level aligns with the progressive penalty amounts a jurisdiction is authorized to impose under Government Code Section 53069, 25132 and 36900.

Subdivision (c)

The purpose of this section is to state that revoking, suspending, or denying a permit, registration, license or other authorization shall be considered stricter than the penalties in this section. This section is necessary to enumerate an example of what may be considered stricter than the penalty amounts in Table 1 for purposes of the requirement in Subdivision (a). This helps clarify that a jurisdiction has other options besides levying penalties that may be equally as effective in achieving compliance.

SECTION 18997.3 DEPARTMENT PENALTY AMOUNTS

Subdivision (a)

The purpose of this section is to detail the method the department will use when calculating penalties. This section is necessary to establish an easily understood and transparent description of how penalties will be calculated by the department and to set the minimum penalty levels depending on the type of violation and its severity. A separate penalty process is necessary because the subjects of CalRecycle enforcement are different in nature from those of local jurisdictions.

Subdivision (b)

The purpose of this section is to provide a complete list of potential violations of the chapter subject to penalties and the corresponding severity level for each violation, depending on the first, second, third or a subsequent violation. This section is necessary to provide a clear, complete list of violations associated with the non-compliance of this chapter and a quick way to identify the violations and the associated severity level as described in Subdivision (c).

Subdivision (c)

The purpose of this section is to provide the amount of the base penalty range for each severity level. This section is necessary to associate a monetary amount for each violation severity level to clarify the base table charts under Subdivision (b). In developing these ranges, the department started from PRC section 42652.5(a)(5) which provides penalty authority of up to \$10,000 per day (the levels in section 41825). It then set forth six levels of penalties to account for variations in the severity of the violations and the number of times the violation has occurred. This allows for increasing penalties for repeated violations. This section is also necessary to provide transparency and notice to those who may be subject to penalties and to ensure the appropriate penalty is being applied to a particular violation.

Subdivision (d)

The purpose of this section is to detail the factors the department may consider when determining the penalty amount within a penalty range, if applicable. The factors included here parallel the types of factors that appear in a number of department statutes and regulations. This section is necessary to create a transparent and defined process by which the department may determine a final penalty amount within a certain range.

SECTION 18997.4 ORGANICS WASTE RECOVERY NONCOMPLIANCE INVENTORY

The purpose of this section is to establish the department's enforcement steps if a state agency, state facility or local education agency is in violation of this chapter. This section is necessary because enforcement against such entities is fundamentally different from the other entities subject to the chapter and requires a separate process. It is necessary to discourage noncompliance by state agencies, facilities and local education agencies violating the requirements of this chapter in lieu of civil penalties pursuant to section 18997.3.

SECTION 18997.5 CALRECYCLE PROCEDURE FOR IMPOSING CIVIL PENALTIES

Subdivision (a)

The purpose of this section is to clarify that the procedure for imposing civil penalties must use penalty amounts that align with Section 18997.3 of this chapter. This section is necessary to provide clarity to stakeholders.

Subdivision (b)

The purpose of this section is to describe the process by which the department shall commence an action for civil penalties through the filing of an accusation. This section is necessary to create a transparent and defined process for enforcement.

Subdivision (c)

The purpose of this section is to describe how an accusation commencing a penalty action shall be served. This section is necessary to create a transparent and defined process for service as well as ensuring accusations are received by respondents.

Subdivision (d)

The purpose of this section is to establish timelines for a respondent to request a hearing before the department, for the department to schedule a hearing, and when a hearing shall be held. The purpose of this section is also to define who the hearing officer shall be and when rights to a hearing may be waived. This section is necessary to create a transparent and defined hearing timeline in order to adjudicate enforcement cases in a timely manner and to put respondents on notice that hearing rights may be waived.

Subdivision (e)

The purpose of this section is to describe how the department may issue an order setting penalties when a respondent has either waived the right to hearing or has reached a settlement with the department. This section is necessary to create a defined and transparent process when a hearing does not occur but penalties remain enforceable.

Subdivision (f)

The purpose of this section is to establish when a written decision must be issued following a hearing. This section is necessary to create a transparent and defined hearing process and ensure hearings are brought to a timely conclusion.

The processes in this section are similar or identical to those set forth for a number of CalRecycle programs, are consistent with the APA. This section is necessary to ensure adequate due process and timely adjudication.

SECTION 18997.6 CALRECYCLE PROCEDURE FOR HEARINGS AND ORDERS OF LIABILITY

The purpose of this section is to establish the appropriate procedure for conducting hearings, the effective date of orders setting civil liabilities, due dates for penalty payments and appropriate service of process. This section is necessary to establish a transparent and defined legal process for hearings and orders.

The processes in this section are similar or identical to those set forth for a number of CalRecycle programs, are consistent with the APA, and are necessary to ensure adequate due process and timely adjudication.

CHAPTER 3. MINIMUM STANDARD FOR SOLID WASTE HANDLING AND DISPOSAL

ARTICLE 6.0. TRANSFER/PROCESSING OPERATIONS AND FACILITIES REGULATORY REQUIREMENTS

SECTION 17402. DEFINITIONS.

This article contains a number of terms which require definition to ensure regulatory consistency and clarity. These terms have specific meaning to describe the various types of transfer operations and facilities and activities for purpose of this article. If these terms are not defined, the meaning may be unclear and the regulated public as well as the regulators may fail to interpret the regulations properly. The definitions are placed in a separate section to avoid repetition throughout the article each time they appear.

Subdivision (a)(.5)

“Consolidation Sites” The purpose of this section is to define consolidation sites. This section is necessary to define a key term used in the regulations

Subdivision (a)(1.5)

The purpose of this section is to define “Contamination “or “Contaminants.” The definition affirms that the term contamination or contaminates used in Chapter 3.1 of this division is the same as the definition of prohibited container contaminates defined in Chapter 12 of this division. This section is necessary to define a key term used in the regulations and to maintain consistency in the department’s regulations.

Subdivision (a)(6.6)

The purpose of this section is to define “Gray Container Waste” or “Gray container collection stream.” This section defines gray container waste and gray container collection stream by referencing how the material is collected in section 18984.1. This section is necessary to define a key term used in the regulations and to maintain consistency in the department’s regulations.

Subdivision (a)(6.7)

The purpose of this section is to define “Hauler.” This section defines hauler by referencing the definition in 14 CCR. This section is necessary to define a key term used in the regulations and to maintain consistency in the department’s regulations.

Subdivision (a)(7.5)

The purpose of this section is to define “Incompatible material.” The term is necessary to differentiate it from “residual” or “contaminant” since the terms are not interchangeable. This section is necessary to define a key term used in the regulations

Subdivision (a)(18.4)

The purpose of this section is to “Organic Waste Recovery Activities” or “recovery,” This section defines organic waste recovery activities by referencing the definition in proposed Section 18982(a)(49) of this division. This section is necessary to define a key term used in the regulations and to maintain consistency in the department’s regulations.

Subdivision (a)(18.5)

The purpose of this section is to define “Organic Waste.” this section defines organic waste by referencing the definition in proposed Section 18982(a)(46) of this division. This section is

necessary to define a key term used in the regulations and to maintain consistency in the department's regulations.

Subdivision (a)(11.5)

The purpose of this section is to define "Mixed Waste Organic Collection Stream" is a new definition. These terms are defined by referencing how the material is collection in Sections 18984.1, 18984.2 or 18984.3 of this division. This section is necessary to define a key term used in the regulations and to maintain consistency in the department's regulations.

Subdivision (a)(18.6)

The purpose of this section is to define "Source Separated Organic Waste" or "source separated organic waste collection stream." These terms are defined by referencing how the material is collection in Sections 18984.1(a), 18984.2(a)(1) or 18984.1(a)(6) of this division. This section is necessary to define a key term used in the regulations and to maintain consistency in the department's regulations.

Subdivision (a)(23.5)

The purpose of this section is to define "Remnant organic material." This section is necessary to define a key term used in the regulations and to maintain consistency in the department's regulations.

SECTION 17402.5. DEFINITIONS AND RELATED PROVISION REGARDING ACTIVITIES THAT ARE NOT SUBJECT TO THE TRANSFER/PROCESSING REQUIREMENTS.

Subdivision (c)(6)

The purpose of this section is to change the definition of "Regional Produce Distribution Center" to "Regional Organic Distribution Center." This section is necessary to define which activities are not subject to the requirements of transfer/processing operations or facilities. The section is also necessary as the activity is no longer limited to only produce and to emphasize the organic waste stream.

Subdivision (c)(7)

The purpose of this section is to change the definition of "Rendering Plant" to "Rendering Activities." This sec and revised to be consistent with the definition used in the in-vessel digestion regulations. This definition is necessary to clarify which type of activities are not subject to the requirements of transfer/processing operations or facilities and to maintain consistency in the department's regulations.

SECTION 17403. REGULATORY TIERS REQUIREMENTS FOR TRANSFER/PROCESSING OPERATIONS AND FACILITIES.

Table 1

The purpose of this section is to revise Table 1 to add the regional organic distribution centers section into the not subject to Articles 6.0, 6.1, 6.2, 6.3 and 6.35 column. This section is necessary to reflect the changes in the definition in Section 17402.5(c)(6).

ARTICLE 6.2. OPERATING STANDARDS

SECTION 17409.5. LOADCHECKING – PROHIBITED WASTES

The purpose of this section is to add “Prohibited Wastes” to the heading of Section 17409.5. This section is necessary to clarify the purpose of the loadchecking requirements and to distinguish them from the loadchecking requirements in section 17409.5.7.

SECTION 17409.5.1. ORGANIC WASTE RECOVERY EFFICIENCY

The purpose of this section is to require a measurement protocol used to determine the level of efficiency of the facility to separate organic material for recycling. The data from the sampling will be recorded and reported. This section is necessary to determine the efficiency of the facility in order to make required determinations in Article 3.

Subdivision (a)

The purpose of this to clarify what type of operations and facilities will be required to comply with this section. This section is necessary to ensure regulated entities are aware of their compliance obligations.

Subdivision (b)

The purpose of this section is specify how recovery efficiency is measured at facilities. This section is necessary to provide a method for determining if a facility meets the definition of a high diversion organic waste processing facility.

Subdivision (c)(1) and (2)

The purpose of this section is detail specific aspects of the measurement protocol an operator must use to determine recovery efficiency. This section is necessary to establish the measurement protocol of organics in organic waste recovered and organic in waste sent to disposal in mixed waste organic collection stream received at the facility, and will be use to demonstrate compliance with Subdivision (b).

Subdivision (c)(3)

The purpose of this section is detail specific aspects of the measurement protocol an operator must use to determine recovery efficiency. This section is necessary to establish the reporting frequency and method for reporting the information obtained in subdivision (c)(1) and (2). Reporting of the information is necessary for the department to determine the efficiency of the facility.

Subdivision (d)(1) and (2)

The purpose of this section is detail specific aspects of the measurement protocol an operator must use to determine recovery efficiency. This section is necessary to establish the measurement protocol for organics in the source separated organic waste and will be used to demonstrate compliance with Subdivision (b).

Subdivision (d)(3)

The purpose of this section is detail specific aspects of the measurement protocol an operator must use to determine recovery efficiency. This section is necessary to establish the reporting frequency and method for reporting the information obtained in subdivisions (d)(1) and (2). This section is necessary for the department to gather information on the amount of organics in source separated organic streams that is not being recovered.

Subdivision (e)

The purpose of this section is to require that the operator maintain records of the information obtained in this section as approved by the enforcement agency (EA). This section is necessary to ensure the EA has access to the records as it provides a means to verify operator compliance with the requirements in this section.

SECTION 17409.5.2. MEASURING ORGANIC WASTE RECOVERED FROM MIXED WASTE ORGANIC COLLECTION STREAM

The purpose of this section and each is to establish a measurement protocol used to determine the level of efficiency of the facility to recover organics from the mixed waste organic collection stream. The data from the sampling will be recorded and reported. This section is necessary to provide information to determine the efficiency of the facility as a means to verify compliance with Section 17409.5.1.

Subdivision (a)

The purpose of this section is to clarify that operations or facilities that accept mixed waste organic collection stream are required to comply with this section. This section is necessary to ensure regulated entities are aware of their compliance obligations.

Subdivision (b) (1) through (6)

The purpose of this section is to establish the sampling and measurement protocol of the organics recovered from the mixed waste organic collection stream. This section is necessary to collect data that will be used to determine the efficiency of the facility to comply with Section 17409.5.1.

Subdivision (c)

The purpose of this section is to allow the EA the ability to observe the operator conduct measurements. This section is necessary to allow the EA to observe an operator conduct a measurement as a means to evaluate the operator's performance to comply with Subdivision (b).

Subdivision (d)

The purpose of this section is to allow the EA flexibility to increase the frequency and/or revise the measurement protocol if they determine, based on their review of records, that the measurements are not accurate. This section is necessary to allow the operator to produce the most accurate information in order to determine the efficiency of the operation or facility.

SECTION 17409.5.3. MEASURING ORGANIC WASTE IN RESIDUALS REMOVED FROM MIXED WASTE ORGANIC COLLECTION STREAM

The purpose of this new section is to require a measurement protocol used to determine the amount of organics in the residuals removed from the mixed waste organic collection stream. The data from the sampling will be recorded and reported. This section is necessary to provide information to determine the efficiency of the facility as a means to verify compliance with Section 17409.5.1.

Subdivision (a)

The purpose of this section is to clarify that operations or facilities that accept mixed waste organic collection stream are required to comply with this section. This section is necessary to ensure regulated entities are aware of their compliance obligations.

Subdivision (b) (1) through (5)

The purpose of this section is to establish the sampling and measurement protocol of the organics recovered from the mixed waste organic collection stream. This section is necessary to collect data that will be used to determine the efficiency of the facility to comply with Section 17409.5.1.

Subdivision (c)

The purpose of this section is to allow the EA the ability to observe the operator conduct measurements. This section is necessary to allow the EA to observe an operator conduct a measurement as a means to evaluate the operator's performance to comply with Subdivision (b).

Subdivision (d)

The purpose of this section is to allow the EA flexibility to increase the frequency and/or revise the measurement protocol if they determine, based on their review of records, that the measurements are not accurate. This section is necessary to allow the operator to produce the most accurate information in order to determine the efficiency of the operation or facility.

Subdivision (e)

The purpose of this section is to require that the operator maintain records of measurements and training. This section is necessary to ensure the EA has access to the records as a means to verify that the operator complies with the requirements described in subdivision (b).

SECTION 17409.5.4. MEASURING ORGANIC WASTE RECOVERED FROM SOURCE SEPARATED ORGANIC WASTE COLLECTION STREAM

The purpose of this new section is to require a measurement protocol used to determine the level of efficiency of the facility to recover organics from the source separated waste organic collection stream. The data from the sampling will be recorded and reported. This section is necessary to provide information to determine the efficiency of the facility as a means to verify compliance with section 17409.5.1.

Subdivision (a)

The purpose of this section is to clarify that operations or facilities that accept source-separated organic collection stream are required to comply with this section. This section is necessary to ensure regulated entities are aware of their compliance obligations.

Subdivision (b) (1) through (6)

The purpose of this section is to establish the sampling and measurement protocol of the organics recovered from the source separated organic waste collection stream. This section subdivisions are necessary to establish the sampling and measurement protocol of the organics recovered from the source separated waste organic collection stream.

Subdivision (c)

The purpose of this section is to allow the EA the ability to observe the operator conduct measurements. This section is necessary to allow the EA to observe an operator conduct a measurement as a means to evaluate the operator's performance to comply with Subdivision (b).

Subdivision (d)

The purpose of this section is to allow the EA flexibility to increase the frequency and/or revise the measurement protocol if they determine, based on their review of records, that the measurements are not accurate. This section is necessary to allow the operator to produce the most accurate information in order to determine the efficiency of the operation or facility.

SECTION 17409.5.5. MEASURING ORGANIC WASTE IN RESIDUALS REMOVED FROM SOURCE SEPARATED ORGANIC WASTE COLLECTION STREAM

The purpose of this new section is to require a measurement protocol used to determine the organics in the residual removed from the source separated waste organic collection stream. The data from the sampling will be recorded and reported. This section is necessary to provide information to determine the efficiency of the facility as a means to verify compliance with Section 17409.5.1.

Subdivision (a)

The purpose of this section is to clarify that operations or facilities that accept source-separated organic collection stream are required to comply with this section. This section is necessary to ensure regulated entities are aware of their compliance obligations.

Subdivision (b) (1) through (5)

The purpose of this section is to establish the sampling and measurement protocol of the organics recovered from the source separated organic waste collection stream. This section subdivisions are necessary to establish the sampling and measurement protocol of the organics recovered from the source separated waste organic collection stream.

Subdivision (c)

The purpose of this section is to allow the EA the ability to observe the operator conduct measurements. This section is necessary to allow the EA to observe an operator conduct a measurement as a means to evaluate the operator's performance to comply with Subdivision (b).

Subdivision (d)

The purpose of this section is to allow the EA flexibility to increase the frequency and/or revise the measurement protocol if they determine, based on their review of records, that the measurements are not accurate. This section is necessary to allow the operator to produce the most accurate information in order to determine the efficiency of the operation or facility.

SECTION 17409.5.6. SOURCE SEPARATED ORGANICS WASTE HANDLING

The purpose of this new section is to specify the handling procedure for the source separated organic waste. This section is necessary to reduce cross contamination from mixed waste processing and to clarify where source separated organic waste can be taken.

Subdivision (a)

The purpose of this section is to specify that the processing of the source separated organic waste be separate from other solid waste streams. This section is necessary to prevent mixing of the waste streams to reduce contamination.

Subdivision (a)(1)

The purpose of this section is to clarify that organic material separated from the gray container collection stream can be combined with processed organic waste from the source separated organic waste once it has gone through the measurement requirements of Section 17409.5.4. This section is necessary to establish when select streams of material can be combined.

Subdivisions (b) (1) – (2)

The purpose of this section is to clarify the requirements from storage and removal of organic waste. This section is necessary to specify the standard for the storage and removal of the separated organic waste at an operation or facility and where materials can be taken.

SECTION 17409.5.7. LOADCHECKING – CONTAMINATION IN SOURCE SEPARATED ORGANIC WASTE

The purpose of this new section is to specify the loadchecking requirements to determine the presence of visible contamination in the source separated organic waste delivered to the site. This section is necessary to help prevent contamination coming into facilities as well as helping to inform jurisdictions of contamination in their source separated organic waste stream such that actions may be taken to reduce or eliminate that contamination.

Subdivision (a)

The purpose of this section is to require operations or facilities that receive source separated organic waste to loadcheck for contamination. This section is necessary to define the entities that are required to comply with this section.

Subdivision (a)(1) through (2)

The purpose of these sections is to establish the loadchecking protocol. This section is necessary to clarify the frequency of visual inspections and that checks are required for each source sector.

Subdivision (a)(3)

The purpose of this section is to require the operator to notify the jurisdiction or jurisdiction's designee if a visual inspection indicates a high level of contamination. This section is necessary to ensure the jurisdiction or jurisdiction's designee becomes aware of these loads to be able to take the necessary steps to reduce the contamination.

Subdivision (b)

The purpose of this section is to identify the records that the operator is required to maintain. This section is necessary to allow the EA to easily access and review the records to verify compliance with this section.

Subdivision (c)

The purpose of this section is to allow the EA flexibility to approve an alternative frequency if they determine, based on the review of records, that the operator has complied with this section is necessary to allow additional flexibility requested by stakeholders.

Subdivision (d)

The purpose of this section is to allow the EA the ability to observe the operator perform a loadcheck. This section is necessary to ensure EAs are able to evaluate the operator's compliance with the requirements of this section.

SECTION 17409.5.8. INCOMPATIBLE MATERIALS LIMIT IN RECOVERED ORGANIC WASTE

The purpose of this section is to require a measurement protocol to determine the amount of incompatible material in the recovered organic waste after processing at a transfer/processing operation or facility. The data from the sampling will be recorded and reported. This section is necessary to determine the "cleanliness" of the organic waste separated from the source separated organic waste stream and mixed organic waste stream in order to ensure that the bulk of material sent out the back end of a facility will be largely compatible with the type of facility that will be accepting it for further processing. This section further clarifies that the organic waste recovered and sent for further processing, recovery, or end-use shall contain less than 10 percent by weight of incompatible material, unless the receiving facility demonstrates an ability to recover organic waste containing high levels of incompatibles.

Subdivision (a)

The purpose of this section is to specify 10 percent as the acceptable amount of incompatibles that may be present in the recovered organics waste that is sent for further processing. This section is necessary to ensure that organic waste is processed to a level that a secondary facility can recover the material.

Subdivision (b)

The purpose of this section is to establish the methodology to determine incompatible material levels. This section is necessary to establish a uniform calculation to determine the amount of incompatibles contained in material sent from a transfer/processing operation or facility to another destination.

Subdivision (c)

The purpose of this section is to specify where materials that exceed the 10 percent incompatibles level may be sent. Recovered organic waste that has more than 10 percent incompatible materials can only go to recovery facilities that meet the incompatible materials residual standard of 10 percent. This section is necessary to ensure that organic waste that has more than 10 percent incompatible material is only sent to a facility that demonstrates an ability to recover heavily contaminated organic waste.

Subdivision (d)

This section is necessary to allow the EA the ability to observe the operator conduct a measurement as a means to evaluate the operator's performance to comply with this section.

Subdivision (e)

The purpose of this section is to allow the EA flexibility to increase the frequency and/or revise the measurement protocol if they determine, based on their review of records, that the measurements are not accurate. This section is necessary to allow the operator to produce the most accurate information in order to determine the efficiency of the operation or facility.

SECTION 17409.5.9. ALTERNATIVES TO MEASUREMENT PROTOCOLS

The purpose of this section is to allow the EA to approve, with concurrence by the department, alternative measurement protocols to meet the requirements of sections 17409.5.2, 17409.5.3, 17409.5.4, 17409.5.5, and 17409.5.8 of this division as long as the alternate measurement is accurate. This section is necessary to provide flexibility to use other methods that are as accurate as the prescribed protocols.

SECTION 17409.5.10. SOLID WASTE HANDLING AT CONSOLIDATION SITES

The purpose of this section is to clarify the requirements for consolidation sites that receive solid waste for the purpose of transporting to another facility, but do not conduct processing. . It further clarifies that consolidation sites shall transfer the source separated organic waste loads separate from other solid waste streams. The materials shall be sent to recovery facilities that meet the organic waste recovery efficiency requirements of section 17409.5.1. This section is necessary to clarify that these activities are not subject to the transfer/processing operation and facilities measurements and record keeping requirements found in sections 17409.5.1 through 17409.5.8 and 17414.2 because these sites do not conduct processing

SECTION 17409.5.11. REMNANT ORGANIC MATERIAL IN THE GRAY CONTAINER COLLECTION STREAM

The purpose of this section is to require loadchecking to determine the presence of visible remnant organics in the gray container collection stream. The data from the sampling will be recorded and reported. This section is necessary to gather and provide information to jurisdictions regarding remnant organic material in gray containers so jurisdictions may take steps at their discretion to avoid excess remnant organic material.

Subdivision (a)

The purpose of this section is to clarify the requirements for remnant organic material in the gray container collection stream. It further clarifies that remnant organic material separated from the gray container collection stream can be combined with processed organic waste from the source separated organic waste once it has gone through the measurement requirements of Section 17409.5.4. This section is necessary to clarify that remnant organic material in the gray container collection stream is not subject to the transfer/processing operation and facilities measurements requirements found in sections 17409.5.1 and 17409.5.8.

Subdivision (b)

The purpose of this section to define the load checking requirements used to determine the presence of visible contamination in the gray container collection stream delivered to the site. This section is necessary to identify loads containing remnant organics material. It further clarifies what type of operations or facilities are required to comply with this requirement.

Subdivision (b)(1) through (2)

The purpose of this section is to specify the loadchecking protocol for remnant organic waste. This section is necessary to clarify the frequency of visual inspections and that checks are required for each source sector.

Subdivision (b)(3)

The purpose of this section is to require the operator to notify the jurisdiction or jurisdiction's designee if a visual inspection indicates a high level of remnant organic material. This section is necessary to ensure that the jurisdiction or jurisdiction's designee becomes aware of these loads to be able to take the necessary steps to reduce the remnant organic material level.

Subdivision (b)(4)

The purpose of this section is to allow the EA flexibility to approve an alternative frequency if they determine, based on the review of records, that the operator has complied with this section. This section is necessary to provide flexibility to use other methods that are as accurate as the prescribed protocols.

Subdivision (b)(5)

The purpose of this section is to identify the records that the operator is required to maintain. This section is necessary to allow the EA to easily access and review the records to verify compliance with this section.

ARTICLE 6.3. RECORD KEEPING REQUIREMENTS

SECTION 17414.2. RECORDKEEPING AND REPORTING REQUIREMENTS FOR MIXED WASTE ORGANIC WASTE AND SOURCE SEPARATED ORGANIC WASTE

The purpose of this section is to list the type of records and reporting requirements the operator is required to maintain for the mixed waste organic waste and source separated organic waste. This section also requires the operator to keep all records required by the proposed regulations in

one location and that these records be kept for a period of three years. This section is necessary to provide the enforcement agency, the department, and other duly authorized regulatory agencies reasonable access to information to ensure compliance with the proposed regulations. This section is adapted from an existing transfer/processing regulation (section 17414) concerning the recordkeeping.

Subdivision (a) and (b)

The purpose of these subdivisions is to list the records the operator is required to maintain. This section is necessary to allow the EA easily access and review the records to verify compliance with this section.

Subdivision (c) through (e)

These subdivisions specify how the operator is to maintain the records required by this article. This section is necessary to ensure the EA, the department, and other duly authorized agencies have access to the records as a means to verify compliance with the proposed regulations.

CHAPTER 3.1. COMPOSTING OPERATIONS REGULATORY REQUIREMENTS

ARTICLE 2. REGULATORY TIERS FOR COMPOSTING OPERATIONS AND FACILITIES

SECTION 17852 DEFINITIONS (A)(23.5)

The purpose of this section is to define “hauler.” This section defines hauler by referencing the definition in 14 CCR. This section is necessary to define a key term used in the regulations and to maintain consistency in the department’s regulations.

ARTICLE 2. REGULATORY TIERS FOR COMPOSTING OPERATIONS AND FACILITIES

SECTION 17855. EXCLUDED ACTIVITIES

The purpose of this section is to revise Subdivision (a)(5)(H) to be consistent with the definition used in the in-vessel digestion regulations. The purpose of this section is to accurately define a key term in this article. This section is necessary to clarify which types of activities are not subject to the requirements of composting operations or facilities.

ARTICLE 5.0. COMPOSTING OPERATION AND FACILITY SITING AND DESIGN STANDARDS

SECTION 17867. GENERAL OPERATING STANDARDS

Subdivision (a)(4)

The purpose of this new section is to specify the loadchecking requirements to determine the presence of visible contamination in the source separated organic waste delivered to the site. This section is necessary to help prevent contamination coming into facilities as well as helping

to inform jurisdictions of contamination in their source separated organic waste stream such that actions may be taken to reduce or eliminate that contamination.

Subdivision (a)(4)(A) and (B)

The purpose of this section is establish the loadchecking protocol. This section is necessary to clarify the frequency of visual inspections and that checks are required for each source sector.

Subdivision (a)(4)(C)

The purpose of this section is to allow the EA the ability to observe the operator perform a loadcheck. This section is necessary to ensure EAs are able to evaluate the operator's compliance with the requirements of this section.

Subdivision (a)(4)(D)

The purpose of this section is to require the operator to notify the jurisdiction or jurisdiction's designee if a visual inspection indicates a high level of contamination. This section is necessary to ensure the jurisdiction or jurisdiction's designee becomes aware of these loads to be able to take the necessary steps to reduce the contamination.

Subdivision (a)(4)(E)

The purpose of this section is to allow the EA flexibility to approve an alternative frequency if they determine, based on the review of records, that the operator has complied with this section. This section is necessary to provide flexibility to use other methods that are as accurate as the prescribed protocols.

Subdivision (a)(16)

The purpose of this section is to establish the measurement protocol used to determine the amount of organics present in the residuals removed after processing. The data from the sampling will be recorded and reported. This section is necessary because the data recorded and reported under this section is used to determine where a facility subject to the requirements of Section 17409.5.8 may send material.

Subdivision (a)(16)(B)(1) through (8)

The purpose of this section is to establish the measurement protocol for determining the weight of residual organic waste the facility sends to disposal. This section is necessary because the data recorded under this section will be used to determine the monthly percentage of organic waste contained in residuals. This data will be used under (a)(16)(A) to determine where a facility subject to the requirements of Section 17409.5.8 may send material.

Subdivision (a)(16)(C)

The purpose of this section is to allow the EA the ability to observe the operator conduct a measurement. This section is necessary to ensure EAs are able to evaluate the operator's compliance with the requirements of this section.

Subdivision (a)(16)(D)

The purpose of this section is to allow the EA flexibility to increase the frequency and/or revise the measurement protocol if they determine, based on their review of records, that the

measurements are not accurate. This section is necessary to allow the operator to produce the most accurate information in order to determine the efficiency of the operation or facility.

Subdivision (a)(16)(E)

The purpose of this section is to allow the EA flexibility to approve an alternative frequency if they determine, based on the review of records, that the operator has complied with this section. This section is necessary to provide flexibility to use other methods that are as accurate as the prescribed protocols.

Subdivision (a)(16)(F)

The purpose of this section is to define which materials are incompatibles. This section is necessary to clarify which types of organic waste are not weighed as organics a part of the measurement protocol.

Subdivision (a)(16)(G)

The purpose of this section is to clarify what constitutes disposal. This section is necessary for determining of compliance with the requirement with section 17409.5.1 of this division

ARTICLE 8. COMPOSTING OPERATION AND FACILITY RECORDS

SECTION 17869. GENERAL RECORD KEEPING AND REPORTING REQUIREMENTS

The purpose of this section is to add “and Reporting” to section title. This section is necessary to clarify the purpose of the reporting requirements for the records maintained in this section.

Subdivision (d)

The purpose of this section is to revise subdivision (d) to clarify that an operator shall maintain records that are adequate for the overall planning and that they be available for review. This section also requires the operator to keep all records current and accurate and in one location, and that records be kept for a period of three years. This section is necessary to provide an adequate range of records for the appropriate entity to evaluate and enforce compliance.

Subdivision (e)

The purpose of this section is to list the records the operator is required to maintain. This section is necessary to allow the appropriate entity to easily access and review records to evaluate and enforce compliance with this section.

CHAPTER 3.2. IN-VESSEL DIGESTION OPERATIONS AND FACILITIES REGULATORY REQUIREMENTS

ARTICLE 1. IN-VESSEL DIGESTION OPERATIONS AND FACILITIES REGULATORY REQUIREMENTS

SECTION 17896.2(A)(12.5)

The purpose of this section is to define “Hauler.” This section defines hauler by referencing the definition in 14 CCR. This section is necessary to define a key term used in the regulations and to maintain consistency in the department’s regulations.

SECTION 17896.6. EXCLUDED ACTIVITIES

The purpose of this section is to identify “Rendering Activities” as excluded activities. This section defines rendering activities consistent with the definition used in the compostable materials handling regulations, and in the transfer/processing regulations. This section is necessary to clarify which type of activities are not subject to the requirements of in-vessel digestion operations or facilities and to maintain consistency in the department’s regulations.

ARTICLE 2.0. SITING AND DESIGN

SECTION 17896.25. LOAD CHECKING. – PROHIBITED WASTES

The purpose of this section is to add “Prohibited Wastes” to the heading of Section 17409.5. This section is necessary to clarify the purpose of the loadchecking requirements and to distinguish them from the loadchecking requirements in section 17409.5.7.

SECTION 17896.25.1. LOADCHECKING – CONTAMINATION IN SOURCE SEPARATED ORGANIC WASTE

The purpose of this new section is to specify the loadchecking requirements to determine the presence of visible contamination in the source separated organic waste delivered to the site. This section is necessary to help prevent contamination coming into facilities as well as helping to inform jurisdictions of contamination in their source separated organic waste stream such that actions may be taken to reduce or eliminate that contamination.

Subdivision (a)

The purpose of this section is to require operations or facilities that receive source separated organic waste to loadcheck for contamination. This section is necessary to define the entities that are required to comply with this section.

Subdivision (a)(1) through (2)

The purpose of these sections is to establish the loadchecking protocol. This section is necessary to clarify the frequency of visual inspections and that checks are required for each source sector.

Subdivision (a)(3)

The purpose of this section is to require the operator to notify the jurisdiction or jurisdiction’s designee if a visual inspection indicates a high level of contamination. This section is necessary to ensure the jurisdiction or jurisdiction’s designee becomes aware of these loads to be able to take the necessary steps to reduce the contamination.

Subdivision (b)

The purpose of this section is to identify the records that the operator is required to maintain. This section is necessary to allow the EA to easily access and review the records to verify compliance with this section.

Subdivision (c)

The purpose of this section is to allow the EA the ability to observe the operator perform a loadcheck. This section is necessary to ensure EAs are able to evaluate the operator's compliance with the requirements of this section.

Subdivision (d)

The purpose of this section is to allow the EA flexibility to approve an alternative frequency if they determine, based on the review of records, that the operator has complied with this section. This section is necessary to allow additional flexibility requested by stakeholders.

ARTICLE 3. OPERATING STANDARDS FOR IN-VESSEL DIGESTION OPERATIONS AND FACILITIES

SECTION 17896.44.1. MEASURING ORGANIC WASTE IN RESIDUALS

Subdivision (a) through (a)(1)

The purpose of this section is to establish the measurement protocol used to determine the amount of organics present in the residuals removed after processing. The data from the sampling will be recorded and reported. This section is necessary because the data recorded and reported under this section is used to determine where a facility subject to the requirements of Section 17409.5.8 may send material.

Subdivision (a)(2)(A) through (H)

The purpose of this section is to establish the measurement protocol for determining the weight of residual organic waste the facility sends to disposal. This section is necessary because the data recorded under this section will be used to determine the monthly percentage of organic waste contained in residuals. This data will be used to determine where a facility subject to the requirements of Section 17409.5.8 may send material.

Subdivision (b)

The purpose of this section is to allow the EA the ability to observe the operator conduct a measurement. This section is necessary to ensure EAs are able to evaluate the operator's compliance with the requirements of this section.

Subdivision (c)

The purpose of this section is to allow the EA flexibility to increase the frequency and/or revise the measurement protocol if they determine, based on their review of records, that the measurements are not accurate. This section is necessary to allow the operator to produce the most accurate information in order to determine the efficiency of the operation or facility.

Subdivision (d)

The purpose of this section is to allow the EA flexibility to approve an alternative frequency if they determine, based on the review of records, that the operator has complied with this section. This section is necessary to provide flexibility to use other methods that are as accurate as the prescribed protocols.

Subdivision (e)

The purpose of this section is to define which materials are incompatibles. This section is necessary to clarify which types of organic waste are not weighed as a part of the measurement protocol.

Subdivision (f)

The purpose of this section is to clarify what constitutes disposal. This section is necessary for determining of compliance with the requirement with section 17409.5.1 of this division.

ARTICLE 4. RECORD KEEPING REQUIREMENTS

SECTION 17896.45. RECORD KEEPING AND REPORTING REQUIREMENTS

The purpose of this section is to add “and Reporting” to section title. This section is necessary to clarify the purpose of the reporting requirements for the records maintained in this section.

Subdivision (a)

The purpose of this section is to delete “of incoming weights or volumes and outgoing and salvaging or residual weights or volumes” and replace with “listed in this section.” This section is necessary to be consistent with the addition of the records listed in subdivision (a)(1).

The purpose of the deletion of “submitted to the EA or Department upon request” is to reflect the fact that the records are maintained at the site and available for inspection.

Subdivision (a)(1)(A)through (I)

The purpose of this section is to list the records the operator is required to maintain. This section is necessary to give guidance to the operator as to what records to maintain to allow the appropriate entity to easily access and review the records to determine compliance with this section.

CHAPTER 5 ENFORCEMENT OF SOLID WASTE STANDARDS AND ADMINISTRATION OF SOLID WASTE FACILITIES PERMIT; LOAN GUARANTEES

ARTICLE 2.2. LEA PERFORMANCE STANDARDS, EVALUATION CRITERIA, AND DUTIES AND RESPONSIBILITIES

SECTION 18083. LEA DUTIES AND RESPONSIBILITIES FOR INSPECTIONS

Subdivision (c)

The purpose of this section is to specify that the EA must oversee at least one loadcheck per quarter of the measurements described in the proposed regulations. This section is necessary to

allow the EA the ability to observe the operator perform a loadcheck as a means to evaluate the operator's compliance with the requirements of the proposed regulations.

CHAPTER 9. PLANNING GUIDELINES AND PROCEDURES FOR PREPARING, REVISING, AND AMENDING COUNTYWIDE OR REGIONAL INTEGRATED WASTE MANAGEMENT PLANS

ARTICLE 9.25. RECYCLING AND DISPOSAL REPORTING

SECTION 18815.4 REPORTING REQUIREMENTS FOR HAULERS

Subdivision (f)

The purpose of the revisions to the reporting requirement for haulers is to ensure facilities are able to manage compliance with the regulatory requirements. This provision requires haulers to identify, at the time of delivery to the receiving facility, the type of collection stream delivered. The provision does not require haulers to report to CalRecycle, only to the facilities to which they deliver loads. This section is necessary to ensure the facilities know how to handle the materials and use the required measurement calculations as described in Section 17409.5.1.

SECTION 18815.5 REPORTING REQUIREMENTS FOR TRANSFER/PROCESSORS

Subdivision (d)

The purpose of this section is to revise the reporting requirements for Transfer/Processors to ensure each jurisdiction providing a service that combines organic waste with non-organic waste is meeting the requirements of Section 18984.1(c), 18984.2, or 18984.3 of Article 3, and transporting to a high diversion facility is meeting the 50 percent and 75 percent organic content recovery rates defined in Article 6.2 Section 17409.5.1.

To determine whether a transfer/processor is a high diversion facility, each transfer/processor must report specified data points for mixed organic waste collection streams and source separated organic waste streams. The reporting data points for mixed waste organic collection streams include the quarterly sum of outgoing weights of recovered organic waste sent to recovery and the quarterly sum of outgoing weights of organic waste sent to disposal. These two sums are calculated using the sampling methods prescribed in Section 17409.5.1-17409.5.5 and will be used by CalRecycle to determine the facility's quarterly recovery efficiency. The transfer/processor must also report the sum of records of outgoing and incoming weights of material. This value is a crosscheck to determine whether the facility meets the incompatible materials limits, or is required to send the materials to a facility that does.

The data points a transfer/processor must report to the department regarding the source separated organic waste streams are the quarterly sum of outgoing weights of recovered organic waste and the quarterly sum of outgoing weights of organic waste sent for disposal. These two sums are calculated using the sampling methods prescribed in Section 17409.5.1-17409.5.5. These data points will be used by CalRecycle to evaluate the efficiency of the source separated organic waste collection programs.

This section is necessary to ensure the department can determine compliance with Sections 18984.1(c), 18984.2, or 18984.3.

Subdivision (e)

The purpose of this section is to describe how the department determines whether a facility meets or exceeds the recovery efficiency necessary to be a high diversion organic waste processing facility.

CalRecycle, via the Recycling and Disposal Reporting System (RDRS), will calculate the quarterly recovery efficiency and the annual average mixed waste organic content recovery rate of each facility to determine whether a facility qualifies as a high diversion organic waste processing facility. The department will determine the quarterly recovery efficiency by dividing the reported value of recovered organic waste by the combined value of the recovered and residual organic waste as reported under Subdivision (d) of this section. The department will determine the annual average mixed waste organic content recovery rate using the same calculation but with the last four quarterly rates. The department will calculate a new annual average each quarter using the calculation prescribed in this section.

Quarterly Recovery Efficiency Calculation Example:

A transfer/processor, using the sampling methods provided in Section 17409.5.2, determines the facility was able to recover 50 tons of organic waste from the mixed waste collection stream on the first day of the quarter. Using the sampling methodology required in 17409.5.3 transfer/processor determines that the disposed residual waste contains 25 tons of organic waste. Then using the methodology required in 17409.5.1 the facility would take the values and determine the recovery rate for that day.

$$\left(\frac{50 \text{ tons recovered}}{50 \text{ tons recovered} + 25 \text{ tons disposed}} \right) \times 100 = 66.67\%$$

The facility would do these measurements each operating day of every month, and then would sum the daily measurements to determine the monthly and quarterly tons of organic waste both recovered and disposed from the mixed waste organic collection stream. To determine monthly or quarterly recovery rates, divide the total tons recovered by the sum of tons recovered and tons disposed for the appropriate timeframe.

For the purposes of this exercise, assume that the calculation for each day remains constant throughout the month. The transfer/processor in this example would therefore be meeting the 50 percent recovery rate as required between January 1, 2022 and December 31, 2024. However, it would not be meeting the 75 percent as required after January 1, 2025.

This section is necessary to provide stakeholder's with clarity on how the recovery efficiency required of "high diversion organic waste processing facilities" is measured.

SECTION 18815.7 REPORTING REQUIREMENTS FOR RECYCLING AND COMPOSTING FACILITIES AND OPERATIONS

Subdivision (e)

The purpose of revising this section is to crosscheck the percentage of organic waste in residuals. This provision requires each recycling or composting facility or operation to report the monthly percentage of organic waste contained in residuals. The data required in this section is necessary to verify whether the facility is sending more than 10 percent of residual organics to disposal, as calculated pursuant to 17869(e)(5) or 17896.45 (a)(1)(E).

TITLE 27. ENVIRONMENTAL PROTECTION

DIVISION 2: SOLID WASTE

CHAPTER 2 DEFINITIONS

ARTICLE 2 SPECIFIC DEFINITIONS

SECTION 20164

The purpose of this section is to define “hauler.” This section defines hauler by referencing the definition in 14 CCR. This section is necessary to define a key term used in the regulations and to maintain consistency in the department’s regulations.

CHAPTER 3: CRITERIA FOR ALL WASTE MANAGEMENT UNITS, FACILITIES, AND DISPOSAL SITES

SUBCHAPTER 4. CRITERIA FOR LANDFILLS AND DISPOSAL SITES

ARTICLE 2: ALTERNATIVE DAILY COVER MATERIAL AND BENEFICIAL REUSE

SECTION 20700.5 CALRECYCLE – LONG-TERM INTERMEDIATE COVER

Subdivision (a)

The purpose of this section is to require 36 inches of earthen material on surface fills where no solid waste will be placed within 30 months. This section is necessary to limit greenhouse gas emissions from landfills. This supports the state’s efforts to keep organic waste out of landfills and reduce greenhouse gas emissions by allowing for greater landfill gas collection and biogenesis.

Subdivision (a) (1)

The purpose of this section is to allow the EA to approve, with concurrence by the department, an alternative long-term intermediate cover as long as it is as effective as prescribed in the requirement in order to provide appropriate flexibility to the operator. This section is necessary to respond to stakeholder feedback and provide landfill operators flexibility to meet the intent of the law through an alternative requirement.

Subdivision (b)

The purpose of this section is to reference the SWRCB requirements in 27 CCR section 20705 for waste classification, composition and liquid percolation requirements for intermediate cover. This section is necessary to maintain consistency with other regulations.

ARTICLE 3: CALRECYCLE – HANDLING, EQUIPMENT, AND MAINTENANCE

The purpose of section is to revise the title to delete “CIWMB” and replace with “CalRecycle.” This section is necessary to update the subdivision with the accurate name of the department.

SECTION 20750.1 CALRECYCLE – ORGANIC WASTE HANDLING

The purpose of this section is to require new or expanding landfills to implement an organic waste recovery activity. This section is designed to reduce the amount organic waste sent for landfill disposal and increase diversion through the implementation of organic waste handling activities. This is necessary support the state’s efforts to keep organic waste out of landfills and reduce greenhouse gas emissions.

Subdivision (a)(1)

The purpose of this section is to clarify how operators that are subject to this section are required to implement organic waste recovery activities. This section is necessary to clarify the standards that apply to landfill operators complying with this section.

Subdivision (a)(1)(A)

The purpose of this section is to specify that the solid waste received that has already been processed through a high diversion organic waste processing facility does not require further processing at the landfill. This section is necessary to clarify which types of solid wastes are required to be processed at the landfill’s organic recovery activity.

Subdivision (b)

The purpose of this section is to clarify what constitutes a reduction of landfill disposal. This section is necessary to clarify the activities that support the state’s efforts to keep organic waste out of landfills and reduce greenhouse gas emissions that an operator can send material to.

Subdivision (c)

The purpose of this section is to define what constitutes “expanding” a solid waste landfill. This section is necessary to provide landfill operators clarity when they are subject to the provisions of this section.

ARTICLE 4. CALRECYCLE - CONTROLS

The purpose of this revision is to delete “CIWMB” and replace with “CalRecycle.” This section is necessary reflect the accurate name of the department.

SECTION 20901 CALRECYCLE – LOADCHECKING CONTAMINATION IN SOURCE SEPARATED ORGANIC WASTE

The purpose of this new section is to specify the loadchecking requirements to determine the presence of visible contamination in the source separated organic waste delivered to the site. This section is necessary to help prevent contamination coming into facilities as well as helping to inform jurisdictions of contamination in their source separated organic waste stream such that actions may be taken to reduce or eliminate that contamination.

Subdivision (a)

The purpose of this section is to require operations or facilities that receive source separated organic waste to loadcheck for contamination. This section is necessary to define the entities that are required to comply with this section.

Subdivision (a)(1) through (3)

The purpose of these sections is to establish the loadchecking protocol. This section is necessary to clarify the frequency of visual inspections and that checks are required for each source sector.

Subdivision (a)(4)

The purpose of this section is to require the operator to notify the jurisdiction or jurisdiction's designee if a visual inspection indicates a high level of contamination. This section is necessary to ensure the jurisdiction or jurisdiction's designee becomes aware of these loads to be able to take the necessary steps to reduce the contamination.

Subdivision (b)

The purpose of this section is to identify the records that the operator is required to maintain. This section is necessary to allow the EA to easily access and review the records to verify compliance with this section.

Subdivision (c)

The purpose of this section is to allow the EA the ability to observe the operator perform a loadcheck. This section is necessary to ensure EAs are able to evaluate the operator's compliance with the requirements of this section.

Subdivision (d)

The purpose of this section is to allow the EA flexibility to approve an alternative frequency if they determine, based on the review of records, that the operator has complied with this section. This section is necessary to allow additional flexibility requested by stakeholders.

CHAPTER 4. DOCUMENTATION AND REPORTING FOR REGULATORY TIERS, PERMITS, WDRS, AND PLANS

SUBCHAPTER 3 DEVELOPMENT OF WASTE DISCHARGE REQUIREMENTS (WDRS) AND SOLID WASTE FACILITY PERMITS

ARTICLE 2. CALRECYCLE – APPLICANT REQUIREMENTS

SECTION 21570 CALRECYCLE – FILING REQUIREMENTS

The purpose of the revision to subdivision (f)(1) is to replace “”8-04” with “11-15.” This section is necessary to update the section with the current application form number.

Subdivision (a) (13) (A) through (C)

The purpose of these subdivisions is to specify that an operator of a new or expanding solid waste facility provide evidence that a public meeting was held for affected groups or disadvantaged communities. This section is necessary to ensure the affected groups and/or communities are provided an adequate opportunity to attend the meeting and comment on the project.

SECTION 21590 CALRECYCLE – JOINT TECHNICAL DOCUMENT FOR DISPOSAL FACILITIES

The purpose of the revision to Subdivision (c) is to replace the word “magnetic media” with “electronic copy.” This section is necessary because the reference to “magnetic media” is outdated.

ARTICLE 3 CALRECYCLE–ENFORCEMENT AGENCY(EA) REQUIREMENTS

SECTION 21650 CALRECYCLE – EA PROCESSING REQUIREMENTS

Subdivision (a) through (h)

The purpose of the revisions to these subdivisions is to replace “CIWMB” with “CalRecycle.” This section is necessary to reflect the accurate name of the department.

Subdivision (g)(5)

The purpose of the revisions to this section is to require the EA to submit copies of its responses to the comments received and any further steps to be taken. This section is necessary to ensure comments received during the process are properly considered by the EA.

SECTION 21660.2 INFORMATIONAL MEETING FOR NEW AND REVISED FULL SOLID WASTE FACILITIES PERMIT APPLICATIONS

The purpose of the revision to subdivision (b) is to delete “CIWMB” and replace with “CalRecycle.” This section is necessary to reflect the accurate name of the department.

Subdivision (c) (1) through (3)

The purpose of the revisions to these subdivisions is to specify that the informational meetings required under this section take into consideration the disadvantaged communities affected by new or expanding solid waste facilities. This section is necessary to allow the affected groups and/or communities an adequate opportunity to attend the meeting and provide comments.

ARTICLE 3.2 CALRECYCLE-OTHER REQUIREMENTS

The purpose of the revision to the article heading is to delete the term “CIWMB” and replace with “CalRecycle.” This section is necessary to reflect the accurate name of the department.

SECTION 21695 CALRECYCLE – ORGANIC DISPOSAL REDUCTION STATUS IMPACT REPORT

The purpose of this section is to require solid waste facility operators to submit a Status Impact Report (SIR). This section is necessary to evaluate the potential impacts to the landfill from the organic disposal reduction requirements pursuant to Public Resources Code 42652.5. This will also assist in determining and assessing the timing of those impacts in order to properly plan for changes or modifications.

Subdivision (a)

The purpose of this section is to clarify those operators of solid waste landfills that are required to comply with this section. This section is necessary to clarify the entities subject to the regulations.

Subdivision (b)

The purpose of this section is to specify that a California registered civil engineer or engineering geologist prepare the SIR. This section is necessary to ensure the operator produces the most accurate information in order to determine the potential impacts to the landfill.

Subdivision (c) (1) through (13)

The purpose of this section is outline the potential impacts a landfill operator must consider in the SIR. These sections are necessary to clarify the list, which is not all-inclusive, of the items to be considered in order to assist the operator complete the SIR.

Subdivision (d) through (h)

The purpose of this section is to establish the timeframe for the submittal, review and approval of the SIR. This section is necessary to allow the impacts to be reviewed and approved within a timely manner.