

Comment Number	Received From	Question/Comment	CalRecycle Response(s)
1000	Barnes, K.	<p>This is to express concern about the impacts of subjecting treated biosolids to the proposed SLCP regulations. Although I have recently retired from my position as the Solid Waste Director for the City of Bakersfield, I am still active in helping California meet its environmental goals. I offer this help based on 25 years of experience building the largest publicly owned compost facility in the nation. What was the key factor in our success for that well-respected facility? MARKETS (i.e., somewhere for the mass of recycled material to go to its final resting place). As the Holloway Group points out in their May 4, 2020 letter, the end market for composting massive quantities of biosolids simply does not exist.</p> <p>I would like to point out that this market situation differs greatly from the circa 1990 situation in which we (the compost and solid waste industries) undertook the challenge of diverting California’s green and food waste by composting. Green and food wastes can be visually inspected, and with enough effort, contaminants in the feedstock can be mitigated enough to make suitable feedstock for composting, depending on the end market. The successful increase in diversion under the currently proposed SLCP regulations depends on that. But in contrast, contaminants of concern in biosolids are not “visible”, and thus are not manageable. Moreover, green and food wastes can be visually monitored in the collection process, whereas modern sewage systems have no such visual observation element. Thus, the major success of California’s green and food waste recycling effort is not directly transferrable to the biosolids field. It therefore makes sense to consider that, since treated biosolids have already had most of the methane potential extracted in the digesting process, the high cost/benefit ratio of pursuing further methane reduction is not warranted.</p> <p>I have reviewed the response letter from The Holloway Group dated May 4, 2020 addressing this issue and concur with their findings. Based on the citations and evidence provided, removing or delaying the inclusion of treated biosolids as an organic material subject to the SB 1383 regulations is strongly advocated.</p>	Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1001	Bell, K., County of Placer	<p>As a rural county, we have appreciated the flexibility afforded by current law to implement reasonable, feasible, and cost-effective programs that comply with applicable laws and regulations. The County has consistently provided comments throughout this regulatory process and while we appreciate some of the recent revisions made in response, we are disappointed that the majority of our comments and concerns have remained unaddressed.</p> <p>Our overarching concerns with this regulation and associated documents remain unchanged and include the following (therefore we repeat our comments in attached recent letters to CalRecycle and OAL):</p> <ul style="list-style-type: none"> • The over-prescriptive nature of the regulation offers no local flexibility and sets jurisdictions up for failure. 	Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.

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		<ul style="list-style-type: none"> • The penalties on generators and jurisdictions (up to 4,000 per day for a “minimal deviation”) are overburdensome and not required by SB 1383 statute. • The regulation conflicts with Government Code 11340(d) and Government Code 40059 in that they are unnecessarily burdensome, prescriptive, unclear, and costly. • The regulation does not provide for consideration of an entity’s good faith efforts to comply. While “substantial effort” is considered, it is very limited and only considered once a jurisdiction has been issued a violation and is considered for a compliance order. • The regulation does not enable implementation or enforcement to be delayed as a result of emergency conditions such as COVID-19. • In order to achieve the statewide targets, the State needs to develop markets and provide funding for the infrastructure. • The EIR failed to adequately evaluate impacts and identify reasonable and feasible alternatives – such as a less prescriptive option that achieves the overarching goals. • The economic review failed to comply with Government Code 11346.5(a) in that it, among other things, greatly underestimated costs of compliance. • The regulation not only places a significant financial burden on jurisdictions, but much of these costs will be passed on to residents and businesses. 	
1002	Bell, K., County of Placer	<p>These concerns are exacerbated with the COVID-19 pandemic which is impacting every resident, business, and local government in the State. Local governments across California are working to keep the public safe and devoting significant resources to fight COVID-19. The unprecedented economic and operational impacts will affect budget decisions moving forward. Just as the State is re-prioritizing its budget, making steep cuts, and postponing funding for new and expanded programs, local governments will have to do the same. Local governments will be focusing on priority needs such as public health and safety, and these programs will be competing for the same, reduced pot of dollars. Therefore, the ability to comply with existing and new statutory and regulatory obligations during and after the COVID-19 pandemic is uncertain. What is certain, however, is that recovery from these budget impacts will extend long after the COVID-19 emergency is past – not only for local governments but residents and businesses as well. With unemployment rates estimated to reach unprecedented levels, now is not the time to expect local government to implement the substantial increase in rates that will be necessary to comply with these regulations.</p> <p>Regulatory agencies must consider the impacts COVID-19 has had and will have on local governments. We appreciate CalRecycle’s recent letter recognizing that some changes to standard term and that consideration of “good faith” efforts will be considered where current law allows. However, more relief is needed.</p>	<p>Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.</p> <p>CalRecycle acknowledges the difficulties jurisdictions face due to COVID-19 impacts. Although the language of SB 1383 allows the regulations to go into effect “on or after January 1, 2022,” CalRecycle lacks the discretion to substantially extend the effective date of these regulations through rulemaking without coming into direct conflict with the diversion mandates in the statute. SB 1383 sets a 75% organic waste diversion target for 2025 that will not be achieved if implementation of the regulatory requirements that are designed to achieve this target are significantly delayed.</p>

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1003	Bell, K., County of Placer	<p>We request the following temporary changes to the regulation:</p> <ul style="list-style-type: none"> • Delayed implementation of these regulations for a period of time commensurate with the duration of the COVID-19 emergency and resulting economic impacts. • Removal of the penalties. Now is not the time to mandate harsh penalties on families and businesses that are suffering unprecedented economic hardships, or on local governments that are also impacted and need to focus on public health and economic recovery. <p>Placer County is committed to furthering the state’s solid waste and recycling goals, but will need temporary flexibility and regulatory relief moving forward. We recognize significant relief may require future regulatory or statutory revisions. In the spirit of working together, we urge CalRecycle to consider these short-term requests during these trying times.</p>	Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1004	Bell, K., County of Placer	Original letter sent to the Office of Administrative Law on January 31, 2020	Thank you for providing this letter. The letter is not germane to changes in the regulatory draft language released during the fifth comment period and was originally sent to a different agency outside of the comment period timeframe.
1005	Bell, K., County of Placer	Original letter sent to CalRecycle on October 18, 2019	Thank you for providing this letter. The letter (including attachments) is not germane to changes in the regulatory draft language released during the fifth comment period. This letter was sent to CalRecycle during a different comment period and CalRecycle responded to this letter during the other comment periods.
1006	Bell, K., Western Placer Waste Management Authority	<p>The WPWMA has consistently provided comments throughout this regulatory process and appreciates CalRecycle’s efforts to maintain an open dialogue. While we are not submitting specific comments on the most recent draft of the proposed regulations at this time, we feel it important to note that the majority of the WPWMA’s previously noted concerns with the regulations remain unaddressed. Copies of our previous comment letters are attached for reference.</p> <p>We remain concerned that operational and economic burdens associated with the proposed regulations will result in significant impacts to the WPWMA and its customers at a time when local, state, federal, and global economies are reeling from the impacts of the COVID-19 pandemic.</p>	<p>Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.</p> <p>CalRecycle acknowledges the difficulties jurisdictions face due to COVID-19 impacts. Although the language of SB 1383 allows the regulations to go into effect “on or after January 1, 2022,” CalRecycle lacks the discretion to substantially extend the effective date of these regulations through rulemaking without coming into direct conflict with the diversion mandates in the statute. SB 1383 sets a 75% organic waste diversion target for 2025 that will not be achieved if implementation of the regulatory requirements that are designed to achieve this target are significantly delayed.</p>
1007	Bell, K., Western Placer Waste Management Authority	Original letter sent to CalRecycle on October 18, 2019	Thank you for providing this letter. The letter (including attachments) is not germane to changes in the regulatory draft language released during the fifth comment period. This letter was sent to CalRecycle during a different comment period and CalRecycle responded to this letter during the other comment periods.
1008	Bell, K., Western Placer Waste Management Authority	Original letter sent to CalRecycle on July 17, 2019	Thank you for providing this letter. The letter (including attachments) is not germane to changes in the regulatory draft language released during the fifth comment period. This letter was sent to CalRecycle during a different comment period and CalRecycle responded to this letter during the other comment periods.
1009	Bell, K., Western Placer Waste	Original letter sent to CalRecycle on March 4, 2019	Thank you for providing this letter. The letter (including attachments) is not germane to changes in the regulatory draft language released during the fifth comment period. This letter was sent to

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	Management Authority		CalRecycle during a different comment period and CalRecycle responded to this letter during the other comment periods.
1010	Bentsen, N., City of Hesperia	<p>The City of Hesperia appreciates the opportunity to comment on the proposed regulation changes, which seek to implement Senate Bill (SB) 1383 (Lara, 2016), released in April 2020. We continue to support both a robust waste management system, while complying with California's climate goals, as well as, reasonable and achievable goals in removing short-lived climate pollutants from landfills. Our City truly appreciates the stakeholder process CalRecycle is undertaking and the ability to offer our feedback on the recent revisions to the regulations.</p> <p>The shared proposal of regulation changes to SB 1383 is a testament to the thoughtful consideration that CalRecycle has given to previous comments received from stakeholders. The City of Hesperia is committed to working collaboratively to find a reasonable and responsible way to move forward, however, this letter is written to express our continued concerns regarding the proposed regulations, which hinder our ability to implement as written. The City previously provided comments on this matter on February 26, 2019 and the most recent draft of SB 1383 proposed regulation changes do not address many of our previous concerns.</p>	Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1011	Bentsen, N., City of Hesperia	Foremost, funding remains to be among the major challenges local governments face in the effort to implement new organic waste diversion programs. The cost of infrastructure required for compliance is a continued and critical concern. Now, amidst an unprecedented pandemic, local jurisdictions must also now focus on recovery efforts of missing revenue, along with funding requirements specific to implementation costs of SB 1383.	<p>Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.</p> <p>CalRecycle acknowledges the difficulties jurisdictions face due to COVID-19 impacts. Although the language of SB 1383 allows the regulations to go into effect "on or after January 1, 2022," CalRecycle lacks the discretion to substantially extend the effective date of these regulations through rulemaking without coming into direct conflict with the diversion mandates in the statute. SB 1383 sets a 75% organic waste diversion target for 2025 that will not be achieved if implementation of the regulatory requirements that are designed to achieve this target are significantly delayed.</p>
1012	Bentsen, N., City of Hesperia	In the recent revisions of this regulation, changes were not proposed which reduce the funding requirements of the local jurisdiction. The infrastructure, procurement and implementation requirements within the revised regulations will result in substantial additional costs, over and above the costs already anticipated. For example, revisions were drafted regarding specific requirements of multiple annual evaluations, reporting and compliance follow-up for the generators alleged in violation. This administrative burden alone will undoubtedly increase the cost of this program as the City must provide resources to investigate and report these incidents. As we work to address the need for funds to undertake these prescribed administrative tasks, we ask that the burden of enforcement and recordkeeping be reduced at the local level to instead allow for program development and education.	Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.

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1013	Bentsen, N., City of Hesperia	<p>Further, the revised and clarified regulations specific to enforcement and penalties are recognized. We appreciate the efforts of the Corrective Action Plan and the commitment to extensions, prior to monetary penalties, in hopes generators will comply with requirements. One recommended area of improvement lies with the description that the Department shall grant extensions in hopes to avoid penalties. The cost of these penalties and violation processes reflect a punishment-focused approach and we are concerned that this approach will place further stress and burden on our City ratepayers, 23% of which are qualified as disadvantaged. If the purpose of assigning penalties is to ensure compliance, the requirements of compliance and needs of all generators need to be understood and considered first and foremost.</p> <p>We encourage giving more local control and time to develop programs to educate our community regarding the benefits, instead of the proposed burdensome administrative regulations with their associated costs.</p>	<p>The use of "may" within the Enforcement Oversight by the Department article was identified by the Office of Administrative Law as a clarity issue; therefore, CalRecycle changed the "may" into "shall" to provide better clarity.</p> <p>In regards to the comment about local control and time, the comment is not germane to changes in the regulatory draft language released during the fifth comment period. Nevertheless, CalRecycle retains enforcement discretion as to whether to commence enforcement in the first place and whether to seek penalties. CalRecycle would be considering the totality of circumstances regarding a jurisdiction's compliance efforts before initiating any enforcement action.</p>
1014	Bentsen, N., City of Hesperia	<p>Overall, the City of Hesperia appreciates the inclusive stakeholder process CalRecycle has undertaken. Amid all that is going on with funding challenges, recovery efforts regarding our current pandemic, and educating our generators, we suggest the following:</p> <ol style="list-style-type: none"> 1. Sufficient time to implement, develop and permit new facilities. 2. Address funding without reliance to place all additional costs onto our ratepayers. 3. Careful consideration of the differences among local jurisdictions, various stakeholders, and infrastructure challenges a local jurisdiction will likely face. 4. Adoption of penalties in a second set of regulations to take effect at a future date after sufficient time for program development and education. 	<p>Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.</p> <p>CalRecycle acknowledges the difficulties jurisdictions face due to COVID-19 impacts. Although the language of SB 1383 allows the regulations to go into effect "on or after January 1, 2022," CalRecycle lacks the discretion to substantially extend the effective date of these regulations through rulemaking without coming into direct conflict with the diversion mandates in the statute. SB 1383 sets a 75% organic waste diversion target for 2025 that will not be achieved if implementation of the regulatory requirements that are designed to achieve this target are significantly delayed.</p>
1015	Bonanno, A., Kern County Public Works	<p>We have sincerely appreciated all of your considerations in addressing our previous concerns within the draft regulations. Our final comments are in regards to bringing attention to the on-going risks of the implemented program. We do not expect responses to our comments given this stage of the process, however we want to illuminate the potential public health and safety risks associated with the implementation of SB 1383 regulations.</p>	<p>Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.</p>
1016	Bonanno, A., Kern County Public Works	<p>Homeless/disadvantaged community impacts Given the number of homeless with mental disabilities in each of our communities, there will be issues in controlling access to carts and bins with food waste. The potential for contraction of foodborne illnesses by the homeless will increase from consumption of set-out food waste and food spillage around containers.</p>	<p>Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.</p>
1017	Bonanno, A., Kern County Public Works	<p>Food-vulnerable community We are wholeheartedly in favor of having edible food available to the needy, however as the program continues to progress, risk will increase as programs expand. Food poisoning is experienced by restaurant patrons annually. We are increasing foodborne illness risks by adding steps between generation sources and</p>	<p>Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.</p>

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		<p>the food-vulnerable community. This will be exacerbated further as we progress towards increasing participation to meet the 20% goal. We recommend eliminating this unquantifiable goal and focus strictly on verification of Tier I/II generator participation. Quantity of deliverables should not be the primary goal, rather it should be quality.</p>	
1018	Bonanno, A., Kern County Public Works	<p>Contamination monitoring staff safety.</p> <p>We understand that there will be a variety of methods employed by jurisdictions to meet contamination verifications. Regarding the staff/contractor lifting lid method, some customers will have privacy issues and/or there will be misunderstandings. We should review the safety related incidents associated with each census as a reasonable benchmark of what could happen. We expect the process to be similar in that contamination-checkers will knock on customer doors to explain the process. However the contamination checking process may be considered much more intrusive than answering a few questions. Let's face it, nobody wants another person rummaging through their trash and then placing judgement on trash-handling behavior. Contamination checking will take place in a variety of neighborhoods that present varying levels of safety risk. We have no idea what was thrown away that may trigger an undesirable response. Additionally, contamination checkers would not be viewed as authority figures, thus introducing them into vulnerable situations. We can agree that we will never achieve 100% contamination-free compliance from any home, thus why do we try to force the issue now and create a legacy of on-going risk that will eventually include violence. Please note that the effectiveness of curbside checks will most likely decrease over time given contamination checker behavior to avoid confrontations. There will be more issues in disadvantaged neighborhoods since contamination may be more easily observed due to the absence of plastic garbage bags. This creates a compliance measurement disparity which could unfairly target areas even though overall community behavior is not significantly different. In the effort to create jobs, we believe the state may possibly be over estimating the value and benefit of the contamination checker job. Just think about when we rummage through our own trash to look for a lost item. Not enjoyable to say the least, but now think of persons with a contamination check job going through other people's trash 40 hours a week. Think about the quality of applicants for contamination checkers needed given relatively low wages. Can we find individuals that have great customer service skills, work ethic and the ability to understand the limits of this public service? A multi-prong approach of verifying contamination at the curb and at destination facilities would seem to work at face value, however when we include the human element in implementation, we must take a hard look at the risks of daily/weekly confrontations. Is it worth it? Will verifying contamination levels at destination facilities be good enough for now?</p>	<p>Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.</p>

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		Given that curbside contamination checks will be continuous, the probability of someone getting hurt is extremely high.	
1019	Bonanno, A., Kern County Public Works	The outcomes of formal complaint reporting program In general, there will be risk in encouraging tattle-telling, anonymous or otherwise. Reporting a crime is one thing, but reporting that someone put something in the wrong container is another.	Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1020	Bonanno, A., Kern County Public Works	As we near the end of the rulemaking process, it might be beneficial to weigh the cost benefits of certain sections by considering public health and safety scenarios. Over the years, CIWMB/CalRecycle has increased enforcement measures that have been proven successful. There have been positive strives in enforcement to curb CRV fraud, which is fantastic because this ensures the viability of the beverage container recycling program. However enforcement has targeted and charged persons who are actually engaged in criminal activity. SB 1383 targets everyone. SB 1383 regulations address causes for chronic public health issues, however acute safety risk will be high.	Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1021	Braicovich, J., CR&R Incorporated	Thank you for the opportunity to comment on this latest version of the SB 1383 regulations. Over the past two plus years CR&R Incorporated (CR&R) has submitted a number of comments regarding the proposed regulations. A few of those comments were addressed in subsequent revisions but many were not considered nor were we given any responses as to why they were not considered or incorporated. This is very concerning given the significant impact that these regulations will have on every jurisdiction in the State of California. Many of our customers are very concerned about the far reaching impact that these new regulations will have on every sector of their jurisdictions. A number of concerns still remain in the proposed regulations. They include areas such as procurement, route sampling and performance based source separation as identified in Article 17. All of our comments are documented in previous comment letters so we will not belabor our previous points. We will however note one area of the latest regulations regarding the abrupt change in the qualifying language for a performance-based source-separated collection service identified in Article 17.	Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1022	Braicovich, J., CR&R Incorporated	It should be noted that CR&R has been a leader in the implementation of innovative and cutting edge environmental technology. This technology has backed up our commitment to find new, value added uses for various materials that we collect from our millions of residential and commercial customers. These investments were aimed at significantly improving the diversion of organic and recyclable materials throughout Southern California. One of those investments has been in the area of anaerobic digestion. This is a technology which CalRecycle has promoted for many years. For this reason, CalRecycle added Article 17 to the regulations as a recognition of those that have demonstrated a willingness to invest in California's organics infrastructure.	Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period. However, CalRecycle will be developing FAQs.

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		<p>This all changed with an 11th hour revision that took place in the prior version of the regulations. The amended version of the regulations added a requirement in Article 17 requiring entities to undergo an extremely costly, time consuming and improbable method of performing waste evaluations for all three (3) types of containers. CR&R provided comments raising concerns regarding this change to the regulations, however CalRecycle made no modifications in response to the suggestions made.</p> <p>It appears that the amended waste evaluation language was based upon a methodology that was used for a high population city with multiple trucks running each route. The methodology as described in the regulations does not translate to small and medium jurisdictions and does not work for multiple jurisdictions using the same facility. The proposed language would require that each truck (typically a route consists of one (1) truck) would need to have 25-200 lb. samples taken from each truck.</p> <p>In CR&R's case, there will be well more than 20 jurisdictions using the same facility. There is not nearly enough room in the facility yard to accommodate all the sampled materials as required by the regulations, in addition to accommodating Cal OSHA rules. Again, the whole purpose of Article 17 of the regulations is to reward infrastructure investment and provide streamlined requirements as a compliance incentive.</p> <p>While it is doubtful this version of the regulations can be modified to make the necessary changes to accommodate jurisdictions in utilizing a performance-based system, we would like to see this article revisited in the future, as in its current form it is not workable. As it is, CR&R and others will be required to fully implement all sections of the regulations, even though they already exceed 75% organics diversion.</p> <p>At a minimum we would like to see Section in Article 17 addressed in CalRecycle's upcoming FAQ document which hopefully will provide some kind of streamlined approach to complying with the proposed regulations. Again, thank you for this opportunity to convey our comments to you regarding the proposed SB 1383 regulations.</p>	
1023	Brooks, D., Western Wood Preservers Institute	<p>Our comments are not aimed at changing the proposed policy, our goal is to clarify the proposed regulation to reduce confusion. The Fourth Formal Draft of the proposed regulation for Short-Lived Climate Pollutants (https://www.calrecycle.ca.gov/Laws/Rulemaking/SLCP/) published on April 20, 2020 creates a new and different definition for "treated wood waste." In Section 18982 (Definitions) of Article 1, found on Page 8 line 4 of the proposed regulation defines "hazardous wood waste" to includes "treated wood." However, not all treated wood is considered hazardous, and treated wood waste is exempt from</p>	<p>CalRecycle determined no change to the regulatory language was necessary. The definition is solely intended to describe a type of material for purposes of regulating the proper collection container into which it should be placed. The definition does not override applicable hazardous waste law.</p>

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1024	Chun, K., City of Lawndale	<p>The City of Lawndale (City) supports the General Comments and Specific Comments made by the Los Angeles County Solid Waste Management Committee/Integrated Waste Management Task Force (Task Force), as detailed in the Task Force's comment letter dated May 18, 2020.</p> <p>The Formal Proposed Regulatory Text (Fourth Formal Draft) for Senate Bill 1383, which was released by the California Department of Resources Recycling and Recovery (CalRecycle) on April 20, 2020, imposes troublesome requirements and</p>	<p>Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.</p> <p>CalRecycle acknowledges the difficulties jurisdictions face due to COVID-19 impacts. Although the language of SB 1383 allows the regulations to go into effect “on or after January 1, 2022,” CalRecycle lacks the discretion to substantially extend the effective date of these regulations through rulemaking without coming into direct conflict with the diversion mandates in the statute. SB 1383 sets a 75% organic waste diversion target for 2025 that will not be achieved if</p>

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		<p>responsibilities on local agencies in the statewide effort to reduce emissions of climate pollutants.</p> <p>The City is particularly concerned that the Fourth Formal Draft (1) imposes excessive responsibilities and prescriptive standards upon local jurisdictions for achieving statewide disposal reduction goals; (2) exceeds statutory authority by requiring local jurisdictions to impose monetary penalties for noncompliance and procure specified minimum amounts of recovered organic waste products; and (3) fails to consider a local jurisdiction's "good faith effort" in complying with SB 1383 's regulatory requirements. These concerns are even more important given the severe economic, fiscal, and social impacts of the COVID-19 pandemic.</p> <p>The City respectfully requests that CalRecycle address the Task Force's comments, concerns, and recommendations in the next version of the proposed regulations.</p> <p>Thank you for the opportunity to comment on the Fourth Formal Draft and CalRecycle's consideration to revise the proposed regulations to protect the people of California and the long-term interest of local agencies statewide.</p>	<p>implementation of the regulatory requirements that are designed to achieve this target are significantly delayed.</p> <p>The legislature amended SB 1383 to strip the requirement that CalRecycle use the "Good Faith Effort" requirement of AB 939 (Sher, Chapter 1095, Statutes of 1989) for enforcement for SB 1383. SB 1383 requires a more prescriptive approach and state minimum standards; jurisdictions must demonstrate compliance with each prescriptive standard. CalRecycle does exercise its enforcement discretion to allow consideration of "substantial efforts" made by the jurisdiction and the placement on a "Corrective Action Plan" (CAP). This effectively allows CalRecycle to consider efforts made by a jurisdiction, while not absolving them of responsibility. This structure allows CalRecycle to focus on compliance first and dedicate enforcement efforts to egregious offenders. The 75 percent organic waste diversion target in 2025 will not be reachable with the longer compliance process under the Good Faith Effort standard. Implementation of the prescriptive regulatory requirements of the regulation are designed to achieve the organic waste reduction targets, which is consistent with the explicit statutory direction</p>
1025	Clark, M., Los Angeles County Solid Waste Management Committee	<p>1. The Fourth Formal Draft of the proposed regulations fails to include a provision for consideration of a jurisdiction’s “good faith effort” to comply with the burdensome regulatory requirements.</p> <p>The Fourth Formal Draft of the proposed regulation fails to consider a jurisdiction’s “good faith effort” in complying with its requirements. During the rulemaking process, CalRecycle stated in part, in its Statutory Background and Primary Regulatory Policies document dated May 1, 2018, that “Legislative guidance directs CalRecycle not to...utilize the “Good Faith Effort” compliance model specified in PRC Section 41825.” This is inaccurate and contrary to the requirements of Chapter 13.1, Part 3, Division 30 of the PRC, § 42652 et seq, [Short-Lived Climate Pollutants] which was added into state law by SB 1383, and which is being used by CalRecycle in concert with PRC Sections 41825 and 41850 as its authority to impose penalties on jurisdictions pursuant to Articles 15 and 16 of the proposed regulations.</p> <p>Specifically, Section 42652.5(a)(4) of the PRC expressly states that CalRecycle “shall base its determination of progress on relevant factors, including, but not limited to, reviews conducted pursuant to Section 41825” (emphasis added). The review process established by PRC Section 41825 requires CalRecycle to consider the “good faith efforts” made by a jurisdiction to implement its diversion program.</p> <p>Since the reviews conducted under PRC Section 41825 require consideration of a jurisdiction’s “good faith effort”, CalRecycle must consider “good faith effort” in making its determination of a jurisdiction’s progress at meeting organic waste landfill reduction goals, and not subject the jurisdiction to potential penalties of up to \$10,000 per day for each violation of the regulatory requirements when there are justifiable reasons for the jurisdiction to be not in full compliance.</p>	<p>The legislature amended SB 1383 to strip the requirement that CalRecycle use the "Good Faith Effort" requirement of AB 939 (Sher, Chapter 1095, Statutes of 1989) for enforcement for SB 1383. SB 1383 requires a more prescriptive approach and state minimum standards; jurisdictions must demonstrate compliance with each prescriptive standard. CalRecycle does exercise its enforcement discretion to allow consideration of "substantial efforts" made by the jurisdiction and the placement on a "Corrective Action Plan" (CAP). This effectively allows CalRecycle to consider efforts made by a jurisdiction, while not absolving them of responsibility. This structure allows CalRecycle to focus on compliance first and dedicate enforcement efforts to egregious offenders. The 75 percent organic waste diversion target in 2025 will not be reachable with the longer compliance process under the Good Faith Effort standard. Implementation of the prescriptive regulatory requirements of the regulation are designed to achieve the organic waste reduction targets, which is consistent with the explicit statutory direction</p>

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		<p>Furthermore, consideration of a jurisdiction’s “good faith effort” in complying with the new and overly burdensome SB 1383 regulatory requirements is even more important at this time given the severe economic, fiscal, and social impacts of the COVID-19 pandemic. PRC Section 41825 provides, among other things, that CalRecycle “shall consider all of the following when considering whether a jurisdiction has made a good faith effort to implement” its diversion program:</p> <ul style="list-style-type: none"> • Disasters; • Budgetary conditions; and • Work stoppages that directly prevent a jurisdiction from implementing its diversion program <p>Inclusion of the “good faith effort” provisions of PRC Section 41825 in the proposed SB 1383 implementing regulations will ensure that CalRecycle will consider the above factors, all of which are now severely impacting local jurisdictions throughout California.</p>	
1026	Clark, M., Los Angeles County Solid Waste Management Committee	<p>2. The Fourth Formal Draft of the proposed regulations imposes inordinately excessive responsibilities on local jurisdictions compared to other regulated entities, which are not consistent with existing state statute.</p> <p>The Task Force recognizes the significant responsibility CalRecycle has under State law to achieve the Statewide 75 percent “recycling” goal by 2020, reduce organic waste landfill disposal by 75 percent by 2025, support the Air Resources Board in reducing climate pollutants, and the limited time granted by the State Legislature to achieve these goals. However, while the Task Force strongly supports efforts to reduce climate pollutants, the Task Force is very concerned about the approach that CalRecycle has selected, which places a tremendous burden and responsibility on counties and cities (more than any other stakeholder group, including, but not limited to, state agencies, public and private colleges and universities, school districts, local education agencies and non-local entities as defined in Article 1, Section 18982 (a) (40) and (42), respectively, etc., [emphasis added]), while relying on extremely prescriptive requirements, and excessive inspection and monitory reporting, the proposed regulations mandate counties and cities to impose steep penalties on residents and businesses.</p> <p>The Task Force believes that the Fourth Formal Draft of the proposed regulations stipulates a number of mandates that are inconsistent with the provisions of Article XI of the California Constitution in regard to general law and charter cities and counties as well as provisions of the California Public Resources Code (PRC), Subdivision 40059 (a) which, in part, states, “each county, city, district, or other local governmental agency may determine all the following:</p> <p>Aspects of solid waste handling which are of local concern, including, but not limited to, frequency of collection, means of collection and transportation, level of</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period. However, we have received this comment in previous comment periods and have responded accordingly.

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		<p>services, charges and fees, and nature, location, and extent of providing solid waste handling services.” (emphasis added) (as an example, see provisions of Articles 3, 14, and 15 through 17 of the mandates stipulated by the Fourth Formal Draft of the proposed regulations) State law, Section 40001 (a) of the Public Resources Code (PRC), declares that “the responsibility for solid waste management is a shared responsibility between the state and local governments (emphasis added).” Furthermore, SB 1383 recognizes the shared responsibility “the waste sector, state government, and local governments” have in achieving the organic waste landfill disposal reduction goals for 2020 and 2025, and thus requires CalRecycle to analyze the progress made by the three sectors, in that order, including “commitment of state funding”, in achieving the said goals {PRC Section 42653 (a)} (emphasis added). However, under the Fourth Formal Draft of the proposed regulations, the responsibility, without any rationales or justifications, weighs much more heavily on counties and cities, including programmatic and penalty requirements, than on state agencies, school districts, and special districts, local education agencies, and non-local entities (as an example, see provisions of Articles 14 and 15 of the proposed regulations). This oversight needs to be addressed by the next version of the proposed regulations. Furthermore, the Task Force strongly believes that pursuant to Sections 111349(d) and 11349.1 of the Government Code, there is a lack of consistency between the proposed regulations and PRC 40059. Before approval, the proposed regulations must be revised to be consistent with the provisions of the California Constitution and the California Law to provide for a more equitable distribution of the responsibility for achieving the disposal reduction goals among all sectors, including industry, state government, school districts, public and private colleges and universities, and other non-local entities and local education agencies, etc.</p>	
1027	Clark, M., Los Angeles County Solid Waste Management Committee	<p>3. The Fourth Formal Draft exceeds its statutory authority by requiring jurisdictions to impose mandatory monetary penalties on residents and businesses. SB 1383 does not provide CalRecycle with the authority to require local jurisdictions such as counties and cities to impose civil (monetary) penalties on residential or commercial organic waste generators for non-compliance (emphasis added). This requirement as stipulated by CalRecycle exceeds the authority granted to CalRecycle by State law. While SB 1383 grants CalRecycle the authority to “require local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction,” this authority does not extend to the imposition of penalties (emphasis added). SB 1383 only states that CalRecycle “may authorize local jurisdictions to impose penalties on generators for noncompliance” {see Section 42652.5. (a)(1) of the Public Resources Code (PRC)} (emphasis added).</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period. However, we have received this comment in previous comment periods and have responded accordingly.

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		<p>However, the proposed regulations [Article 16, Section 18997.1 (b)] specify that jurisdictions “shall adopt ordinance(s) or enforceable mechanisms to impose penalties as prescribed in Section 18997.2.” (emphasis added).</p> <p>In addition, Section 18997.2. Penalty Amounts, requires: “(a) A jurisdiction shall impose penalties for violations of the requirements of this chapter consistent with the applicable requirements prescribed in Government Code Sections 53069.4, 25132 and 36900. The penalty levels shall be as follows: ...” (emphasis added). As proposed, a single-family dwelling may be subject to a penalty of \$100 for the first offense, \$200 for the second offense, and \$500 for the third and each subsequent offense.</p> <p>In requiring counties and cities to impose steep civil penalties of up to \$500 per offense on residents and businesses for non-compliance with each requirement of the regulations, CalRecycle would exceed its authority under the law, notwithstanding the provisions of Government Code Sections 53069.4, 25132 and 36900. Such authority is vested on local governmental agencies by PRC Section 40059, which states that, “each county, city, district, or other local governmental agency may determine...aspects of solid waste handling which are of local concern, including, but not limited to, frequency of collection, means of collection and transportation, level of services, charges and fees, and nature, location, and extent of providing solid waste handling services” (emphasis added).</p> <p>Furthermore, SB 1383 provides that the proposed regulations shall comply with specified requirements, including the following: “42652.5. (a)(5) May include penalties to be imposed by the department for noncompliance. If penalties are included, they shall not exceed the amount authorized pursuant to Section 41850.” (emphasis added)</p> <p>Subparagraph (a)(5) requires that penalties be imposed “by the department” (i.e., CalRecycle), not by jurisdictions, for non-compliance. Thus, in requiring jurisdictions to impose penalties on residential and commercial generators, the proposed regulations once again exceed the authority provided in Statute.</p> <p>Furthermore, the authority to impose the penalty amounts is derived from PRC Section 41850. Section 41850 in turn requires that CalRecycle consider a jurisdiction’s “good faith effort” prior to imposing administrative civil penalties. Moreover, CalRecycle must consider “good faith effort” in determining whether to impose penalties and in determining the amount of penalties imposed.</p> <p>The Task Force further believes that pursuant to the Government Code, Sections 11349 (b) and 11349.1, CalRecycle lacks the authority to require local jurisdictions to impose mandatory financial penalties on residents and commercial businesses. Before approval, the proposed regulations must be revised to delete any and all provisions that require counties and cities to impose civil (monetary) penalties on their residents or businesses. The language may be revised pursuant to PRC Section</p>	

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		42652.5 (a)(1) to authorize counties and cities to do so, as they deem appropriate (emphasis added).	
1028	Clark, M., Los Angeles County Solid Waste Management Committee	<p>4. The procurement requirements in the Fourth Formal Draft exceed the authority granted to CalRecycle in existing state statute.</p> <p>The Fourth Formal Draft of the proposed regulations requires local governments to purchase recovered/recycled organic waste products targets set by CalRecycle. While the Task Force cannot see any statutory procurement requirement within the provisions of SB 1383, the implementation of these requirements will result in substantial additional costs to local governments over and above the costs jurisdictions already anticipate incurring for complying with the extensive programmatic requirements of the proposed regulations. Therefore, the Task Force respectfully requests that CalRecycle instead work to develop markets for recovered/recycled organic waste products.</p> <p>Furthermore, the additional costs that will result from complying with the proposed regulations' procurement requirements represent an unfunded state mandate under California Constitution, Article XIII B, Section 6 (a) since the Fourth Formal Draft of the proposed regulations would impose a new program on local governments and neither the draft regulations nor the Amended Initial Statement of Reasons identifies a state funding source. Moreover, local governments generally do not have the authority to impose fees or assessments that would pay for the increased costs that they would incur as a result of these procurement requirements.</p> <p>The Task Force strongly believes that pursuant to Sections 11349.1 and 11349 (b), of the Government Code, CalRecycle lacks the authority to require local jurisdictions to procure specified minimum amounts of recovered organic waste products. Before approval, the proposed regulations must be revised to remove the procurement requirements.</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period. However, we have received this comment in previous comment periods and have responded accordingly.
1029	Clark, M., Los Angeles County Solid Waste Management Committee	<p>5. The requirements on local jurisdictions in the Fourth Formal Draft are excessively prescriptive.</p> <p>The draft regulations contradict Government Code 11340 (d) which states that "The imposition of prescriptive standards upon private persons and entities through regulations where the establishment of performance standards could reasonably be expected to produce the same result has placed an unnecessary burden on California citizens and discouraged innovation, research, and development of improved means of achieving desirable social goals." The draft regulations are highly prescriptive, and similar or better results may be achieved by the state establishing performance standards for jurisdictions and providing the necessary tools to achieve the standards, such as diversion credit for non-combustion thermal conversion technologies (CTs) processing organic waste, to assist jurisdictions with meeting the performance standards (emphasis added).</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.

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		<p>The Task Force strongly believes that jurisdictions and regulated agencies would like to see the proposed regulations to be less prescriptive, more flexible, and less punitive, as well as to include reasonable timeframes for compliance. At the same time CalRecycle should focus state efforts on market development, technical support, including efforts to investigate emerging technologies leading to the development of new facilities and products, and funding for infrastructure.</p> <p>The Task Force strongly believes that the excessively prescriptive nature of the regulations is not consistent with provisions of the Government Code, Sections 11340 (d), 11349 (d) and 11349.1. Before approval, the proposed regulations must be significantly revised to reduce the excessive requirements on local jurisdictions.</p>	
1030	Clark, M., Los Angeles County Solid Waste Management Committee	<p>Section 18981.1. Scope of Chapter</p> <p>1. Comment(s):</p> <p>Pursuant to SB 1383 (2016), Subdivision 39730.6 (a) of the Health and Safety Code states “Consistent with Section 39730.5, methane emissions reduction goals shall include the following targets to reduce the landfill disposal of organics” by 50 percent from the 2014 level by 2020 and 75 percent by 2025 (emphasis added). However, this section fails to recognize that the said targets being referred to are based on organic waste “landfill” disposal reductions, and failure to indicate this fact causes confusion among regulated communities, governmental agencies, members of public and other stakeholders.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <p>(a) This chapter establishes the regulatory requirements for jurisdictions, generators, haulers, solid waste facilities, and other entities to achieve the organic waste landfill disposal reduction targets codified in Section 39730.6 of the Health and Safety Code and Chapter 13.1 of Division 30 of the Public Resources Code.</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1031	Clark, M., Los Angeles County Solid Waste Management Committee	<p>Section 18982. Definitions</p> <p>2. Comment(s):</p> <p>(39.5) “Lifecycle greenhouse gas emissions or “Lifecycle GHG emission” - In reference to Section 18983.2 (a) (3), it is our understanding that the calculated greenhouse gas reduction of 0.30 MTCO₂e/short ton from composting organic waste is based on a modified assessment as documented in the Initial Statement of Reasons. For example, some factors such as the impact of greenhouse gas emission due to transportation of organic waste to distant facilities were omitted from analysis. We strongly believe that for the purpose of determination of technologies that constitute a reduction in landfill disposal, the impact of GHG emission from transportation need to be considered and the standard of 0.30 MTCO₂e/short ton of organic waste standard needs to be adjusted.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <p>(39.5) “Lifecycle greenhouse gas emissions” or “Lifecycle GHG emissions” means the aggregate quantity of greenhouse gas emissions (including direct and indirect</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.

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		<p>emissions), related to the full lifecycle of the technology or process that an applicant wishes to have assessed as a possible means to reduce landfill disposal of organic waste. The lifecycle analysis of emissions includes all stages of organic waste processing and distribution, including collection from a recovery location, waste processing, delivery, use of any finished material by the ultimate consumer, ultimate use of any processing materials. The mass values for all greenhouse gases shall be adjusted to account for their relative global warming potential. However, for the purposes of Article 2 of these regulations, the aggregated quantity of greenhouse gas emissions shall not include emissions associated with other operations or facilities with processes that reduce short-lived climate pollutants, as that term is used in Article 2, that are similar to or consistent with those emissions that were excluded as the basis for developing the 0.30 MTCO₂e/short ton of organic waste standard.</p>	
1032	Clark, M., Los Angeles County Solid Waste Management Committee	<p>Section 18982. Definitions 3. Comment(s): In regards to the definition of “Organic Waste” as defined in Paragraph (46), at CalRecycle’s SB 1383 Public Workshop held at the South Coast Air Quality Management District on June 18, 2019, a member of the Task Force asked if “Organic Waste as defined includes Plastic?” to which Mr. Hank Brady responded “NO.” Therefore, the definition of “Organic Waste” needs to be revised to exclude plastic products. The definition of “organic waste” in the regulations conflicts with 14 CCR §18720, which defines “organic waste” as “solid wastes originated from living organisms and their metabolic waste products, and from petroleum, which contain naturally produced organic compounds, and which are biologically decomposable by microbial and fungal action into the constituent compounds of water, carbon dioxide, and other simpler organic compounds.” Because this definition of organic waste includes solid waste originating from petroleum, i.e. plastics, the regulations should clarify that plastics are not considered “organic waste.” The “organic waste” definition as proposed in Paragraph 46 includes the phrase “organic textiles and carpets.” The proposed regulations do not define the phrase “organic textile and carpets” and the definition needs to be provided (emphasis added). Depending how the phrase is defined, placement of “organic textile and carpets” in green containers, contrary to provisions of the Section 18984.1 (a) (5) (A), must be allowed. • Proposed Regulatory Text and Recommended Changes/Revisions: (46) “Organic waste” means solid wastes containing material originated from living organisms and their metabolic waste products, including but not limited to food, green material, landscape and pruning waste, organic textiles and carpets, lumber,</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.

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		wood, paper products, printing and writing paper, manure, biosolids, digestate, and sludges. “Organic waste” does not include non-compostable plastic products. (53.5) “Plastic products” means any non-hazardous and non-putrescible solid objects made of synthetic or semi-synthetic organic compounds.	
1033	Clark, M., Los Angeles County Solid Waste Management Committee	Section 18982. Definitions 4. Comment(s): As a follow up to Specific Comment No. B.1, the proposed definition of “Organic waste disposal reduction target.” Section 18982 (47) is not consistent with provisions of Subdivision 39730.6. (a) of the Health and Safety Code. • Proposed Regulatory Text and Recommended Changes/Revisions: (47) “Organic waste disposal reduction target” is the statewide target to reduce the landfill disposal of organic waste by 50 percent by 2020 and 75 percent by 2025, based on the 2014 organic waste disposal baseline, set forth in Section 39730.6 of the Health and Safety Code.	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1034	Clark, M., Los Angeles County Solid Waste Management Committee	Section 18982. Definitions 5. Comment(s): The definition of “renewable gas” without any justifiable reason and/or scientifically supported analysis, is limited it to gas derived from in-vessel digestion of organic waste only. The regulations need to expand the definition of “renewable gas” to include gas derived from other technologies, including biomass conversion utilizing thermal CTs such as gasification and pyrolysis, methane gas generated from municipal solid waste landfills since it is biogenic in origin, and any other technologies that are determined to constitute a reduction in landfill disposal pursuant to Section 18983.2. (emphasis added). • Proposed Regulatory Text and Recommended Changes/Revisions: (62) “Renewable Gas” means gas derived from organic waste that has been diverted from a landfill or organic waste and processed at an in-vessel digestion facility that is permitted or otherwise authorized by Title 14 to recover organic waste, a biomass conversion facility that is permitted or otherwise authorized by Division 30 of the Public Resources Code to recycle organic waste, or any other process or technology that is subsequently deemed under section 18983.2 to constitute a reduction in landfill disposal.	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1035	Clark, M., Los Angeles County Solid Waste Management Committee	Section 18983.1. Landfill Disposal and Recovery 6. Comment(s): SB 1383 requires the state to achieve specified targets to reduce the landfill disposal of organics. However, the regulations consider any disposition of organic waste not listed in Section 18983.1 (b) to be landfill disposal, including any thermal CTs besides biomass conversion. Public Resources Code (PRC) 40195.1 defines “solid waste landfill” as “a disposal facility that accepts solid waste for land disposal,” indicating that non-combustion thermal CTs which produce energy or fuels from solid waste	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.

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		<p>rather than disposing solid waste on land should not be categorized as landfill disposal. The definition of “landfill” in Section 18983.1 (c) of these regulations contradicts PRC 40195.1. Section 18983.1 (c) defines “landfill” as “permitted landfills, landfills that require a permit, export out of California for disposal, or any other disposal of waste as defined by Section 40192 (c) of the Public Resources Code.” The definition of “export out of California for disposal” could potentially include thermal CTs, while the definition of “solid waste landfill” in PRC 40195.1 is clearly limited to land disposal only and does not include thermal CTs.</p> <p>It is our understanding that thermal CTs are classified as landfill disposal due to concerns over their emissions. Although thermal CTs produce some limited emissions of greenhouse gases, dioxins, furans, volatile organic compounds, and criteria pollutants, these emissions do not have the multiplicative effects of methane emissions, which are 72 times more powerful than emissions of carbon dioxide in terms of atmospheric warming according to the California Air Resources Board. By replacing sources of fossil-based energy, thermal CTs actually reduce life-cycle methane emissions. Therefore, the regulations should not exclude any process or technology from being considered a reduction in landfill disposal, except for final deposition at a landfill or organic waste used as alternative daily cover, pursuant to Assembly Bill 1594 (Chapter 719 of the 2014 State Statutes).</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <p>(a) The following dispositions of organic waste shall be deemed to constitute landfill disposal:</p> <ol style="list-style-type: none"> Final deposition at a landfill. Use as Alternative Daily Cover or Alternative Intermediate Cover at a landfill. <p>(A) The use of non-organic material as landfill cover shall not constitute landfill disposal of organic waste.</p> <p>(3) Any other disposition not listed in subsection (b) of this section.</p>	
1036	Clark, M., Los Angeles County Solid Waste Management Committee	<p>Section 18983.1. Landfill Disposal and Recovery</p> <p>7. Comment(s):</p> <p>In addition to anaerobic digestion and composting, biosolids and digestate can also be processed through gasification. Biosolids and digestate that are gasified produce biochar, an organic soil amendment. The Task Force recommends that CalRecycle include the land application of biochar produced from biosolids and digestate as a reduction of organic waste landfill disposal. The California Energy Commission’s 2017 Integrated Energy Policy Report (2017 IEPR) published on April 16, 2018, states that the gasification of biosolids to produce biochar is a revenue source to promote the development of renewable natural gas (RNG) projects, which will be needed if jurisdictions are to meet the requirements to procure RNG transportation fuel per Section 18993.1 (f)(2) of the proposed regulations.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: 	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.

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		<p>(b) (6) Land application, of compostable material consistent with Section 17852 (a) (24.5) of this division is subject to the following conditions on particular types of compostable material used for land application:</p> <p>(A) Green waste or green material used for land application shall meet the definition of Section 17852 (a) (21) and shall have been processed at a solid waste facility, as defined by Section 40194 of the Public Resources Code.</p> <p>(B) Biosolids used for land application shall:</p> <ol style="list-style-type: none"> 1. Have undergone anaerobic digestion or composting, any of the pathogen treatment processes as defined in Part 503, Title 40 of the Code of Federal Regulations, Appendix B, or gasification, as defined in Section 40117 of the Public Resources Code, to produce biochar, as defined in Section 14513.5 of the Food and Agriculture Code, and, 2. Meet the requirements in Section 17852 (a) (24.5) (B) 6 of this division for beneficial reuse of biosolids. <p>(C) Digestate used for land application shall:</p> <ol style="list-style-type: none"> 1. Have been anaerobically digested at an in-vessel digestion operation or facility, as described in 14 CCR sections 17896.8 through 17896.13 or gasified, as defined in Section 40117 of the Public Resources Code, to produce biochar, as defined in Section 14513.5 of the Food and Agriculture Code; and, 2. Meet the land application requirements described in 14 CCR Section 17852 (a) (24.5) A. 3. Have obtained applicable approvals from the State and/or Regional Water Quality Control Board requirements. 	
1037	Clark, M., Los Angeles County Solid Waste Management Committee	<p>Section 18983.2 Determination of Technologies that Constitute a Reduction in Landfill Disposal</p> <p>8. Comment(s):</p> <p>SB 1383, Section 42652 of the PRC reads as follows: "The Legislature finds and declares all of the following:</p> <p>(a) The organic waste disposal reduction targets are essential to achieving the statewide recycling goal identified in Section 41780.01.</p> <p>(b) Achieving organic waste disposal reduction targets require significant investment to develop organics recycling capacity.</p> <p>(c) More robust state and local funding mechanisms are needed to support the expansion of organics recycling capacity."</p> <p>Based on the foregoing, it is clear that the Legislature and the Governor, as a part of the SB 1383 enactment, emphasized the need for development of alternative technology facilities beyond composting and anaerobic digestion technologies/facilities, upon which CalRecycle has heavily relied, while not placing sufficient emphasis on development of alternative technologies and even subjecting them to heavily restrictive standards that other methods and processes are not</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.

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		<p>subjected to (such as land application). In doing so, the state has created a significant obstacle to development of facilities utilizing these technologies without a clear and scientifically substantiated justification. For example, Section 18983.2 (a) (3) states “To determine if the proposed operation counts as a permanent reduction in landfill disposal, the Department in consultation with CARB’s Executive Office shall compare the permanent lifecycle GHG emissions reduction of metric tons of carbon dioxide equivalent (MTCO_{2e}) per short ton organic waste reduced by the process or technology, with the emissions reduction from composting organic waste (0.30 MTCO_{2e}/short ton organic waste).” (emphasis added). To be consistent with requirements of PRC Section 42652 and technically correct, the analysis should be made in comparison to “landfilling” and not “composting.” The Task Force would like to emphasize that the SB 1383 mandates reduction of organic waste disposal in landfills and not any other type of facilities such as those utilizing CTs (emphasis added).</p> <p>The regulations state that the Department shall provide a response to all applicants requesting verification of new technologies that constitute a reduction in landfill disposal within 180 days. The regulations should be revised so that if the Department fails to provide a response, the application is considered approved and verified as a technology that constitutes a reduction in landfill disposal.</p> <ul style="list-style-type: none"> • Proposed Regulatory Text and Recommended Changes/Revisions: <p>(2) The Department shall consult with the Executive Officer of the California Air Resources Board to evaluate if the information submitted by the applicant is sufficient to estimate the greenhouse gas emissions and permanent lifecycle GHG emissions reduction of the proposed recovery process or operation. Within 30 days of receiving the application, the Department shall inform the applicant if they have not submitted sufficient information to estimate the greenhouse gas emissions and permanent lifecycle greenhouse gas emissions reductions associated with the proposed recovery process or operation. For further consideration of any application submitted without sufficient information, the applicant is required to submit the requested information. The Department shall provide a response to the applicant within 180 days of receiving all necessary information as to whether or not the proposed recovery process or operation results in a permanent reduction in greenhouse gas emissions, and therefore counts as a reduction in landfill disposal. If the Department fails to provide a response to the applicant within 180 days of receiving all necessary information, the application shall be considered approved and the proposed recovery process or operation shall count as a reduction in landfill disposal.</p>	
1038	Clark, M., Los Angeles County Solid Waste	Section 18983.2 Determination of Technologies that Constitute a Reduction in Landfill Disposal 9. Comment(s):	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.

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	Management Committee	<p>In Section 18982 (56.5), “project baseline” in the context of greenhouse gas (GHG) emission reduction is defined as the amount of GHGs that would result from landfill disposal of organic waste. Section 18983.2. (a) (3) requires technologies applying for consideration as a reduction in landfill disposal to demonstrate permanent lifecycle GHG emissions reduction compared to composting, not landfill disposal. Section 18983.2 should be revised for consistency with the definition of “project baseline.”</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <p>(3) To determine if the proposed operation counts as a permanent reduction in landfill disposal, the Department, in consultation with CARB’s Executive Office shall compare the permanent lifecycle GHG emissions reduction of metric tons of carbon dioxide equivalent (MTCO_{2e}) per short ton organic waste reduced by the process or technology, with the emissions reduction from composting organic waste (0.30 MTCO_{2e}/short ton organic waste).The Department shall only deem a proposed operation to constitute a reduction in landfill disposal if the process or technology results in a permanent reduction in lifecycle greenhouse gas emissions compared to the project baseline. equal to or greater than the 0.30 MTCO_{2e}/short ton of organic waste.</p>	
1039	Clark, M., Los Angeles County Solid Waste Management Committee	<p>Section 18984.1. Three-container Organic Waste Collection Services.</p> <p>10. Comment(s): Facilities should only be required to notify jurisdictions once whether they can process and recover compostable plastics. Subsequently, facilities should be required to notify jurisdictions within 30 days only if their ability to process and recover compostable plastics changes. The same changes should be applied to Section 18984.2. Two-container Organic Waste Collection Services.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <p>(A) Compostable plastics may be placed in the green container if the material meets the ASTM D6400 standard for compostability and the contents of the green containers are transported to compostable material handling operations or facilities or in-vessel digestion operations or facilities that have provided written notification annually to the jurisdiction stating that the facility can process and recover that material. The facility that ceases capability to process and recover compostable plastics shall provide written notice to the jurisdiction within 30 days of the cessation.</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1040	Clark, M., Los Angeles County Solid Waste Management Committee	<p>Section 18984.1. Three-container Organic Waste Collection Services.</p> <p>11. Comment(s): Facilities should only be required to notify jurisdictions once whether they can process and remove plastic bags when recovering source-separated organic waste. Subsequently, facilities should be required to notify jurisdictions within 30 days only</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.

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		<p>if their ability to process and remove plastic bags changes. The same changes should be applied to Section 18984.2. Two-container Organic Waste Collection Services.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <p>(d) A jurisdiction may allow organic waste to be collected in plastic bags and placed in the green container provided that allowing the use of bags does not inhibit the ability of the jurisdiction to comply with the requirements of Section 18984.5, and the facilities that recover source separated organic waste for the jurisdiction annually provide written notice to the jurisdiction indicating that the facility can process and remove plastic bags when it recovers source separated organic waste. The facility that ceases capability to process and remove plastic bags when it recovers source separated organic waste shall provide written notice to the jurisdiction within 30 days of the cessation.</p>	
1041	Clark, M., Los Angeles County Solid Waste Management Committee	<p>Section 18984.9. Organic Waste Generator Requirements.</p> <p>12. Comment(s):</p> <p>Pursuant to Paragraph (1) of Subsection (b), commercial businesses that generate organic waste are required to provide containers for the collection of “organic waste” and “non-organic recyclables” in all areas where disposal containers are provided for customers. While the Task Force is not opposed to placement of containers for collection of “non-organic recyclables,” the Task Force questions the authority of CalRecycle under the provisions of SB 1383.</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1042	Clark, M., Los Angeles County Solid Waste Management Committee	<p>Section 18984.9. Organic Waste Generator Requirements.</p> <p>13. Comment(s):</p> <p>Pursuant to Paragraph (1) of Subsection (b), generators that are commercial businesses are not required to provide organic waste collection containers in restrooms. However, the definition of “organic waste” in Section 18982 (a) (46) includes “paper products.” “Paper products” are defined in Section 18982 (a) (51) to include paper janitorial supplies, tissue, and toweling. Therefore, the Task Force requests clarification from CalRecycle on whether paper products generated in the restroom of a commercial business are required to be diverted through any of the activities listed in Section 18983.1 (b) and whether a commercial business or a jurisdiction could be penalized for disposing paper products generated in the restroom of commercial business.</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1043	Clark, M., Los Angeles County Solid Waste Management Committee	<p>Section 18984.12. Waivers and Exemptions Granted by the Department</p> <p>14. Comment(s):</p> <p>There are numerous areas of Los Angeles County with elevations around 1,000 feet above sea level or higher that experience significant issues with bears and other wild animals scavenging for food in trash cans. CalRecycle should consider authorizing the Department of Fish and Wildlife to grant elevation waiver extensions for areas at elevations lower than 4,500 feet above sea level that experience similar challenges to food waste collection.</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.

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		<ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <p>(d) Elevation Waivers: (1) A jurisdiction may apply to the Department for a waiver for the jurisdiction and some or all of its generators from the requirement to separate and recover food waste and food-soiled paper if the entire a portion of the jurisdiction is located at or above an elevation of 4,500 feet. A jurisdiction may apply to the Department of Fish and Wildlife for a waiver for the jurisdiction and some or all of its generators from the requirement to separate and recover food waste and food-soiled paper if a portion of the jurisdiction is located at or above an elevation of 1,000 feet and below an elevation of 4,500 feet.</p> <p>(2) A jurisdiction may apply to the Department for a waiver for some or all of its generators from the requirement to separate and recover food waste and food-soiled paper in census tracts located in unincorporated portions of a county that are located at or above 4,500 feet. A jurisdiction may apply to the Department of Fish and Wildlife for a waiver for some or all of its generators from the requirement to separate and recover food waste and food soiled paper in census tracts located in unincorporated portions of the county if portions of the census tracts are located at or above an elevation of 1,000 feet and below an elevation of 4,500 feet.</p>	
1044	Clark, M., Los Angeles County Solid Waste Management Committee	<p>Section 18984.12. Waivers and Exemptions Granted by the Department</p> <p>15. Comment(s): This section does not recognize the good faith efforts of a jurisdiction to comply with the provisions of this chapter but that is unable to fully comply due to circumstances beyond its control. Provisions need to be provided for good faith efforts.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <p>(e) Nothing in this section exempts a jurisdiction from: (1) Its obligation to provide organic waste collection services that comply with the requirements of this article to businesses subject to the requirements of Section 42649.81 of the Public Resources Code, although the Department may grant waivers and/or extensions to any jurisdiction that has made good faith efforts to comply with the requirements of this article but has been unable to comply due to circumstances outside its control.</p> <p>Note: Please see General Comment No. A.3 and Specific Comment No. B.24 on Article 15, Section 18996.2, "Department Enforcement Action Over Jurisdiction."</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1045	Clark, M., Los Angeles County Solid Waste Management Committee	<p>Section 18984.13. Emergency Circumstances, Abatement, and Quarantined Materials</p> <p>16. Comment(s): The Task Force believes that the regulations should not require jurisdictions to separate or recover organic waste discarded in publicly-accessible waste bins, such as at public parks and beaches, to protect public health and safety. It may be very</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.

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		<p>difficult to prevent the public from placing prohibited container contaminants in public organic waste collection bins. Furthermore, public organic waste collection bins may encourage scavenging practices, posing significant public health and safety issues in urban jurisdictions such as Los Angeles County.</p> <p>The waivers in this section allow organic waste removed from homeless encampments or illegal disposal sites and organic waste subject to quarantine to be disposed to protect public health and safety. The regulations should clarify that any organic waste subject to these waiver exemptions that is disposed will not count toward jurisdiction waste disposal calculated for compliance with Assembly Bill 939 (1989) and any future waste disposal reduction or waste diversion compliance mandates.</p> <p>In addition, local county agricultural commissioners have delegated authority from the California Department of Food and Agriculture (CDFA) to regulate quarantined waste. Therefore, the regulations should be revised to allow jurisdictions to receive the necessary approvals from local county agricultural commissioner's instead of the CDFA to dispose of specific types of organic waste that are subject to quarantine.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <p>(c) A jurisdiction is not required to separate or recover organic waste that is removed from homeless encampments, and illegal disposal sites, and publicly-accessible waste receptacles at beaches, parks, or other similar facilities as part of an abatement activity to protect public health and safety. If the total amount of solid waste removed for landfill disposal from homeless encampments and illegal disposal sites pursuant to this subdivision is expected to exceed 100 tons annually the jurisdiction shall record the amount of material removed. The Department shall not count any organic waste that is removed from homeless encampments and illegal disposal sites and subsequently disposed toward jurisdiction waste disposal for compliance with any existing or future state waste disposal reduction and/or waste diversion compliance mandates pursuant to Sections 39730.5 and 39730.6 of the Health and Safety Code, and/or the California Integrated Waste Management Act of 1989.</p> <p>(d) A jurisdiction may dispose of specific types of organic waste that are subject to quarantine and meet the following requirements:</p> <ol style="list-style-type: none"> The organic waste is generated from within the boundaries of an established interior or exterior quarantine area defined by the California Department of Food and Agriculture for that type of organic waste. The California Department of Food and Agriculture or the County Agricultural Commissioner determines that the organic waste must be disposed at a solid waste landfill and the organic waste cannot be safely recovered through any of the recovery activities identified in Article Two of this chapter. 	

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		<p>(3) The jurisdiction retains a copy of the California Department of Food and Agriculture or the County Agricultural Commissioner approved compliance agreement for each shipment stating that the material must be transported to a solid waste landfill operating under the terms of its own compliance agreement for the pest or disease of concern.</p> <p>(4) The Department shall not count any organic waste subject to quarantine that is disposed toward jurisdiction waste disposal for compliance with any existing or future state waste disposal reduction and/or waste diversion compliance mandates pursuant to the Health and Safety Code, Sections 39730.5 and 39730.6. and/or the California Integrated Waste Management Act of 1989. Subsection (f) should be renumbered to Subsection (e).</p>	
1046	Clark, M., Los Angeles County Solid Waste Management Committee	<p>ARTICLE 8. CALGREEN BUILDING STANDARDS AND MODEL WATER EFFICIENT LANDSCAPE ORDINANCE (MWEL0)</p> <p>17. Comment(s):</p> <p>The Task Force respectfully disagrees with including requirements of this Article as stated in the proposed Sections 18989.1 and 18989.2 of the proposed regulations, and recommends this Article be deleted in its entirety for the following reasons:</p> <ul style="list-style-type: none"> • Inclusion of the enforcement of the CALGreen standards in the proposed regulations will cause duplication and enforcement confusion with those specified in Articles 14, 15, and 16 of the proposed regulations. Building standards are issued by the Building Standards Commission, implemented and enforced by local Building Departments, and are not subject to the authority of CalRecycle. • Similarly, inclusion of this requirement in the proposed regulations will cause unnecessary regulatory duplication and confusion. Jurisdictions/water purveyors are already required to adopt Model Water Efficient Landscape Ordinance (MWEL0) with enforcement mechanism that are different than enforcement mechanism called for in Articles 14, 15 and 16 of the proposed regulations. Additionally, implementation of MWEL0s are not subject to the authority of CalRecycle. 	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1047	Clark, M., Los Angeles County Solid Waste Management Committee	<p>Section 18993.1. Recovered Organic Waste Product Procurement Target</p> <p>18. Comment(s):</p> <p>For the purpose of this Article, and consistent with General Comment No. A.2, the discussion and the procurement targets need to be expanded to include appropriate provisions for compliance by “local education agency” (such as school districts, etc.) and “non-local entities” (such as state agencies, public universities, community colleges, etc.) as further defined in Sections 18982 (a) (40) and (42), respectively.</p> <ul style="list-style-type: none"> • Proposed Regulatory Text and Recommended Changes/Revisions: <p>(a) Except as otherwise provided, commencing January 1, 2022, a jurisdiction shall annually procure a quantity of recovered organic waste products that meets or exceeds its current annual recovered organic waste product procurement target as determined by this article. For the purposes of this section article, “jurisdiction”</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.

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		means a city, a county, or a city and county, a local education agency or a non-local entity.	
1048	Clark, M., Los Angeles County Solid Waste Management Committee	<p>Section 18993.1. Recovered Organic Waste Product Procurement Target 19. Comment(s):</p> <p>The per capita procurement target was increased from 0.07 to 0.08 tons of organic waste per California resident per year. The Amendment to the Original January 2019 Initial Statement of Reasons (ISOR) was not updated to explain why the per capital procurement target is now 0.08 tons per resident per year. The ISOR should be updated to provide a justification for the increase in the procurement target, or the regulations should be revised to change the procurement target back to 0.07 tons per resident per year.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <p>(c) Each jurisdiction’s recovered organic waste product procurement target shall be calculated by multiplying the per capita procurement target by the jurisdiction population where:</p> <p>(1) Per capita procurement target = 0.07 0.08 tons of organic waste per California resident per year.</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1049	Clark, M., Los Angeles County Solid Waste Management Committee	<p>Section 18993.1. Recovered Organic Waste Product Procurement Target 20. Comment(s):</p> <p>The recovered organic waste products that a jurisdiction may procure to satisfy its procurement requirements should be expanded to include all recovered organic waste products from composting, anaerobic digestion, biomass conversion, and all other technologies determined to constitute a reduction in organic waste landfill disposal. For example, the Task Force recommends that the procurement of all organic waste products produced from biomass conversion, such as renewable gas used for transportation fuel and heating and not limited to electricity only should also satisfy a jurisdiction’s procurement target. Please also refer to Specific Comment No. B.5 on Section 18982 which recommends that the regulations expand the definition of “renewable gas” to include gas derived from other technologies, including biomass conversion utilizing thermal CTs such as gasification and pyrolysis.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <p>(f) For the purposes of this article, the recovered organic waste products that a jurisdiction may procure to comply with this article are:</p> <p>(1) Compost, subject to any applicable limitations of Public Contract Code Section 22150, that is produced at:</p> <p>(A) A compostable material handling operation or facility permitted or authorized under Chapter 3.1 of this Division; or</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.

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		<p>(B) A large volume in-vessel digestion facility as defined and permitted under Chapter 3.2 of this Division that compost on-site. [NOTE: Digestate, as defined in Section 18982 (a) (16.5), is a distinct material from compost and is thus not a recovered organic waste product eligible for use in complying with this Article.]</p> <p>(2) Renewable gas used for fuel for transportation, electricity, or heating applications.</p> <p>(3) Electricity and/or renewable gas from biomass conversion</p> <p>(4) Mulch, provided that the following conditions are met for the duration of the applicable procurement compliance year:</p> <p>(A) The jurisdiction has an enforceable ordinance, or similarly enforceable mechanism, that requires the mulch procured by the jurisdiction to comply with this article to meet or exceed the physical contamination, maximum metal concentration, and pathogen density standards for land application specified in Section 17852(a)(24.5)(A)(1) through (3) of this division; and</p> <p>(B) The mulch is produced at one or more of the following:</p> <ol style="list-style-type: none"> 1. A compostable material handling operation or facility as defined in Section 17852(a)(12), other than a chipping and grinding operation or facility as defined in Section 17852(a)(10), that is permitted or authorized under this division; or 2. A transfer/processing facility or transfer/processing operation as defined in Section 17402(a)(30) and (31), respectively, that is permitted or authorized under this division; or 3. A solid waste landfill as defined in Public Resources Code Section 40195.1 that is permitted under Division 2 of Title 27 of the California Code of Regulations. <p>(g) The following conversion factors shall be used to convert tonnage in the annual recovered organic waste product procurement target for each jurisdiction to equivalent amounts of recovered organic waste products:</p> <p>(1) One ton of organic waste in a recovered organic waste product procurement target shall constitute:</p> <p>(A) 21 diesel gallon equivalents, or “DGE,” of renewable gas in the form of transportation fuel.</p> <p>(B) 242 kilowatt-hours of electricity derived from renewable gas</p> <p>(C) 22 therms for heating derived from renewable gas</p> <p>(D) 650 kilowatt-hours of electricity, 21 DGE of renewable gas in the form of transportation fuel, or 22 therms for heating derived from biomass conversion</p> <p>(E) 0.58 tons of compost, or 1.45 cubic yards of compost.</p> <p>(F) One ton of mulch.</p>	
1050	Clark, M., Los Angeles County Solid Waste	ARTICLE 14. ENFORCEMENT REQUIREMENTS 21. Comment(s):	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.

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	Management Committee	For the purpose of this Article, include a section to stipulate appropriate provisions and identify/specify the entity that would be responsible to measure compliance {i.e. take enforcement action(s)} of non-local entities, federal agencies/facilities, and local education agencies with appropriate requirements of this Article. Although a local jurisdiction may educate non-local entities, federal agencies/facilities, universities/colleges and local education agencies (community colleges and school districts) of the requirements of this chapter, a local jurisdiction does not have the authority to enforce compliance on non-local entities, federal agencies/facilities, and local education agencies.	
1051	Clark, M., Los Angeles County Solid Waste Management Committee	Section 18995.1. Jurisdiction Inspection Requirements 22. Comment(s): This section refers to “solid waste collection accounts” for commercial businesses for which the jurisdiction must complete a compliance review. The regulations should define the term “solid waste collection accounts” in Section 18982 for clarity to allow jurisdictions to satisfy this requirement.	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1052	Clark, M., Los Angeles County Solid Waste Management Committee	Section 18996.2. Department Enforcement Action Over Jurisdictions 23. Comment(s): For the purpose of this Article, and consistent with General Comment No. A.3, the implementation of the Department enforcement oversight must provide for “good faith efforts,” and the enforcement oversight in regard to state agencies, “local education agencies” and “non-local entities” needs to be expanded to be at a minimum equal to those imposed on a city, a county or a city and county as stipulated in Section 18996.2 with appropriate provisions for the “good faith efforts” (emphasis added). • Proposed Regulatory Text and Recommended Changes/Revisions: (a) The Department shall enforce this chapter according to the following procedures: (1) Confer with the jurisdiction regarding the intent to issue a Notice of Violation, with a first conferring meeting to identify and discuss deficiencies occurring not less than 60 days before issuing a Notice of Violation. The Department shall also issue a Notice of Intent to issue a Notice of Violation not less than 30 days before the Department holds a hearing to issue the Notice of Violation. The Notice of Intent shall specify all of the following: (A) The proposed basis for issuing a Notice of Violation. (B) The proposed actions the Department recommends that are necessary to insure compliance. (C) The jurisdiction proposed recommendations to the Department. (2) The Department shall consider any information provided by the jurisdiction pursuant to subdivision (c) of Section 41821 of the Public Resources Code.	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.

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		<p>(3) If, after holding a public hearing, which, to the extent possible, shall be held in the local or regional agency’s jurisdiction, and after considering the good faith efforts of a jurisdiction, as specified in subdivision 41825(e) of the Public Resource Code, the Department finds that a jurisdiction has failed to make a good faith effort to implement programs identified in this chapter, the Department may take the following actions:</p> <p>(1 A) Issue a Notice of Violation requiring compliance within 90 days of the date of issuance of that notice. The Department shall grant an extension up to a total of 180 days from the date of issuance of the Notice of Violation if it finds that additional time is necessary for the jurisdiction to comply.</p> <p>(2 B) The Department shall extend the deadline for a jurisdiction to comply beyond the maximum compliance deadline allowed in Subdivision (c) (1) by issuing a Corrective Action Plan setting forth the actions a jurisdiction shall take to correct the violation(s). A Corrective Action Plan shall be issued if the Department finds that additional time is necessary for the jurisdiction to comply and the jurisdiction has made a substantial effort to meet the maximum compliance deadline but extenuating circumstances beyond the control of the jurisdiction make compliance impracticable. The Department shall base its finding on available evidence, including relevant evidence provided by the jurisdiction.</p> <p>(A 1.) If a jurisdiction is unable to comply with the maximum compliance deadline allowed in Subdivision (a)(1)(3)(A) due to deficiencies in organic waste recycling capacity infrastructure or other extenuating circumstances beyond the control of the jurisdiction, such as inability of state or federal facilities to reduce organic wastes, the Department shall issue a Corrective Action Plan for such violations upon making a finding that:</p> <ol style="list-style-type: none"> 1. Additional time is necessary for the jurisdiction to comply; 2. The jurisdiction has provided organic waste collection to all hauler routes where it is practicable and the inability to comply with the maximum compliance deadline in Subdivision (a)(1)(3)(A) is limited to only those hauler routes where organic waste recycling capacity infrastructure deficiencies or other extenuating circumstance beyond the control of the jurisdiction has have caused the jurisdiction to violate the requirements of this chapter provision of organic waste collection service to be impracticable. 3. The Department shall, if applicable, consider implementation schedules developed by jurisdictions, as described in Section 18992.1 of this chapter, for purposes of developing a Corrective Action Plan but and shall not be restricted in mandating mandate actions to remedy violation(s) and or developing develop applicable compliance deadline(s) to those that are unreasonable or inconsistent with the actions and timelines provided in the Implementation Schedule. 	

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		<p>(B 2.) For the purposes of this section, “substantial effort” means that a jurisdiction has taken all practicable actions to comply. Substantial effort does not include circumstances where a decision-making body of a jurisdiction has not taken the necessary steps to comply with the chapter, including, but not limited to, a failure to provide adequate staff resources to meet its obligations under this chapter, a failure to provide sufficient funding to ensure compliance, or failure to adopt the ordinance(s) or similarly enforceable mechanisms under Section 18981.2.</p> <p>(E 3.) For the purposes of this section, “extenuating circumstances” are:</p> <ol style="list-style-type: none"> 1. Acts of God such as earthquakes, wildfires, mudslides, flooding, and other emergencies or natural disasters. 2. Delays in obtaining discretionary permits or other government agency approvals. 3. An organic waste recycling infrastructure capacity deficiency requiring more than 180 days to cure. <p>(3 C) A Corrective Action Plan shall be issued by the Department with a maximum compliance deadline no more than within 24 months from the date of the original Notice of Violation and shall include a description of each action the jurisdiction shall take to remedy the violation(s) and the applicable compliance deadline(s) for each action. The Corrective Action Plan shall describe the penalties that may be imposed if a jurisdiction fails to comply.</p> <p>(A 1.) An initial Corrective Action Plan issued due to inadequate organic waste recycling infrastructure capacity may be extended for up to 12 months a reasonable period if the Department finds that the jurisdiction has demonstrated substantial effort.</p>	
1053	Clark, M., Los Angeles County Solid Waste Management Committee	<p>Section 18997.2. Penalty Amounts</p> <p>24. Comment(s):</p> <p>The regulations should allow jurisdictions to provide hardship waivers to certain generators, property owners, or business owners to reduce the financial burden of the penalties. The hardship waivers would not in any way exempt a regulated generator, property owner, or business owner from subscribing to organic waste collection services and would only provide a partial or whole exemption from paying a financial penalty. The criteria for granting hardship waivers would be developed by local jurisdictions and approved by the Department.</p> <ul style="list-style-type: none"> • Proposed Regulatory Text and Recommended Changes/Revisions: <p>(a) A jurisdiction shall impose penalties for violations of the requirements of this chapter consistent with the applicable requirements prescribed in Government Code Sections 53069.4, 25132 and 36900. The penalty levels shall be as follows:</p> <ol style="list-style-type: none"> (1) For a first violation, the amount of the base penalty shall be \$50-\$100 per violation. (2) For a second violation, the amount of the base penalty shall be \$100-\$200 per violation. 	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.

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		<p>(3) For a third or subsequent violation, the amount of the base penalty shall be \$250-\$500 per violation.</p> <p>(4) For any first, second, third, or subsequent violations, a generator, property owner, or business owner may request a financial hardship waiver from the jurisdiction imposing the penalty.</p>	
1054	Clark, M., Los Angeles County Solid Waste Management Committee	<p>Section 18997.3. Department Penalty Amounts</p> <p>25. Comment(s):</p> <p>The proposed penalty assessment criteria for “minor,” “moderate,” and “major” violations as specified in Subsections (b) (1-3) is extremely vague and may unintentionally result in penalties being imposed inconsistently between various jurisdictions for similar violations. This section should be revised to specify which “aspects” of the requirements will be considered “minimal” compared to “moderate” or “substantial.”</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1055	Clark, M., Los Angeles County Solid Waste Management Committee	<p>Section 18997.3. Department Penalty Amounts</p> <p>26. Comment(s):</p> <p>The intent of Subsection 18997.3 (d) is unclear. The Task Force assumes that the intent is to provide a mechanism to apply partial fines on a jurisdiction for not meeting the full procurement target of the proposed regulations. However, this needs to be clarified in order to avoid the misperception that the regulation is establishing a daily procurement target/expectation (emphasis added). It is unreasonable to expect that jurisdictions purchase organic waste byproducts (fuel, RNG, compost, etc.) on a daily basis and thus CalRecycle needs to establish a daily penalty if a jurisdiction fails to meet its expected/calculated daily procurement target. Additionally, due to lack of adequate infrastructure, we believe that the subject proposal should be deleted until sometime in the future pending market and infrastructure development. As an alternative, CalRecycle can consider the following:</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <p>(d) For violations of the Recovered Organic Waste Product Procurement requirements in Section 18993.1, where a jurisdiction fails to procure a quantity of recovered organic waste products that meets or exceeds its annual recovered organic waste product procurement target, the Department shall determine penalties under this Subdivision (d) based on the following:</p> <p>(1) The Department shall calculate the jurisdiction's daily annual procurement target equivalent for each jurisdiction. by dividing the procurement target by 365 days.</p> <p>(2) The Department shall determine each jurisdiction's annual the number of days a jurisdiction was in compliance with the annual procurement target by dividing the total amount of recovered organic waste products procured by the daily procurement target equivalent.</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.

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		<p>(3) The Department shall determine the number of days a jurisdiction was out of compliance with the procurement target by subtracting the number of days calculated in (2) from 365 days.</p> <p>(4 3) The penalty amount shall be calculated by determining a penalty based on the factors in Subdivision (c), above., and multiplying that number by the number of days determined according to subsection (e)(3), above. The penalty amount shall not exceed \$10,000 per day year.</p>	
1056	Costelloe, C., City of Tehachapi	<p>Page 60, Line 11:</p> <ul style="list-style-type: none"> Reporting compliance by April 1, 2022 will not be feasible under the expected economic conditions as we work to implement this program. Costs for a small jurisdiction such as ours (fewer than 14,000 residential dwellings) will equate into an increase for rate payers in order to cover the cost of billing, collecting, collection bins and hauling of organic material. We ask that the reporting compliance date be moved to April 1, 2024 for the above reasons. A further clarification of this timeline context will be explained in our response to Page 64. 	Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1057	Costelloe, C., City of Tehachapi	<p>Page 62, Lines 26-19</p> <p>Requiring written agreements between those collecting food and the food distributors participating violates the spirit of volunteerism and suggests an attitude of enforcement. As it pertains to the City of Tehachapi, several of the privately-operated food recovery programs are informal volunteer organizations that aren't normally subject to written agreements.</p> <ul style="list-style-type: none"> Volume of edible food distributed from generators to food recovery programs is certainly acceptable to require, but the need for written agreements between two entities, especially those that cannot afford proper legal counsel to advise on an agreement will reduce the number of willing organizations that can participate. Please add the 6 ton requirement back into the provision (line 28-29). Larger organizations accepting that volume of material can certainly provide a written agreement and most likely already have them in place. 	Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1058	Costelloe, C., City of Tehachapi	<p>Page 64, Line 19: "On or before January 1, 2022" is mentioned for implementation and compliance.</p> <p>Since the date was edited from January 31, 2022, the following request is made and therefore a response is required under the draft revision rules.</p> <ul style="list-style-type: none"> The City of Tehachapi, understanding that implementing a program of this magnitude takes time and resources, wishes to request this deadline be extended to January 1, 2024 for the following: <ul style="list-style-type: none"> Economically-created emergency by the Governor's stay-at-home order issued in March, 2020 has negatively impacted the local economies and work force for municipalities in the state of California. In order to properly implement this 	<p>Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.</p> <p>CalRecycle acknowledges the difficulties jurisdictions face due to COVID-19 impacts. Although the language of SB 1383 allows the regulations to go into effect "on or after January 1, 2022," CalRecycle lacks the discretion to substantially extend the effective date of these regulations through rulemaking without coming into direct conflict with the diversion mandates in the statute. SB 1383 sets a 75% organic waste diversion target for 2025 that will not be achieved if implementation of the regulatory requirements that are designed to achieve this target are significantly delayed.</p>

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		<p>program, a new rate structure will have to be adopted within the next 12 months, unfairly burdens the rate-paying resident who will still be in the process of recovering from the COVID-19 emergency.</p> <ul style="list-style-type: none"> o Adding additional costs for organics diversion is not feasible at this time, especially for small jurisdictions such as ours with limited customers which will equate into a larger-per-capita increase. 	
1059	Costelloe, C., City of Tehachapi	<p>Page 65, Line 17</p> <ul style="list-style-type: none"> • Remove “and services” from the inspections provision of the food rescue operations. “Services” is a very broad term and once again extends inspections to violate the spirit of food rescue programs. • Inspections in general, but especially extending inspections to informal food-rescue services places organics diversion ahead of the spirit of food rescue which is to supply food to those in need of food assistance and security. 	Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1060	Costelloe, C., City of Tehachapi	<p>Thank you for your considerations of these concerns. The City of Tehachapi is prepared to eventually implement an organic waste reduction program, however, citing page 72 line 13 of these proposed regulations (extenuating circumstances), we will also be submitting a formal request for a delay of implementing this program due to the COVID-19 emergency and the economic hardships it has caused during a critical time in preparing such a program.</p> <p>The City Council of the City of Tehachapi was consulted in the generation of this response and will be preparing the formal request for delay of implementation should the preceding comments not be considered.</p>	<p>Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.</p> <p>CalRecycle acknowledges the difficulties jurisdictions face due to COVID-19 impacts. Although the language of SB 1383 allows the regulations to go into effect “on or after January 1, 2022,” CalRecycle lacks the discretion to substantially extend the effective date of these regulations through rulemaking without coming into direct conflict with the diversion mandates in the statute. SB 1383 sets a 75% organic waste diversion target for 2025 that will not be achieved if implementation of the regulatory requirements that are designed to achieve this target are significantly delayed.</p>
1061	Dingman, D., Contra Costa County - Department of Conservation and Development	<p>FINAL DOCUMENTS CALRECYCLE RELIED UPON FOR RULEMAKING</p> <p>CalRecycle did not post the Final Statement of Reasons document submitted as part of the SB1383 rulemaking file on its website as required by Government Code section 11340.85(c). The Final Statement of Reasons document that CalRecycle provided in response to my written request did not contain summarized public comments and associated responses in accordance with Government Code section 11346.9.</p> <p>In response to my subsequent request, CalRecycle provided seven separate PDF documents which were reported to be the “entirety of the responses to comments documents submitted to OAL in January”. Six of the separate PDF documents included details sufficient to identify which comments the contained responses applied to. However, there is no way to identify what comments the voluminous number of responses contained in the seventh and most lengthy PDF document (526 pages) actually apply to.</p> <p>The response to comments documentation provided to me, and submitted to OAL in January, only included responses pertaining to a fraction of the comments submitted in our comment letters dated March 4, 2019, July 17, 2019 and e-mail</p>	Comment noted. CalRecycle has reworked the summary of comments and responses in order to clearly identify and respond to all comments submitted during the formal rulemaking process in a manner that complies with the California Administrative Procedure Act. The full final statement of reasons, including the summary and responses to comments, will be made available through CalRecycle's website upon approval by OAL

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		<p>message dated October 18, 2019. While responses were included for 7 of the comments, there were NO responses included for the remaining 30 comments included in the letter we submitted during the public comment period in March 2019. While responses were included for 14 of the comments, there were NO responses for the remaining 25 comments included in the letter we submitted during the public comment period in July 2019. Lastly, there was a response included for only one of the two comments submitted during the October 2019 comment period.</p> <p>According to the OAL, “A rulemaking agency must summarize and respond to timely comments that are directed at the proposal or at the procedures followed by the agency during the rulemaking action. For each comment, the agency must include either an explanation of how the proposed action has been changed to accommodate the comment or state the reasons for rejecting the comment. In summarizing and responding to public comments, the agency must demonstrate that it understood and considered the comment. The summary and response to comments is included as part of the rulemaking file in a document called a Final Statement of Reasons. (Government Code section 11346.9.)”</p> <p>The rulemaking file that CalRecycle submitted to the OAL in January (and provided in response to my request in April) did not include documentation that summarized and responded to ALL timely comments. Furthermore, the rulemaking file did not state reasons for rejecting comments where no other responses were provided. Most importantly, the manner in which CalRecycle responded to the vast majority of timely comments in the 526 page PDF Summary document failed to demonstrate that countless comments were both understood and considered.</p> <p>It is critical that CalRecycle remedy this deficiency in a timely manner. I hereby request a copy of the entire comments and responses document that I understand CalRecycle is currently in the process of reorganizing for resubmission to OAL as soon as it has been completed.</p>	
1062	Dingman, D., Contra Costa County - Department of Conservation and Development	<p>§ 18984.5(a): The new sentence added at the start of this section includes the use of the word “generator” which is an undefined term. The term is used in numerous other sections of the regulatory text and in numerous instances, as is this case for this new added sentence, the meaning is not at all clear. While patronizing commercial businesses that are mandated to provide organics collections bins in areas accessible to their customers, some customers will generate and place prohibited container contaminants in collection containers. In this case, the customer would presumably be the generator in the absence of that term being defined. However, it is unclear if that interpretation is consistent with the intent or intended meaning. Similarly, there are numerous other cases whether the term</p>	CalRecycle did not define the term “generator” because it is a word with common understanding in non-hazardous solid waste law as the individual or entity that creates a non-hazardous waste through the act of discard.

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		“generator” is used and it is unclear what the intended meaning is and therefore what may be allowed or required by the applicable regulatory text.	
1063	Dingman, D., Contra Costa County - Department of Conservation and Development	§ 18984.11(a)(1)(2): Removal of “or similarly qualified source” is unreasonable because it is reasonable to assume that some jurisdictions may hire consultants/third-party contractors rather than having their own staff assess whether physical space waiver may be warranted. Furthermore, this change is not consistent with language in Section 18986.3(a)(3) applicable to Non-Local Entity and Local Education Agency Waivers which still allows for a “similarly qualified entity” to determine that there is not adequate space.	The removal of the phrase "similarly qualified source" was intended to eliminate unclear language. It would have been difficult to determine how an individual would be, for example, similarly qualified to an architect or engineer. The deletion of this unclear phrase does not eliminate the ability of jurisdictions to use consultants or third-party contractors so long as those individuals meet the requirements in that regulatory section as a hauler, licensed architect or licensed engineer. Section 18986.3 in its final form does not contain the phrase “similarly qualified entity.”
1064	Dolfie, D., League of California Cities	The League of California Cities (League) writes to comment on the revised proposed regulations released in April 2020, which seeks to implement SB 1383 (Lara, 2016). The League appreciates the opportunity to comment on these proposed regulations and acknowledges the challenge undertaken by CalRecycle to develop a comprehensive program to meet the ambitious goals set forth by SB 1383. The League has been an active participant in the development of these regulations during both the informal and formal rulemaking and has seen some encouraging changes made over the four iterations. However, cities remain significantly concerned about critical aspects that hinder local governments’ ability to implement the proposed regulations. Although the changes to this draft did not, unfortunately, address our repeated fiscal and other concerns, we find it prudent to continue to reiterate the serious challenges cities will face with implementing these regulations.	Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1065	Dolfie, D., League of California Cities	Infrastructure Capacity: California lacks sufficient capacity to meet the need for new organic waste processing. Other regulatory and permitting issues can impede the construction of these new facilities that are outside of local governments’ control. Cities are concerned that the timelines set forth in these regulations will not be adequate to develop and permit the new facilities required to successfully implement and comply with these regulations.	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1066	Dolfie, D., League of California Cities	Funding: Insufficient state and local funding continue to be among the major challenges cities face in implementing new organic waste diversion programs. These regulations will be costly to implement, and cities will need to raise their collection rates to compensate. CalRecycle should not rely on the fee authority granted to local jurisdictions in SB 1383 alone, because local governments do not have unrestrained authority to impose costs on waste generators and must comply with the requirements of the California Constitution.	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1067	Dolfie, D., League of California Cities	Penalties: The League remains concerned as to how these penalty violations will be assessed and requests further clarification. Specifically, in Section 18997.3(b)(2) and (3), it is unclear as to the distinction between what constitutes a “moderate” and “major” violation. Clarity is needed given the significant penalty amounts of up to	CalRecycle received this comment in previous comment periods and has responded accordingly. CalRecycle removed the phrase, “critical aspects of the requirement” to address OAL concerns with clarity. It is necessary to have this language be general and flexible enough to allow CalRecycle discretion to set penalty levels under unforeseen circumstances in a manner that

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		\$10,000 a day. These penalties could make it difficult for cities to allocate the funds necessary to increase infrastructure capacity and other hindrances to compliance.	ensures equity and justice on a case-by-case basis. In the event of an enforcement action, respondents will be provided with due process to advocate for appropriate penalty levels.
1068	Dolfie, D., League of California Cities	Procurement: As mentioned in previous comment letters, the League continues to be concerned with the significant cost burden cities will bear as they are required to purchase these recovered organic waste products at levels set by CalRecycle. The League anticipates these requirements will result in substantial additional costs to local governments, over and above the costs already anticipated to comply with the requirements of the proposed regulations.	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1069	Dolfie, D., League of California Cities	Scope of Regulations: These proposed regulations are both complicated and broad in scope. As such, there needs to be a robust effort and accompanying funding source to ensure that cities are able to implement these regulations by adequately providing education and outreach to their residents. Additionally, it is unclear why local jurisdictions are required to adopt Model Water Efficient Landscape Ordinances (MWELO), as these do not appear to be at all related to the implementation of SB 1383.	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1070	Dolfie, D., League of California Cities	Chapter 12, Article 1, Section 18982. Definitions. Section 18982.2(a)(56.5) defines project baseline as "...a conservative estimate of the business-as-usual greenhouse gas emissions that would have occurred if the organic waste proposed for recovery was disposed of in activity that constitutes landfill disposal..." The League finds that the use of the term "conservative" in this definition injects unnecessary ambiguity and subjectivity into the definition and fails to aid practitioners, courts, and the public in understanding the requirements of the law. Therefore, the League respectfully requests that CalRecycle delete the word "conservative" from Section 18982.2(a)(56.5).	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1071	Dolfie, D., League of California Cities	Chapter 12, Article 3. Organic Waste Collection Services. Several sections of Article 3 of the proposed regulations have been amended to provide that notices be given "annually" instead of "within the last 12 months." As currently drafted, it is unclear whether "annual" notices must be given within the last 12 months or whether such notices must now be given within a calendar year. Therefore, the Leagues suggests that CalRecycle clarify when such notices must be given.	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1072	Dolfie, D., League of California Cities	Chapter 12, Article 16, Section 18997.5. Department Procedures for Imposing Administrative Civil Penalties. Section 18997.5(c) provides that a jurisdiction must file a request for a hearing with the director of the Department within 15 days of receiving an accusation of violation or the jurisdiction will be deemed to have waived its right to a hearing. The League does not believe that this provides jurisdictions sufficient time to avail themselves of their right to a hearing. The League respectfully requests that CalRecycle extend this deadline to 30 days, so that jurisdictions have sufficient time to analyze the accusation and determine whether a hearing is warranted.	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.

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1073	Dolfie, D., League of California Cities	Chapter 12, Article 16, Section 18997.6. Department for Hearings and Penalty Orders. Section 18997.6(b) provides that a penalty order may be served by any method described in Section 18997.6(b). However, Section 18997.6(b) does not describe methods of service. The League suggests that CalRecycle clarify the permissible methods of service of a penalty order.	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1074	Dolfie, D., League of California Cities	COVID-19: With the onset of the COVID-19 pandemic this year, cities statewide are projected to have a nearly \$7 billion budget shortfall and the shortfall grows as modified stay-at-home orders remain in effect through the summer. This places cities in a dire fiscal situation and will have serious and long-lasting budgetary and personnel implications of potential furloughs and/or layoffs. During this time of great economic uncertainty and strain for California cities, we urge CalRecycle to take these under consideration when implementing this law. Cities are committed to achieving the state's ambitious climate and solid waste goals, but flexibility will be needed as a result of this crisis.	<p>Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.</p> <p>CalRecycle acknowledges the difficulties jurisdictions face due to COVID-19 impacts. Although the language of SB 1383 allows the regulations to go into effect "on or after January 1, 2022," CalRecycle lacks the discretion to substantially extend the effective date of these regulations through rulemaking without coming into direct conflict with the diversion mandates in the statute. SB 1383 sets a 75% organic waste diversion target for 2025 that will not be achieved if implementation of the regulatory requirements that are designed to achieve this target are significantly delayed.</p> <p>CalRecycle is approaching implementation favoring compliance assistance first and exercising enforcement discretion taking into account the totality of circumstances as fairness and justice may require.</p>
1075	Drane, N., County of Sacramento	<p>On behalf of the Sacramento County Board of Supervisors, attached are comments on Cal Recycle's SLCP: Organic Waste Reductions, Proposed Regulation Text - Fourth Formal Draft (April 20, 2020) for your consideration. These recommended changes and comments are designed to increase efficiency and help clarify our role as not only a jurisdiction, but as a generator, hauler, facility operator, and enforcement agency of waste.</p> <p>Please see our suggested changes and comments in the attached table, Attachment - County of Sacramento Comments on Cal Recycle's SLCP: Organic Waste Reductions, Proposed Regulation Text - Fourth Formal Draft (April 20, 2020).</p> <p>We would like to take this opportunity to share with Cal Recycle our concern regarding the feasibility of implementation of these regulations in light of the impact of the Covid-19 pandemic. Delays in the finalization of regulatory language and impacts of Covid-19 on efforts to expand our collection capacity to service weekly organics will make it impossible to meet the January 1, 2022, implementation date. Additionally, the proposed regulations will result in substantial additional cost to our generators in a time when none of us can afford any additional financial burdens. We urge Cal Recycle to advocate for legislative action to delay the implementation of SB 1383 until January 1, 2025.</p>	<p>Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.</p> <p>CalRecycle acknowledges the difficulties jurisdictions face due to COVID-19 impacts. Although the language of SB 1383 allows the regulations to go into effect "on or after January 1, 2022," CalRecycle lacks the discretion to substantially extend the effective date of these regulations through rulemaking without coming into direct conflict with the diversion mandates in the statute. SB 1383 sets a 75% organic waste diversion target for 2025 that will not be achieved if implementation of the regulatory requirements that are designed to achieve this target are significantly delayed.</p>
1076	Drane, N., County of Sacramento	18984.3 (f) (1)	The use of "an option" was determined by CalRecycle to be unclear. For ease of understanding, CalRecycle removed this language and added "a collection service" to provide better clarity. The

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		<p>Proposed Language: (1) Generators receiving that service must be provided an optional collection service for the collection of other organic waste in a manner that complies with this section.</p> <p>Comment: Revert to previous language to making additional organics collection optional. Collection of such small quantities of organics would generate more GHGs than would be produced in a landfill.</p>	<p>prior language did not make the requirement "optional," instead, it was intended to describe an affirmative requirement. The new language change makes this clear.</p>
1077	Drane, N., County of Sacramento	<p>18984.5 (a)</p> <p>Proposed Language: a) A generator shall not place prohibited container contaminants in a collection container. A jurisdiction shall monitor.....</p> <p>Comment: The added language is a generator prohibition and does not belong in this section which discusses container monitoring.</p>	<p>The container monitoring provisions are designed to monitor for prohibited contaminants. Therefore, CalRecycle determined that it was appropriate to describe the prohibition on container contaminants in the beginning of this section.</p>
1078	Drane, N., County of Sacramento	<p>18994.2 (a)(1)</p> <p>Proposed Language: 1) On or before October 1, 2022, a jurisdiction shall report for the period of January 1, 2022 through June 30, 2022.</p> <p>Comment: Remove this requirement in it's entirety. Requiring a report in the first 8 months of a program is burdensome. The requirement allows only 2 months to compile a report that is allowed 8 months for preparation in subsequent years. Additionally, the jurisdictions will be required to report on the 1st 6 months of 2022 twice. Finally, the reporting period should end on June 30, 2022.</p>	<p>CalRecycle finds it necessary to have reporting in the first year of the regulations becoming effective in order to measure compliance. Jurisdictions are on notice far before January 1, 2022 of this requirement in order to have sufficient time to prepare.</p>
1079	Drane, N., County of Sacramento	<p>18995.4 (a)(1)</p> <p>Proposed Language: (1) The jurisdiction shall issue a Notice of Violation requiring compliance within 90 60 days of the issuance of that notice.</p> <p>Comment: This change reduced required compliance times from 150 days to 60 days. This is an insufficient time in which to pursue penalties.</p>	<p>This timeframe does not require pursuing penalties within 60 days. It is a deadline by which a respondent must comply with an NOV.</p>
1080	Drane, N., County of Sacramento	<p>"May" has been replaced by "shall" throughout the draft. Replacement of may with shall removes the Department's ability to make subjective decisions regarding the need to pursue enforcement. We recommend reverting to the old language.</p>	<p>The use of "may" within the Enforcement Oversight by the Department article was identified by the Office of Administrative Law as a clarity issue; therefore, CalRecycle changed "may" into "shall" in a number of sections in order to comply with the clarity requirement. As it applies to enforcement, the "shall" obligates CalRecycle to follow a particular procedure if it decides to commence enforcement but does not remove CalRecycle's discretion in deciding whether to enforce.</p>
1081	Gershon, B. and Cheyne, A., California Association of Food Banks	<p>Thank you for providing an opportunity to share comments on the last and final draft regulations pursuant to SB 1383 (Lara, 2016), published on April 20th. We appreciate the inclusion of many of our suggestions submitted in February, June, and October in response to the draft regulations, and CalRecycle's commitment to address Short Lived Climate Pollutant goals while also aligning with our mission to end hunger in California.</p> <p>In our comments below, we highlight areas where our comments have not been resolved, and where we request an explanation be provided in the Final Statement of Reasons as to why our recommendations were not incorporated. In addition, in places where CalRecycle is not able to incorporate our recommendations, we ask</p>	<p>Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period. However, CalRecycle will be putting together FAQs and will be providing additional guidance and compliance tools for jurisdictions.</p>

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		that guidance be given to local jurisdictions so that they may incorporate these important changes into their local implementation efforts. We focus on opportunities to ensure that the goal to divert 20% of edible food from landfill to human consumption is achieved while minimizing any unintended negative consequences.	
1082	Gershon, B. and Cheyne, A., California Association of Food Banks	First, we urge CalRecycle to ensure that the implementation be coordinated and standardized across jurisdictions within counties, whether through the creation of Joint Powers Agreements or other mechanisms to improve communication, reduce burdens on recovery organizations, and ultimately improve compliance. The emergency food recovery network is county-based, spanning cities and unincorporated areas, and for the diversion goal to be a success, SB 1383 implementation must align with this and not set up contradictory or competing demands on the network of non-profit food recovery organizations already struggling to recover and distribute food to Californians in need.	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1083	Gershon, B. and Cheyne, A., California Association of Food Banks	In 18992.2 we strongly support the language as is, to have the capacity planning process be led by counties. This will help ensure that any gaps and needs identified will support proper capacity expansion of the emergency food recovery system.	Thank you for the comment. This comment supports current language.
1084	Gershon, B. and Cheyne, A., California Association of Food Banks	In 18994.2 (h) (2) (a) we ask for the inclusion of “physically” located to clarify that food recovery organizations must keep records and report to the jurisdictions where they are physically located.	The comment is not germane to changes in the regulatory draft language released during the fifth comment period. However, we have received this comment in previous comment periods and have responded accordingly.
1085	Gershon, B. and Cheyne, A., California Association of Food Banks	In 18991.5 (a) (2) we urge the inclusion of language clarifying that food recovery organizations must only keep one set of donation records available to all jurisdictions. This is vital to avoid significant confusion in record-keeping and reporting across the many jurisdictional boundaries that food banks and other food recovery organizations cross during their operations. This is also consistent with the aim of emergency food recovery organization’s record keeping as primarily a check to confirm donation by generators, not as a measure of where the food was ultimately distributed as that is outside the scope of the mandate and again would create significant burden.	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1086	Gershon, B. and Cheyne, A., California Association of Food Banks	In addition to this regulatory language, CalRecycle should in the Final Statement of Reasons and in subsequent model tools, offer recommendations and guidance to jurisdictions on how to align with the county-based structure of the emergency food system to minimize regulatory burden and maximize the ability of this network to help achieve the overall diversion goal. Successful partnerships with every food bank will require activities that span jurisdictional boundaries.	Thank you for the comment. Comment noted; CalRecycle will be available to provide guidance in addition to the regulations.

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1087	Gershon, B. and Cheyne, A., California Association of Food Banks	<p>Definition of Edible Food</p> <p>a. Perhaps the most fundamental component of achieving the diversion goal is defining edible food. In 18982 (a) (18), we appreciate that CalRecycle has taken our request to strike ‘unsold and unserved,’ but we urge in the strongest terms that the definition should restore prior language: “Edible food” means food intended for human consumption that is fit to be consumed...” Despite the newly inserted reference to the Health & Safety Code, food banks have significant concerns that this widens the baseline of food beyond what can be reasonably recovered in a food safe manner.</p> <p>b. Furthermore, at 18982 (a) (18) we request the restoration of “even though the food may not be readily marketable due to appearance, age, freshness, grade, size, surplus, or other conditions.” Not only does this language provide helpful clarification, removing it is also potentially harmful: if deleted, it could potentially discourage donations of blemished but safe food which is often the types of produce and other healthy items that food banks receive, reducing food access and working against the diversion goal. The definition of edible food benefits all stakeholders from the consistency of incorporating the nationally established definition of food eligible for donation by the Bill Emerson Good Samaritan Food Donation Act (https://www.congress.gov/congressional-report/104th-congress/house-report/661/1) & mirrored in AB 1219 (Eggman, 2017), which states: “‘apparently wholesome food’ means food that meets all quality and labeling standards imposed by Federal, State, and local laws and regulations even though the food may not be readily marketable due to appearance, age, freshness, grade, size, surplus, or other conditions.”</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1088	Gershon, B. and Cheyne, A., California Association of Food Banks	<p>We reiterate our grave concern grounded in experience, about the unintended consequences of these regulations to weaken the state’s ability to fight hunger in the name of edible food diversion, and request that CalRecycle somehow reflect in the regulations the need to divert edible food to the millions of Californians experiencing food insecurity. Despite the limited statutory language in SB 1383, there must be some way to acknowledge existing frameworks such as the EPA’s Food Recovery Hierarchy pyramid (https://www.epa.gov/sustainable-management-food/food-recovery-hierarchy), which highlights “Feed Hungry People – Donate extra food to food banks, soup kitchens, and shelters” as the primary strategy after “Source Reduction.” Such a reference need not specifically refer to food insecurity or other concepts not named in SB 1383, but neutrally as existing federal guidance on food recovery best practices that could inform food diversion activities pursuant to SB 1383 across a range of issues. We recommend 18991.1 and/or 18992.2 as viable locations for such references. Outside of the regulations, we also request that the Final Statement of Reasons and subsequent materials such as</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.

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		model franchise agreements and local jurisdiction implementing legislation reflect this concern.	
1089	Gershon, B. and Cheyne, A., California Association of Food Banks	Related, we ask for a vital clarification at 18982 (a) (25) in the definition of Food recovery organizations, by inserting “ not for profit food recovery activity...”. The current definition of “including but not limited to” leaves a large loophole to include for-profit entities that must receive separate and appropriate record-keeping and reporting requirements, as is already the case for food recovery services. True food recovery organizations such as food banks occupy precarious spaces in the food system and rely on the generosity of donors to access a sufficient supply of food. We already compete with several secondary markets, from processors to pig farmers, and there are significant concerns with further pressures from revenue-based recovery services as the state achieves the goal to reduce the supply of these foods.	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1090	Gershon, B. and Cheyne, A., California Association of Food Banks	For consistency, throughout the regulations when both food recovery organizations and services are mentioned, we ask that the document refer to “ food recovery organizations and food recovery services. ”	The comment is not germane to changes in the regulatory draft language released during the fifth comment period. The language is intended to be read as applying to both food recovery organizations and food recovery services.
1091	Gershon, B. and Cheyne, A., California Association of Food Banks	Across several issues, we reiterate the serious financial and capacity challenges that SB 1383 raises for food recovery organizations, and as such we encourage CalRecycle to conduct an impact assessment on food recovery organizations. For example, food banks will be wondering: Is the additional food recovery from this equal to, less than, or more than the additional cost on food banks to meet the mandated requirements? Some issues to be aware of include: i. Food recovery organizations already operate on tight budgets, and we ask CalRecycle to encourage jurisdictions to develop and allow funding streams that will support food recovery organizations in recovering more edible food, as well as enable generators and food recovery organizations to establish their own partnerships, including cost-sharing agreements.	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1092	Gershon, B. and Cheyne, A., California Association of Food Banks	ii. It is imperative that CalRecycle and jurisdictions exempt non-profit charitable organizations from fees and penalties related to record-keeping if it is maintained in good faith, as many records will be kept by volunteers. iii. It is similarly imperative that CalRecycle and jurisdictions exempt non-profit charitable organizations from fees or penalties associated with unavoidable Commercial Organics Recycling and compost incurred during food recovery efforts. As the stream of donations increases, there may be more instances where food banks receive donations that have not been handled safely or as represented and if the non-profit charitable organizations are to help get this food out, it is important that they not be penalized for attempting to solve the overall problem. We suggest that the capacity planning process in Article 11 specifically reflect this dynamic, of	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.

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		food recovery organizations needing additional resources to manage the increased flow of recovered edible food, not all of which will be possible to distribute to people in need due to food loss within the food recovery system.	
1093	Gershon, B. and Cheyne, A., California Association of Food Banks	iv. We appreciate the new clarity at 18982 (a) (7) that Food recovery organizations are not Commercial Edible Food Generators, which we believe is a necessary but not comprehensive step to achieve this.	Thank you for the comment. This comment supports current language.
1094	Gershon, B. and Cheyne, A., California Association of Food Banks	We reiterate in the strongest terms our request for CalRecycle to restore the 6 ton annual threshold to establish a floor below which small food recovery organizations (not services) would be exempt from record keeping, reporting and penalties. In consultation with food banks across the state, this would exempt only a few organizations that are the most likely to be all-volunteer and operating on zero budgets, and therefore most vulnerable to the burden of record keeping becoming a barrier and leading to possible closure. Such local agencies are often already at-risk due to aging volunteers, and at the 6 ton threshold the least necessary for compliance with the diversion goal but often the most important to food access in communities. If not this, then allow jurisdictions to establish a 6 ton threshold according to local needs, which would introduce a small amount of inconsistency but avoid vital pathways of food access for organizations that cannot reasonably comply.	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1095	Gershon, B. and Cheyne, A., California Association of Food Banks	Finally, while this is outside of our expertise, we ask why the enforcement and penalty for generators was significantly altered from per-day to per-violation structure, and whether this is optimal to ensure compliance with the diversion goal.	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1096	Gershon, B. and Cheyne, A., California Association of Food Banks	We thank CalRecycle for the many edits and additions that were incorporated into these regulations at our suggestion. We appreciate the many changes that were made in order to maximize the potential for the emergency food network to help in ensuring successful implementation of SB 1383. Below, we highlight our remaining detailed suggestions that we have raised on numerous occasions but were not incorporated into this final version of regulations. We reiterate our request that an explanation be given for why these items were not accepted in the forthcoming Final Statement of Reasons. We also ask that guidance be given to local jurisdictions to include these changes during local implementation efforts so that they can maximize their ability to effectively meet ambitious food diversion goals set forth in SB 1383.	Thank you for the comment. Comment noted; CalRecycle will be available to provide guidance in addition to the regulations.
1097	Gershon, B. and Cheyne, A., California	1. Article 1: (a) Definitions (18), the definition of edible food: "... means food intended for human consumption that is fit to be consumed. "	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.

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	Association of Food Banks	<p>o We request that “that is fit to be consumed” be restored in the definition, by saying, “... means food fit for human consumption.” By using “fit” instead of “intended” we acknowledge the current state of the food at the point it could be diverted, instead of focusing on the original purpose of the food. Without the word “fit” we risk weakening the food/safety and quality standards needed in identifying food that is actually edible.</p> <p>o In addition, we request the restoration of the language that was deleted from the January 18th draft, “... even though the food may not be readily marketable due to appearance, age, freshness, grade, size, surplus, or other conditions.” Not only do we find this language to provide helpful clarification, removing it is potentially harmful: if deleted, it could potentially discourage donations of blemished but safe food which is often the types of produce and other healthy items that food banks receive, reducing food access and working against the diversion goal.</p> <p>o We request the addition of a third sub-bullet here, which would read: “(C) Nothing in this definition shall preclude such organizations from following internal standards and requirements for acceptance related to nutrition or quality when recovered by those organizations.”</p>	
1098	Gershon, B. and Cheyne, A., California Association of Food Banks	<p>2. Article 1: (a) Definitions (24), the definition of food recovery</p> <p>o We request that the definition conform to the definition in (25) of a food recovery organization: “...means actions to collect and distribute food fit for human consumption which otherwise would be disposed, where recovered food is first intended for no-cost charitable distribution to communities in need.”</p> <p>o Alternatively, we ask CalRecycle to adopt this language: “... where recovered food follows the EPA Food Recovery Hierarchy pyramid.” This highlights “Feed Hungry People – Donate extra food to food banks, soup kitchens, and shelters” as the primary strategy after “Source Reduction.”</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1099	Gershon, B. and Cheyne, A., California Association of Food Banks	<p>3. Article 1: (a) Definitions (25), the definition of food recovery organization</p> <p>o As described above, we urge the inclusion of “not for profit food recovery activity” to fulfill the intent of (25)(A-C) that these are non-profit entities engaged in charitable food distribution, and close to the current loophole in the “including but not limited to” language.</p> <p>o As needed, for-profit entities should be separate defined and added, as has already been done with food recovery services.</p> <p>o This clarity is vital given the differential treatment under federal and state law on food donation tax incentives, for example. If food generators want to take the federal tax deduction for donated food, it must be provided for free to the ill, needy, or children (See IRS code), and under state law AB 614 (Eggman, 2019) to food banks.</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1100	Gershon, B. and Cheyne, A.,	4. Article 1: Definition (76), the definition of wholesale food vendor: “... means a business or establishment engaged in the merchant wholesale distribution of food,	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.

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	California Association of Food Banks	<p>where food (including fruits and vegetables) is received, shipped, stored, prepared for distribution to a retailer, warehouse, distributor, or other destination.”</p> <ul style="list-style-type: none"> o We request the addition of “for-profit” in the definition, such that it would read: “...means a for-profit business or establishment...” Under no circumstances shall a non-profit charitable organization be considered a ‘wholesale food vendor’. 	
1101	Gershon, B. and Cheyne, A., California Association of Food Banks	<p>5. Article 4: Section 18985.2. (b)(1):</p> <ul style="list-style-type: none"> o Please add an additional sub-bullet to read: “(E) Information that makes it clear they must have an agreement (such as an MOU) with a food recovery organization prior to any deliveries or drop-offs.” 	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1102	Gershon, B. and Cheyne, A., California Association of Food Banks	<p>6. Article 9: Section 18990.2. Edible Food Recovery Standards and Policies</p> <ul style="list-style-type: none"> o “(a) A jurisdiction shall not implement or enforce an ordinance, policy, or procedure that prohibits the ability of a generator, food recovery organization, or food recovery service to recover edible food that could be recovered for human consumption.” o We ask for clarification on how coordination will be ensured to prevent duplicate regulation, in light of the passage of AB 2178 (Limon, 2018). Under this new law, local non-profit charities may be required to register and pay fees to their local Environmental Health Departments in order to continue operating. With that in mind, CalRecycle and jurisdiction should coordinate with EHD’s about the new food waste diversion goals that local food recovery organizations will be striving to meet. 	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1103	Gershon, B. and Cheyne, A., California Association of Food Banks	<p>7. Article 10: Section 18991.1. Jurisdiction Edible Food Recovery Program</p> <ul style="list-style-type: none"> o “(b) A jurisdiction may fund the actions taken to comply with this section through franchise fees, local assessments, or other funding mechanisms.” o We request the addition of the following language: “Under no circumstances should jurisdictions charge fees or assessments to food banks or other non-profit food recovery organizations.” This language is essential in recognizing the financial and human resource burden that food recovery organizations will face in working to meet the 20% diversion goal, and we are in strong support. 	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1104	Gershon, B. and Cheyne, A., California Association of Food Banks	<p>8. Article 10: Section 18991.2. Recordkeeping Requirements for Jurisdiction Edible Food Recovery Program</p> <ul style="list-style-type: none"> o “(a)(2): A list of food recovery organizations and food recovery services in the jurisdiction and their edible food recovery capacity.” o We request the addition of the following language: “...and how to contact them to put in place a contract or agreement for food recovery.” o With the passage of AB 2178 (Limon, 2018), local Environmental Health Departments will be required to keep records of what organizations food banks partner with, and documentation directly from non-food bank affiliated non-profit organizations that are serving ready-to-eat food. In an effort to minimize the duplication of record-keeping efforts, we request that local jurisdictions 	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.

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		communicate with EHD's to obtain records of the relevant information to avoid duplicate efforts with food banks.	
1105	Gershon, B. and Cheyne, A., California Association of Food Banks	<p>9. Article 10: Section 18991.3. Commercial Edible Food generators</p> <ul style="list-style-type: none"> o Tier One commercial edible food generators shall comply with the requirements of this section through a contract or written agreement with any or all of the following: <ul style="list-style-type: none"> o “(b)(1) Food recovery organizations or services that will collect their edible food for food recovery.” o “(b)(2) Food recovery organizations that will accept the edible food that the commercial edible food generator self-hauls to the food recovery organization for food recovery.” o With the deletion of (A) on consent, we ask for confirmation and a detailed explanation in the Final Statement of Reasons that the new language in (b) on a contract or written language in fact provides or exceeds the protections for food recovery organizations in that language. We additionally request that subsequent materials, such as model franchise agreements, reflect this as well. o “(A) Food that is self-hauled pursuant to this section shall be done with the consent of the food recovery organization.” o We request the addition of an additional bullet (b) (3) to read: “It is permissible for food recovery organizations to negotiate cost sharing agreements as part of their contractual agreements or MOU's with commercial generators.” o Should this inclusion not be possible, we similarly request that the Final Statement and subsequent materials clarify and emphasize this as well. 	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1106	Gershon, B. and Cheyne, A., California Association of Food Banks	<p>10. Article 10: Section 18991.4. Record Keeping Requirements For Commercial Edible Food Generators</p> <ul style="list-style-type: none"> o “(a) A commercial edible food generator subject to the requirements in this article shall keep a record that includes the following: <ul style="list-style-type: none"> o (3)(C) The established frequency that food will be collected or self-hauled.” <p>We request the addition of the following language: “...the established frequency that food will be collected or transported, with the exception of ‘on call’ or ‘one-time’ donors.” For infrequent donors, donations can vary greatly based on factors such as inventory, season, weather conditions and consumer demand. Likewise, food recovery organizations are sometimes asked to be “on call,” meaning they only pick up when asked. Therefore it can be difficult in some cases to establish a regular frequency, and it is not practical or helpful to track this metric.</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1107	Gershon, B. and Cheyne, A., California Association of Food Banks	<p>11. Article 10: Section 18991.5. Food Recovery Services and Organizations</p> <p>There is a typographical error in receives, that should no longer be plural.</p> <ul style="list-style-type: none"> o “(a) A food recovery organization or service that has established a contract or written agreement to collect or receive edible food directly from commercial edible 	Thank you for the comment. This error was corrected.

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		food generators pursuant to Section 18991.3 (b) shall maintain records specified in this section:"	
1108	Gershon, B. and Cheyne, A., California Association of Food Banks	<ul style="list-style-type: none"> • We strongly urge CalRecycle to restore the 6-ton threshold for reporting, so as to read: "... to collect or receive 6-tons or more of edible food...." From our network of 41 food banks, we have overwhelmingly heard that an even larger threshold of 12-tons would be preferable. Small food recovery organizations are most likely to be all volunteer-run, with very little budget for operations and record keeping. An annual threshold of 6-tons annually is a reasonable compromise that will only exempt the smallest and most vulnerable organizations. • Alternatively, we request CalRecycle to allow jurisdictions to set a threshold up to 6-tons a year or exempt groups with hardships. This may introduce some inconsistency but would provide meaningful flexibility to ensure all groups who are able can contribute to the diversion goal. 	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1109	Gershon, B. and Cheyne, A., California Association of Food Banks	<ul style="list-style-type: none"> •We reiterate that jurisdictions may request to review & audit food recovery donation records if there is a need to verify generator data, but in no circumstances are proprietary food recovery data to be publicly reported. 	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1110	Gershon, B. and Cheyne, A., California Association of Food Banks	<ul style="list-style-type: none"> o "(a) (2)"A food recovery organization shall maintain a record of: A food recovery organization that distributes across multiple jurisdictions, such as a county-wide food bank, shall only be required to maintain one standard set of records to be available to all jurisdictions in its service area:" •We appreciate the delineation of food recovery organizations in (a)(2), and we urge the inclusion of this language to avoid significant confusion in record-keeping and reporting across the many jurisdictional boundaries that food banks and other food recovery organizations cross during their operations. This is also consistent with the aim of emergency food recovery organization's record keeping as primarily a check to confirm donation by generators, not as a measure of where the food was ultimately distributed as that is outside the scope of the mandate and again would create significant burden. 	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1111	Gershon, B. and Cheyne, A., California Association of Food Banks	<p>12. Article 11: Section 18992.2. Edible food recovery Capacity</p> <ul style="list-style-type: none"> o It is important to note that as the stream of donations increases, there may be more instances where food is not handled safely or as represented and if the non-profit charitable organizations are to help get this food out, it is important that they not be penalized for attempting to solve the overall problem. We suggest that the capacity planning process specifically reflect this dynamic, of food recovery organizations needing additional resources to manage the increased flow of recovered edible food, not all of which will be possible to distribute to people in need due to food loss within the food recovery system. 	The comment is not germane to changes in the regulatory draft language released during the fifth comment period. However, we have received this comment in previous comment periods and have responded accordingly.

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1112	Gershon, B. and Cheyne, A., California Association of Food Banks	<p>13. Article 13: Section 18994.2. Jurisdiction Annual Reporting</p> <p>o “(h)(2) The number of food recovery services and organizations located and operating within the jurisdiction that contract with or have written agreements with commercial edible food generators for food recovery.”</p> <ul style="list-style-type: none"> • As with our recommendation in Section 18991.5, we urge CalRecycle to restore the 6-ton threshold: “... within the jurisdiction that collect or receive more than 6 tons of food per year.” We similarly ask for this addition in (h)(2)(A). 	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1113	Gershon, B. and Cheyne, A., California Association of Food Banks	<p>o “(h)(3) The jurisdiction shall report on the total pounds of edible food recovered by food recovery organizations and services pursuant to (h) (2) (A).”</p> <ul style="list-style-type: none"> • We request the addition of (h)(3)(A) to read: “Jurisdictions may request to review and audit food recovery donation records if there is a need to verify generator data, but in no circumstances are proprietary food recovery data to be publicly reported.” We are unclear about the mechanism by which food recovery organizations will be required to report annual pounds, and stress that donor information is proprietary. In on circumstances are proprietary food recovery data to be publicly reported. • Please confirm that an individual food recovery organization (recovering over 6-tons per year) is only required to report the total pounds recovered per year, not per year by donor. 	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1114	Gershon, B. and Cheyne, A., California Association of Food Banks	<p>14. Article 14: Section 18995.1. Jurisdiction Inspection and Enforcement Requirements</p> <p>o “(a)(2): Beginning January 1, 2022, conduct inspections of Tier One commercial edible food generators and food recovery organizations and services for compliance with this chapter. Beginning January 1,2024, conduct inspections of Tier Two commercial edible food generators for compliance with Article 10 of this chapter.”</p> <ul style="list-style-type: none"> •Please confirm that such an inspection for food recovery organizations would be limited to the record keeping requirements in Article 10; otherwise we request to strike ‘food recovery organizations.’ 	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1115	Gershon, B. and Cheyne, A., California Association of Food Banks	<p>15. Article 15: 18996.9. Department Enforcement Actions Against Entities</p> <p>o “(a) The Department may take enforcement action against the following entities pursuant to the requirements of this section when a jurisdiction has failed to enforce this chapter as determined under Section 18996.3, or lacks the authority to enforce this chapter: (1) Organic waste generators, commercial edible food generators, haulers, and food recovery organizations and services; and</p> <ul style="list-style-type: none"> • We ask CalRecycle for clarification that enforcement with food recovery organizations in this context is only referring to their requirement to keep records and report on the total number of pounds of food recovered. 	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1116	Gershon, B. and Cheyne, A., California	16. Article 16: Section 18997.2. Penalty Amounts	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.

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	Association of Food Banks	<p>o “(a) A jurisdiction shall impose penalties for violations of the requirements of this chapter consistent with the applicable requirements prescribed in Government Code Sections 53069.4, 25132 and 36900. The penalty levels shall be as follows:”</p> <ul style="list-style-type: none"> • We are concerned that the new per-violation structure, versus the prior per-day violation will make enforcement difficult for jurisdictions and are insufficient for generators to work with their local food recovery organizations. 	
1117	Ghirardelli, D., County of Sacramento - Department of Waste Management and Recycling	<p>This is really disappointing. Just slapping fines on people is the best way to antagonize customer relationships and further alienate people from their municipal government. Our method of corrective behavior has proven effective and drives home the message that handling waste is a responsibility on the part of the generator and creates real expenses that the community has to bear; it doesn't simply reinforce all-too- common prejudices that government is looking to penalize and extract money. An on a practical level, what is being proposed as acceptable is as a practical matter the same result: Customer pays additionally and poorly sorted material gets landfilled.The only difference is that CalRecycle's provision sabotages the customer relationship more effectively.</p> <p>Not letting a jurisdiction deploy this measure is so counter-productive to the success of organics recycling. Yes, please include this commentary even though the provisions cited aren't part of the most recent revisions. Put this under my name and title.</p> <p>We will continue to search for something that works but I feel that CalRecycle is not helping.</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1118	Ghirardelli, D., County of Sacramento - Department of Waste Management and Recycling	<p>As part of that process, I am re-writing municipal code for the County (and the City will likely just follow our lead) and I have a question about enforcement and what kind of static we'd get from CalRecycle with a provision we think will work better than most others.</p> <p>Namely, we have many habitual contaminators. These are residential customers who think the correct bin is whatever bin is closest or has room. We have doubled-down on education efforts over the years but lots of folks just don't care. We tried in the past (with success but received political blowback) to simply remove the blue or green cart for habitually bad contaminators. I'm not talking about mistakes or basic misinformation; I'm talking about just not giving a damn. We'd place a refuse can in its place and charge them for the extra service.</p> <p>We'd like to try that again and write that provision into our code, but we're uncertain what kind of grief we'll get from y'all by not providing organics (or recycling, for that matter) service to a small number of customers as we try to solve the contamination problem.</p> <p>Contamination is bad, Cara, and we want to do the right thing and approach this carefully and in small measures. But when some folks just don't care they can ruin</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period. However, we have received this comment in previous comment periods and have responded accordingly. Section 18984.5 states that, "Nothing in this section limits a jurisdiction from adopting contamination standards, fees, sampling methodologies, or noticing protocols that are more stringent or rigorous than the requirements of this section."

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		entire loads and drive costs up for everyone, not to mention undermining the entire diversion effort.	
1119	Hagerman, I., City of Rancho Mirage	The City of Rancho Mirage writes to comment on the revised proposed regulations released in April 2020, which seeks to implement SB 1383 (Lara, 2016). The City of Rancho Mirage appreciates the opportunity to comment on these proposed regulations and acknowledges the challenge undertaken by CalRecycle to develop a comprehensive program to meet the ambitious goals set forth by SB 1383. The City of Rancho Mirage has seen some encouraging changes made over the four iterations. However, we remain significantly concerned about critical aspects that hinder local governments' ability to implement the proposed regulations.	Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1120	Hagerman, I., City of Rancho Mirage	Infrastructure Capacity: California lacks sufficient capacity to meet the need for new organic waste processing. Other regulatory and permitting issues can impede the construction of these new facilities that are outside of local governments' control. The City of Rancho Mirage is concerned that the timelines set forth in these regulations will not be adequate to develop and permit the new facilities required to successfully implement and comply with these regulations.	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1121	Hagerman, I., City of Rancho Mirage	Funding: Insufficient state and local funding continue to be among the major challenges cities face in implementing new organic waste diversion programs. These regulations will be costly to implement, and cities will need to raise their collection rates to compensate. CalRecycle should not rely on the fee authority granted to local jurisdictions in SB 1383 alone, because local governments do not have unrestrained authority to impose costs on waste generators and must comply with the requirements of the California Constitution.	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1122	Hagerman, I., City of Rancho Mirage	Penalties: The City of Rancho Mirage remains concerned as to how these penalty violations will be assessed and requests further clarification. Specifically, in Section 18997.3(b)(2) and (3), it is unclear as to the distinction between what constitutes a "moderate" and "major" violation. Clarity is needed given the significant penalty amounts of up to \$10,000 a day. These penalties could make it difficult for cities to allocate the funds necessary to increase infrastructure capacity and other hindrances to compliance.	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1123	Hagerman, I., City of Rancho Mirage	Procurement: The City of Rancho Mirage continues to be concerned with the significant cost burden cities will bear as they are required to purchase these recovered organic waste products at levels set by CalRecycle. The City of Rancho Mirage anticipates these requirements will result in substantial additional costs to local governments, over and above the costs already anticipated to comply with the requirements of the proposed regulations.	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1124	Hagerman, I., City of Rancho Mirage	Scope of Regulations: These proposed regulations are both complicated and broad in scope. As such, there needs to be a robust effort and accompanying funding source to ensure that cities are able to implement these regulations by adequately providing education and outreach to their residents. Additionally, it is unclear why	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.

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		local jurisdictions are required to adopt Model Water Efficient Landscape Ordinances (MWELO), as these do not appear to be at all related to the implementation of SB 1383.	
1125	Hagerman, I., City of Rancho Mirage	Chapter 12, Article 1, Section 18982. Definitions. Section 18982.2(a)(56.5) defines project baseline as " ... a conservative estimate of the business-as-usual greenhouse gas emissions that would have occurred if the organic waste proposed for recovery was disposed of in activity that constitutes landfill disposal " The City of Rancho Mirage finds that the use of the term "conservative" in this definition injects unnecessary ambiguity and subjectivity into the definition and fails to aid practitioners, courts, and the public in understanding the requirements of the law. Therefore, the City of Rancho Mirage respectfully requests that CalRecycle delete the word "conservative" from Section 18982.2(a)(56.5).	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1126	Hagerman, I., City of Rancho Mirage	Chapter 12, Article 3. Organic Waste Collection Services. Several sections of Article 3 of the proposed regulations have been amended to provide that notices be given "annually" instead of "within the last 12 months." As currently drafted, it is unclear whether "annual" notices must be given within the last 12 months or whether such notices must now be given within a calendar year. Therefore, the City of Rancho Mirage suggests that CalRecycle clarify when such notices must be given.	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1127	Hagerman, I., City of Rancho Mirage	Chapter 12, Article 16, Section 18997.5. Department Procedures for Imposing Administrative Civil Penalties. Section 18997.5(c) provides that a jurisdiction must file a request for a hearing with the director of the Department within 15 days of receiving an accusation of violation or the jurisdiction will be deemed to have waived its right to a hearing. The City of Rancho Mirage does not believe that this provides jurisdictions sufficient time to avail themselves of their right to a hearing. The City of Rancho Mirage respectfully requests that CalRecycle extend this deadline to 30 days, so that jurisdictions have sufficient time to analyze the accusation and determine whether a hearing is warranted.	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1128	Hagerman, I., City of Rancho Mirage	Chapter 12, Article 16, Section 18997.6. Department for Hearings and Penalty Orders. Section 18997.6(b) provides that a penalty order may be served by any method described in Section 18997.6(b). However, Section 18997.6(b) does not describe methods of service. The City of Rancho Mirage suggests that CalRecycle clarify the permissible methods of service of a penalty order.	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1129	Hagerman, I., City of Rancho Mirage	COVID-19: With the onset of the COVID-19 pandemic this year, cities statewide are projected to have a nearly \$7 billion budget shortfall and the shortfall grows as modified stay-at-home orders remain in effect through the summer. This places cities in a dire fiscal situation and will have serious and long-lasting budgetary and personnel implications of potential furloughs and/or layoffs. During this time of great economic uncertainty and strain for California cities, we urge CalRecycle to	Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period. CalRecycle acknowledges the difficulties jurisdictions face due to COVID-19 impacts. Although the language of SB 1383 allows the regulations to go into effect "on or after January 1, 2022," CalRecycle lacks the discretion to substantially extend the effective date of these regulations

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		take these under consideration when implementing this law. Cities are committed to achieving the state's ambitious climate and solid waste goals, but flexibility will be needed as a result of this crisis.	<p>through rulemaking without coming into direct conflict with the diversion mandates in the statute. SB 1383 sets a 75% organic waste diversion target for 2025 that will not be achieved if implementation of the regulatory requirements that are designed to achieve this target are significantly delayed.</p> <p>CalRecycle will be favoring compliance assistance in implementing these regulations and will exercise enforcement discretion taking into account the totality of circumstances and making determinations as fairness and justice require.</p>
1130	Heaton, S., Rural County Representatives of California	Recent events will impact organics diversion and were not contemplated in the draft regulations, including investor-owned utility public safety power shutoff (PSPS) events and post-coronavirus (COVID-19) impacts. PSPS events are not eligible for the disaster provisions of the currently proposed SB 1383 regulations, but will significantly increase the disposal of organics when refrigeration equipment is without power. The amount of spoiled food will overwhelm limited Edible Food programs and subsequently increase the disposal of organics. Although COVID-19 is a declared state disaster and eligible for disaster relief, the impacts of business and commercial closures will last long after the COVID-19 disaster is declared over. Also, residential tonnages have increased which is more difficult to divert. The solid waste impacts from COVID-19 will continue for some time and will likely skew the results of the upcoming 2020 Statewide Disposal Based Waste Characterization Study which is scheduled to start in June 2020 and take about 15 months. This study should be delayed to allow more time for recovery.	<p>Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period. In regards to power shutoffs, we have received this comment in previous comment periods and have responded accordingly. The response is below:</p> <p>The regulations specifically state “extraordinary circumstances” are: (1) A failure by the jurisdiction to increase edible food recovery capacity as required by section 18992.2.; and (2) Acts of God such as earthquakes, wildfires, flooding, and other emergencies or natural disasters. The language “other emergencies” in this provision is intended to take into account other situations that are emergent in nature, and may not be commonly defined as “natural disasters,” but that are nevertheless outside the control of the commercial edible food generator and cause compliance to be impracticable. Please note, “other emergencies” includes business closure due to disease pandemics, and power shutoffs that are carried out specifically to protect the public’s safety (e.g. electric company schedules and carries out a preventative power safety shutoff to protect the public from wildfires).</p> <p>“Other emergencies” however, does not include equipment failure or power outages that are not a direct result of a natural disaster or carried out specifically to prevent a natural disaster (e.g. wildfire). Allowing any additional flexibility to the "extraordinary circumstances" provision in the regulations could result in a loophole for commercial edible food generators to avoid compliance with the commercial edible food generator requirements of SB 1383.</p> <p>In regards to the waste characterization, CalRecycle does not expect site recruitment or sampling of waste to begin for the 2020 Statewide Disposal Based Waste Characterization Study until California’s public health order, pursuant to Executive Order N-33-20, due to COVID-19, has been lifted (see Addendum 1 of DRR19079 posted on April 2, 2020).</p>
1131	Heaton, S., Rural County Representatives of California	On January 21, 2020, the Department of Resources Recycling and Recovery (CalRecycle) submitted to the Office of Administrative Law (OAL) its proposed action to adopt regulations to require the implementation of programs for the diversion of organic waste from landfill disposal to reduce the methane gas emissions that would otherwise occur. The OAL notified CalRecycle that it could not approve this action because of failure to meet the clarity and necessity standards and certain procedural requirements of the California Administrative Procedure Act. This fourth formal draft reflects changes made to the draft regulations to specifically address	Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.

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		<p>those issues found by OAL. While our previous unaddressed concerns included in our letters dated March 2, 2019, March 12, 2019, July 17, 2019, and October 18, 2019 are part of the rulemaking record and remain relevant issues to our counties, we will limit our specific comments to the new proposed changes contained in the fourth draft.</p> <p>RCRC agrees that most of the changes were made to provide certainty and clarity and did not impose any major changes to policies.</p>	
1132	Heaton, S., Rural County Representatives of California	<p>Changes to Section 18984.11 (a)(2) remove the allowance to use a “similarly qualified source” for providing documentation for the physical space waivers. While the term was vague, the concept of allowing other parties to provide the documentation is sound and should be reinstated. Many jurisdictions are using the services of professional firms to conduct customer reviews and are as qualified to conduct such an assessment as the hauler, which would alleviate limited staff time for this effort. We recommend the following change: “jurisdiction has evidence from its staff, a hauler, licensed architect, or licensed engineer, or designee demonstrating that the premises lack adequate space ...”.</p> <p>In addition, Section 18986.3 retains the use of “similarly qualified entity” for Waivers for Non-Local Entities and Local Education Agencies”. We recommend that the “or designee” term be replaced in this section.</p>	<p>The removal of the phrase "similarly qualified source" was intended to eliminate unclear language. It would have been difficult to determine how an individual would be, for example, similarly qualified to an architect or engineer. The deletion of this unclear phrase does not eliminate the ability of jurisdictions to use consultants or third-party contractors so long as those individuals meet the requirements in that regulatory section as a hauler, licensed architect or licensed engineer. Section 18986.3 in its final form does not contain the phrase “similarly qualified entity.”</p>
1133	Heaton, S., Rural County Representatives of California	<p>We also take exception to changes that have been proposed in Article 14, Enforcement Requirements and Article 15, Enforcement Oversight by the Department. While we can concur that certain timeframes for issuing Notices of Violations (NOVs) and commencing enforcement action were confusing and inconsistent, the curative proposal significantly reduces the timeframe a jurisdiction has to achieve compliance that is outside of the scope of OAL’s rejections.</p>	<p>This timeframe was identified by the Office of Administrative Law as a clarity issue that conflicted with penalty actions; therefore, CalRecycle edited language to provide the needed clarity. Nevertheless, CalRecycle retains discretion whether to commence the enforcement process by issuing an NOV and would take into account the totality of the circumstances on a case-by-case basis before exercising such discretion.</p>
1134	Heaton, S., Rural County Representatives of California	<p>Section 18995.4 (a)(1) required the jurisdiction to issue a NOV within 60 days of a determination that a violation has occurred. Section 18995.4 (a)(3) required a jurisdiction to commence an action to impose penalties no later than 150 days after issuance of the initial NOV for a first offense and 90 days for subsequent offenses. So, for a first offense, the timeframe from discovering a violation to commence an action to impose penalties was 210 days for a first offense and 110 days for subsequent offenses. The inconsistency came from Section 18995.4 (a)(2) which required the jurisdiction to conduct follow up inspections at least every 90 days following the issue date of the initial NOV. A second follow up inspection would occur after the 150 days timeframe in Section 18995.4 (a)(3). Changing Section 18995.4 (a)(2) from 90 days to 60 days would alleviate the inconsistency and not change the process established in the previous draft.</p> <p>However, under the current draft a jurisdiction is required to commence an action to impose penalties within 60 days of the issuance of the NOV. This is a significant, substantive change and does not allow flexibility at the local level to evaluate the</p>	<p>This is an incorrect read of Section 18995.4. The regulations require compliance by a respondent within 60 days of the issuance of an NOV, not the commencement of an action for penalties. There is no deadline to start a penalty action – only that it be commenced at some point after the maximum 60 day compliance deadline in the NOV. This section was amended in a manner to increase jurisdictional flexibility by removing deadlines for follow-up inspections while preserving the ability of jurisdictions to extend compliance deadlines under extenuating circumstances. Furthermore, as written, the jurisdiction maintains enforcement discretion as to whether to issue an NOV at all – thus allowing a jurisdiction to take into account individual circumstances surrounding a violation.</p>

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		individual circumstances surrounding the violation. RCRC had interpreted the original proposal to be a more accommodating approach, allowing local jurisdictions to work with its constituents with this new significant regulation and responsibilities and use its judgement based upon specific circumstances.	
1135	Heaton, S., Rural County Representatives of California	Also, in Article 15, Enforcement Oversight by the Department, we believe the change of all “mays” to “shalls” is a major shift of the substance and tone of the regulations that is unwarranted at this point in the process and is not within the context of OAL’s direction to the Department. CalRecycle has stated, and all stakeholders agree, that SB 1383 is the most significant waste reduction mandate to be adopted in California in the last 30 years. The impacts to CalRecycle’s resources is currently unknown and, therefore, CalRecycle should maintain the discretion to prioritize and utilize its resources most effectively and efficiently.	The use of "may" within the Enforcement Oversight by the Department article was identified by the Office of Administrative Law as a clarity issue; therefore, CalRecycle changed the "may" into "shall" to provide better clarity. This change nevertheless allows CalRecycle to retain enforcement discretion. The use of "shall" in the enforcement provisions obligates CalRecycle to follow a particular process only if it decides to actually commence enforcement action. It does not require enforcement in all circumstances.
1136	Heaton, S., Rural County Representatives of California	In this unprecedented time of uncertainty and challenges due to the COVID-19 pandemic, the state’s budget is expected to take a deep setback that could last for years. Additionally, the state has experienced other catastrophic events, predominantly wildfires, in recent years that have significantly impacted CalRecycle resources. If resources are not available and CalRecycle does not act in a timely fashion, the state is open to costly litigation. This illustrates the need for CalRecycle to be able to determine how to best use its resources depending on other circumstances and challenges that may arise.	Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1137	Huls, J., Sustainable Environmental Management Co.	First, and foremost, the subject regulations are too prescriptive. The emphasis should be on process and programs rather than focused on prescribed systems, technology and enforcement. Too much emphasis is placed on punishment (disincentives) as opposed to more incentive-based methods. <ul style="list-style-type: none"> – Standard colors, labels statewide for carts, dumpsters, debris boxes, compactors for garbage, recycling, organics – Cost of replacing/standardizing container colors better spent on programs, outreach – Rigid rules on which items may/may not go in containers – Cities/counties must cite and fine residents, businesses – Changes the relationship for local government from service provider/customer to cop/criminal 	Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1138	Huls, J., Sustainable Environmental Management Co.	“Organic” definition – broaden the topic or narrow what’s covered, e.g. remove carpet, plastics, biosolids, sludge, textiles	Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1139	Huls, J., Sustainable Environmental Management Co.	Separate multi-family homes from Commercial Business category as the sectors have more differences than similarities even though they tend to get co-collected.	Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.

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1140	Huls, J., Sustainable Environmental Management Co.	The regulations require either source-separation or “high diversion processing facility” – Combination is best path to goal—not allowed – Allow measurement of combined system, not just one or the other – There are new technologies that should be allowed or considered such as distributed organic recycling networks	Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1141	Huls, J., Sustainable Environmental Management Co.	75% recycling by 2025 is not achievable especially considering the pandemic; so CalRecycle must work with legislature to modify timeframe	Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1142	Huls, J., Sustainable Environmental Management Co.	Electronic record keeping template should be provided; reporting should be summarized in AB 939 reports; Fold reporting in existing Annual Report; Quarterly reporting within 30 days not feasible	Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1143	Huls, J., Sustainable Environmental Management Co.	High staff cost to track, implement process steps	Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1144	Huls, J., Sustainable Environmental Management Co.	City/county must procure compost, RNG based on employee head count – Reduce or remove procurement requirement for city/county compost/RNG fuel procurement – Allow existing reuse by jurisdiction to count toward its requirement If requirement stays, use blend of factors to calculate (e.g. population, land area, climate type)	Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1145	Huls, J., Sustainable Environmental Management Co.	Allowable renewable Natural Gas (RNG) sources should include landfill gas, POTW methane	Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1146	Huls, J., Sustainable Environmental Management Co.	CalRecycle should provide sample, compliant outreach material annually, present on public website and through statewide media campaign.	Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period. However, CalRecycle will be providing additional assistance.
1147	Huls, J., Sustainable Environmental Management Co.	Translated material required by this section shall be available via website; web address and statement of availability of translated materials should accompany English version of outreach materials.	Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1148	Huls, J., Sustainable Environmental Management Co.	Lack of funding. This is an unfunded mandate. Requiring local government to raise fees and prices at this time on select business sectors such as the food industry is counter-productive to the broader needs of society. CalRecycle should provide funding in distributed systems for organics recycling, not just centralized facilities that require long haul of material consisting of 90% water.	Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1149	Huls, J., Sustainable Environmental Management Co.	Countywide programs such as the Food Rescue Initiative currently underway should count towards food recovery requirement for each jurisdiction.	Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.

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1150	La Mariana, J., South Bayside Waste Management Authority	RethinkWaste strongly supports California’s greenhouse gas emission reduction, waste reduction and recycling goals, including Senate Bill 1383 (Lara, 2016). We applaud the Department’s efforts to date to develop a robust regulatory program that honors the intent of SB 1383, while also being responsive to comments and concerns from stakeholders. We are excited for this paradigm shift in how the state manages its organic waste. In fact, with the assistance of a CalRecycle grant, we have been actively developing a pilot project to extract organics from the waste stream and divert this material to green energy. We expect that this pioneering Organics-to-Energy project will be a pathway for RethinkWaste to achieve compliance with SB 1383.	Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1151	La Mariana, J., South Bayside Waste Management Authority	<p>As a regional public agency, we will have a role in ensuring its successful implementation; however, as a result of the COVID-19 crisis, we have strong concerns about our future financial ability to achieve this state mandate. While we will do everything in our power to comply, we want to acknowledge that this global crisis has created much uncertainty for the future.</p> <p>The recent COVID-19 emergency has had a significant financial impact on RethinkWaste and the Agency must focus its resources on maintaining the current waste handling and diversion efforts. For an undetermined period of time, all limited resources must be focused on dealing with the immediate crisis. We are also very aware that the solid waste and recycling industry will be severely financially impacted by this crisis, requiring a multi-year recovery.</p> <p>We currently have projected SB 1383 implementation costs (excluding the procurement elements of the regulations) for our Agency to be over \$8.5 million over the next five years. Without state funding, we fear that these costs will overburden our already struggling member agencies. These financial impacts will directly translate into increased monthly rates during this period, placing serious financial strain on many families across San Mateo County, even more so given the COVID-19-induced economic downturn.</p> <p>RethinkWaste appreciates the Department’s leadership in fulfilling the state’s organic waste reduction mandate, and we will continue to support the implementation process of this mandate. The urgency to reduce the climate impacts of our waste streams is extremely pressing, now more than ever. In spite of our commitment to reducing greenhouse emissions, we must concede that the economic future and financial viability of our operations is extremely uncertain at this time and we must ask the Department in our strongest voice to mitigate all SB 1383 implementation and ongoing program compliance costs in the future. We look forward to our continued partnership with the Department in implementing this important policy.</p>	<p>Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.</p> <p>CalRecycle acknowledges the difficulties jurisdictions face due to COVID-19 impacts in regards to budgetary issues. CalRecycle is committed to provide as much technical assistance and any other guidance as needed to help overcome this barrier. While CalRecycle does have authority to impose penalties on jurisdictions starting Jan. 1, 2022, it is important to note that the enforcement structure under the SB 1383 regulations does allow CalRecycle to focus on compliance assistance first and reserve enforcement discretion for egregious offenders. The regulatory enforcement process, should CalRecycle exercise its enforcement discretion in that manner, allows for extended timelines and can be extended under certain circumstances to give jurisdictions up to 3 years to come into compliance before CalRecycle may consider issuing penalties. CalRecycle has released guidance on the compliance process; and again, we are committed to providing technical assistance to entities so SB 1383 compliance is achieved.</p>
1152	Landers, S., City of Carson	The City of Carson (City) supports the General Comments and Specific Comments made by the Los Angeles County Solid Waste Management Committee/Integrated	Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.

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		<p>Waste Management Task Force (Task Force), as detailed in the Task Force’s comment letter dated May 18, 2020.</p> <p>The Formal Proposed Regulatory Text (Fourth Formal Draft) for Senate Bill 1383, which was released by the California Department of Resources Recycling and Recovery (CalRecycle) on April 20, 2020, imposes troublesome requirements and responsibilities on local agencies in the statewide effort to reduce emissions of climate pollutants.</p> <p>The City is particularly concerned that the fourth formal Draft (1) imposes excessive responsibilities and prescriptive standards upon local jurisdictions for achieving statewide disposal reduction goals; (2) exceeds statutory authority by requiring local jurisdictions to impose monetary penalties for noncompliance and procure specified minimum amounts of recovered organic waste products; and (3) fails to consider a local jurisdiction’s “good faith effort” in complying with SB 1383’s regulatory requirements. These concerns are even more important given the severe economic, fiscal, and social impacts of the COVID-19 pandemic.</p> <p>The City respectfully requests that CalRecycle address the Task force’s comments, concerns, and recommendations in the next version of the proposed regulations.</p> <p>Thank you for the opportunity to comment on the fourth Formal Draft and CalRecycle’s consideration to revise the proposed regulations to protect the people of California and the long-term interest of local agencies statewide.</p>	<p>CalRecycle acknowledges the difficulties jurisdictions face due to COVID-19 impacts. Although the language of SB 1383 allows the regulations to go into effect “on or after January 1, 2022,” CalRecycle lacks the discretion to substantially extend the effective date of these regulations through rulemaking without coming into direct conflict with the diversion mandates in the statute. SB 1383 sets a 75% organic waste diversion target for 2025 that will not be achieved if implementation of the regulatory requirements that are designed to achieve this target are significantly delayed.</p> <p>The legislature amended SB 1383 to strip the requirement that CalRecycle use the "Good Faith Effort" requirement of AB 939 (Sher, Chapter 1095, Statutes of 1989) for enforcement for SB 1383. SB 1383 requires a more prescriptive approach and state minimum standards; jurisdictions must demonstrate compliance with each prescriptive standard. CalRecycle does exercise its enforcement discretion to allow consideration of "substantial efforts" made by the jurisdiction and the placement on a "Corrective Action Plan" (CAP). This effectively allows CalRecycle to consider efforts made by a jurisdiction, while not absolving them of responsibility. This structure allows CalRecycle to focus on compliance first and dedicate enforcement efforts to egregious offenders. The 75 percent organic waste diversion target in 2025 will not be reachable with the longer compliance process under the Good Faith Effort standard. Implementation of the prescriptive regulatory requirements of the regulation are designed to achieve the organic waste reduction targets, which is consistent with the explicit statutory direction</p>
1153	Lewis, J., City of La Mirada	<p>On behalf of the City of La Mirada, I am writing to comment on SB 1383 (Lara, 2016) the revised proposed regulations. The City appreciates the opportunity to comment and acknowledges the challenge taken on by CalRecycle to develop a comprehensive effort to reduce emissions of short-lived climate pollutants (SLCP). The City also appreciates recent changes in the draft, such as expanding the scope of organic waste products accepted to comply with procurement targets and the pathway that was created for multiple jurisdictions to request the Department's enforcement for violations of substantial statewide concern.</p> <p>The City of La Mirada believes in doing its part to address climate change and reduce greenhouse gas emissions, but remains concerned about several critical aspects that hinder the ability of local government to implement the proposed regulations, as detailed below:</p>	<p>Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.</p>
1154	Lewis, J., City of La Mirada	<p>Infrastructure Capacity: California currently lacks enough capacity to be able to meet the needs for new organic waste processing. Many cities have expressed concern over the ability to comply with organic waste diversion requirements due to a lack of waste disposal infrastructure. Where the infrastructure does exist, capacity is limited. Cities are also concerned that the timelines set in these regulations do not provide sufficient time to finance, permit, and build new facilities, particularly when</p>	<p>The comment is not germane to changes in the regulatory draft language released during the fifth comment period.</p>

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		there are regulatory and permitting issues that can impede the construction of these facilities that are outside of their control.	
1155	Lewis, J., City of La Mirada	Funding: Lack of sufficient funding continues to be among the major challenges for local governments in the effort to implement new organic waste diversion programs. The City of La Mirada and other communities continue to seek solutions to address the need for substantial public sector funding, as these regulations will be costly to implement. Local governments, like La Mirada, continue to work to address the need for funds to undertake proposed activities, such as providing bins and labels, promoting education and outreach, and undertaking enforcement efforts. Cities will be forced to raise their collection rates; however, CalRecycle should not rely on the fee authority granted to municipalities in SB 1383, as this alone will not provide sufficient funding required for implementation.	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1156	Lewis, J., City of La Mirada	Penalties: The City of La Mirada appreciates the flexibility of the penalty structure outlined in the regulations; however, we remain concerned as to how these violations will be assessed. In addition, the penalty amounts of up to \$10,000 a day could make it difficult for cities to allocate the funds needed to increase infrastructure capacity and other hindrances to achieving compliance.	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1157	Lewis, J., City of La Mirada	Procurement: The City appreciates the expansion of acceptable organic waste products for procurement compliance; however, the requirements will result in substantial additional costs to local governments. Cities will be required to purchase these recovered organic waste products at levels set by CalRecycle. This will create a substantial challenge, as these costs would be above and beyond the costs anticipated to comply with the requirements of the proposed regulations.	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1158	Lewis, J., City of La Mirada	The City of La Mirada appreciates the inclusive stakeholder process CalRecycle has undertaken and the opportunity to contribute comments on the proposed regulations. The City remains concerned about the lack of adequate funding to achieve compliance. The City of La Mirada respectfully requests that the expressed concerns be taken into consideration.	Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1159	Madoski, S., Edwards Air Force Base	In the text of Section 21695(c)(3)(A)4, there is discussion of reporting surface readings for methane monitoring. I assume that this would not apply to landfills with less than 450,000T of waste in place, or calculated landfill gas heat input capacity of less than 3.0 million British thermal units per hour (MMBtu/hr) recovered.	Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1160	Mann, C., City of Canyon Lake	The City of Canyon Lake writes to comment on the revised proposed regulations released in April 2020, which seeks to implement SB 1383 (Lara, 2016). The City of Canyon Lake appreciates the opportunity to comment on these proposed regulations and acknowledges the challenge undertaken by CalRecycle to develop a comprehensive program to meet the ambitious goals set forth by SB 1383.	Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.

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		<p>The City of Canyon Lake has seen some encouraging changes made over the four iterations. However, we remain significantly concerned about critical aspects that hinder local governments' ability to implement the proposed regulations.</p> <p>The City of Canyon Lake key concerns remain as follows:</p>	
1161	Mann, C., City of Canyon Lake	<p>Infrastructure Capacity: California lacks sufficient capacity to meet the need for new organic waste processing. Other regulatory and permitting issues can impede the construction of these new facilities that are outside of local governments' control. The City of Canyon Lake is concerned that the timelines set forth in these regulations will not be adequate to develop and permit the new facilities required to successfully implement and comply with these regulations.</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1162	Mann, C., City of Canyon Lake	<p>Funding: Insufficient state and local funding continue to be among the major challenges cities face in implementing new organic waste diversion programs. These regulations will be costly to implement, and cities will need to raise their collection rates to compensate. CalRecycle should not rely on the fee authority granted to local jurisdictions in SB 1383 alone, because local governments do not have unrestrained authority to impose costs on waste generators and must comply with the requirements of the California Constitution.</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1163	Mann, C., City of Canyon Lake	<p>Penalties: The City of Canyon Lake remains concerned as to how these penalty violations will be assessed and requests further clarification. Specifically, in Section 18997.3(b)(2) and (3), it is unclear as to the distinction between what constitutes a "moderate" and "major" violation. Clarity is needed given the significant penalty amounts of up to \$10,000 a day. These penalties could make it difficult for cities to allocate the funds necessary to increase infrastructure capacity and other hindrances to compliance.</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1164	Mann, C., City of Canyon Lake	<p>Procurement: The City of Canyon Lake continues to be concerned with the significant cost burden cities will bear as they are required to purchase these recovered organic waste products at levels set by CalRecycle. The City of Canyon Lake anticipates these requirements will result in substantial additional costs to local governments, over and above the costs already anticipated to comply with the requirements of the proposed regulations.</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1165	Mann, C., City of Canyon Lake	<p>Scope of Regulations: These proposed regulations are both complicated and broad in scope. As such, there needs to be a robust effort and accompanying funding source to ensure that cities are able to implement these regulations by adequately providing education and outreach to their residents. Additionally, it is unclear why local jurisdictions are required to adopt Model Water Efficient Landscape Ordinances (MWELO), as these do not appear to be at all related to the implementation of SB 1383.</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1166	Mann, C., City of Canyon Lake	<p>Chapter 12, Article 1, Section 18982. Definitions. Section 18982.2(a)(56.5) defines project baseline as "...a conservative estimate of the business-as-usual greenhouse gas emissions that would have occurred if the organic waste proposed for recovery</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.

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		<p>was disposed of in activity that constitutes landfill disposal....” The City of Canyon Lake finds that the use of the term “conservative” in this definition injects unnecessary ambiguity and subjectivity into the definition and fails to aid practitioners, courts, and the public in understanding the requirements of the law. Therefore, the City of Canyon Lake respectfully requests that CalRecycle delete the word “conservative” from Section 18982.2(a)(56.5).</p>	
1167	Mann, C., City of Canyon Lake	<p>Chapter 12, Article 3. Organic Waste Collection Services. Several sections of Article 3 of the proposed regulations have been amended to provide that notices be given “annually” instead of “within the last 12 months.” As currently drafted, it is unclear whether “annual” notices must be given within the last 12 months or whether such notices must now be given within a calendar year. Therefore, the City of Canyon Lake suggests that CalRecycle clarify when such notices must be given.</p>	<p>The comment is not germane to changes in the regulatory draft language released during the fifth comment period.</p>
1168	Mann, C., City of Canyon Lake	<p>Chapter 12, Article 16, Section 18997.5. Department Procedures for Imposing Administrative Civil Penalties. Section 18997.5(c) provides that a jurisdiction must file a request for a hearing with the director of the Department within 15 days of receiving an accusation of violation or the jurisdiction will be deemed to have waived its right to a hearing. The City of Canyon Lake does not believe that this provides jurisdictions sufficient time to avail themselves of their right to a hearing. The City of Canyon Lake respectfully requests that CalRecycle extend this deadline to 30 days, so that jurisdictions have sufficient time to analyze the accusation and determine whether a hearing is warranted.</p>	<p>The comment is not germane to changes in the regulatory draft language released during the fifth comment period.</p>
1169	Mann, C., City of Canyon Lake	<p>Chapter 12, Article 16, Section 18997.6. Department for Hearings and Penalty Orders. Section 18997.6(b) provides that a penalty order may be served by any method described in Section 18997.6(b). However, Section 18997.6(b) does not describe methods of service. The City of Canyon Lake suggests that CalRecycle clarify the permissible methods of service of a penalty order.</p>	<p>The comment is not germane to changes in the regulatory draft language released during the fifth comment period.</p>
1170	Mann, C., City of Canyon Lake	<p>COVID-19: With the onset of the COVID-19 pandemic this year, cities statewide are projected to have a nearly \$7 billion budget shortfall and the shortfall grows as modified stay-at-home orders remain in effect through the summer. This places cities in a dire fiscal situation and will have serious and long-lasting budgetary and personnel implications of potential furloughs and/or layoffs. During this time of great economic uncertainty and strain for California cities, we urge CalRecycle to take these under consideration when implementing this law. Cities are committed to achieving the state’s ambitious climate and solid waste goals, but flexibility will be needed as a result of this crisis.</p>	<p>Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.</p> <p>CalRecycle acknowledges the difficulties jurisdictions face due to COVID-19 impacts. Although the language of SB 1383 allows the regulations to go into effect “on or after January 1, 2022,” CalRecycle lacks the discretion to substantially extend the effective date of these regulations through rulemaking without coming into direct conflict with the diversion mandates in the statute. SB 1383 sets a 75% organic waste diversion target for 2025 that will not be achieved if implementation of the regulatory requirements that are designed to achieve this target are significantly delayed.</p> <p>CalRecycle will be favoring compliance assistance in implementing these regulations and will exercise enforcement discretion taking into account the totality of circumstances.</p>

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1171	Manos, S., City of Lake Elsinore	<p>The City of Lake Elsinore writes to comment on the revised proposed regulations released in April 2020, which seeks to implement SB 1383 (Lara, 2016). The City of Lake Elsinore appreciates the opportunity to comment on these proposed regulations and acknowledges the challenge undertaken by CalRecycle to develop a comprehensive program to meet the ambitious goals set forth by SB 1383. The City of Lake Elsinore has seen some encouraging changes made over the four iterations. However, we remain significantly concerned about critical aspects that hinder local governments' ability to implement the proposed regulations. The City of Lake Elsinore key concerns remain as follows:</p>	Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period. .
1172	Manos, S., City of Lake Elsinore	<p>Infrastructure Capacity: California lacks sufficient capacity to meet the need for new organic waste processing. Other regulatory and permitting issues can impede the construction of these new facilities that are outside of local governments' control. The City of Lake Elsinore is concerned that the timelines set forth in these regulations will not be adequate to develop and permit the new facilities required to successfully implement and comply with these regulations.</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period. However, we have received this comment in previous comment periods and have responded accordingly.
1173	Manos, S., City of Lake Elsinore	<p>Funding: Insufficient state and local funding continue to be among the major challenges cities face in implementing new organic waste diversion programs. These regulations will be costly to implement, and cities will need to raise their collection rates to compensate. CalRecycle should not rely on the fee authority granted to local jurisdictions in SB 1383 alone, because local governments do not have unrestrained authority to impose costs on waste generators and must comply with the requirements of the California Constitution.</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1174	Manos, S., City of Lake Elsinore	<p>Penalties: The City of Lake Elsinore remains concerned as to how these penalty violations will be assessed and requests further clarification. Specifically, in Section 18997.3(b)(2) and (3), it is unclear as to the distinction between what constitutes a "moderate" and "major" violation. Clarity is needed given the significant penalty amounts of up to \$10,000 a day. These penalties could make it difficult for cities to allocate the funds necessary to increase infrastructure capacity and other hindrances to compliance.</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1175	Manos, S., City of Lake Elsinore	<p>Procurement: The City of Lake Elsinore continues to be concerned with the significant cost burden cities will bear as they are required to purchase these recovered organic waste products at levels set by CalRecycle. The City of Lake Elsinore anticipates these requirements will result in substantial additional costs to local governments, over and above the costs already anticipated to comply with the requirements of the proposed regulations.</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1176	Manos, S., City of Lake Elsinore	<p>Scope of Regulations: These proposed regulations are both complicated and broad in scope. As such, there needs to be a robust effort and accompanying funding source to ensure that cities are able to implement these regulations by adequately providing education and outreach to their residents. Additionally, it is unclear why local jurisdictions are required to adopt Model Water Efficient Landscape</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.

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		Ordinances (MWELO), as these do not appear to be at all related to the implementation of SB 1383.	
1177	Manos, S., City of Lake Elsinore	Chapter 12, Article 1, Section 18982. Definitions. Section 18982.2(a)(56.5) defines project baseline as " ... a conservative estimate of the business-as-usual greenhouse gas emissions that would have occurred if the organic waste proposed for recovery was disposed of in activity that constitutes landfill disposal. " The City of Lake Elsinore finds that the use of the term "conservative" in this definition injects unnecessary ambiguity and subjectivity into the definition and fails to aid practitioners, courts, and the public in understanding the requirements of the law. Therefore, the City of Lake Elsinore respectfully requests that CalRecycle delete the word "conservative" from Section 18982.2(a)(56.5).	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1178	Manos, S., City of Lake Elsinore	Chapter 12, Article 3. Organic Waste Collection Services. Several sections of Article 3 of the proposed regulations have been amended to provide that notices be given "annually" instead of "within the last 12 months." As currently drafted, it is unclear whether "annual" notices must be given within the last 12 months or whether such notices must now be given within a calendar year. Therefore, the City of Lake Elsinore suggests that CalRecycle clarify when such notices must be given.	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1179	Manos, S., City of Lake Elsinore	Chapter 12, Article 16, Section 18997.5. Department Procedures for Imposing Administrative Civil Penalties. Section 18997.5(c) provides that a jurisdiction must file a request for a hearing with the director of the Department within 15 days of receiving an accusation of violation or the jurisdiction will be deemed to have waive its right to a hearing. The City of Lake Elsinore does not believe that this provides jurisdictions sufficient time to avail themselves of their right to a hearing. The City of Lake Elsinore respectfully requests that Cal Recycle extend this deadline to 30 days, so that jurisdictions have sufficient time to analyze the accusation and determine whether a hearing is warranted.	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1180	Manos, S., City of Lake Elsinore	Chapter 12, Article 16, Section 18997.6. Department for Hearings and Penalty Orders. Section 18997.6(b) provides that a penalty order may be served by any method described in Section 18997.6(b). However, Section 18997.6(b) does not describe methods of service The City of Lake Elsinore suggests that CalRecycle clarify the permissible methods of service of a penalty order.	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1181	Manos, S., City of Lake Elsinore	COVID-19: With the onset of the COVID-19 pandemic this year, cities statewide are projected to have a nearly \$7 billion budget shortfall and the shortfall grows as modified stay-at-home orders remain in effect through the summer. This places cities in a dire fiscal situation and will have serious and long-lasting budgetary and personnel implications of potential furloughs and/or layoffs. During this time of great economic uncertainty and strain for California cities, we urge CalRecycle to take these under consideration when implementing this law. Cities are committed	Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period. CalRecycle acknowledges the difficulties jurisdictions face due to COVID-19 impacts. Although the language of SB 1383 allows the regulations to go into effect "on or after January 1, 2022," CalRecycle lacks the discretion to substantially extend the effective date of these regulations through rulemaking without coming into direct conflict with the diversion mandates in the

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		to achieving the state's ambitious climate and solid waste goals, but flexibility will be needed as a result of this crisis.	<p>statute. SB 1383 sets a 75% organic waste diversion target for 2025 that will not be achieved if implementation of the regulatory requirements that are designed to achieve this target are significantly delayed.</p> <p>CalRecycle will be favoring compliance assistance in implementing these regulations and will exercise enforcement discretion on a case-by-case basis considering the totality of circumstances.</p>
1182	Ortiz, Y., City of El Cerrito	<p>The City of El Cerrito is sending in a comment letter in response to the updated SB 1383 regulations released on April 20th, 2020.</p> <p>We would like to take this opportunity share with CalRecycle our concern regarding the feasibility of planning and cost of implementation of these regulations. Continued delays in the finalization of regulatory language coupled with financial and staffing impacts of COVID-19 will make it extremely challenging to meet the January 1, 2022 deadline for implementation. Furthermore, the bill text clearly states:</p> <p>Shall take effect on or after January 1, 2022, except the imposition of penalties pursuant to paragraph (1) shall not take effect until two years after the effective date of the regulations.</p> <p>CalRecycle appears to have the ability to extend the immediate deadline for implementation. The City of El Cerrito strongly supports and encourages CalRecycle to do so, for the reasons below.</p> <p>The City of El Cerrito finds the cost of implementation and increased efforts related to inspection and enforcement planning, recovered organic waste procurement, self-hauler registration impacts, and overall increases to residential and commercial collection costs to be unfeasible in a time when we know it will be extremely challenging to fund the additional financial burden.</p> <p>Furthermore, the City of El Cerrito is concerned that there may be insufficient time to design, fund, and implement a program that is fully compliant with SB 1383 due to the delays in finalizing regulatory language, the unpredictability of the COVID-19 impacts (both economic and related to changing solid waste generation patterns), and the challenges that local governments will face in seeking to fund and staff the required programs. For example, while many cities including El Cerrito have fully and indefinitely suspended in-person outreach and education to comply with the local and statewide Shelter in Place orders, SB 1383 implementation would require some quantity of in-person site visits for outreach and education. The significant budget impacts, in addition to shifting staff away from normal operations, have prevented planning operations to continue as they were prior to COVID-19.</p>	<p>Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.</p> <p>CalRecycle acknowledges the difficulties jurisdictions face due to COVID-19 impacts. Although the language of SB 1383 allows the regulations to go into effect “on or after January 1, 2022,” CalRecycle lacks the discretion to substantially extend the effective date of these regulations through rulemaking without coming into direct conflict with the diversion mandates in the statute. SB 1383 sets a 75% organic waste diversion target for 2025 that will not be achieved if implementation of the regulatory requirements that are designed to achieve this target are significantly delayed.</p>
1183	Ortiz, Y., City of El Cerrito	The City of El Cerrito would also like to take this time to support the California League of Cities’ letter of April 29, 2020 requesting local government regulatory relief in response to the COVID-19 pandemic.	Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.

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			CalRecycle acknowledges the difficulties jurisdictions face due to COVID-19 impacts. Although the language of SB 1383 allows the regulations to go into effect “on or after January 1, 2022,” CalRecycle lacks the discretion to substantially extend the effective date of these regulations through rulemaking without coming into direct conflict with the diversion mandates in the statute. SB 1383 sets a 75% organic waste diversion target for 2025 that will not be achieved if implementation of the regulatory requirements that are designed to achieve this target are significantly delayed.
1184	Ortiz, Y., City of El Cerrito	We appreciate CalRecycle recognizing that some changes to standard operations will be necessary in the short term, your consideration of “good faith” efforts related to SB 1383 penalties, and strongly urge CalRecycle to consider all comments received during this period of uncertainty.	<p>Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.</p> <p>The legislature amended SB 1383 to strip the requirement that CalRecycle use the "Good Faith Effort" requirement of AB 939 (Sher, Chapter 1095, Statutes of 1989) for enforcement for SB 1383. SB 1383 requires a more prescriptive approach and state minimum standards; jurisdictions must demonstrate compliance with each prescriptive standard. CalRecycle does exercise its enforcement discretion to allow consideration of "substantial efforts" made by the jurisdiction and the placement on a "Corrective Action Plan" (CAP). This effectively allows CalRecycle to consider efforts made by a jurisdiction, while not absolving them of responsibility. This structure allows CalRecycle to focus on compliance first and dedicate enforcement efforts to egregious offenders. The 75 percent organic waste diversion target in 2025 will not be reachable with the longer compliance process under the Good Faith Effort standard. Implementation of the prescriptive regulatory requirements of the regulation are designed to achieve the organic waste reduction targets, which is consistent with the explicit statutory direction</p>
1185	Oseguera, A., Waste Management	I want to thank CalRecycle for taking the time to review our past submittals and for having addressed several significant areas where Waste Management had concerns. We appreciate the willingness to make the modifications where warranted and where the industry demonstrated that there was a real need for change. We respectfully submit the following comments to the Department of Resources Recycling and Recovery’s (“CalRecycle”) draft Proposed SLCP Regulatory Text released on October 2, 2019 (the “Proposed SLCP Regulations”).	Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1186	Oseguera, A., Waste Management	Section 17409.5.8 - Incompatible Materials Limit in Recovered Organic Waste a. The language in Section 17409.5.8 limits the ability of recovered organic waste to be shipped for further processing if the threshold percentages of incompatible material are exceeded (80/20 and future 90/10). Waste Management encourages CalRecycle to clarify or adjust parameters. WM currently experiences, and we believe so does the industry, a large percentage (+35%) of “overs” that have significant amount of organic content and that even after additional screening, it is not feasible for this material to meet SB1383 requirements or compost specifications. We believe that it is not the intent of CalRecycle to limit the availability of facilities throughout the state, so we encourage that these provisions are revised or clarified.	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.

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		<p>b. As a further explanation, for a facility to ship recovered organics that exceed the threshold of incompatible materials for secondary processing, the receiving facility must meet recovery or incompatible material threshold requirements (80/20, and future 90/10). We are concerned regarding the recovery threshold limits of greater than 50 and 75 percent for transfer and processing facilities, but even more concerned regarding the ability of a composting facility to achieve less than 20 and 10 percent organics in the residual (including “overs”). Current infrastructure in the marketplace cannot meet these threshold requirements. Additionally, failure to achieve threshold requirements also disqualifies a facility from achieving a “Designated Source Separated Organics Waste Facility” status which is one of the requirements for a jurisdiction to implement a “Performance Based Source Separated Organic Waste Collection Service”. We do not believe that it is the intent of CalRecycle to limit the availability of facilities throughout the state, so we encourage that these provisions are revised or clarified.</p>	
1187	Oseguera, A., Waste Management	<p>Impact to for the industry:</p> <p>a. A significant risk to existing and future transfer/processing and compost facilities that are unable to meet requirements.</p> <p>b. If processed and recovered organics contain more than 20 percent (10 percent starting 1/1/24) incompatible material, this material cannot be shipped off site for further processing unless the facility that will perform further processing meets the threshold incompatible material limits or recovery depending upon type of facility. WM believes that a significant number of facilities will be unable to meet this requirement and we encourage that these provisions are revised or clarified.</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1188	Oseguera, A., Waste Management	<p>Section 17409.5.10.5 Solid Waste Handling at Co-located Facilities</p> <p>a. If a Facility transfers recovered organics onsite and the disposal from that facility is less than the threshold requirements for organics in the residual, the facility is subject to section 17409.5.1 through 17409.5.8 for any recovered organics shipped off site for further processing, including being limited to only shipping off site to a facility that can meet the incompatible material and recovery thresholds. WM is concerned regarding the recovery threshold limits of greater than 50 and 75 percent for transfer and processing facilities, but even more concerned regarding the ability of a composting facility to achieve less than 20 and 10 percent organics in the residual as mentioned previously.</p> <p>b. If a facility transfers recovered organics onsite and the disposal from that facility exceeds the threshold of organics in the residual, the secondary processing at a “Co-located Facility”, is subject to 17498.5.1 through 17409.5.8 for any recovered organics processed on-site or off site, including being limited to only shipping off site to a facility that can meet the incompatible material and recovery thresholds. WM is concerned regarding the recovery threshold limits of greater than 50 and 75 percent for transfer and processing facilities, but even more concerned regarding</p>	Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.

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		the ability of a composting facility to achieve less than 20 and 10 percent organics in the residual from materials derived from customer containers that in many cases have significant contamination.	
1189	Oseguera, A., Waste Management	Section 17409.5.2 – Measuring Organic Waste Recovered from Mixed Waste Organic Collection Stream - WM continues to recommend reducing the sampling period from 10 days to 5 days. The basis for our request is to reduce unnecessary costs and to avoid creating additional burdens on the industry. A five (5) day sampling period will provide statistically significant data and the additional 5 days of sampling creates an inefficient use of valuable resources.	Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1190	Oseguera, A., Waste Management	PRC Section 40194 “Transfer/processing facility or operation” – It is WM’s understanding that PRC Section 40194 allows for “compost facilities” to have the designation as a “processing facility” under SB1383 regulation. WM provides the following chart example that demonstrates our application of the language in PRC Section 40194 and draft SB1383 regulations. We attempt to demonstrate the critical issues of interpretation and of meeting draft SB1383 requirements that develop as regulation is applied real-time. We recommend that CalRecycle provide additional time for discussion and for the development of charted examples that provide needed clarity as it pertains to the regulation. (Also see chart within actual letter.)	Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1191	Palmisano, S., City of Watsonville	<p>The City of Watsonville appreciates the opportunity to provide comments on the April 20 SB 1383 Proposed Regulatory Draft. Watsonville is supportive of the goals established by the legislation and we appreciate the continued stakeholder engagement in the drafting process.</p> <p>In March 2020, Watsonville completed a compliance gap and a cost analysis to identify the budget resources needed to expand food waste diversion programs to all generators. Recent unprecedented budget impacts from the pandemic crisis will make it fiscally challenging to fully fund programs related to SB1383. Recovery from these impacts will be felt long after the crisis is over and we ask that you consider the following comments before enforceable regulations take effect.</p>	<p>Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.</p> <p>CalRecycle acknowledges the difficulties jurisdictions face due to COVID-19 impacts in regards to budgetary issues. CalRecycle is committed to provide as much technical assistance and any other guidance as needed to help overcome this barrier. While CalRecycle does have authority to impose penalties on jurisdictions starting Jan. 1, 2022, it is important to note that the enforcement structure under the SB 1383 regulations does allow CalRecycle to focus on compliance assistance first and reserve enforcement discretion for egregious offenders. The regulatory enforcement process, should CalRecycle exercise its enforcement discretion in that manner, allows for extended timelines and can be extended under certain circumstances to give jurisdictions up to 3 years to come into compliance before CalRecycle may consider issuing penalties. CalRecycle has released guidance on the compliance process; and again, we are committed to providing technical assistance to entities so SB 1383 compliance is achieved.</p>
1192	Palmisano, S., City of Watsonville	<p>Section 18981. 2. Implementation Requirement on Jurisdictions</p> <p>The City of Watsonville completed a compliance plan that included a utility rate study which was ultimately deferred until 2021 in order to manage recent challenges. This consequently impacts our ability to fund new programs like the new organics diversion mandate pursuant to SB 1383 (Lara, 2916). The reduced business environment directly challenges our ability to plan collection routes, education, and capital spending for trucks, carts, and other needed supplies.</p>	Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.

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		<p>A one-year implementation deferral is hereby requested to allow municipalities to focus on compliance with public safety requirements as well as increased expenses, decreased revenues, and evolving demand for solid waste services (e.g., more residential waste to manage, less commercial waste generation).</p>	
1193	Palmisano, S., City of Watsonville	<p>Section 18984.2. Two-Container Organic Waste Collection Services Our capacity plan revealed that expanding food waste diversion programs is particularly challenging due to limited infrastructure currently available. Our municipality will be forced to implement a fourth container for food waste collection, estimated to cost an up-front cost of \$3.7 million dollars for collections and processing, and an additional \$1.9 million dollars for containers and label costs. Adding food waste to the green waste container is not an option because our hauler does not have the processing infrastructure to process commingled organic materials. A one-year deferral on implementation will allow haulers to increase their infrastructure capacity and reduce the burden of purchasing, delivering, and servicing a fourth cart.</p>	Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1194	Palmisano, S., City of Watsonville	<p>Article 12. Procurement of Recovered Organic Waste Products The City of Watsonville believes that the required procurement of recovered organic waste products by jurisdictions unfairly places the burden of market development on municipal pentities. There are several other entities, including Caltrans, the agriculture sector, and organics processors who would better serve the market development goals of CalRecycle. Extensive compost, mulch, and renewable fuel procurement requirements will place significant financial and operational challenges. We ask that this requirement is annulled until additional infrastructure is developed to support the processing of organic material.</p>	Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1195	Palmisano, S., City of Watsonville	<p>The City of Watsonville is committed to furthering the State’s solid waste and recycling goals but needs temporary flexibility and regulatory relief in order to keep operations going. We appreciate your time and attention to this important issue, and we look forward to continuing our work together as we strive to meet California’s environmental goals during this difficult and uncertain time.</p>	Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1196	Pardo, V. and Ferrante, L., Resource Recovery Coalition of California	<p>The Resource Recovery Coalition of California (Resource Coalition) – formally the California Refuse Recycling Council, Northern District – is comprised of 33 industry member companies engaged in solid waste collection, recycling, composting, and anaerobic digestion. Our members have been deeply involved in the regulatory development of SB 1383 since informal regulations began in 2017. This has been a long journey, further complicated by an unforeseen public health emergency as a result of the COVID-19 pandemic. Undaunted, the waste and recycling industry continues to provide essential services to protect the health and safety of California during this unprecedented time. However, we cannot ignore the</p>	<p>Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.</p> <p>CalRecycle acknowledges the difficulties jurisdictions face due to COVID-19 impacts in regards to budgetary issues. CalRecycle is committed to provide as much technical assistance and any other guidance as needed to help overcome this barrier. While CalRecycle does have authority to impose penalties on jurisdictions starting Jan. 1, 2022, it is important to note that the enforcement structure under the SB 1383 regulations does allow CalRecycle to focus on compliance assistance first and reserve enforcement discretion for egregious offenders. The</p>

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		<p>deep financial implications of this emergency and the challenges that lie ahead in achieving our ambitious climate change initiatives, including SB 1383. California faces a potential \$54.3 billion dollar deficit because of the COVID-19 pandemic, severely constraining our ability to fund new programs and build the infrastructure necessary to manage our organic waste. Meanwhile, our members are facing an 18% projected gross revenue shortfall as of May 1, 2020, even after some receiving federal aid support. We also reasonably anticipate that the economic recovery as a result of COVID-19 will take time.</p> <p>Additionally, the department's updated SB 1383 cost analysis took into consideration market volatility concerns that predate COVID-19 impacts, which considerably increased the projected costs to achieve SB 1383. Updated estimates show projected state costs of \$4 – 10 billion over 10 years to achieve the proposed regulations. As the report states, cumulative economic, public health, and climate benefits associated with recovering organic waste will ultimately exceed the cost of the investments required, but these benefits cannot be achieved without substantial investments in new collection, processing, and recovery infrastructure. During this time of uncertainty, we question how we will take on the enormous financial challenge of an unfunded mandate?</p> <p>The SB 1383 Local Services Rates Analysis DRAFT REPORT makes clear that jurisdictions will need to raise rates in order to meet the obligations of SB 1383. Unfortunately, ratepayers cannot bear additional financial burdens at this time. SB 1383 will require alternative financial mechanisms to realize success.</p>	<p>regulatory enforcement process, should CalRecycle exercise its enforcement discretion in that manner, allows for extended timelines and can be extended under certain circumstances to give jurisdictions up to 3 years to come into compliance before CalRecycle may consider issuing penalties. CalRecycle has released guidance on the compliance process; and again, we are committed to providing technical assistance to entities so SB 1383 compliance is achieved.</p>
1197	Pardo, V. and Ferrante, L., Resource Recovery Coalition of California	<p>We hope this moment serves as an opportunity to prioritize and think innovatively about how to achieve our vital short-lived climate pollutant (SLCP) reduction strategy and support new green job infrastructure in California. As unemployment claims in the state top 4.7M and we see the most significant fiscal impact since the Great Recession in 2008, local economic stimulus and green job creation is more important than ever. The waste and recycling industry is a key player in economic recovery and reducing unemployment. In fact, CalRecycle has determined that achieving our 75% recycling goal could generate more than 100,000 new green jobs.</p>	<p>Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.</p>
1198	Pardo, V. and Ferrante, L., Resource Recovery Coalition of California	<p>We understand that the department cannot champion SB 1383 alone; this endeavor requires harmonization with other agencies, like the California Air Resources Board (CARB), as well as the administration and legislature, to attain the goals we have set for ourselves.</p>	<p>Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.</p>
1199	Pardo, V. and Ferrante, L., Resource Recovery Coalition of California	<p>We look forward to working with CalRecycle staff once the regulations are finalized and we can discuss guidance and training opportunities for our members and their local government partners. As you know, many are eager to have access to the department's model labeling for containers, and the additional training resources previously scheduled to be released earlier this year.</p>	<p>Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.</p>

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1200	Pardo, V. and Ferrante, L., Resource Recovery Coalition of California	Currently, we are taking one day at a time and continuing to provide vital essential public health services. Throughout the COVID-19 emergency and recovery, California has a vested interest in supporting the waste and recycling industry as a critical player in providing green jobs for our economic recovery and to bring us closer to achieving our environmental goals.	Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1201	Perkins, J., City of San Diego	<p>The City of San Diego (San Diego) appreciates the opportunity to comment on the most recent version of CalRecycle's proposed SB 1383 implementing regulations, dated April 20, 2020. As outlined in our own local Climate Action Plan, the City shares the state's focus on reducing harmful greenhouse gas emissions, including short-lived climate pollutants such as methane.</p> <p>Procedurally, San Diego understands CalRecycle's request that stakeholder comments focus on the most recent round of changes made to the regulatory language. However, the introduction of the coronavirus pandemic has raised compelling concerns for jurisdictions regarding this regulatory proposal in its entirety. This includes the need to evaluate compliance in an equitable way, as well as the need for flexibility in enforcement. The virus response has had an immense impact on San Diego's finances, as well as solid waste operations specifically. Preliminary data on the period from late March through early May 2020 show notable increases in tonnage received across all three categories: refuse (landfill), recycling (inorganics), and Greenery (San Diego's composting facility). These tonnage increases range from 16-18% when compared to the same period in 2019. It is too early to know if these trends will continue, but it is important to note that any increase in waste generation makes it more difficult for jurisdictions to meet SB 1383's diversion and recycling targets.</p> <p>The current situation is both unprecedented, and unexpected, and will have a significant effect on San Diego's operations and finances, compelling us to comment on these rules from a global perspective. This is also important as this is likely the final opportunity for stakeholders to provide written input on this regulatory package before it is adopted by CalRecycle. These global comments will follow those related to the most recent changes.</p>	<p>Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.</p> <p>CalRecycle acknowledges the difficulties jurisdictions face due to COVID-19 impacts in regards to budgetary issues. CalRecycle is committed to provide as much technical assistance and any other guidance as needed to help overcome this barrier. While CalRecycle does have authority to impose penalties on jurisdictions starting Jan. 1, 2022, it is important to note that the enforcement structure under the SB 1383 regulations does allow CalRecycle to focus on compliance assistance first and reserve enforcement discretion for egregious offenders. The regulatory enforcement process, should CalRecycle exercise its enforcement discretion in that manner, allows for extended timelines and can be extended under certain circumstances to give jurisdictions up to 3 years to come into compliance before CalRecycle may consider issuing penalties. CalRecycle has released guidance on the compliance process; and again, we are committed to providing technical assistance to entities so SB 1383 compliance is achieved.</p>
1202	Perkins, J., City of San Diego	<p>Comments on the April 20, 2020 version of the regulatory language.</p> <p>1. Do not remove the requirement for jurisdiction designees to inform jurisdictions of information regarding prohibited container contamination.</p> <p>The SB 1383 rules contain a number of different compliance pathways for localities to use, but to be successful this flexibility requires access to the data necessary to facilitate adaptive management. Designees will play a vital role in the compliance program of many jurisdictions, but it is important to ensure that important information is delivered to the jurisdiction directly, since they are ultimately liable for compliance. Container contamination is a significant problem that impedes recycling goals, and preserving this feedback loop from a designee to a jurisdiction</p>	CalRecycle removed the affirmative requirement for jurisdictions to impose penalties on generators for prohibited container contaminants and is leaving such a requirement to jurisdictional discretion pursuant to their own ordinances. Because that requirement was removed, similar requirements regarding designee monitoring of container contamination and the sharing of information was also removed. Jurisdictions nevertheless retain the ability pursuant to their own implementing ordinances to impose such requirements should they find it to be necessary.

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		supports awareness of the nature and extent of contamination problems that may exist on a particular route, so that they can be effectively and intentionally managed by the responsible jurisdiction. San Diego asks that CalRecycle maintain the language in §18984.5 (lines 26-31 of page 24) that it has proposed to strike.	
1203	Perkins, J., City of San Diego	2. CalRecycle must consider the impact of waivers on statewide compliance. San Diego supports the need for exemptions and waivers in the SB 1383 rules so that unique and unanticipated situations can be accommodated, as is the case with the Disaster and Emergency Waivers provisions contained in §18984.13. However, though replacing the prior 'may' with a 'shall' at line 27 of page 33 provides predictability for a jurisdiction struggling under such circumstances, it is important to remember that these decisions have an impact on statewide progress toward SB 1383's goals and targets. As outlined in more detail under global comment #7 below, San Diego urges CalRecycle to specifically identify waived compliance in its assessments regarding the state's progress toward compliance with these rules.	The use of "may" was identified by the Office of Administrative Law as a clarity issue; therefore, CalRecycle changed the "may" into "shall" to provide better clarity.
1204	Perkins, J., City of San Diego	3. Extend the timeline allowed for updating the Implementation Record, for information not generated by the jurisdiction itself. San Diego supports this regulation's approach of having all relevant information contained in a single, accessible location, the Implementation Record. It is important that this record be up to date as well, as new information is generated. However, tasks and reporting will often be done by designees and outside contractors, depending on how a given jurisdiction has structured its compliance approach. In that case, the 60 days allowed under §18995.2(d) is a relatively short period of time for a designee to collect information, verify it, provide it to the jurisdiction of record, and for the latter to submit it to the Implementation Record. Although this timeline should not be problematic in the case of data generated by the jurisdiction itself, it would be helpful to have additional time in cases where the information is generated by an entity other than the jurisdiction. San Diego requests that this time line be extended to 90 days if the information added to the Implementation Record is not directly generated by the submitting jurisdiction itself.	CalRecycle already extended the timeline for inclusion of records and information in the Implementation Record from the originally-proposed 30 days to 60 days based on stakeholder input. CalRecycle declines to extend this timeline further due to concerns it will unduly impact the ability of CalRecycle to monitor compliance with regulatory requirements.
1205	Perkins, J., City of San Diego	4. Preserve language describing thresholds for 'Moderate' violations, to provide more guidance to jurisdictions CalRecycle proposes to eliminate text in §18997.3(b)(2) that would state that moderate violations occur "where the entity failed to comply with critical aspects of the requirement." San Diego understands the interest in removing unnecessary language and fostering clarity, but absent this provision there are no elements of this penalty tier to serve as guideposts as to what would constitute a moderate violation. Without it, this tier is only defined by its own title "a moderate violation means a ... moderate deviation," as well as by exclusion, in it not being a minor or	The penalty provisions in this section are, by necessity, worded broadly to provide discretion to set penalties in an appropriate manner as fairness and justice may require. The term "critical aspects of the requirement" was identified as a clarity issue and removed due to difficulty in determining what "critical aspects" meant. "Minor" and "major" violations are described with specific parameters. Language is also included in this section to clarify that "moderate" violations are those that do not fall either within the "minor" nor "major." Therefore, CalRecycle determined that there is sufficient guidance in this section to determine whether a violation is moderate without using unduly prescriptive language that would hinder fair application of enforcement requirements.

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		<p>major violation. By comparison, both of the other tiers contain language that helps to classify the acts or omissions that might qualify for that penalty tier. Enforcement and penalties are a critical part of ensuring compliance, and jurisdictions need some level of assurance and predictability in how these penalties will be levied, to incorporate into their budgetary and planning processes. It is helpful for regulated jurisdictions to know that, unless there is some failure to comply with a critical aspect of these rules, only the minor penalty tier would apply, and San Diego requests that the language in §18997.3(b)(2) be preserved.</p> <p>If greater clarity is sought, CalRecycle may want to consider defining 'critical' in this context, which would also provide helpful guidance to responsible jurisdictions navigating implementation.</p>	
1206	Perkins, J., City of San Diego	<p>Comments on the entire SB 1383 regulation, including coronavirus considerations. The promise of SB 1383 and organic waste recycling technology is exciting, but the reality is that these facilities are expensive and complicated to build, and local governments and California residents are currently going through significant financial difficulties. Jurisdictions' revenues have taken a drastic and unanticipated hit, and the full extent of the impact to local budgets will not be known for some time. Absent significant state or federal financial support for the infrastructure required to meet the regulation's requirements, it is difficult to see how local governments will identify the resources necessary to do this without impacting local taxpayers.</p>	<p>Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.</p> <p>CalRecycle acknowledges the difficulties jurisdictions face due to COVID-19 impacts in regards to budgetary issues. CalRecycle is committed to provide as much technical assistance and any other guidance as needed to help overcome this barrier. While CalRecycle does have authority to impose penalties on jurisdictions starting Jan. 1, 2022, it is important to note that the enforcement structure under the SB 1383 regulations does allow CalRecycle to focus on compliance assistance first and reserve enforcement discretion for egregious offenders. The regulatory enforcement process, should CalRecycle exercise its enforcement discretion in that manner, allows for extended timelines and can be extended under certain circumstances to give jurisdictions up to 3 years to come into compliance before CalRecycle may consider issuing penalties. CalRecycle has released guidance on the compliance process; and again, we are committed to providing technical assistance to entities so SB 1383 compliance is achieved.</p>
1207	Perkins, J., City of San Diego	<p>The timeline that remains is difficult for jurisdictions as well. By the time these rules are finalized, there will be at most 18 months between the adoption of these rules and the first deadline of January 1, 2022. This leaves very little time to implement compliance plans, even for a jurisdiction that may initially rely on designees and contracts as opposed to the direct construction of facilities and infrastructure.</p>	<p>Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.</p> <p>CalRecycle acknowledges the difficulties jurisdictions face due to COVID-19 impacts. Although the language of SB 1383 allows the regulations to go into effect “on or after January 1, 2022,” CalRecycle lacks the discretion to substantially extend the effective date of these regulations through rulemaking without coming into direct conflict with the diversion mandates in the statute. SB 1383 sets a 75% organic waste diversion target for 2025 that will not be achieved if implementation of the regulatory requirements that are designed to achieve this target are significantly delayed.</p> <p>CalRecycle will be favoring compliance assistance in implementing these regulations and will exercise enforcement discretion on a case-by-case basis taking into account the totality of circumstances.</p>

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1208	Perkins, J., City of San Diego	<p>CalRecycle recently received a letter from a local government coalition, outlining similar concerns regarding the difficulties faced by jurisdictions facing new mandates like this, while trying to meet our communities' needs and respond to the coronavirus pandemic. San Diego urges CalRecycle to consider the following comments regarding the SB 1383 program as a whole, in light of the new and monumental difficulties facing localities at this time. It is extremely important that CalRecycle accommodate local governments and actively support our efforts to implement this program in a flexible, cost-effective and efficient way that considers the unique circumstances we face. To that end, San Diego offers the following specific comments on the SB 1383 regulation:</p>	<p>Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.</p> <p>CalRecycle acknowledges the difficulties jurisdictions face due to COVID-19 impacts in regards to budgetary issues. CalRecycle is committed to provide as much technical assistance and any other guidance as needed to help overcome this barrier. While CalRecycle does have authority to impose penalties on jurisdictions starting Jan. 1, 2022, it is important to note that the enforcement structure under the SB 1383 regulations does allow CalRecycle to focus on compliance assistance first and reserve enforcement discretion for egregious offenders. The regulatory enforcement process, should CalRecycle exercise its enforcement discretion in that manner, allows for extended timelines and can be extended under certain circumstances to give jurisdictions up to 3 years to come into compliance before CalRecycle may consider issuing penalties. CalRecycle has released guidance on the compliance process; and again, we are committed to providing technical assistance to entities so SB 1383 compliance is achieved.</p>
1209	Perkins, J., City of San Diego	<p>5. CalRecycle should be required to consider 'Good Faith' efforts toward compliance.</p> <p>The unprecedented impact of the coronavirus response on local governments will affect both their ability to comply with SB 1383's requirements, as well as the approach they take to do so. Jurisdictions are struggling to close large budget holes and retain staff, while continuing to meet vital community needs. Penalties will only serve to further draw down already-limited local budgets, diverting these limited resources away from compliance efforts. In this unique and challenging time, CalRecycle must be amenable to these pressures and evaluate a jurisdiction's response to these new rules in light of those circumstances. Unfortunately, the current language of the rules do not include a requirement that CalRecycle consider a jurisdiction's 'good faith' efforts to comply. San Diego requests that CalRecycle take these unique constraints into account and consider a jurisdiction's 'Good Faith' efforts to comply with these rules, before considering enforcement or levying penalties.</p>	<p>Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.</p> <p>The legislature amended SB 1383 to strip the requirement that CalRecycle use the "Good Faith Effort" requirement of AB 939 (Sher, Chapter 1095, Statutes of 1989) for enforcement for SB 1383. SB 1383 requires a more prescriptive approach and state minimum standards; jurisdictions must demonstrate compliance with each prescriptive standard. CalRecycle does exercise its enforcement discretion to allow consideration of "substantial efforts" made by the jurisdiction and the placement on a "Corrective Action Plan" (CAP). This effectively allows CalRecycle to consider efforts made by a jurisdiction, while not absolving them of responsibility. This structure allows CalRecycle to focus on compliance first and dedicate enforcement efforts to egregious offenders. The 75 percent organic waste diversion target in 2025 will not be reachable with the longer compliance process under the Good Faith Effort standard. Implementation of the prescriptive regulatory requirements of the regulation are designed to achieve the organic waste reduction targets, which is consistent with the explicit statutory direction</p>
1210	Perkins, J., City of San Diego	<p>6. Pandemics should be included in all sections of the regulation related to 'extenuating circumstances.'</p> <p>In a number of places throughout the draft regulation, CalRecycle is able to take into consideration 'extenuating circumstances' that can impact a jurisdiction's compliance with these rules, as it considers enforcement. These extenuating circumstances include 'Acts of God' such as earthquakes and wildfires, but do not expressly include pandemics. Events like the novel coronavirus can have the same unanticipated and devastating impacts on jurisdictions' compliance with these rules. While we understand there is ongoing debate regarding what constitutes a 'force majeure' or 'Act of God,' San Diego requests that pandemics be included as a type</p>	<p>The regulatory language does not limit "extenuating circumstances" to just natural disasters but would also take into account "emergency" situations that cause a lack of compliance. Rather than specifically list all possible extenuating circumstances, CalRecycle determined that the language should remain broad to allow maximum discretion to take into account emergency situations on a case-by-case basis. Nothing in the regulatory language would prevent a jurisdiction from attempting to make an evidentiary showing that something like COVID-19 would constitute an emergency situation directly causing lack of compliance.</p>

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		<p>of extenuating circumstance that should be considered by CalRecycle when it is determining whether official enforcement is appropriate.</p>	
1211	Perkins, J., City of San Diego	<p>7. Compliance exemptions (rural, elevation, etc.) should not lead to heightened requirements on jurisdictions not given exemptions. Regulated jurisdictions around the state will face unique challenges in their efforts to comply with the SB 1383 implementation rules. At its core, this policy calls for a wholesale shift in how Californians manage their waste material. This is important but will take time and considerable resources. To provide some flexibility, CalRecycle has included some exemption allowances in the regulation. It is important that in granting any of these exemptions that CalRecycle not shift its expectations regarding diversion and recycling to other, non-exempted jurisdictions. SB 1383 is structured as a statewide program, and as CalRecycle evaluates statewide compliance in the coming years (as well as enforcement), it would be inappropriate to increase requirements on other areas, especially as densely populated communities have been hard hit by the costs and impacts of the virus response, including unprecedented revenue shortfalls and job losses. This also aligns with the original language of SB 1383, stating legislative intent that the targets included in §39730.6 of the Health and Safety Code not be used as minimum requirements for each jurisdiction. Moreover, in order to ensure fair treatment to all regulated jurisdictions, as well as accurately monitor statewide progress and compliance with SB 1383, CalRecycle should collect data on the amount and weight, as well as the type, of organic waste generated by jurisdictions that secure compliance waivers. Future efforts and enforcement should be informed by a fully representative picture of waste generation by all jurisdictions statewide, even if some may have secured temporary waivers from compliance. If additional efforts are needed, San Diego urges CalRecycle to focus on an incentive approach instead of mandates. This includes the expansion of economic and market opportunities available for the byproducts of organics recycling processes, such as allowing direct pipeline injection of any gas produced from organic waste feedstocks. This could make expanded organics recycling operations more economically feasible for cash-strapped local governments throughout the state, meeting the goals of SB 1383 in a flexible and collaborative way.</p>	Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1212	Perkins, J., City of San Diego	<p>8. Remove duplicative requirements that can put staff at risk. Solid waste industry workers face dangerous conditions while doing their jobs-heavy machinery, pathogen exposure, etc.-and these concerns have been amplified during the coronavirus pandemic. Industry rules should thus focus on minimizing employee hazard exposure as much as possible, while also ensuring that important functions continue.</p>	Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.

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		<p>San Diego understands the need to verify the nature and extent of waste material received by processing and recycling facilities, in order to monitor the state's progress and compliance. Unfortunately, the load check requirements contained in Section 17867(a)16(A) and (B)1-2 (pages 144-145 of the April 20th language) are duplicative of existing requirements under AB 901 (Gordon) of 2015, as well as Title 14, Chapter 3.1, Articles 7&8 of the California Code of Regulations and should be removed. During fiscal year 2019, the Miramar Greenery had 97,000 tons of material come into the facility. Only 1,164 tons-1.2%-of material went to the landfill. This is an insignificant amount considering the inherent hazards CalRecycle is prescribing in this version of the regulations.</p> <p>While San Diego understands CalRecycle's desire to collect and verify this information on a regular basis, the activities outlined in these sections are extremely dangerous for solid waste staff and consultants to perform. CalRecycle should eliminate these portions of the regulation and substitute provisions that align the verification requirements of SB 1383 compliance with existing load-checking efforts already being performed.</p>	
1213	Perkins, J., City of San Diego	<p>9. State financial support is critical SB 1383 itself expressly stated the need for significant investments to develop organics recycling capacity, and that more robust funding would be needed for this. As the pandemic response has decimated local budgets, the need for major outside investment has never been greater. Funding for capital infrastructure, through specific stimulus efforts or otherwise, could help to kickstart construction of these facilities and provide good-paying jobs to Californians currently struggling with job losses. In addition, the state should be maximizing the market incentives that make organics recycling projects economically competitive for local governments. This includes expanding renewable gas programs including pipeline injection and transportation fuel eligibility and value. Expanding available state financial resources-as well as regulatory incentives and collaborations-will be vital to meeting the statewide goals envisioned by the legislature in passing SB 1383.</p>	<p>Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.</p> <p>CalRecycle acknowledges the difficulties jurisdictions face due to COVID-19 impacts in regards to budgetary issues. CalRecycle is committed to provide as much technical assistance and any other guidance as needed to help overcome this barrier. While CalRecycle does have authority to impose penalties on jurisdictions starting Jan. 1, 2022, it is important to note that the enforcement structure under the SB 1383 regulations does allow CalRecycle to focus on compliance assistance first and reserve enforcement discretion for egregious offenders. The regulatory enforcement process, should CalRecycle exercise its enforcement discretion in that manner, allows for extended timelines and can be extended under certain circumstances to give jurisdictions up to 3 years to come into compliance before CalRecycle may consider issuing penalties. CalRecycle has released guidance on the compliance process; and again, we are committed to providing technical assistance to entities so SB 1383 compliance is achieved.</p>
1214	Perkins, J., City of San Diego	<p>Conclusion San Diego appreciates the opportunity to provide comments at this juncture and has enjoyed being an active participant in CalRecycle's extensive stakeholder outreach over the past three years as these rules have been developed. The impact of the coronavirus pandemic on San Diego's budget and operations cannot be overstated, and we implore CalRecycle to consider the entirety of our comments on the SB 1383 rules in that context. San Diego has long valued the need to proactively address climate change, adopting our own Climate Action Plan back in 2015 and a related Zero Waste Plan as well. We look forward to partnering with CalRecycle</p>	<p>Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.</p>

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		going forward on solutions that work for our community and the state. It will be vital that we be able to work through challenges in a collaborative way to achieve our shared goals.	
1215	Pestrella, M. and Skye, C., County of Los Angeles - Department of Public Works	<p>GENERAL COMMENTS</p> <p>1. The unexpected COVID-19 pandemic has resulted in significant impacts to local jurisdictions. Out of an abundance of caution, many facilities that process collected recyclables have suspended operations. Therefore, many local jurisdictions including the County are allowing contracted waste haulers to dispose of recyclables and green/organic waste at landfills on a temporary basis. Because no reliable information is currently available on when the pandemic will end, local jurisdictions will face significant difficulties in planning to implement an effective organic waste management program that will ensure public health and safety.</p> <p>The pandemic has already had significant economic impacts on residents, businesses, and local jurisdictions. These economic impacts are likely to continue until after the pandemic has ended. Due to a sharp increase in the unemployment rate and the sudden closure of many non-essential businesses, local jurisdictions will have difficulty raising waste collection rates for residents and businesses to recoup the additional costs for organic waste management. Due to a decrease in revenue, local jurisdictions are experiencing severe budgetary constraints and may be required to prioritize other essential services over the implementation of organic waste management programs.</p> <p>While the local, state, and national economy recover from the pandemic, the County requests that CalRecycle consider delaying the imposition of penalties on local jurisdictions not in compliance with the Senate Bill 1383, regulatory provisions from January 1, 2022, to two years after the pandemic has ended to allow local jurisdictions sufficient time to implement organic waste management programs. The County also requests that CalRecycle consider delaying the requirement for local jurisdictions to impose penalties on residents, businesses, waste haulers, and other regulated entities from January 1, 2024, for a minimum of two years beyond the date when jurisdictions are subject to penalties.</p>	<p>Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.</p> <p>CalRecycle acknowledges the difficulties jurisdictions face due to COVID-19 impacts. Although the language of SB 1383 allows the regulations to go into effect "on or after January 1, 2022," CalRecycle lacks the discretion to substantially extend the effective date of these regulations through rulemaking without coming into direct conflict with the diversion mandates in the statute. SB 1383 sets a 75% organic waste diversion target for 2025 that will not be achieved if implementation of the regulatory requirements that are designed to achieve this target are significantly delayed.</p>
1216	Pestrella, M. and Skye, C., County of Los Angeles - Department of Public Works	<p>Section 18982. Definitions</p> <p>1. Comment(s):</p> <p>The definition of "renewable gas" is limited to gas derived from in-vessel digestion of organic waste only. The regulations should expand the definition of "renewable gas" to include gas derived from other technologies, including biomass conversion utilizing thermal conversion technologies, such as gasification and pyrolysis and any other technologies that are determined to constitute a reduction in landfill disposal pursuant to Section 18983.2.</p> <p>Proposed Regulatory Text and Recommended Changes/Revisions:</p>	<p>The comment is not germane to changes in the regulatory draft language released during the fifth comment period.</p>

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		(62) "Renewable Gas" means gas derived from organic waste that has been diverted from a landfill and processed at an in-vessel digestion facility that is permitted or otherwise authorized by Title 14, to recover organic waste, a biomass conversion facility that is permitted or otherwise authorized by Division 30 of the Public Resources Code to recover organic waste, or any other process or technology that is subsequently approved under Section 18983.2 to constitute a reduction in landfill disposal.	
1217	Pestrella, M. and Skye, C., County of Los Angeles - Department of Public Works	<p>ARTICLE 11. ORGANIC WASTE RECYCLING CAPACITY PLANNING Section 18992.1. Organic Waste Recycling Capacity Planning 2. Comment(s): The regulations state that the County shall conduct community outreach regarding locations being considered for new or expanded facilities. Public Works is concerned that this will require us to conduct community outreach within areas that are not under our jurisdictional authority. Public Works is aware that California Environmental Quality Act requires community outreach for these types of projects and recommends that this responsibility of community outreach be the role of the jurisdiction (city if located within a city or County if located in a County unincorporated area) in, which the new or expanded facility is being proposed, and not solely the role of the County regardless of the location of the new or expanded facility.</p> <p>Proposed Regulatory Text and Recommended Changes/Revisions: d) In complying with this Section, the County, city, and/or applicable jurisdiction in which the proposed facility or activity will be located shall: (3) (1) Conduct community outreach regarding locations being considered for new or expanded facilities, operations, or activities to seek feedback on the benefits and impacts that may be associated with new or expanded facilities, operations, or activities. The community outreach shall: (A) Include at least one of the following forms of communication: public workshops or meetings, print noticing, and electronic noticing. (B) If applicable, be conducted in coordination with potential solid waste facility operators that may use the location identified by the County and the jurisdictions and regional agencies located within the County. (C) Include communication to disadvantaged communities that may be impacted by the development of new facilities at the locations identified by the County and the jurisdictions and regional agencies located within the County. (D) Communication required by this Section must be provided in non-English languages spoken by a substantial number of the public in the applicable jurisdiction in a manner that conforms with the requirements of Section 18985.1(e). (2) The County shall provide outreach assistance to a city or another jurisdiction located within the County in which the proposed facility or activity will be located</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.

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		<p>with the activities listed in Section 18992.1 (d) (1) (A-D) upon request by the city or jurisdiction.</p> <p>(3) The County shall provide outreach assistance to a city or another jurisdiction in which a proposed facility or activity will be located that will accept organic waste from the County with the activities listed in Section 18992.1 (d) (1) (A-D) upon request by the city or jurisdiction.</p>	
1218	Pestrella, M. and Skye, C., County of Los Angeles - Department of Public Works	<p>ARTICLE 12. PROCUREMENT OF RECOVERED ORGANIC WASTE PRODUCTS Section 18993.1. Recovered Organic Waste Product Procurement Target</p> <p>3. Comment(s): As a follow-up to Specific Comment No. 1 in this letter under Section 18982. Definitions, the definition of "renewable gas" should be expanded to include gas produced from biomass conversion and other activities, processes, technologies, etc., determined to constitute a reduction in landfill disposal in addition to gas produced from anaerobic digestion.</p> <p>The recovered organic waste products that a jurisdiction may procure to satisfy its procurement requirements should be expanded to include any renewable gas from anaerobic digestion, biomass conversion, and all other activities, processes, technologies, etc. determined to constitute a reduction in organic waste disposal. Public Works recommends that the procurement of all organic waste products, such as transportation fuel and heating in addition to electricity, produced from the renewable gas resulting from biomass conversion, should also be eligible to satisfy a jurisdiction's procurement target.</p> <p>In addition, the products that a jurisdiction can procure to satisfy its procurement target should be expanded to include additional end uses of renewable gas generated from diverted organic waste, including industrial and commercial end uses, residential cooking, energy storage, and production of renewable hydrogen. Many studies have found that industrial, commercial, and manufacturing processes may be difficult to electrify, but can be decarbonized by converting to renewable gas generated from organic waste. The current draft regulations may not include all industrial, commercial, and manufacturing end uses as currently written. In addition, the draft regulations do not include cooking, either residential or commercial.</p> <p>Finally, the current draft does not include use of renewable gas for energy storage or for renewable hydrogen, both of which will be important to meet the requirements of Senate Bill 100 (de Leon, 2018) for 100 percent clean energy by 2045.</p> <p>Proposed Regulatory Text and Recommended Changes/Revisions: (f) For the purposes of this article, the recovered organic waste products that a jurisdiction may procure to comply with this article are:</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.

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		<p>(1) Compost, subject to any applicable limitations of Public Contract Code, Section 22150, that is produced at:</p> <p>(A) A compostable material handling operation or facility permitted or authorized under Chapter 3.1 of this Division; or</p> <p>(B) A large volume in-vessel digestion facility as defined and permitted under Chapter 3.2 of this division that compost on-site. [NOTE: Digestate, as defined in Section 18982(a)(16.5), is a distinct material from compost and is thus not a recovered organic waste product eligible for use in complying with this Article.]</p> <p>(2) Renewable gas from anaerobic digestion, biomass conversion, or any other process or technology that is subsequently approved under Section 18983.2 to constitute a reduction in landfill disposal used for fuel for transportation, electricity, or heating applications, or pipeline injection for use offsite for residential, industrial or commercial applications other than electricity, transportation or heating.</p> <p>(3) Electricity from biomass conversion</p> <p>(4) Mulch, provided that the following conditions are met for the duration of the applicable procurement compliance year:</p> <p>(A) The jurisdiction has an enforceable ordinance, or similarly enforceable mechanism, that requires the mulch procured by the jurisdiction to comply with this article to meet or exceed the physical contamination, maximum metal concentration, and pathogen density standards for land application specified in Section 17852(a)(24.5)(A)(1) through (3) of this Division; and</p> <p>(B) The mulch is produced at one or more of the following:</p> <ol style="list-style-type: none"> 1. A compostable material handling operation or facility as defined in Section 17852(a)(12), other than a chipping and grinding operation or facility as defined in Section 17852(a)(10), that is permitted or authorized under this division; or 2. A transfer/processing facility or transfer/processing operation as defined in Section 17402(a)(30) and (31), respectively, that is permitted or authorized under this division; or 3. A solid waste landfill as defined in Public Resources Code, Section 40195.1, that is permitted under Division 2 of Title 27 of the California Code of Regulations. <p>(g) The following conversion factors shall be used to convert tonnage in the annual recovered organic waste product procurement target for each jurisdiction to equivalent amounts of recovered organic waste products:</p> <p>(1) One ton of organic waste in a recovered organic waste product procurement target shall constitute:</p> <p>(A) 21 diesel gallon equivalents, or "DGE", of renewable gas in the form of transportation fuel.</p> <p>(B) 242 kilowatt-hours of electricity derived from renewable gas</p> <p>(C) 22 therms for heating derived from renewable gas</p>	

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		<p>(D) 27 therms for pipeline injection of renewable gas (D) 650 kilowatt hours of electricity derived from biomass conversion (E) 0.58 tons of compost, or 1.45 cubic yards of compost. (F) One ton of mulch.</p>	
1219	Pestrella, M. and Skye, C., County of Los Angeles - Department of Public Works	<p>4. Comment(s): Public Works recommends that the regulations not require biomass to be received directly from a compostable material handling operation or facility, transfer/processing operation or facility, or solid waste landfill. This would force generators or haulers to transport biomass feedstock to one of these operations or facilities and then to a biomass conversion facility that may not be co-located, potentially adding significant additional expense and transportation impacts to biomass conversion. Public Works believes that this requirement can be modified as shown below to ensure that procurement of products from biomass conversion will reduce methane emissions by only counting towards a jurisdiction's procurement target if these products are created from biomass that otherwise would have been disposed in a landfill. In addition, Public Works believes that this requirement should be modified to reflect Specific Comment No. 1 in this letter under Section 18982. Definitions and Specific Comment No. 3 in this letter under Section 18993.1. Recovered Organic Waste Product Procurement Target to expand the definition of "renewable gas" to include renewable gas created from biomass conversion and to allow any products, such as transportation fuel, electricity, and heating created from biomass conversion to count towards a jurisdiction's procurement target. Proposed Regulatory Text and Recommended Changes/Revisions: (i) Electricity Renewable gas procured from a biomass conversion facility may only count toward a jurisdiction's recovered organic waste product procurement target, if the biomass conversion facility receives feedstock directly from one or more of the following during the duration of the applicable procurement compliance year or the biomass would otherwise have been disposed of in a solid waste landfill: (1) A compostable material handling operation or facility as defined in Section 17852(a)(12), other than a chipping and grinding operation or facility as defined in Section 17852(a)(10), that is permitted or authorized under this division; or (2) A transfer/processing facility or transfer/processing operation as defined in Section 17402(a)(30) and (31), respectively, that is permitted or authorized under this division; or (3) A solid waste landfill as defined in Public Resources Code, Section 40195.1, that is permitted under Division 2 of Title 27 of the California Code of Regulations.</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1220	Pestrella, M. and Skye, C., County of Los Angeles -	<p>ARTICLE 16. ADMINISTRATIVE CIVIL PENALTIES Section 18997.2. Penalty Amounts. 5. Comment(s):</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.

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	Department of Public Works	<p>The regulations should allow jurisdictions to provide hardship waivers to certain generators, residents, or commercial businesses to reduce the financial burden of the penalties. The hardship waivers would not in any way exempt a regulated generator, resident, or commercial business from subscribing to organic waste collection services and would only provide a partial or whole exemption from paying a financial penalty. The criteria for granting hardship waivers would be developed by local jurisdictions and approved by CalRecycle.</p> <p>Proposed Regulatory Text and Recommended Changes/Revisions:</p> <p>(a) A jurisdiction shall impose penalties for violations of the requirements of this chapter consistent with the applicable requirements prescribed in Government Code Sections 53069.4, 25132 and 36900. The penalty levels shall be as follows:</p> <p>(1) For a first violation, the amount of the base penalty shall be \$50-\$100 per violation. A generator, resident, or commercial business may request a financial hardship waiver from the jurisdiction imposing the penalty to be granted at the discretion of the local jurisdiction and the Department.</p> <p>(2) For a second violation, the amount of the base penalty shall be \$100-\$200 per violation. A generator, resident, or commercial business may request a financial hardship waiver from the jurisdiction imposing the penalty to be granted at the discretion of the local jurisdiction and the Department.</p> <p>(3) For a third or subsequent violation, the amount of the base penalty shall be \$250-\$500 per violation. A generator, resident, or commercial business may request a financial hardship waiver from the jurisdiction imposing the penalty to be granted at the discretion of the local jurisdiction and the Department.</p> <p>(b) Nothing in this Section shall be construed as preventing a jurisdiction from revoking, suspending, or denying a permit, registration, license, or other authorization consistent with local requirements outside the scope of this chapter in addition to the imposition of penalties authorized under this Section.</p>	
1221	Romanow, K., City of San Jose	<p>Specific Comments</p> <p>We commend CalRecycle’s efforts in lowering emissions of methane and volatile organic compounds and reduction in food waste currently disposed of in landfills. We have concerns over the economic burden on ratepayers and facilities that would result from implementation of this rule, specifically in light of the growing impact on the global economy due to the COVID-19 pandemic. Our areas of concern are further detailed below:</p> <p>1. Economic burden on ratepayers and facilities</p> <p>Meeting the organics diversion mandates of SB 1383 and its regulations will require an increase in regional and statewide capacity for organics diversion processing in order to meet the State’s goal to divert 75% of organics and recovering at least 20% of currently disposed edible food for human consumption by 2025. According to Table 2-3 (page 2-18 of CalRecycle’s Draft Program Environmental Impact Report),</p>	<p>Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.</p> <p>CalRecycle acknowledges the difficulties jurisdictions face due to COVID-19 impacts in regards to budgetary issues. CalRecycle is committed to provide as much technical assistance and any other guidance as needed to help overcome this barrier. While CalRecycle does have authority to impose penalties on jurisdictions starting Jan. 1, 2022, it is important to note that the enforcement structure under the SB 1383 regulations does allow CalRecycle to focus on compliance assistance first and reserve enforcement discretion for egregious offenders. The regulatory enforcement process, should CalRecycle exercise its enforcement discretion in that manner, allows for extended timelines and can be extended under certain circumstances to give jurisdictions up to 3 years to come into compliance before CalRecycle may consider issuing</p>

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		<p>CalRecycle estimated that the San Francisco Bay Area would require an additional 15 compost facilities and eight additional anaerobic digester facilities by 2030 to handle the additional organic material. The additional costs associated with increasing capacity will adversely impact solid waste collection ratepayers, facilities and jurisdictions throughout the State. In Santa Clara County alone, more than 200,000 jobs have been lost since the COVID-19 pandemic hit the region. From a logistics standpoint, implementation and coordination of an effective edible food recovery program will be challenging at this time. Food distribution services are dealing with an overwhelming increase in people dependent on their services as a source of food, coupled with reduced food availability and understaffing. The City of San Jose, like other jurisdictions within the State, is experiencing unprecedented budget impacts due to the crisis including reduction in City staffing resources, increased City expenses, decreased revenues and changes in demand for services in the solid waste sector where there is more residential waste to manage and less waste generated by the commercial sector. These economic impacts are likely to be felt long after the COVID-19 emergency is past. While we remain committed to furthering the State’s solid waste and recycling goals, we urge CalRecycle to work with us and allow us to maintain service for over 1,000,000 residents and 10,000 businesses without increasing the rates on our already financially strained community.</p>	<p>penalties. CalRecycle has released guidance on the compliance process; and again, we are committed to providing technical assistance to entities so SB 1383 compliance is achieved.</p>
1222	Romanow, K., City of San Jose	<p>2. Implementation timeline The rapidly changing situation makes it difficult to predict what the impacts will be on local jurisdictions over the coming months. We ask for patience and flexibility as we work to adjust to these evolving circumstances. In response to the unprecedented COVID-19 pandemic, we request CalRecycle to consider delaying implementation of new organics diversion mandates pursuant to SB 1383 for a period commensurate at least with the duration of California’s state of emergency related to the spread of COVID-19. If the implementation cannot be delayed, we ask that CalRecycle extend the compliance timeline described in Section 18996.2 and/or delay the imposition of penalties described in Section 18997.3, including those for failure to meet the onerous procurement targets noted in our past comment letters on previous formal drafts.</p>	<p>Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period. CalRecycle acknowledges the difficulties jurisdictions face due to COVID-19 impacts. Although the language of SB 1383 allows the regulations to go into effect “on or after January 1, 2022,” CalRecycle lacks the discretion to substantially extend the effective date of these regulations through rulemaking without coming into direct conflict with the diversion mandates in the statute. SB 1383 sets a 75% organic waste diversion target for 2025 that will not be achieved if implementation of the regulatory requirements that are designed to achieve this target are significantly delayed.</p>
1223	Rowlands, D., City of Fillmore	<p>The City of Fillmore (City) supports the General Comments and Specific Comments made by the Los Angeles County Solid Waste Management Committee/Integrated Waste Management Task Force (Task Force), as detailed in the Task Force's comment letter dated May 18, 2020. The Formal Proposed Regulatory Text (Fourth Formal Draft) for Senate Bill 1383, which was released by the California Department of Resources Recycling and Recovery (CalRecycle) on April 20, 2020, imposes troublesome requirements and</p>	<p>Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period. CalRecycle acknowledges the difficulties jurisdictions face due to COVID-19 impacts. Although the language of SB 1383 allows the regulations to go into effect “on or after January 1, 2022,” CalRecycle lacks the discretion to substantially extend the effective date of these regulations through rulemaking without coming into direct conflict with the diversion mandates in the statute. SB 1383 sets a 75% organic waste diversion target for 2025 that will not be achieved if</p>

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		<p>responsibilities on local agencies in the statewide effort to reduce emissions of climate pollutants.</p> <p>The City is particularly concerned that the Fourth Formal Draft (1) imposes excessive responsibilities and prescriptive standards upon local jurisdictions for achieving statewide disposal reduction goals; (2) exceeds statutory authority by requiring local jurisdictions to impose monetary penalties for noncompliance and procure specified minimum amounts of recovered organic waste products; and (3) fails to consider a local jurisdiction's "good faith effort" in complying with SB 13 83's regulatory requirements. These concerns are even more important given the severe economic, fiscal, and social impacts of the COVID-19 pandemic.</p> <p>The City respectfully requests that CalRecycle address the Task Force's comments, concerns, and recommendations in the next version of the proposed regulations.</p> <p>Thank you for the opportunity to comment on the Fourth Formal Draft and CalRecycle's consideration to revise the proposed regulations to protect the people of California and the long-term interest of local agencies statewide.</p>	<p>implementation of the regulatory requirements that are designed to achieve this target are significantly delayed.</p> <p>The legislature amended SB 1383 to strip the requirement that CalRecycle use the "Good Faith Effort" requirement of AB 939 (Sher, Chapter 1095, Statutes of 1989) for enforcement for SB 1383. SB 1383 requires a more prescriptive approach and state minimum standards; jurisdictions must demonstrate compliance with each prescriptive standard. CalRecycle does exercise its enforcement discretion to allow consideration of "substantial efforts" made by the jurisdiction and the placement on a "Corrective Action Plan" (CAP). This effectively allows CalRecycle to consider efforts made by a jurisdiction, while not absolving them of responsibility. This structure allows CalRecycle to focus on compliance first and dedicate enforcement efforts to egregious offenders. The 75 percent organic waste diversion target in 2025 will not be reachable with the longer compliance process under the Good Faith Effort standard. Implementation of the prescriptive regulatory requirements of the regulation are designed to achieve the organic waste reduction targets, which is consistent with the explicit statutory direction</p>
1224	Shin-Heydorn, H., City of Signal Hill	<p>The City of Signal Hill (City) supports the General Comments and Specific Comments made by the Los Angeles County Solid Waste Management Committee/Integrated Waste Management Task Force (Task Force), as detailed in the Task Force's comment letter dated May 18, 2020.</p> <p>The Formal Proposed Regulatory Text (Fourth Formal Draft) for Senate Bill 1383, which was released by the California Department of Resources Recycling and Recovery (CalRecycle) on April 20, 2020, imposes troublesome requirements and responsibilities on local agencies in the statewide effort to reduce emissions of climate pollutants.</p> <p>The City is particularly concerned that the Fourth Formal Draft (1) imposes excessive responsibilities and prescriptive standards upon local jurisdictions for achieving statewide disposal reduction goals; (2) exceeds statutory authority by requiring local jurisdictions to impose monetary penalties for noncompliance and procure specified minimum amounts of recovered organic waste products; and (3) fails to consider a local jurisdiction's "good faith effort" in complying with SB 1383's regulatory requirements. These concerns are even more important given the severe economic, fiscal, and social impacts of the COVID-19 pandemic.</p> <p>The City respectfully requests that CalRecycle address the Task Force's comments, concerns, and recommendations in the next version of the proposed regulations.</p> <p>Thank you for the opportunity to comment on the Fourth Formal Draft and CalRecycle's consideration to revise the proposed regulations to protect the people of California and the long-term interest of local agencies statewide.</p>	<p>Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.</p> <p>CalRecycle acknowledges the difficulties jurisdictions face due to COVID-19 impacts. Although the language of SB 1383 allows the regulations to go into effect "on or after January 1, 2022," CalRecycle lacks the discretion to substantially extend the effective date of these regulations through rulemaking without coming into direct conflict with the diversion mandates in the statute. SB 1383 sets a 75% organic waste diversion target for 2025 that will not be achieved if implementation of the regulatory requirements that are designed to achieve this target are significantly delayed.</p> <p>The legislature amended SB 1383 to strip the requirement that CalRecycle use the "Good Faith Effort" requirement of AB 939 (Sher, Chapter 1095, Statutes of 1989) for enforcement for SB 1383. SB 1383 requires a more prescriptive approach and state minimum standards; jurisdictions must demonstrate compliance with each prescriptive standard. CalRecycle does exercise its enforcement discretion to allow consideration of "substantial efforts" made by the jurisdiction and the placement on a "Corrective Action Plan" (CAP). This effectively allows CalRecycle to consider efforts made by a jurisdiction, while not absolving them of responsibility. This structure allows CalRecycle to focus on compliance first and dedicate enforcement efforts to egregious offenders. The 75 percent organic waste diversion target in 2025 will not be reachable with the longer compliance process under the Good Faith Effort standard. Implementation of the prescriptive regulatory requirements of the regulation are designed to achieve the organic waste reduction targets, which is consistent with the explicit statutory direction</p>
1225	Sommer, W., StopWaste	<p>Thank you for the opportunity to comment on the Fourth Formal Draft of regulations implementing SB 1383 (Lara), the Short-Lived Climate Pollutant Reduction Strategy. StopWaste has participated in the rulemaking process since</p>	<p>Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.</p>

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		<p>February 2017. We have continued to support the intent of the legislation and to that end, provided comments based on our experience implementing similar programs for the past seven years in Alameda County. We have no new comments on the changes to the regulatory text released on April 20, 2020. However, we have serious concerns about the ability of jurisdictions to implement SB 1383 by January, 2022.</p> <p>We understand that postponement of SB 1383 implementation requires statutory change. As a demonstration of support to local jurisdictions, we request that CalRecycle temporarily forgive non-compliance to allow time for economic recovery post-COVID-19.</p> <p>Like the State of California, local jurisdictions are experiencing significant budget shortfalls due to the COVID-19 pandemic. Staff lay-offs are expected, and many cities have still not recovered from the previous recession and were already understaffed, questioning how they would find the resources to implement SB 1383.</p> <p>The State has stated in the statute and during the regulatory process that cities have the ability to increase solid waste rates to cover the cost of implementation of SB 1383. However, given the devastating economic impact of COVID-19, rate increases may be more than some businesses or residents can bear while they work to pay back loans, deferred rent, and other expenses, including utility bills.</p> <p>Haulers and processors will have to determine if and how to adapt rate structures from a system that relies on the commercial sector bearing most of the financial burden, while experiencing an overall decrease in material with a reported 20% increase in material from the residential sector. This could be a temporary change, but many businesses are likely not to re-open, or may increase the amount of time people work from home, so some effects could be long term. We won't know the lasting effects for some time.</p> <p>Many jurisdictions were anticipating working with County Environmental Health Departments on edible food recovery implementation, but those agencies/departments are directly working to address health risks and impacts from COVID-19 and are not likely to be able to prioritize 1383 planning within the next year.</p> <p>Again, we support the goals of SB 1383, and strongly encourage CalRecycle to support jurisdictions, generators, and haulers to come up with realistic ways and timelines to ensure success of implementation.</p>	<p>CalRecycle acknowledges the difficulties jurisdictions face due to COVID-19 impacts in regards to budgetary issues. CalRecycle is committed to provide as much technical assistance and any other guidance as needed to help overcome this barrier. While CalRecycle does have authority to impose penalties on jurisdictions starting Jan. 1, 2022, it is important to note that the enforcement structure under the SB 1383 regulations does allow CalRecycle to focus on compliance assistance first and reserve enforcement discretion for egregious offenders. The regulatory enforcement process, should CalRecycle exercise its enforcement discretion in that manner, allows for extended timelines and can be extended under certain circumstances to give jurisdictions up to 3 years to come into compliance before CalRecycle may consider issuing penalties. CalRecycle has released guidance on the compliance process; and again, we are committed to providing technical assistance to entities so SB 1383 compliance is achieved.</p> <p>The legislature amended SB 1383 to strip the requirement that CalRecycle use the "Good Faith Effort" requirement of AB 939 (Sher, Chapter 1095, Statutes of 1989) for enforcement for SB 1383. SB 1383 requires a more prescriptive approach and state minimum standards; jurisdictions must demonstrate compliance with each prescriptive standard. CalRecycle does exercise its enforcement discretion to allow consideration of "substantial efforts" made by the jurisdiction and the placement on a "Corrective Action Plan" (CAP). This effectively allows CalRecycle to consider efforts made by a jurisdiction, while not absolving them of responsibility. This structure allows CalRecycle to focus on compliance first and dedicate enforcement efforts to egregious offenders. The 75 percent organic waste diversion target in 2025 will not be reachable with the longer compliance process under the Good Faith Effort standard. Implementation of the prescriptive regulatory requirements of the regulation are designed to achieve the organic waste reduction targets, which is consistent with the explicit statutory direction</p>
1226	Taj, A., City of Artesia	<p>The City of Artesia appreciates the opportunity to submit comments on the final draft regulations of SB 1383. While some changes were made that will give the City a degree of flexibility, the City requests that more be done to ease the considerable regulatory burden on municipalities created in the most recent draft. The City would like to highlight four main areas of concern.</p>	<p>Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.</p>

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		<p>Reporting In the most recent draft, a tremendous amount of recordkeeping and reporting is required. Complying with these regulations will force the City to divert already scarce funds and resources to maintaining documents on waste collection services, education and outreach, edible food recovery, implementation, and container contamination minimization. The City recommends reducing the burden of record keeping so that the City may prioritize program enforcement.</p>	
1227	Taj, A., City of Artesia	<p>Enforcement The City welcomes the changed inspection schedule to performance-based reporting or bi-annual reporting. However, this still creates an undue burden on City enforcement staff due to the need to train them to perform time-consuming waste inspections. Both options will result in increased costs to both the City and waste hauler, creating additional pressure on already strained budgets. CalRecycle should instead emphasize a city's ability to do community education and create partnerships to meet SB 1383 goals.</p>	Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1228	Taj, A., City of Artesia	<p>Funding Although SB 1383 provides funding mechanisms to cities to implement programs, it involves cities having to collect from its residents and businesses. This will exacerbate an already tenuous economic situation where a growing number of cities are facing budget shortfalls. Although SB 1383 does not require cities to administer civil penalties on violators, cities will have to use this tool to re-coup staff time for enforcement. This perpetuates a punitive and adversarial relationship. A more suitable funding mechanism would be to use cap-and-trade dollars to fund this program as the purpose of SB 1383 is to reduce climate pollutants.</p>	<p>Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.</p> <p>CalRecycle acknowledges the difficulties jurisdictions face due to COVID-19 impacts in regards to budgetary issues. CalRecycle is committed to provide as much technical assistance and any other guidance as needed to help overcome this barrier. While CalRecycle does have authority to impose penalties on jurisdictions starting Jan. 1, 2022, it is important to note that the enforcement structure under the SB 1383 regulations does allow CalRecycle to focus on compliance assistance first and reserve enforcement discretion for egregious offenders. The regulatory enforcement process, should CalRecycle exercise its enforcement discretion in that manner, allows for extended timelines and can be extended under certain circumstances to give jurisdictions up to 3 years to come into compliance before CalRecycle may consider issuing penalties. CalRecycle has released guidance on the compliance process; and again, we are committed to providing technical assistance to entities so SB 1383 compliance is achieved.</p>
1229	Taj, A., City of Artesia	<p>Model Ordinance As consistent with recent changes the State should quickly release a model ordinance to give a framework for cities to conform to the regulations. Creating a new ordinance that accurately reflects the regulatory intent of SB 1383 will cost valuable resources such as staff time and legal fees. Establishing a model ordinance would provide better statewide uniformity in implementing SB 1383. While the City supports the intended goals and objectives of SB 1383, it hopes that CalRecycle will work with local governments to provide them flexibility in determining the best approach to achieve them.</p>	Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period. However, CalRecycle will be releasing a model enforcement ordinance and will continue to provide technical assistance.

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1230	Weatherby, T., Second Harvest of Silicon Valley	<p>Thank you for the opportunity to provide input on the latest draft regulations pursuant to SB 1383 (Lara, 2016). While there are still some issues that were not resolved from our previous comments, we are most concerned about the Penalties. We are concerned that the new per-violation structure, versus the prior per-day violation will make enforcement difficult for jurisdictions and will not incent generators to work with their local food recovery organizations. These penalties are quite low and will likely undercut the ability to rescue this food effectively. Please reconsider these penalties and put some teeth into this regulation.</p> <p>1. Article 16: Section 18997.2. Penalty Amounts “(a) A jurisdiction shall impose penalties for violations of the requirements of this chapter consistent with the applicable requirements prescribed in Government Code Sections 53069.4, 25132 and 36900. The penalty levels shall be as follows:”</p>	Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1231	Webb, M., City of Davis	<p>City of Davis staff appreciates the additional opportunity to provide input on the proposed CalRecycle regulations for the SB 1383 Short-Lived Climate Pollutants (SLCP): Organic Waste Methane Emissions Reductions. The City has been actively engaged in this rulemaking process, and has provided feedback on each occasion of the public comment periods, submitting four comment letters previously on the regulations, and participating in each public hearing. The City is grateful that several of the items of concern expressed in previous letters have been clarified and revised. It is clear that in many areas, CalRecycle has listened to the comments and concerns voiced by many jurisdictions.</p> <p>The City supports the goals of SB 1383; reducing landfill methane emissions by keeping organic materials out of landfills mirrors our City's goals for waste diversion and GHG emission reductions. Some of the regulations will directly support current efforts and assist staff in implementing programs that are already in place.</p> <p>However, we still have some concerns with the regulations. These concerns have been listed in previous comment letters already, so we will not reiterate them here. A few new concerns have come up recently surrounding the response to COVID-19 and the state and local shelter-in-place orders, the legality of using franchise fees to fund edible food programs, and requested support from CalRecycle to implement these regulations.</p>	Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1232	Webb, M., City of Davis	<p>COVID-19: State and Local Shelter in Place Orders</p> <p>Given the shelter-in-place orders due to COVID-19, we have some concerns regarding the financial impact on local businesses and residents being compounded by the necessary rate increases to comply with SB1383, and on the ability of municipalities to prepare for, or implement, some of these regulations successfully with the amount of budget reductions underway. In addition to the financial implications of the regulations, attempting to communicate new programs during</p>	<p>Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.</p> <p>CalRecycle acknowledges the difficulties jurisdictions face due to COVID-19 impacts in regards to budgetary issues. CalRecycle is committed to provide as much technical assistance and any other guidance as needed to help overcome this barrier. While CalRecycle does have authority to impose penalties on jurisdictions starting Jan. 1, 2022, it is important to note that the</p>

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		<p>this crisis will not only be at best poorly (and at worst, negatively) received, it will likely result in poor outcomes due to the primary focus of residents and businesses on surviving the current crisis.</p> <p>We currently do not have a timeline for when all businesses can reopen and day to day lives can return to normal. The City of Davis, as well as other municipalities in the area have noticed changes in solid waste collection services due to the shelter-in-place orders, including businesses stopping or reducing service levels, residents filling their waste bins more, but not increasing their service levels, all of which will ultimately increase costs, while likely decreasing revenue. The fiscal consequences of these changes are still unknown. While a gradual reopening is being discussed statewide, it's clear that it will be a long process. How can cities plan for new programs and costs when there is little idea of how the current crisis will be affecting budgets? How can cities increase rates to implement SB 1383 requirements, looking to residents and businesses to now pay more toward their service when they are struggling to make ends meet?</p>	<p>enforcement structure under the SB 1383 regulations does allow CalRecycle to focus on compliance assistance first and reserve enforcement discretion for egregious offenders. The regulatory enforcement process, should CalRecycle exercise its enforcement discretion in that manner, allows for extended timelines and can be extended under certain circumstances to give jurisdictions up to 3 years to come into compliance before CalRecycle may consider issuing penalties. CalRecycle has released guidance on the compliance process; and again, we are committed to providing technical assistance to entities so SB 1383 compliance is achieved.</p>
1233	Webb, M., City of Davis	<p>Concerns Regarding Funding Edible Food Recovery Programs Through Solid Waste Rates</p> <p>In February 2020, City staff attended the SB 1383 kickoff meeting at the Yolo Food Bank, which included presentations from several CalRecycle staff. During the meeting, questions arose regarding the legality of using franchise fees to pay for edible food recovery. A few days later, we received confirmation from CalRecycle staff that they had conferred with their legal counsel and concluded that placing fees in the rates for residents and commercial generators costs would be challenged under Prop 218 if the service would only be for the Tier 1 and 2 generators. Based on this new information, we request that CalRecycle consider postponing the issuance of these regulations, and/or asking the Governor to examine whether he can issue an emergency order to delay their issuance, in light of the Covid-19 health emergency. The issuance of these regulations should be postponed (A) until at least six months after the end of the current health emergency has been declared by the State of California and (B) until an alternate means for financing and implementation of the edible food recovery component of the program is identified that is consistent with Proposition 218, such as the provision of grant funding by the State to support this new state-mandated program.</p>	<p>Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.</p> <p>CalRecycle acknowledges the difficulties jurisdictions face due to COVID-19 impacts. Although the language of SB 1383 allows the regulations to go into effect “on or after January 1, 2022,” CalRecycle lacks the discretion to substantially extend the effective date of these regulations through rulemaking without coming into direct conflict with the diversion mandates in the statute. SB 1383 sets a 75% organic waste diversion target for 2025 that will not be achieved if implementation of the regulatory requirements that are designed to achieve this target are significantly delayed.</p>
1234	Wunderlich, G., City of Murrieta	<p>The City of Murrieta writes to comment on the revised proposed regulations released in April 2020, which seeks to implement SB 1383 (Lara, 2016). The City of Murrieta appreciates the opportunity to comment on these proposed regulations. The City of Murrieta has significant concerns about critical aspects that hinder local governments’ ability to implement the proposed regulations.</p>	<p>Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.</p>
1235	Wunderlich, G., City of Murrieta	<p>Infrastructure Capacity: California lacks sufficient capacity to meet the need for new organic waste processing. Other regulatory and permitting issues can impede the</p>	<p>The comment is not germane to changes in the regulatory draft language released during the fifth comment period.</p>

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		construction of these new facilities that are outside of local governments' control. The City of Murrieta is concerned that the timelines set forth in these regulations will not be adequate to develop and permit the new facilities required to successfully implement and comply with these regulations.	
1236	Wunderlich, G., City of Murrieta	Funding: Insufficient state and local funding continue to be among the major challenges cities face in implementing new organic waste diversion programs. These regulations will be costly to implement, and cities will need to raise their collection rates to compensate. CalRecycle should not rely on the fee authority granted to local jurisdictions in SB 1383 alone, because local governments do not have unrestrained authority to impose costs on waste generators and must comply with the requirements of the California Constitution.	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1237	Wunderlich, G., City of Murrieta	Penalties: The City of Murrieta remains concerned as to how these penalty violations will be assessed and requests further clarification. Specifically, in Section 18997.3(b)(2) and (3), it is unclear as to the distinction between what constitutes a "moderate" and "major" violation. Clarity is needed given the significant penalty amounts of up to \$10,000 a day. These penalties could make it difficult for cities to allocate the funds necessary to increase infrastructure capacity and other hindrances to compliance.	The penalty provisions in this section are, by necessity, worded broadly to provide discretion to set penalties in an appropriate manner as fairness and justice may require. The term "critical aspects of the requirement" was identified as a clarity issue and removed due to difficulty in determining what "critical aspects" meant. "Minor" and "major" violations are described with specific parameters. Language is also included in this section to clarify that "moderate" violations are those that do not fall either within the "minor" nor "major." Therefore, CalRecycle determined that there is sufficient guidance in this section to determine whether a violation is moderate without using unduly prescriptive language that would hinder fair application of requirements.
1238	Wunderlich, G., City of Murrieta	Procurement: The City of Murrieta continues to be concerned with the significant cost burden cities will bear as they are required to purchase these recovered organic waste products at levels set by CalRecycle. The City of Murrieta anticipates these requirements will result in substantial additional costs to local governments, over and above the costs already anticipated to comply with the requirements of the proposed regulations.	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1239	Wunderlich, G., City of Murrieta	Scope of Regulations: These proposed regulations are both complicated and broad in scope. As such, there needs to be a robust effort and accompanying funding source to ensure that cities are able to implement these regulations by adequately providing education and outreach to their residents. Additionally, it is unclear why local jurisdictions are required to adopt Model Water Efficient Landscape Ordinances (MWELO), as these do not appear to be at all related to the implementation of SB 1383.	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1240	Wunderlich, G., City of Murrieta	Chapter 12, Article 1, Section 18982. Definitions. Section 18982.2(a)(56.5) defines project baseline as "...a conservative estimate of the business-as-usual greenhouse gas emissions that would have occurred if the organic waste proposed for recovery was disposed of in activity that constitutes landfill disposal...." The City of Murrieta finds that the use of the term "conservative" in this definition injects unnecessary ambiguity and subjectivity into the definition and fails to aid practitioners, courts, and the public in understanding the requirements of the law. Therefore, the City of	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.

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		Murrieta respectfully requests that CalRecycle delete the word “conservative” from Section 18982.2(a)(56.5).	
1241	Wunderlich, G., City of Murrieta	Chapter 12, Article 3. Organic Waste Collection Services. Several sections of Article 3 of the proposed regulations have been amended to provide that notices be given “annually” instead of “within the last 12 months.” As currently drafted, it is unclear whether “annual” notices must be given within the last 12 months or whether such notices must now be given within a calendar year. Therefore, the City of Murrieta suggests that CalRecycle clarify when such notices must be given.	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1242	Wunderlich, G., City of Murrieta	Chapter 12, Article 16, Section 18997.5. Department Procedures for Imposing Administrative Civil Penalties. Section 18997.5(c) provides that a jurisdiction must file a request for a hearing with the director of the Department within 15 days of receiving an accusation of violation or the jurisdiction will be deemed to have waived its right to a hearing. The City of Murrieta does not believe that this provides jurisdictions sufficient time to avail themselves of their right to a hearing. The City of Murrieta respectfully requests that CalRecycle extend this deadline to 30 days, so that jurisdictions have sufficient time to analyze the accusation and determine whether a hearing is warranted.	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1243	Wunderlich, G., City of Murrieta	Chapter 12, Article 16, Section 18997.6. Department for Hearings and Penalty Orders. Section 18997.6(b) provides that a penalty order may be served by any method described in Section 18997.6(b). However, Section 18997.6(b) does not describe methods of service The City of Murrieta suggests that CalRecycle clarify the permissible methods of service of a penalty order.	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1244	Wunderlich, G., City of Murrieta	COVID-19: With the onset of the COVID-19 pandemic this year, cities statewide are projected (https://www.cacities.org/Resources-Documents/Policy-Advocacy-Section/Hot-Issues/Coronavirus-Resources-For-Cities/COVID-19-Fiscal-Impact-on-CA-Cities-Infographic-FI.aspx) to have a nearly \$7 billion budget shortfall and the shortfall grows as modified stay-at-home orders remain in effect through the summer. This places cities in a dire fiscal situation and will have serious and long-lasting budgetary and personnel implications of potential furloughs and/or layoffs. During this time of great economic uncertainty and strain for California cities, we urge CalRecycle to take these under consideration when implementing this law.	Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period. CalRecycle acknowledges the difficulties jurisdictions face due to COVID-19 impacts. Although the language of SB 1383 allows the regulations to go into effect “on or after January 1, 2022,” CalRecycle lacks the discretion to substantially extend the effective date of these regulations through rulemaking without coming into direct conflict with the diversion mandates in the statute. SB 1383 sets a 75% organic waste diversion target for 2025 that will not be achieved if implementation of the regulatory requirements that are designed to achieve this target are significantly delayed.
1245	Wyman, J., City of Menifee	The City of Menifee writes to comment on the revised proposed regulations released in April 2020, which seeks to implement SB 1383 (Lara, 2016). The City of Menifee appreciates the opportunity to comment on these proposed regulations and acknowledges the challenge undertaken by CalRecycle to develop a comprehensive program to meet the ambitious goals set forth by SB 1383. The City of Menifee has seen some encouraging changes made over the four iterations. However, we remain significantly concerned about critical aspects that hinder local governments' ability to implement the proposed regulations.	Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.

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1246	Wyman, J., City of Menifee	Infrastructure Capacity: California lacks sufficient capacity to meet the need for new organic waste processing. Other regulatory and permitting issues can impede the construction of these new facilities that are outside of local governments' control. The City of Menifee is concerned that the timelines set forth in these regulations will not be adequate to develop and permit the new facilities required to successfully implement and comply with these regulations.	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1247	Wyman, J., City of Menifee	Funding: Insufficient state and local funding continue to be among the major challenges cities face in implementing new organic waste diversion programs. These regulations will be costly to implement, and cities will need to raise their collection rates to compensate. CalRecycle should not rely on the fee authority granted to local jurisdictions in SB 1383 alone, because local governments do not have unrestrained authority to impose costs on waste generators and must comply with the requirements of the California Constitution.	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1248	Wyman, J., City of Menifee	Penalties: The City of Menifee remains concerned as to how these penalty violations will be assessed and requests further clarification. Specifically, in Section 18997.3(b)(2) and (3), it is unclear as to the distinction between what constitutes a "moderate" and "major" violation. Clarity is needed given the significant penalty amounts of up to \$10,000 a day. These penalties could make it difficult for cities to allocate the funds necessary to increase infrastructure capacity and other hindrances to compliance.	The penalty provisions in this section are, by necessity, worded broadly to provide discretion to set penalties in an appropriate manner as fairness and justice may require. The term "critical aspects of the requirement" was identified as a clarity issue and removed due to difficulty in determining what "critical aspects" meant. "Minor" and "major" violations are described with specific parameters. Language is also included in this section to clarify that "moderate" violations are those that do not fall either within the "minor" nor "major." Therefore, CalRecycle determined that there is sufficient guidance in this section to determine whether a violation is moderate without using unduly prescriptive language that would hinder fair application of requirements.
1249	Wyman, J., City of Menifee	Procurement: The City of Menifee continues to be concerned with the significant cost burden cities will bear as they are required to purchase these recovered organic waste products at levels set by CalRecycle. The City of Menifee anticipates these requirements will result in substantial additional costs to local governments, over and above the costs already anticipated to comply with the requirements of the proposed regulations.	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1250	Wyman, J., City of Menifee	Scope of Regulations: These proposed regulations are both complicated and broad in scope. As such, there needs to be a robust effort and accompanying funding source to ensure that cities are able to implement these regulations by adequately providing education and outreach to their residents. Additionally, it is unclear why local jurisdictions are required to adopt Model Water Efficient Landscape Ordinances (MWELO), as these do not appear to be at all related to the implementation of SB 1383.	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1251	Wyman, J., City of Menifee	Chapter 12, Article 1, Section 18982. Definitions. Section 18982.2(a)(56.5) defines project baseline as " ... a conservative estimate of the business-as-usual greenhouse gas emissions that would have occurred if the organic waste proposed for recovery was disposed of in activity that constitutes landfill disposal " The City of Menifee finds that the use of the term "conservative" in this definition injects unnecessary	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.

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		ambiguity and subjectivity into the definition and fails to aid practitioners, courts, and the public in understanding the requirements of the law. Therefore, the City of Menifee respectfully requests that CalRecycle delete the word "conservative" from Section 18982.2(a)(56.5).	
1252	Wyman, J., City of Menifee	Chapter 12, Article 3. Organic Waste Collection Services. Several sections of Article 3 of the proposed regulations have been amended to provide that notices be given "annually" instead of "within the last 12 months." As currently drafted, it is unclear whether "annual" notices must be given within the last 12 months or whether such notices must now be given within a calendar year. Therefore, the City of Menifee suggests that CalRecycle clarify when such notices must be given.	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1253	Wyman, J., City of Menifee	Chapter 12, Article 16, Section 18997.5. Department Procedures for Imposing Administrative Civil Penalties. Section 18997.5(c) provides that a jurisdiction must file a request for a hearing with the director of the Department within 15 days of receiving an accusation of violation or the jurisdiction will be deemed to have waived its right to a hearing. The City/Town of Menifee does not believe that this provides jurisdictions sufficient time to avail themselves of their right to a hearing. The City of Menifee respectfully requests that CalRecycle extend this deadline to 30 days, so that jurisdictions have sufficient time to analyze the accusation and determine whether a hearing is warranted.	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1254	Wyman, J., City of Menifee	Chapter 12, Article 16, Section 18997.6. Department for Hearings and Penalty Orders. Section 18997.6(b) provides that a penalty order may be served by any method described in Section 18997.6(b). However, Section 18997.6(b) does not describe methods of service The City of Menifee suggests that CalRecycle clarify the permissible methods of service of a penalty order.	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1255	Wyman, J., City of Menifee	COVID-19: With the onset of the COVID-19 pandemic this year, cities statewide are projected to have a nearly \$7 billion budget shortfall and the shortfall grows as modified stay-at-home orders remain in effect through the summer. This places cities in a dire fiscal situation and will have serious and long-lasting budgetary and personnel implications of potential furloughs and/or layoffs. During this time of great economic uncertainty and strain for California cities, we urge CalRecycle to take these under consideration when implementing this law. Cities are committed to achieving the state's ambitious climate and solid waste goals, but flexibility will be needed as a result of this crisis.	Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period. CalRecycle acknowledges the difficulties jurisdictions face due to COVID-19 impacts. Although the language of SB 1383 allows the regulations to go into effect "on or after January 1, 2022," CalRecycle lacks the discretion to substantially extend the effective date of these regulations through rulemaking without coming into direct conflict with the diversion mandates in the statute. SB 1383 sets a 75% organic waste diversion target for 2025 that will not be achieved if implementation of the regulatory requirements that are designed to achieve this target are significantly delayed.
1256	Zaldivar, E., City of Los Angeles Sanitation and Environment	LASAN appreciates CalRecycle staff's hard work and dedication on drafting SB 1383, including several of LASAN's recommended changes. The following are our comments and questions on the proposed regulatory text revisions dated April 20, 2020:	CalRecycle does not find that the definition of "disaster" as described in the comment would include pandemics. The language in those sections are clearly limited to and intended to cover physical disasters that generate debris. Pandemics do not generate natural disaster debris.

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		<p>Inclusion of Pandemics as Qualifying Disasters Section 18984.13. Emergency Circumstances, Abatement, and Quarantined Materials and Federally Regulated Waste. (b) Disasters and emergency waivers. (2) If a waiver or waivers have been granted pursuant to Section Subsection (1) the Department shall waive the organic waste collection requirements of this article in the affected areas for the duration of the waiver. Section 18984.13(b)(2) makes clear that if a waiver has been granted for landfill disposal of “disaster debris” as defined in Section 17210.1(d), CalRecycle shall waive organic waste collection requirements. As noted in the text below, Section 17210.1(d) defines “disaster debris” as “nonhazardous solid waste caused by or directly related to a disaster.” Section 17210.1(c) defines “disaster” as “a natural catastrophe such as an an (sic) earthquake, fire, flood, landslide, or volcanic eruption, or, regardless of cause, any explosion, fire, or flood.” 14 CCR § 17210.1. Definitions. (a) “Agency” means the local agency responsible for compiling the disposal information from haulers and operators. The county is the agency, unless a region is given the responsibility as part of a regional agreement. (b) “Board” means the California Integrated Waste Management Board. (c) “Disaster” means a natural catastrophe such as an earthquake, fire, flood, landslide, or volcanic eruption, or, regardless of cause, any explosion, fire, or flood. (d) “Disaster Debris” means nonhazardous solid waste caused by or directly related to a disaster. As a pandemic is not specifically mentioned in 17210.1(c), the City wishes to confirm that COVID-19 and other pandemics would indeed qualify as a “disaster” for purposes of these sections. In order to remove any ambiguities relating to the omission of pandemics as a “disaster,” the City recommends language be inserted to specifically include pandemics and other situations as a qualifying “disaster,” once a disaster declaration is issued by the Governor of the State of California. LASAN looks forward to the opportunity to continue an effective dialogue on this critical SB 1383 regulation. As our comments are reviewed by CalRecycle staff, we would welcome one or more meetings to discuss some of our outstanding issues and work together on solutions that will help all of us reach our waste diversion goals.</p>	<p>Note, however, that language in Section 18996.2 does allow for the extension of compliance deadlines in Chapter 12 of Title 14, Division 7 for “extenuating circumstances” and that language takes “emergency” situations into account that cause a lack of compliance. This language is not limited to natural disasters. The language is broad to allow maximum discretion to take into account emergency situations on a case-by-case basis. Nothing would prevent a jurisdiction from making a showing that something like COVID-19 would constitute an emergency situation directly causing lack of compliance with Chapter 12 requirements.</p>
1257	Zetz, E., Solid Waste Association of North America California Chapters	The SWANA LTF appreciates CalRecycle staff’s efforts to meet with stakeholders and consider comments on these complex proposed regulations. Our organization and members have repeatedly echoed one major theme throughout this process, and that is the need for jurisdictional flexibility. As we’ve stated in previous letters, our	Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.

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	Legislative Task Force	strong preference, and we think the far more effective approach to securing emissions reduction, would be for the department to adopt a performance-based approach to these regulations. Unfortunately, the proposed final regulations continue to go down a very prescriptive path.	
1258	Zetz, E., Solid Waste Association of North America California Chapters Legislative Task Force	<p>As you are aware, the COVID-19 pandemic has had a severe impact to public health, worker safety and to the economy in California. On March 19, 2020, Governor Newsom’s Executive Order N-33-20 (https://www.gov.ca.gov/wp-content/uploads/2020/04/4.16.20-EO-N-52-20-text.pdf), deemed the solid waste and recycling industry services as part of the essential infrastructure. This has meant shifting staff and duties away from normal operations and developing physical distancing measures and implementing stay-at-home orders to keep staff safe and healthy. Cites and counties have continued to devote resources to fight COVID-19 and some are now concerned with the ability to meet specific statutory obligations during this pandemic, including provision under SB 1383. The unprecedented economic and operational impacts will affect budget decisions moving forward. Similar to how the State is re-prioritizing its budget, making cuts, and postponing funding for new and expanded programs, local governments will have to do the same.</p> <p>In response to the COVID-19 pandemic, local governments and associations, including the SWANA LTF, submitted a coalition letter (https://drive.google.com/file/d/1AtL1lv59Gy-QL8KZ67wcZhKXza2QLEFz/view?usp=sharing) in April, requesting state officials to grant limited grace periods and temporary relief from specific requirements related to solid waste and recycling. The request includes temporary relief from existing diversion and commercial recycling requirements, as well as delaying implementation of new organics diversion mandates pursuant to SB 1383 (Lara, 2016). While we appreciate CalRecycle’s recent letter recognizing that some changes to standard operations will be needed in the short term and that consideration of “good faith” efforts will be considered where current law allows. We do, however, believe this does not go far enough to help our industry. As stated in our April letter, we believe the department can provide short term regulatory relief to allow our industry to continue serve the public.</p>	<p>Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.</p> <p>CalRecycle acknowledges the difficulties jurisdictions face due to COVID-19 impacts. Although the language of SB 1383 allows the regulations to go into effect “on or after January 1, 2022,” CalRecycle lacks the discretion to substantially extend the effective date of these regulations through rulemaking without coming into direct conflict with the diversion mandates in the statute. SB 1383 sets a 75% organic waste diversion target for 2025 that will not be achieved if implementation of the regulatory requirements that are designed to achieve this target are significantly delayed.</p>
1259	Zetz, E., Solid Waste Association of North America California Chapters Legislative Task Force	<p>In light of the COVID-19 pandemic, we believe CalRecycle should make the following temporary changes to the regulations:</p> <ul style="list-style-type: none"> • Provide consideration of an entity’s good faith efforts to comply. While “substantial effort” is considered, it is very limited and only considered once a jurisdiction has been issued a violation and is considered for a compliance order. • Removal of the penalties. Given the economic hardship residents, businesses, and local governments are currently enduring due to the pandemic, we do not think it is appropriate at this time to mandate harsh penalties. 	<p>Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.</p> <p>CalRecycle acknowledges the difficulties jurisdictions face due to COVID-19 impacts. Although the language of SB 1383 allows the regulations to go into effect “on or after January 1, 2022,” CalRecycle lacks the discretion to substantially extend the effective date of these regulations through rulemaking without coming into direct conflict with the diversion mandates in the statute. SB 1383 sets a 75% organic waste diversion target for 2025 that will not be achieved if</p>

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		<ul style="list-style-type: none"> • Delay in implementation and enforcement as a result of emergency conditions such as COVID-19. 	implementation of the regulatory requirements that are designed to achieve this target are significantly delayed.
1260	Zetz, E., Solid Waste Association of North America California Chapters Legislative Task Force	Additionally, throughout this regulatory process, SWANA LTF has provided comments to CalRecycle. While we appreciate some of the recent revisions, we are disappointed that the majority of our comments and concerns have remained unaddressed. Therefore, we are attaching our matrix outlining our outstanding concerns with the regulations.	Thank you for the comment. The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1261	Zetz, E., Solid Waste Association of North America California Chapters Legislative Task Force	<p>Chapter 12, Section 18981.1 Proposed Language: Page 3, Line 4-7; (a) This chapter establishes the regulatory requirements for jurisdictions, generators, haulers, solid waste facilities, and other entities to achieve the organic waste landfill disposal reduction targets codified in Section 39730.6 of the Health and Safety Code and Chapter 13.1 of Division 30 of the Public Resources Code.</p> <p>Rationale: SB 1383, Subdivision 39730.6 (a) of the Health & Safety Code states, “Consistent with Section 39730.5, methane emissions reduction goals shall include the following targets to reduce the landfill disposal of organics” by 50% from the 2014 level by 2020 and 75% by 2025. However, this section fails to recognize that the said targets are based on organic waste “landfill” disposal reductions, and failure to indicate this fact causes confusion among regulated communities, governmental agencies, members of public and other stakeholders.</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1262	Zetz, E., Solid Waste Association of North America California Chapters Legislative Task Force	<p>Article 1, Section 18982 Proposed Language: Page 9, Line 4; (39.5) “Lifecycle greenhouse gas emissions” or “Lifecycle GHG emissions” means the aggregate quantity of greenhouse gas emissions (including direct emissions and significant indirect emissions, and emission reductions), related to the full lifecycle of the technology or process that an applicant wishes to have assessed as a possible means to reduce landfill disposal of organic waste. The lifecycle analysis of emissions includes all stages of organic waste processing and distribution, including collection from a diversion location, waste processing, delivery, use of any finished material by the ultimate consumer, ultimate use of any processing materials. The GHG emission reductions from low carbon energy generation, fuel production, or chemicals produced by the process or technology should be also be considered. The mass values for all greenhouse gases shall be adjusted to account for their relative global warming potential. However, “Lifecycle greenhouse gas emissions” or “Lifecycle GHG emissions” as used in Article 2 of these regulations shall not include emissions associated with other operations or facilities with processes that reduce short-lived climate pollutants, as that term is used in Article 2, that are similar to or consistent with those emissions that were excluded as the basis for developing the 0.30 MTCO₂e/short ton of solid waste standard.</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.

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		<p>Rationale: As stated in our previous comment letter, SWANA LTF understands and supports the 0.30 MTCO₂e/ton standard for determining if a technology meets the requirement for a reduction in landfill disposal of organic waste. We realize that this standard is based on the reduction of GHG emission associated with the composting of organic waste, as stated in Section 18983.2 (a)(3). However, we also understand that the 0.30 standard does not include some GHG emissions associated with composting operations. For example, the GHG emissions associated with the transport of organic waste to composting facilities and the transport of compost to the final use of the compost product would not be included in the calculation of the 0.30 standard. There may be other similar exclusions in the calculation of the 0.30 standard. Thus, we believe it is appropriate to exclude similar emissions association with other technologies. For instance, an alternative technology may also require the transport of organic waste residuals to a location where the technology is operating to produce a low-carbon product. Similarly, the resultant low carbon product must be transported to the end-use location. These transportation emissions associated with the production and use of the technology should not be counted as emissions to determine compliance with the 0.30 standard. Any other similar emissions to those excluded from the composting emission calculation should be similarly excluded from the alternative technology approval process.</p>	
1263	Zetz, E., Solid Waste Association of North America California Chapters Legislative Task Force	<p>Article 1 Section 18982 Proposed Language: Page 8, Line 26; “Jurisdiction” means a city, county, or regional agency that is approved by the board pursuant to Section 40975. Rationale: We recommend that the definition of jurisdiction be harmonized with Public Resources Code Section 40195.</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1264	Zetz, E., Solid Waste Association of North America California Chapters Legislative Task Force	<p>Article 1 Section 18982 Proposed Language: Page 9, Line 18; (42) “Non-local entity” means an entity that is an organic waste generator but is not subject to the control of a jurisdiction’s regulations related to solid waste. These entities may include, but are not limited to, special districts, federal facilities, prisons, facilities operated by the state parks system, public universities, including community colleges, county fairgrounds, tribal nations, and state agencies. Rationale: In addition to the current list of entities that are traditionally outside the local jurisdictions authority to regulate, tribal nations are also outside the local jurisdiction’s authority and should be added to the definition’s listed entities.</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1265	Zetz, E., Solid Waste Association of North America California Chapters	<p>Article 1, Section 18982 Proposed Language: Page 9, Line 29; “Organic waste” means solid wastes containing material originated from living organisms and their metabolic waste products, including but not limited to food, green material, landscape and pruning waste,</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.

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	Legislative Task Force	<p>organic textiles and carpets, lumber, wood, paper products, printing and writing paper, manure, biosolids, digestate, and sludges “Organic waste does not include plastic products” (or as alternative we can say “Organic waste exclude fossil-derived materials”).</p> <p>Rationale: SWANA LTF believes the proposed regulations advance a definition that is both impractical and inconsistent with existing definitions of the same term. As stated during the pre-rulemaking workshops and comments, we strongly believe that the definition of “organic waste” should be consistent to reduce operational confusion. We do not think the definition should include items like organic textiles and carpets, biosolids, digestate, and sludges.</p> <p>In addition, some items defined as organics, such as manure, paper, food, and textiles, should not be placed all in the same container since these products will contaminate each other and make diversion nearly impossible. Although not specifically listed, dead animals (domestic and other) are classified as “organic”. Disposal of dead animals in a landfill is a common practice due to the lack of rendering capacity. Under the proposed regulations, dead animals will be required to be placed in green containers.</p> <p>Also, the definition is not used consistently throughout the proposed regulations. For example, the three-container Organic Waste Collection Services prohibits some organics in the green container (e.g. carpets and non-compostable paper are prohibited from the green container, Section 18984.1(a)(5)(A)). Gray containers received by a solid waste facility will undergo periodic evaluation for “remnant organic material” (Section 17409.5.7 (a)). The organics in the gray container will be used to evaluate a jurisdictions effectiveness even though some organics are not allowed in the green container. If these items are placed in the gray container, the jurisdiction will be penalized by the presence of these materials.</p> <p>At the CalRecycle’s SB 1383 workshop held in Diamond Bar on June 18, 2019, a member of audience asked if “organic waste” as defined in the 2nd Formal Draft of proposed regulations includes plastics? The response from CalRecycle staff’s response was “No.” The proposed language revises the definition of the “Organic Waste” as defined in Subsection 18982 (a) (46) to exclude “plastic products.” As an alternative to the phrase “plastic products”, we are ok with the phrase “fossil-derived materials.”</p> <p>In regard to the proposed revision to the definition of “Organic Waste,” if we go with the first alternative, then “Plastic Products” can be defined as “Plastic products means any non-hazardous and non-putrescible solid objects made of synthetic or semi-synthetic organic compounds.” (This definition can be added to Article 1, Subdivision 18982 (a), new suggested Paragraph (53.5).</p>	
1266	Zetz, E., Solid Waste Association	Article 1 Section 18982 Proposed Language: Page 11, Line 28	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.

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	of North America California Chapters Legislative Task Force	Rationale: As defined, "Self-hauler" is so broad that it could describe nearly every resident, business, government facility or other entity in California. We ask that CalRecycle consider whether this definition is even needed. If so, please revise the definition and how it is used in Article 13 to clarify the state's interest in gathering information on self-haulers.	
1267	Zetz, E., Solid Waste Association of North America California Chapters Legislative Task Force	Article 2 Section 18983.1 Proposed Language: Page 13, Line 26; Delete Paragraph (3) of the Subsection 18983.1 (a). Rationale: As stated in our previous comment letter and we'd like to reiterate that SB 1383, Subdivision 39730.6 (a) of the H&S Code, states "Consistent with Section 39730.5, methane emissions reduction goals shall include the following targets to reduce the landfill disposal of organics" by 50% from the 2014 level by 2020 and 75% by 2025. However, the proposed regulations consider any disposition of organic waste not listed in Subsection 18983.1 (b) to be landfill disposal, including any thermal conversion (CTs) and any other emerging technologies. The proposal is inconsistent with Subdivision 39730.5 (a) of the H&S Code, as well as Section 40195.1 of the PRC, which defines "solid waste landfill" as a "disposal facility that accept solid waste for landfill disposal." Therefore, we respectfully disagree with the proposed provision of Subsection 18988.1 (a) (3) which considers, any other disposition not listed in Subsection (b) of this section to be land disposal.	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1268	Zetz, E., Solid Waste Association of North America California Chapters Legislative Task Force	Article 2 Section 18983.1 Proposed Language: Page 13, Line 17 Rationale: This section should not apply where the material recovery fines have first been composted or otherwise processed to reduce the organic content and to reduce its methane-producing potential.	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1269	Zetz, E., Solid Waste Association of North America California Chapters Legislative Task Force	Article 2, Section 18983.2 Proposed Language: Page 15, Line 23 Rationale: This version removes the mention of material recovery (MRF) fines. MRF fines will contain a portion of organic material. There is no practical means to remove all trace of organic material and there is no other practical use for MRF fines than as alternative daily or intermediate cover. Removing reference to MRF fines leaves the status uncertain. The proposed regulations should clearly identify the status of MRF fines.	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1270	Zetz, E., Solid Waste Association of North America California Chapters Legislative Task Force	Article 2, Section 18983.2 Proposed Language: Page 15, Line 13; Change the word " applicant " to " owner operator of the facility. " Rationale: In the case of a process that produces a low carbon energy, fuels or chemicals from residual solid waste, the production of the product is generally separate and distinct from the end use of the energy, fuels or chemicals to produce	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.

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		<p>energy. In most cases the person operating the fuel production process is separate and distinct from the person utilizing the fuel. Which of these parties is the applicant and is the applicant responsible for providing information about both the fuel production process as well as the fuel utilization process in the industrial furnace? Further, while the owner/operator of the fuel production process may remain unchanged, the use of the fuel may change from time to time for a variety of factors. How is the owner/operator of the technology process able to represent all potential future users of the product from the technology? For example, each industrial furnace operator may have different specification requirements for the fuel provided to each different furnace.</p> <p>We recommend that the principle applicant under these regulations be the owner/operator of the fuel production unit that would likely, but not necessarily, located at a permitted solid waste facility. The O/O would provide specific information about the operation of the fuel production unit as well as known information pertaining to the intended end use of the fuel in cooperation with a proposed known end user or users. Additional generic information about future alternative end users could also be provided. If new end users are added in the future within the constraints of the generic information in accordance with these regulations, no further action would be required – other than to ensure that the end user has separately complied with all appropriate permitting requires (e.g., becoming permitted as an EMSW facility in accordance with CalRecycle regulations).</p>	
1271	Zetz, E., Solid Waste Association of North America California Chapters Legislative Task Force	<p>Article 2, Section 18983.2 Proposed Language: Page 16, Line 33; By inserting at the end of the sentence, “or other target, at the discretion of the Department, if an overall benefit in SLCPs may be achieved.” Rationale: As stated in our previous letter, Section 18983.2(a)(3), approval of a proposed process or technology depends entirely on a pass/fail conclusion that the process or technology results in GHG emissions reductions equal to or greater than 0.30 MTCO₂e per ton. This methodology may block the use of valuable technologies that targeted the most problematic items--those that do not compost well. For example, a technology that targeted diversion of source separated organic carpet or lumber, items with lower potential to emit carbon but which we still want to divert from disposal, could easily fail to pass the 0.30 MTCO₂e hurdle. This would discourage use of otherwise valuable diversion methods and make it harder to meet the SB 1383 organics diversion goals. We suggest revising this section to provide the CalRecycle Director discretion in approval of additional processes and technologies.</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1272	Zetz, E., Solid Waste Association of North America California Chapters	<p>Article 2, Section 18983.2 Proposed Language: Page 16, Line 2; Insert at the end of the sentence: “and determined to actually reduce GHGs.”</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.

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	Legislative Task Force	<p>Rationale: SWANA LTF would appreciate receiving confirmation that these regulations not only require accounting of GHG emissions, but also GHG emission reductions. For example, diversion of organics from a landfill will have a landfill methane reduction similar to composting, due to the reduction of methane emissions associated with landfilling. In addition, if the largely biomass produced energy, fuels and chemicals is used to displace the use of higher carbon intensity fossil derived energy, fuels and chemicals (e.g., coal, tires, etc.) would be allowed to count the emission reduction associated with converting from high GHG emission fossil products to lower carbon products. The GHG emission reduction will be the combination of both the landfill methane reductions plus the reduction in displaced fossil carbon fuel emissions. Of course, other emissions/reductions associated with the overall process and product use would have to be counted as well.</p>	
1273	Zetz, E., Solid Waste Association of North America California Chapters Legislative Task Force	<p>Article 2, Section 18983.2 Proposed Language: Page 16, Line 35; The Department shall make a determination within 180 days. If the Department determines that a proposed process or technology does not result in a reduction in landfill disposal within that time period, the application shall be deemed approved. The Department shall post to its website the results of its determination and include a description of the operation. Rationale: Expand Subsection 18983.2 (a) (2) to indicate that the application is deemed approved if the Department fails to respond within 180 days after the applicant has provided the Department with all materials, as requested.</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1274	Zetz, E., Solid Waste Association of North America California Chapters Legislative Task Force	<p>Article 2 Section 18983.2 Proposed Language: Page 16, Line 35; New Subsection (3)(a) However, in determining emissions from the proposed operation, GHG emissions for activities that are similar to those activities for which GHG emissions were excluded in the determination of the O.30 standard shall not be required to be calculated for the proposed operation, for example, such as transportation GHG emissions. Rationale: As stated in our previous comment letter, we recommend adding the following sentence, or something similar, to this end of paragraph (3) to ensure that proposed operation is evaluated in a fashion that is consistent with composting operations.</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1275	Zetz, E., Solid Waste Association of North America California Chapters Legislative Task Force	<p>Article 3 Section 18984.5 Proposed Language: Page 24 Line 43; (A) A jurisdiction that is implementing a three-container or two-container organic waste collection service pursuant to Sections 18984.1 or 18984.2 shall conduct waste composition studies per the schedule below at least twice per year and the studies shall occur in two distinct seasons of the year. Rationale: The requirement for once per quarter waste composition for the gray container on line 39 is inconsistent with the earlier statement on line 34 that indicates waste composition studies are conducted twice per year.</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.

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1276	Zetz, E., Solid Waste Association of North America California Chapters Legislative Task Force	<p>Article 3, 18984.11 Proposed Language: Page 29, Line 32; (A)(1) The commercial business' total solid waste collection service is two cubic yards or more per week and organic waste subject to collection in a blue container or a green container as specified in Section 18984.1(a) comprises less than 20 gallons per week per applicable container of the business's business' total waste. 2.The commercial business' total solid waste collection service is less than two cubic yards per week and organic waste subject to collection in a blue container or a green container as specified in Section 18984.1(a) comprises less than 10 gallons per week per applicable container of the business' total waste</p> <p>Rationale: This revision seems to indicate that De Minimis Waivers may only be granted to customers with three-container systems. The intent of the waiver is to grant jurisdictions the flexibility to focus their efforts where it is most cost effective while still ensuring state reduction targets are achieved. Since de minimis generators are such, regardless of the container system utilized, this newly added language should be deleted.</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1277	Zetz, E., Solid Waste Association of North America California Chapters Legislative Task Force	<p>Article 3 Section 18984.12 Proposed Language: Page 31, Line 6 Rationale: This change just restates the previously deleted language and continues to disregard the significant "edge effect" common in rural areas where a significant majority of the population in a large census tract is concentrated in a small area where the remaining larger portion of the unincorporated census tract area is sparsely populated but the entire census tract is over the proposed 75 people per square mile. Jurisdictions should have ability to exclude those sparsely populated areas of the census tract such as consideration of block groups using the same requirement of 75 people per square mile.</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1278	Zetz, E., Solid Waste Association of North America California Chapters Legislative Task Force	<p>Article 4 Section 18984.13 Proposed Language: Page 32, Line 33; (1) If the facility processing a jurisdiction's organic waste notifies the jurisdiction that unforeseen operational restrictions have been imposed upon it by a regulatory agency or that an unforeseen or temporary equipment or operational failure will temporarily prevent or impair the facility from processing and/or recovering organic waste, the jurisdiction may allow the organic waste stream transported to that facility to be</p> <p>Rationale: As stated in our previous comment letter, the allowance for unforeseen circumstances is a valuable accommodation, but the removal of the "temporary" condition is problematic and should be reinstated. There are situations when equipment or operations may need to be "temporarily" stopped or slowed, such as extensive maintenance. These conditions can be planned to minimize disruptions but could impact the ability to operate.</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.

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		(a)(2) Not all temporary or unforeseen circumstances will result in a complete failure to receive and process a jurisdiction's wastes.	
1279	Zetz, E., Solid Waste Association of North America California Chapters Legislative Task Force	<p>Article 3, Section 18984.13 Proposed Language: Page 34, Line 9; (f) Nothing in this chapter requires generators, jurisdictions or other entities subject to these regulations to manage and recover organic waste that is waived pursuant to subsections (a), (b), (c), and/or that federal law explicitly requires to be managed in a manner that constitutes landfill disposal as defined in this chapter. These materials may be subtracted from the "generated" amount and the "disposed organic materials" amount.</p> <p>Rationale: Under this section, jurisdictions are not required to separate or recover certain organic waste, such as homeless encampments, illegal disposal sites, and waste from quarantine areas (line 16 and 24) and these wastes are allowed to be landfilled. However, the allowance for disposal does not exempt the organics from being counted as disposal especially in gray container sorts. There should be a provision that excludes these landfilled wastes from counting as disposed organics. These wastes should also be granted a "disposal reduction credit" or tonnage modifications for purposes of AB 939 counting in the Electronic Annual Report similar to the one existing for quarantined wastes and others.</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1280	Zetz, E., Solid Waste Association of North America California Chapters Legislative Task Force	<p>Article 3 Section 18984.13 Proposed Language: Page 33, Line 6; (1) If the facility processing a jurisdiction's organic waste notifies the jurisdiction that unforeseen operational restrictions have been imposed upon it by a regulatory agency or that an unforeseen equipment or operational failure or scheduled maintenance will temporarily prevent the facility from processing and recovering organic waste, the jurisdiction may allow the organic waste stream transported to that facility to be deposited in a landfill or landfills for up to 90 days from the date of the restriction or 38 failure.</p> <p>Rationale: This proposed language continues to not recognize that temporary inability to process and recover organic waste can also be due to scheduled equipment repair. The proposed revisions would require an operator to wait until equipment failure happens to utilize this allowance resulting in more expensive and likely longer down time than if there is an allowance for scheduled maintenance.</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1281	Zetz, E., Solid Waste Association of North America California Chapters Legislative Task Force	<p>Article 7, Section 18988.3 Proposed Language: Page 42, Line 44; (C) Notwithstanding Subdivisions (b)(3)(A), if the material is transported to an entity that does not have scales on-site, or has scales that cannot accurately measure small loads, the self-hauler shall not be required to record the weight of the material, and shall provide records of the only if requested by the jurisdiction. or employs scales incapable of weighing the self-hauler's vehicle in a manner that allows it to determine the weight of waste received, the self-hauler is not required to record the weight of material but shall keep a record of the entities that received the organic waste.</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.

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		<p>Rationale: The phrase “employs scales incapable of weighing the self-hauler’s vehicle in a manner that allows it to determine the weight of waste received,” lacks clarity and poses the question on how accurate this would be. The usual reason for this scenario is a small quantity of waste that the facility scale calibrated for larger loads cannot accurately weigh.</p>	
1282	Zetz, E., Solid Waste Association of North America California Chapters Legislative Task Force	<p>Article 7 Section 18988.1 Proposed Language: Page 41, Line 18 Rationale: Our prior comments on this portion of the regulations took the position that local jurisdictions should not be put in the position of enforcing this statute against residents that self-haul their organic waste. Unfortunately, the regulations were clarified precisely in the direction that we advocated against. To be clear, those of us implementing these regulations are not clear how we would even accurately identify all the residential self-haulers. Even if we could, we have no reason to believe that they would comply with the record-keeping requirements outlined in the proposed regulations. We would respectfully request that the department take the same approach that it did in the AB 901 regulations and only apply the provisions to commercial self-haulers. Local jurisdictions are not going to be able to enforce this requirement without this change.</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1283	Zetz, E., Solid Waste Association of North America California Chapters Legislative Task Force	<p>Article 8 Section 18989.2 Proposed Language: Page 44, Line 3; Delete entire section. Rationale: As stated in our previous comment letter, we disagree with including this requirement in the proposed regulations because jurisdictions are already required to adopt Model Water Efficient Landscape Ordinance (MWELO) and, again, to avoid unnecessary regulatory duplication and overlap.</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1284	Zetz, E., Solid Waste Association of North America California Chapters Legislative Task Force	<p>Article 9 Section 18990.1 Proposed Language: Page 44, Line 40 Rationale: As stated in our previous comment letter, this section prohibits a jurisdiction from adopting or enforcing an ordinance, policy, permit condition, etc. that would prohibit organic waste coming from outside the jurisdiction. We strongly object to any regulatory construct that usurps local decision-making authority and forces a jurisdiction to utilize local capacity paid for by local ratepayers for organic waste coming from outside of that jurisdiction. This type of blanket prohibition takes away the ability of local jurisdictions to ensure that their own processing capacity is maintained.</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1285	Zetz, E., Solid Waste Association of North America California Chapters	<p>Article 9 Section 18990.1 Proposed Language: Page 45, Line 3; (1) Prohibit, or otherwise unreasonably limit or restrict, the lawful processing and recovery of organic waste</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.

Comment Number	Received From	Question/Comment	CalRecycle Response(s)
	Legislative Task Force	Rationale: The proposed language is vague and invites legal challenges since it establishes no criteria for determining what would be considered an “unreasonable limit or restrict” processing and recovery of organic waste. An example would be imposing odor controls and limiting hours of operation that someone could consider unreasonable. This language should be removed.	
1286	Zetz, E., Solid Waste Association of North America California Chapters Legislative Task Force	<p>Article 10 Section 18991.1 Proposed Language: Page 46, Line 24; Jurisdictions shall not be required to implement such a program. See additional comments in rationale.</p> <p>Rationale: As stated in our previous comment letter, there are several Food Recovery Organizations with programs within the various jurisdictions and counties in the state that are effective in working directly with Edible Food Generators conducting successful Edible Food Recovery Programs. The proposed legislation mandates that jurisdictions now become a go between the current solution, becoming an additional layer to provide education, increase food recovery access, monitor and report among the various active programs. The new mandates within this regulation would convolute and negatively impact the efficiencies of the many great programs already in place. The legislation should be modified similar to the concept of AB 901, where Edible Food Generators and Food Recovery Organizations report directly to CalRecycle. Implementation of such a methodology would alleviate the expected financial burden on jurisdictions to implement a Food Recovery Program as proposed in current regulation. Additionally, most Food Recovery Organizations already have their own outreach programs and efficient solutions to grow their programs. This regulation should be modified to encourage jurisdictions to partner with Food Recovery Organizations and Generators to further improve the various programs already in place.</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1287	Zetz, E., Solid Waste Association of North America California Chapters Legislative Task Force	<p>Article 11 Section 18992.1 Proposed Language: Page 49, Line 32</p> <p>Rationale: As stated in our previous comment letter, this section allows a jurisdiction to use a local waste characterization study, which SWANA LTF appreciates. Some jurisdictions do not fit neatly into the averages developed in the statewide waste characterization studies coordinated by CalRecycle. A local waste characterization study provides a jurisdiction insight into specific waste categories in their area and allows for targeting additional categories. A local waste characterization study could be developed by expanding a Gray Container Waste Evaluation proposed in Section 20901.</p> <p>Unfortunately, the advantage of a local waste characterization study is obliterated since the proposed regulations allow CalRecycle’s most recent waste characterization study to override the local study. Currently, CalRecycle has been conducting waste characterization studies at two to five-year intervals. Local waste characterization studies are expensive, and the local waste characterization study</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.

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		should be allowed to remain in effect for these planning requirements for at least ten years.	
1288	Zetz, E., Solid Waste Association of North America California Chapters Legislative Task Force	<p>Article 11 Section 18992.2 Proposed Language: Page 52, Line 37; (1) Entities Food recovery organization and food recovery services contacted by a jurisdiction shall respond to the jurisdiction within 60 days regarding available and potential new or expanded capacity Rationale: The use of the undefined term “entities” is vague and lacks clarity.</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1289	Zetz, E., Solid Waste Association of North America California Chapters Legislative Task Force	<p>Article 11 Section 18992.3 Proposed Language: Page 54, Line 8 Rationale: As stated in our previous comment letter, this section sets due dates and reporting periods for each county, in coordination with cities and regional agencies, to submit a report on organic waste recycling and food waste recovery capacity planning. The reports cover a period of years but are all due on August 1st, which is also the date jurisdictions need to submit their Electronic Annual Report (EAR). Currently, the EAR requires annual review and update for counties and regional agencies to submit long-term organics infrastructure planning (AB 876). In order to avoid duplicative efforts and possibly conflicting information, this reporting requirement should be included in the appropriate year’s EAR. Also, Regional Agencies should be allowed to submit the report in coordination with the county and cities. Regional Agencies, in coordination with the county and cities, should be allowed to develop all aspects in Article 11. Regional cooperation is a key benefit of a Regional Agency; each Regional Agency includes the unincorporated area of the county and the included cities. One currently approved Regional Agency is a bi-county effort. Another Regional Agency only comprises a portion of a county unincorporated area and some of the cities.</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1290	Zetz, E., Solid Waste Association of North America California Chapters Legislative Task Force	<p>Article 12 Section 18993.1 Proposed Language: Page 54, Line 34; Delete entire section. Rationale: As stated in our previous comment letter, the second draft to these regulation increases the mandate by 14.3%, to 0.08 tons per resident per day. The huge gap between this requirement and the jurisdiction’s actual needs for organics-derived materials indicates a serious flaw in the assumptions underlying this provision. The assumed link between local government’s 13% share of GPD and local government’s ability to absorb organics-derived products appears to be faulty. In any case, the requirements presume the availability of products that are not currently available and may not be available for years. We ask that Article 12 be deleted from this regulatory phase and taken up as a separate, future item when we all have more information on the types and availability of end products made from diverted organics.</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.

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		Please see attachment B.	
1291	Zetz, E., Solid Waste Association of North America California Chapters Legislative Task Force	<p>Article 12 Section 18993.1 Proposed Language: Page 54, Line 40 Rationale: As stated in our previous comment letter , for the purpose of this Article, the discussion and the procurement targets need to be expanded to include appropriate provisions for compliance by “non-local entities” (such as state agencies, public universities, etc.) and “local education agencies” (such as school districts, community colleges, etc.) as further defined in Sections 18982 (a) (42) & (40).</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1292	Zetz, E., Solid Waste Association of North America California Chapters Legislative Task Force	<p>Article 12 Section 18993.1 Proposed Language: Page 54, Line 40 Rationale: As stated in our previous comment letter, the prescriptive nature of the requirements of this Article is of great concern. As currently written, a jurisdiction would be required to purchase material from itself to meet the requirements of this Article. We believe a better approach would be to require a jurisdiction to use a certain amount of these types of materials. This would increase incentive for the jurisdictions to produce such products from their own waste stream and would allow for jurisdictions to make use of their own products.</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1293	Zetz, E., Solid Waste Association of North America California Chapters Legislative Task Force	<p>Article 12, Section 18993.1 Proposed Language: Page 55, Line 5; Beginning January 1, 2022, per capita procurement target = 0.02 tons of organic waste per California resident per year, which CalRecycle shall recalculate after 5 years for each jurisdiction. Rationale: The proposed per capita procurement requirements of 0.08 tons per resident per year would force jurisdictions to procure amounts of recovered organic waste products that are an order of magnitude larger than what is currently used. This is unrealistic and impossible to comply with. The huge gap between the procurement requirement and actual markets/consumption needs for organics-derived materials indicates that the assumptions used for calculating imposed procurement quantities must be revisited. The table below demonstrates that an example jurisdiction’s combined procurement of compost, mulch, renewable gas/energy is far short of the mandated amount. Sunnyvale Total Population considered for calculation purposes is 155,567. Based on the proposed procurement factor of 0.08, City’s TOTAL Procurement TARGET of Organic Tons Equivalent will be 12,445.36 tons/year. Table below shows that City’s total procurement is only 26% of the required tonnage. (SEE TABLE IN ORIGINAL LETTER) A scaled procurement approach will be more realist and achievable. Proposed 0.02 per capita procurement requirement will allow jurisdiction to come in compliance and will give more time for development of alternate fuel infrastructure, such as bio-fuel.</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.

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1294	Zetz, E., Solid Waste Association of North America California Chapters Legislative Task Force	<p>Article 12 Section 18993.1 Proposed Language: Page 54, Line 31; (e)(2) Requiring, through a written contract or agreement, that a direct service provider, including a regional agency or special district, to the jurisdiction procure recovered organic waste products and provide written documentation of such procurement to the jurisdiction.</p> <p>Rationale: This subsection should be revised to authorize regional agencies and special districts to coordinate procurement on behalf of their individual members. These entities are included in the definition of jurisdictions in Article 1, Section 18982 (36). Although cities and counties are ultimately responsible for compliance, the benefits of a regional agency to coordinate resources is the most important service to the members. There are currently 27 Regional Agencies representing 142 cities and unincorporated counties (many of them are in rural areas). Explicitly allowing Regional Agencies and special districts to be a means to comply with this requirement is important. The current language does not clarify that a Regional Agency or special district can also be a “direct service provider”.</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1295	Zetz, E., Solid Waste Association of North America California Chapters Legislative Task Force	<p>Article 12 Section 18993.1 Proposed Language: Page 55, Line 17; (A) The jurisdiction has an enforceable ordinance, or similarly enforceable mechanism, that requires the mulch procured by the jurisdiction to comply with this article; to meet or exceed the physical contamination, maximum metal concentration, and pathogen density standards for land application specified in Section 17852(a)(24.5)(A)(1) through (3) of this division;</p> <p>Rationale: The addition of mulch for meeting the procurement requirements is much appreciated however the requirement that all mulch undergo testing for pathogens and metal content is unwarranted. A considerable amount of mulch is derived from wood waste. This testing requirements should be deleted as unnecessary. At a minimum, the testing requirement for mulch from wood waste should be exempt.</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1296	Zetz, E., Solid Waste Association of North America California Chapters Legislative Task Force	<p>Article 12 Section 18993.1 Proposed Language: Page 55, Line 41; (B) The mulch is produced at one or more of the following: 1. A compostable material handling operation or facility as defined in Section 17852(a)(12), other than including a chipping and grinding operation or facility as defined in Section 17852(a)(10), that is permitted or authorized under this division; or</p> <p>Rationale: There is no basis for not allowing chipping and grinding operations or facilities to contribute the mulch procurement target. This limitation should be deleted as unnecessary.</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1297	Zetz, E., Solid Waste Association of North America California Chapters	<p>Article 14 Section 18995.1 Proposed Language: Page 65, Line 35</p> <p>Rationale: As stated in our previous comment letter and we’d like to reiterate our concerns with provision of Section 18995.1 (c) which for the purpose of measuring</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.

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	Legislative Task Force	compliance mandates jurisdictions to generate a written report for each inspection, route review, and the name or account name of each person or entity. Some information from haulers to a jurisdiction are confidential and cannot be released to CalRecycle. We recommend jurisdiction be required to only provide CalRecycle with (a) A general description of the route location, (b) A general description of account reviewed, and (c) A list of account holders determined by the jurisdiction to be subject to enforcement actions.	
1298	Zetz, E., Solid Waste Association of North America California Chapters Legislative Task Force	<p>Article 14 Section 18995.4 Proposed Language: Page 68, Line 23; Add: (c) (4) The failure of state agencies, federal agencies, and other non-local entities to comply with local requirements. Rationale: Allowing extensions to the compliance deadline for extenuating circumstances is much appreciated; however, some jurisdictions will experience impracticable compliance due to the lack of or limited participation due to state agencies, federal agencies, schools, or other entities that are not required to comply with local ordinances or other enforceable mechanisms. Failure to comply with the proposed regulations for these entities only results in placement on a list of non-complying entities and other minor actions while the jurisdiction could be penalized for their non-participation. A new extenuating circumstance should be added to address this problem that is currently impacting jurisdiction and will be significantly increased to the cost of implementation of these proposed mandates.</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1299	Zetz, E., Solid Waste Association of North America California Chapters Legislative Task Force	<p>Article 15, Section 18996.2 Proposed Language: Page 69, Line 36; (a) If the Department finds that a jurisdiction is violating one or more of the requirements 38 of this chapter it shall consider whether the jurisdiction has put forth a good faith effort. If the Department finds that the jurisdiction has not provided a good faith effort [t]he Department, then the Department may take the following actions: Rationale: CalRecycle’s Statutory Background and Primary Regulatory Policies document states, in part, that “Legislative guidance directs CalRecycle not to...utilize the “Good Faith Effort” compliance model specified in PRC Section 41825.” This is inaccurate and contrary to the language of SB 1383. Section 42652.5. (a)(4) of the PRC specifically requires CalRecycle to consider “good faith effort” in determining a jurisdiction’s progress in complying with the law. It states that CalRecycle “shall base its determination of progress on relevant factors, including, but not limited to, reviews conducted pursuant to Section 41825.” Since PRC Section 41825 establishes the process to determine whether a jurisdiction has made a “good faith effort” to comply with the law, it is clear that CalRecycle is required to consider “good faith effort” in making its determination of a jurisdiction’s progress.</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1300	Zetz, E., Solid Waste Association	Article 15, Section 18996.2	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.

Comment Number	Received From	Question/Comment	CalRecycle Response(s)
	of North America California Chapters Legislative Task Force	<p>Proposed Language: Page 69, Line 41; (1) Issue a Notice of Violation requiring compliance within 90 days of the date of issuance of that notice. The Department may grant aAn extension may be granted for a reasonable period according to the actions required. up to an additional 90a total of 180 days from the date of issuance of the Notice of Violation, if the jurisdiction submits a written request to the Department within 60 days of the Notice of Violation's issuance that if it finds that additional time is necessary for the jurisdiction to comply.</p> <p>Rationale: This section does not provide sufficient flexibility to the Department to address unique challenges that jurisdictions may encounter. The Department may find that extenuating circumstances, such as insufficient facility capacity, require more than 180 days to address. This section should allow the Department the flexibility to grant, at its discretion, a reasonable period.</p>	
1301	Zetz, E., Solid Waste Association of North America California Chapters Legislative Task Force	<p>Article 15, Section 18996.2 Proposed Language: Page 70, Line 23; (A) If a jurisdiction claims that the cause of the is unable to comply with the maximum compliance deadline allowed in Subdivision (a)(1) delay is due to deficiencies in organic waste recycling capacity infrastructure inadequate capacity of organic waste recovery facilities, due to extenuating circumstances detailed in Section (a)(2)(C) the Department may issue a Corrective Action Plan for such violations it shall document the lack of capacity and upon making a finding that:</p> <p>Rationale: This section appears to apply only in the situation where the reason for the deficiency in lack of infrastructure. The rules for when to develop a Corrective Action Plan can be made flexible enough to be consistent regardless of the reason, avoiding confusion, providing clarity, and allowing reasonable oversight. The rules should be broadened to apply more generally to reflect the language in section 18996.2 (a)(1) and Section (a)(2)(C).</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1302	Zetz, E., Solid Waste Association of North America California Chapters Legislative Task Force	<p>Article 15, Section 18996.2 Proposed Language: Page 70, Lines 32-34; 2. The jurisdiction demonstrate that it has provided organic waste collection service to all hauler routes where it is possible practicable and that it has only delayed compliance the inability to comply with this chapter the maximum compliance deadline in Subdivision (a)(1) is limited to for areas where service cannot be provided due to only those hauler routes where organic waste recycling capacity limits infrastructure deficiencies have caused the extenuating circumstances detailed in Section (a)(2)(C) provision of organic waste collection service to be impracticable.</p> <p>Rationale: Corrective Actions plans may be needed for more than just the situation where there is insufficient infrastructure. Therefore, this section should not specify only infrastructure deficiencies but rather any of the extenuating circumstances listed in Section (a)(2)(C).</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.

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1303	Zetz, E., Solid Waste Association of North America California Chapters Legislative Task Force	<p>Article 15, Section 18996.2 Proposed Language: Page 70, Line 35; 3. The Department must consider implementation schedules, under as described in Article 11 of this chapter, may be considered for purposes of developing a Corrective Action Plan, and it must not impose requirements that are impracticable. However, the Department but shall not be restricted in mandating actions; however, the Department may set compliance milestones to remedy violation(s) and developing applicable compliance deadline(s) other to those than those provided in the Implementation Schedule Rationale: This section inappropriately asks the Department to disregard the work done by local governments to address necessary actions and appropriate time schedules. It should, in fact, do the opposite. These regulations should not allow the Department to disregard actions and implementation schedules considered practicable by jurisdictions or to impose actions and schedules that may not be practicable</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1304	Zetz, E., Solid Waste Association of North America California Chapters Legislative Task Force	<p>Article 15 Section 18996.2 Proposed Language: Page 70, Line 41; (B) For the purposes of this section, “substantial effort” means that a jurisdiction has taken all practicable actions to comply including extenuating circumstances as identified in Section 18995.4 (b). Rationale: Another consideration when a jurisdiction is unable to meet a compliance deadline is the extenuating circumstances listed in Section 18995.4 (b) and also as outlined in comments on Section 18995.4 (b) the non-compliance of state agencies, federal agencies, and other non-local entities. The allowance for considering extenuating circumstances should also be considered</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1305	Zetz, E., Solid Waste Association of North America California Chapters Legislative Task Force	<p>Article 15, Section 18996.2 Proposed Language: Page 71, Line 5; are include but are not limited to any factor outside of the control of the jurisdiction, including the actions of other government agencies and facilities, and the following: Rationale: This section, addressing extenuating circumstances, should provide the flexibility for the Department, at its discretion, to consider any extenuating circumstance outside of a jurisdiction’s control. For example, local government cannot control the behavior of state of federal government agencies.</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1306	Zetz, E., Solid Waste Association of North America California Chapters Legislative Task Force	<p>Article 15, Section 18996.2 Proposed Language: Page 71, Line 26; 4) An initial Corrective Action Plan issued due to inadequate organic waste recycling infrastructure capacity may be extended for a period of up to 12 months if the department finds that the jurisdiction has demonstrated substantial effort. Additional extensions in 12-month increments may be granted if the department finds that the jurisdiction has demonstrated substantial effort.</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.

Comment Number	Received From	Question/Comment	CalRecycle Response(s)
		<p>Rationale: Allowing 24 months for compliance may be sufficient for some jurisdiction measures but others may take considerable time to resolve beyond 24 months or even 36 months if an extension is granted per section 18996.2 (a)(4). In some cases all new agreements may need to be drafted and approved and limiting that situation to an absolute deadline of 36 months lacks a fundamental understanding of the realities of solid waste agreements.</p> <p>Some circumstances could include the extenuating circumstances identified in section 18995.4 (b). Another circumstance requiring more than 36 months could include if a new hauler or facility agreement is necessary for compliance. A Request for Proposals would need to be developed, circulated, submittals received, evaluated, and then awarded. The amount of such agreements is significant and usually requires approval of an elected body with all of the required public notices including any associated fee increases which have a separate timeline for approval and often subject to the proposition 218 process. Notice will be required to the current contractor and the new contractor, or even the current provided if successful will potentially need to secure new property and collection equipment and possible processing equipment or negotiate agreements for use of a suitable facility. Successful completion of all these steps can easily consume 24 months assuming the facilities to be utilized by the jurisdiction may need to revise the solid waste permit which requires public notices and potential environmental review that could take at least a year or more.</p> <p>In addition, CalRecycle has determined that will be sufficient capacity in California for processing all of the required organics, that capacity will likely not be available within a reasonable distance to the jurisdiction. That lack of organic waste recycling capacity is recognized in the proposed regulations in section 18996.2 (a)(2)(A). Limiting an extension to only a maximum 36 months assumes that sufficient capacity will exist within a few years of the determination of non-compliance.</p> <p>Another factor that could require more than 36 months for a jurisdiction to comply is a major portion of the non-compliant organic recycling is due to organic waste generators located in multiple jurisdictions and enforcement activities are undertaken as identified in section 18996.5. A non-compliant jurisdiction should not be penalized due to delays since the timing for such an action will be determined by CalRecycle and delays in resolving those situations, and then once resolved local jurisdiction compliance will need to be implied. It is a likely situation that the multi-jurisdictional entity is a national or international entity and could even be a federal agency.</p> <p>Allowing for extensions beyond 36 months is necessary and reasonable given the magnitude of the efforts of these proposed regulations and the magnitude of fines for non-compliance.</p>	

Comment Number	Received From	Question/Comment	CalRecycle Response(s)
1307	Zetz, E., Solid Waste Association of North America California Chapters Legislative Task Force	<p>Article 15, Section 18996.2 Proposed Language: Page 71, Line 28; (4) An initial Corrective Action Plan issued due to inadequate organic waste recycling infrastructure capacity of organic waste recovery facilities may be extended for a reasonable period according to the actions required period of up to 12 months if the department finds that the jurisdiction has demonstrated substantial effort.</p> <p>Rationale: SWANA LTF believes that this section does not provide sufficient flexibility to the Department to address unique challenges that jurisdictions may encounter. The Department may find that extenuating circumstances, such as insufficient facility capacity, require more than 12 months to address. The Corrective Action Plan issued by the Department should allow an extension, at its discretion, for a reasonable period.</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1308	Zetz, E., Solid Waste Association of North America California Chapters Legislative Task Force	<p>Article 16, Section 18997.3 Proposed Language: Page 83, Line 25; no more than \$4,000 per violation per day, and no more than \$100,000 per year.</p> <p>Rationale: SWANA LTF believes the Department Penalty Amounts are unreasonably high. Unless more flexibility is given to keep penalties reasonable, the Department could be forced to impose fines that could cause jurisdiction bankruptcy, even over minor violations. It is unreasonable to have “minor” violations so high that it could potentially cause a city to go bankrupt, and they should never exceed \$100,00 per year. “Major” violations, resulting in up to \$10,000 per violation per day should be levied for only the most serious offenses, and should not be for even accidentally omitting “any” information required in Sections 18994.1 and 18994.2. Major violations should be reserved for failing to provide a meaningful effort to comply with the regulations.</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1309	Zetz, E., Solid Waste Association of North America California Chapters Legislative Task Force	<p>Article 16, Section 18997.3 Proposed Language: Page 83, Line 31; no more than \$7,500 per violation per day, and no more than \$500,000 per year.</p> <p>Rationale: “Moderate” violations should never result in more than \$500,000 (total) per year.</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1310	Zetz, E., Solid Waste Association of North America California Chapters Legislative Task Force	<p>Article 16, Section 18997.3 Proposed Language: Page 84, Lines 1-4; E) A jurisdiction willfully implements or enforces... (F) A jurisdiction willfully fails to report information that is crucial to determining compliance</p> <p>Rationale: “Major” violations, resulting in up to \$10,000 per violation per day should be levied for only the most serious offenses, and should not be for even accidentally omitting “any” information required in sections 18994.1 and 18994.2. Major</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.

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		violations should be reserved for failing to provide a meaningful effort to comply with the regulations.	
1311	Zetz, E., Solid Waste Association of North America California Chapters Legislative Task Force	<p>Article 16 Section 18997.3 Proposed Language: Page 99, Lines 14-16; Delete entire section. Rationale: As stated in our previous comment letter, this section is unclear; it appears that the intent is to provide a mechanism to apply partial fines for not meeting the full procurement target, but it needs clarification to avoid the misperception that the regulation is establishing a daily procurement target/expectation. Local procurement mandates are not authorized by SB 1383. CalRecycle’s authorizing statute (Public Resources Code (PRC) 42652.5) clearly contemplates regulation of organics generators and other relevant entities, not consumers. SB 1383 also prohibits establishment of specific limits and targets for individual jurisdictions. While the prohibition is framed in terms of disposal targets, that is because procurement targets were not contemplated. Recommend Article 16 be deleted from this regulatory phase and taken up as a separate, future item when we all have more information on the types and availability of end products made from diverted organics. We also recommend creating an exemption for jurisdictions who, due to unforeseen circumstances, are unable to meet the procurement requirements in Article 12. There may be instances where it’s impossible to procure organic waste products due to lack of availability, infrastructure, or budget constraints.</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1312	Zetz, E., Solid Waste Association of North America California Chapters Legislative Task Force	<p>Article 16 Section 18997.3 Proposed Language: Page 100, Line 17; New Subsection (f) – Penalties imposed on a jurisdiction for violations of the regulations as stipulated in the Article 16 are not cumulative regardless of number of penalties at a given time. Additionally, the maximum penalty amount that CalRecycle is authorized to impose on a jurisdiction for failure to comply with any or all requirements of this Chapter is limited to an amount not to exceed \$10,000 per day. Rationale: Pursuant to Section 41850 (a) of the Public Resources Code, SB 1383 authorizes CalRecycle to impose penalties of up to \$10,000 per day upon jurisdictions for failure to comply with regulations. However, as currently written, Section 18997.3 of the Second Draft of the proposed regulations appears to provide for CalRecycle’s penalties to be concurrent and cumulative (emphasis added). For example, if CalRecycle finds a jurisdiction in violation of several requirements (let’s assume nine) of the proposed regulations and each violation is subject to a maximum provided Penalty of \$1,000 per day, then the jurisdiction could be subject to a penalty of \$90,000 per day. This is not consistent with state law (PRC, Section 42652.5). Therefore, Section 18997.3 needs to be revised to include provisions which specifically prohibit CalRecycle from cumulating penalties regardless of the</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.

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		number of violations by a jurisdiction while limiting the amount of penalties that CalRecycle is allowed to impose on a jurisdiction for failure to comply with any or all requirements of the proposed regulations to a maximum amount of \$10,000 per day.	
1313	Zetz, E., Solid Waste Association of North America California Chapters Legislative Task Force	<p>Article 16, Section 18997.4 Proposed Language: Page 101, Line 31; (d)(c) Upon receipt of the the accusation, the respondent shall have 15 days to file a request for hearing with the director of the Department within 45 15 days, or the respondent will automatically be deemed to have waived its rights to a hearing. Rationale: Allowing a jurisdiction only 15-days to file a request for a hearing is an unreasonable expectation. The process for a jurisdiction to evaluate whether to file a hearing request involves a jurisdiction to take formal local action which may be subject to a vote of an elected body since jurisdiction resources will be expended in preparing and participating in a hearing that cannot be convened within the 15-day time frame. Allowing time for the jurisdiction to prepare and notice such an action should allow more time.</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1314	Zetz, E., Solid Waste Association of North America California Chapters Legislative Task Force	<p>Article 16 section 18997.5 Proposed Language: Page 101, Line 36; (d) The Department shall schedule a hearing within 3060 days of receipt of a request for hearing that complies with the requirements of this section. Rationale: Similar to the comments on section 18997.5 (c), a jurisdiction will need additional time to prepare a defense. Legal staff and consultants will need to be assigned or retained. These expenses will likely need approval of the elected body. This approval and the subsequent preparation will need a significant more time than 30 days. Given the magnitude of the potential penalties, the penalty phase should not be rushed.</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1315	Zetz, E., Solid Waste Association of North America California Chapters Legislative Task Force	<p>Article 17, Section 18998.1 Proposed Language: Page 103, Line 7; After the words “of this chapter” delete the rest of the sentence and replace it with generating 90% of the commercial waste that is subject to the jurisdiction’s authority. Rationale: SWANA LTF suggests Section 18998.1. (a)(1) requirement to provide 3-container service to 90% of the commercial businesses should be reconsidered. Cities have a large scale of commercial establishments (small to large scale establishments) with a wide- range of waste generation rate. Therefore, we request that the 3-container service providing requirement should be based on 90% of tonnage generated from all commercial businesses combined.</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1316	Zetz, E., Solid Waste Association of North America California Chapters	<p>Article 17, Section 18998.1 Proposed Language: Page 103, Line 11; Insert a new (a) (3) subsection (4): (3) Between January 1, 2022 - December 31, 2024: No more than 50 percent of the organic waste collected in the jurisdiction is disposed in a landfill.</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.

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	Legislative Task Force	<p>(3)(4) After January 1, 2025: No more than 25 percent of the organic waste collected in the jurisdiction is disposed in a landfill to ensure that the presence of organic waste in the gray container collection stream does not exceed an annual average aggregate of 25 percent by weight of total solid waste collected in that stream on an annual basis.</p> <p>Rationale: Measurement of the organics content of the “gray container waste” as collected does not account for organics sorted from the gray container by post-collection processing. A methodology that’s a combination of front end source-separated organics and post-collection recovery of organics before disposal is the best way (perhaps the only way) to achieve 75% diversion.</p> <p>Instead of imposing 75% diversion mandate from January 1, 2022, a two-phase compliance schedule should be considered, which would allow facilities to come in compliance in a phased approach which is more realistic.</p> <p>Furthermore, the percentage of organic waste present in the gray container collection stream collected and the percentage of organic waste disposed in a landfill shall be determined by a measurement methodology submitted by the jurisdiction to the department for approval no less than 180 days prior to the start of the performance-based collection system.</p>	
1317	Zetz, E., Solid Waste Association of North America California Chapters Legislative Task Force	<p>Article 6.2 Section 17409.5.6 Proposed Language: Page 128, Line 8; Add the following:</p> <p>(1) The facility operator shall be allowed to combine recovered materials for operational efficiency from any source or sector that meets their end user’s specifications if the operator can verify that the combined materials are maintained in compliance with their Facility Plan or Transfer/Processing Report.</p> <p>(b) Source-separated organic waste and organic waste removed from a mixed waste organic collection service for recovery shall be:</p> <p>(1) stored for operational efficiency and away from other activity areas in designated and specified, clearly identifiable areas as described in the Facility Plan or Transfer/Processing Report; and,</p> <p>(2) removed Removed from the site consistent with section 17410.1 and either:</p> <p>(A) transported only to another solid waste facility, POTW, or operation for additional processing, composting, in-vessel digestion, or other recovery as specified in section (xxx20.1) of this Division; or,</p> <p>(B) used in a manner approved by local, state, and federal agencies having appropriate jurisdiction; or,</p> <p>(C) sent for disposal.</p> <p>Rationale: As stated in our previous comment letter, this section requires that source-separated organics waste processing be kept separate from other solid waste streams. This is not practical, especially in facilities that may also combine organic streams for further on-site processing.</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.

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1318	Zetz, E., Solid Waste Association of North America California Chapters Legislative Task Force	<p>Article 6.2 Section 17409.5.8 Proposed Language: Page 131, Line 4; (a) A transfer/processing facility or operation shall only send offsite that organic waste recovered after processing from the source separated organic waste stream and from the mixed waste organic collection stream that meets the following requirements Rationale: It is not clear why the word “only” was inserted in this requirement. As written, the ONLY waste that can leave a transfer/processing facility or operation is “organic waste recovered after processing from the source separated organic waste stream and from the mixed waste organic collection stream”. What happens with the rest of the solid waste collected at the transfer/processing facility or operation?</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1319	Zetz, E., Solid Waste Association of North America California Chapters Legislative Task Force	<p>Article 6.2 Section 17409.5 Proposed Language: Page 133, Line 18; (b) When required by this article, the operator shall report tonnages using a scale or. If scales are not accessible, the EA may approve, with concurrence by the Department, the operator to report the tonnages using a method described in Section 18815.9(g). Rationale: The use of alternatives to scales, such as volume conversion for small facilities, was extensively discussed throughout the AB 901/Recycling and Disposal Reporting System. The criteria are already established in Section 18815.9 (g). This process is clearly detailed in 18815.9 (g) and does not require EA approval nor concurrence by CalRecycle. There is no justification for imposing levels of approval on a concept that has successfully been operating for nearly 20 years.</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1320	Zetz, E., Solid Waste Association of North America California Chapters Legislative Task Force	<p>Article 6.2 section 17409.5.10 Proposed Language: Page 134, Line 25; d) Materials shall be transported only to transfer/processing facilities or operations, that comply with Section 17409.5.1. or landfills, or recycling centers or other location that accepts the material. Rationale: There are consolidation sites, such as limited volume transfer stations, that transport collected materials directly to a landfill rather than transfer/processing facility or operation. Also, some of these consolidation sites also collect recyclables or provide containers for customers to source separate recyclables. Mandating that these materials ONLY go to a transfer/processing facility or operation imposes significant costs and double handling. If there is no transfer/processing facility or operation between the consolidation site and the landfill or recycler, the wastes will need to be transported excessive distances increasing vehicle emissions and wasting fuel.</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1321	Zetz, E., Solid Waste Association of North America California Chapters Legislative Task Force	<p>Article 6.3 Section 17414.2 Proposed Language: Page 137, Line16; Delete (10) (d). (c)(d) All records required by this article shall be kept by the operator in one location 29 and accessible for three (3) five (5) years and shall be available for inspection by the 30 EA and other duly authorized regulatory agencies during normal working hours.</p>	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.

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		Rationale: As stated in our previous comment letter, solid waste facilities are currently required to retain records for a period of 3-years; the requirement for 5-years is excessive and above what is already required.	
1322	Zetz, E., Solid Waste Association of North America California Chapters Legislative Task Force	Article 3 Section 17896.44.1 Proposed Language: Page 142, Line 6; 1. For each reporting period, the operator shall perform the sampling protocol required in subdivision (a)(16)(B) Section ____ over at least ten (10) consecutive operating days. Rationale: There seems to a missing reference section number. We ask for CalRecycle to include the appropriate section number.	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1323	Zetz, E., Solid Waste Association of North America California Chapters Legislative Task Force	Article 9.25 Section 18815.5 Proposed Language: Page 160, Line 9 Rationale: As stated in our previous comment letter, the use of a rolling quarterly recovery efficiency does not adequately allow for seasonal fluctuations or changes in waste flows. A longer period should be used. Calculating a new annual average every quarter based upon the immediately preceding quarters could result in jurisdictions having to change facilities too often, resulting in increased transportation costs and would require contract negotiations with multiple sites. The recovery efficiencies are reported to CalRecycle but there is no requirement on when or who notifies the jurisdictions of the rates.	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1324	Zetz, E., Solid Waste Association of North America California Chapters Legislative Task Force	Article 3.2 Section 21695 Proposed Language: Page 177, Line 33; (d) The SIR shall be submitted to CalRecycle within one and a half years (545 days) from the effective date of this regulation. The EA may approve an extension of up to 180 days. The operator must submit an extension request in writing to the EA no later than 60 days prior to the initial deadline with the reason(s) why the deadline can not be met. In the event the EA does not respond to the extension request by the initial deadline the request shall be deemed approved as submitted. In no event shall submittal of the SIR exceed 2 years from the effective date of this regulation Rationale: As stated in our previous comment letter, a municipality will not be able to procure a consultant, have them perform the extensive requirements for the SIR, have the consultant draft the SIR for review, review and comment on the SIR, finalize and submit the SIR within 365 days. We believe an extension is necessary.	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.
1325	Zetz, E., Solid Waste Association of North America California Chapters Legislative Task Force	Article 3.2 Section 21695 Proposed Language: Page 177, Line 39; (f) For a SIR determined to be incomplete, the operator shall submit a revised SIR 16 addressing any enumerated deficiencies within 30 60 days of receipt of notice from CalRecycle of an incomplete SIR. Rationale: As stated in our previous comment letter, we believe that 30 days to address any enumerated deficiencies is insufficient, especially for a municipality. We suggest increasing the 30-days requirement to 60-days.	The comment is not germane to changes in the regulatory draft language released during the fifth comment period.