Collections FAQ

Definitions

Q: Is a “special district that provides solid waste services” subject to the jurisdiction requirements in the regulation?

A special district that provides solid waste collection services is included in the definition of a jurisdiction [see Article 1, Section 18982(a)(36)].

Q: Under SB 1383, are special districts considered a jurisdiction by themselves or are they grouped with other entities like they currently are for CalRecycle’s Annual Report? Should a special district focus solely on reaching compliance for the special district?

The regulations differentiate special districts into two groups: Special districts that provide solid waste collection services are included in the definition of a jurisdiction [see Article 1, Section 18982(a)(36)] and are subject to all of the requirements for jurisdictions except for Article 12, Section 18993.1 “Recovered Organic Waste Product Procurement.” Special districts that provide solid waste collection services must comply with the regulatory requirements for the area that is within the boundary of the special district.

Special districts that do not provide solid waste collection services are considered an organic waste generator and fall under the definition of a non-local entity [see Article 1, Section 18982(42)].

Special districts that provide solid waste collection services must be in compliance with the regulatory requirements for the area that is within the boundary of the special district

Q: How does a regional agency fall within the definition of a jurisdiction? Who is the responsible entity for implementing, enforcing, and reporting for 1383?

“Jurisdiction” means a city, county, a city and county, or a special district that provides solid waste collection services [see Article 1, Section 18982(36)]. Jurisdictions may form a regional agency (RA) by first creating a joint powers authority (JPA) as outlined in CGC sections 6500 et seq. If jurisdictions already belong to a JPA for a specific purpose, such as funding landfill closure costs, the existing JPA may be expanded, or an entirely new JPA may be established. A JPA that has been created to comply with the requirements would be able to report on behalf of the members.

The regulations allow a city, county, a city and county, or a special district to utilize a joint powers authority to comply with the requirements of the regulation [see Chapter 12, General Provisions, Section 18981.2]. However, the individual city, county, city and county, or special district are ultimately responsible for compliance with the requirements, and any enforcement action taken by the department will be on the city, county, or special district.

Q: What is the definition of "rural jurisdiction"?

The specific term rural jurisdiction is only used in the context of rural exemptions [see Article 3, Section 18984.12(c)]: “The Department shall grant an exemption from complying with the organic waste collection requirements specified in this article for rural jurisdictions that meet the definition of a 'Rural Jurisdiction' in Section 42649.8 of the Public Resources Code…”

PRC Section 42649.8 defines “rural jurisdiction” as the following “a jurisdiction that is located entirely within one or more rural counties, or a regional agency comprised of jurisdictions that are located within one or more rural counties.”

Q: Why is a special district included in the definition of a jurisdiction and non-local entity?

Depending on the nature of the district and its activities, special districts can be considered jurisdictions or non-local entities. A special district is included in the definition of a jurisdiction and a non-local entity so they will be required to provide collection services, report to CalRecycle, conduct enforcement, and be subject to enforcement by CalRecycle. A special district is not subject to the authority of a city or county and would otherwise be exempt from providing organic waste collection services and education to residents and businesses

A special district that provides solid waste collection service is considered a jurisdiction. Special districts that are not subject to the authority of a jurisdiction are considered a non-local entity. Any special district that is considered both a jurisdiction and also a non-local entity would be subject to CalRecycle enforcement for violations of generator requirements in Chapter 12 unless requirements are waived under Article 5, Section 18986.3.

Q: What is the definition of the term "break down"? What is the extent of the break down required for paper to be considered compostable?

CalRecycle uses the term break down once in the regulations in the definition of non-compostable paper. “Non-compostable paper includes, but is not limited to, paper that is coated in a plastic material that will not break down in the composting process.” The term break down means to fully break down from the original material into compost. If a material does not break down into compost during the composting process it is non-compostable. Non-compostable paper should not be collected for composting. However, SB 1383 does not limit organic waste recovery to only compostable organic waste. The law requires the state to divert 75 percent of all organic waste from landfills into recovery activities by 2025, which includes both compostable and non-compostable materials. Composting is not the only method of recovery. There are other means of recovering organic waste, including anaerobic digestion. Non-compostable paper may collected and recovered with other paper material, rather than food waste and green waste, and sent to a paper recycler instead of being transformed into compost, biofuel, or electricity.

Q: What is the definition of a "waste generator"?

Organic waste generators includes all entities that create organic waste (like food waste, yard waste, paper, cardboard, lumber, and clothing) that can be collected, recovered, and recycled into new products (like compost, biofuel, or electricity).

Q: Does the “organic waste generator” definition consider every individual within a business or residential account as separate generators?

The education requirements in Article 1, Section 18982(a)(48) allow for jurisdictions to generally target generators and contains no obligation to contact every generator within a jurisdiction [see in Article 1, Section 18982(a)(48)]. For example, a jurisdiction could comply through print media, such as magazine or newspaper advertising; social media posts; flyers placed on collection container; or other means designed to reach generators in the jurisdiction.

Q: Are tribal nations included in the "non-local entity" definition?

No, the state cannot enforce civil regulatory requirements, such as state environmental laws, on tribal land.

Q: What is the definition of a "hauler route"?

The regulations allow for the jurisdiction to define its hauler routes. The regulations require jurisdictions to minimize contamination of organic waste containers by either conducting route reviews or conducting waste evaluation studies on each hauler route [Article 3, Section 18984.5]. The term hauler route is key to the jurisdiction's compliance with these requirements, because it describes where the jurisdiction should direct its education and outreach effort to reduce contamination of organic waste.

Also, CalRecycle did not specify the timeframe because what constitutes a hauler route is up to the jurisdiction to determine. This is because hauler routes can significantly vary between jurisdictions depending upon the types of generators, facility location of where materials will be hauled to, route efficiencies, and a myriad of other factors. What constitutes a "hauler route" is dependent upon the designated itinerary or geographical configuration of the jurisdiction's waste collection system. For example, a jurisdiction's collection system may consist of one continuous itinerary or a series of stops that services both commercial generators and residential generators for garbage, dry recyclables and organics or the system could be divided into two or more itineraries or segments based on each type of generator and/or material type collected.

Q: What is the definition of a "container"?

Containers are a common term used to describe bins, carts, and related objects used to collect waste or recyclable materials.

Q: Are private schools considered non-local entities?

No. Private schools fit under the existing definition of commercial business which states that a "commercial business" means a firm, partnership, proprietorship, joint-stock company, corporation, or association, whether for-profit or nonprofit, strip mall, industrial facility, or a multifamily residential dwelling.

Q: How will the definition of "designated source separated organic waste facility (DSSOWF)" be addressed in the solid waste facility permitting (SWFP) process described in 27 CCR? Will the DSSOWF become a permit condition or request for inspection requirement or is there another process to verify that the organic content recovery rates are being met at a facility?

CalRecycle will use reports submitted by facilities via the Recycling Disposal Reporting System (RDRS) to determine whether a facility meets or exceeds the recovery thresholds necessary to be identified as a designated source separated organic waste recycling facility. The designation acknowledges achievement of a specified recovery rate for the source separated organic waste received by the facility. This designation does not require the facility operator to take a specific action or apply for a permit modification.

Q: Why is the term “entity” not defined?

Merriam-Webster’s dictionary defines an entity as “an organization (such as a business or governmental unit) that has an identity separate from those of its members.” CalRecycle did not deem it necessary to define this term in the SB 1383 regulations since its meaning is consistent with the commonly understood dictionary definition.

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Collection Services

Q: Do the regulations require single-family residences and multifamily complexes to subscribe to organics collection and recycle both green waste and food waste beginning January 1, 2022?

Yes, the regulations require jurisdictions to provide organic waste collection services to all single-family and multifamily residences of all sizes and businesses that generate organic waste beginning January 1, 2022.

Yes, single-family and multifamily complexes are required to recycle both green waste and food waste, as well as other organic waste materials, beginning January 1, 2022.

Q: Are property managers of multifamily complexes required to provide organics collection service to residences? Are multifamily dwellings exempt from the requirements of Article 3, Section 18984.9(b)?

Yes. The regulations require commercial businesses, including multifamily residential dwellings of five units or more, to provide or arrange for organic waste collection services consistent with Article 3 and local requirements (see Article 3, Section 18984.10). These requirements include, including supplying and providing access to an adequate number of containers in sufficient sizes and locations with correct container colors and labels for employees, contractors, tenants, and customers.

Additionally, they are required to annually provide information to employees, contractors, tenants, and customers about organic waste recovery requirements and proper sorting of organic waste. Commercial businesses must also provide information to new tenants before or within 14 days of

occupation of the premises.

Multifamily dwellings of any size are not subject to Article 3, Section 18984.9(b).

Q: Will a jurisdiction be able to allow shared accounts?

Yes, a jurisdiction is allowed to provide shared collection service between generators. The regulations do not prohibit a jurisdiction from providing shared collection service between generators.

Q: Are multifamily dwellings required to provide an organics container for residents at all enclosures on the property?

The regulations require commercial businesses, including multifamily residential dwellings of five units or more, to provide or arrange for organic waste collection services (see Article 3, Section 18984.10). These requirements include supplying and providing access to an adequate number of containers in sufficient sizes and locations with correct container colors and labels.

Ideally, organics, recycling, and landfill containers are located together in the same enclosure, as this ensures convenience for residences. However, multifamily residential family dwelling facility managers can choose to locate organics collection in a nearby enclosure when locating all containers at every enclosure is impossible or impractical. If the location is not adequate and residents are choosing to dispose of their organics in a trash container that is closer in proximity to their residence, then the complex would not be complying with the law. Multifamily complex facility managers will need to monitor the program to ensure that the containers are in adequate locations. If the waste hauler identifies a contamination issue, the jurisdiction would inform the multifamily complex to address the situation.

Q: Do jurisdictions need to collect organics in public spaces such as beaches and parks?

No. CalRecycle acknowledges that contamination of organic waste at public parks and beaches may be a problem, as there is no ability to monitor these containers. Organic waste is not required to be collected at public parks and beaches.

Q: Can residents provide their own containers for organics collection?

Jurisdictions or its designee (like a hauler) must provide containers to the generator. Containers provided by the residents themselves would not comply with the regulations.

Providing a container is an inextricable part of providing a collection service. Requirements for local jurisdictions to collect and recover organic waste from their residential and commercial generators are critical for the state's efforts to keep organic waste out of landfills and reduce greenhouse gas

emissions.

Further, jurisdictions are in a position to obtain uniform collection containers with standardized colors from specialized suppliers, whereas individual generators are not. If jurisdictions are not required to provide compliant containers, generators are left to comply with the color requirements on their own and may have a difficult time obtaining standardized containers due to the whims of market availability of properly colored containers through hardware stores, supply stores, or other business that have no obligations to stock compliant container colors. This sets up an untenable, large-scale regulatory noncompliance problem.

The requirement for jurisdictional provision of collection containers is also necessary from an efficient enforcement perspective. Placing the compliance responsibility on generators would create an unnecessarily burdensome enforcement model. Ensuring container color compliance would necessitate inspections of generators by the jurisdiction, potentially involving thousands of homes or businesses. Furthermore, potentially broad numbers of individual generators may be subject to enforcement if compliant containers are not reasonably available for purchase (see preceding paragraph). Instead of this burdensome model, CalRecycle finds that a single point of enforcement with the jurisdiction is more efficient and equitable. Jurisdictions are in a position to obtain uniform collection containers with standardized colors from specialized suppliers where individual generators are not.

The only exception is that generators in high-elevation jurisdictions will be able to continue to use customer provided containers that fit in their locked bear boxes.

Q: What is an example of organic waste not designated for collection in the green container?

If the jurisdiction is collecting food waste, cardboard, mixed paper, paper products, printing and writing paper, and green waste in the green container, then that would cover most of the organics covered by the regulations. However, there are other organics, such as wood, dry lumber, and composite products that contain organic waste that may end up in the black/gray container. Refer to the definition of organic waste.

Q: Do collection services under SB 1383 have to be automated (as in a claw on a truck picking up the container), or can they be manual (as in a human picking up the container)?

The regulations do not prohibit a jurisdiction from providing manual collection services.

Q: Where in the regulations does it say a jurisdiction must automatically enroll generators in services? What does providing automatic service look like?

Jurisdictions are specifically required to provide service per Article 3, Sections 18984 – 18984.3. The word provide was specifically chosen as the operative word as it differs from AB 1826, which only requires that they offer service. Just as jurisdictions must provide services such as water or garbage

collection, they now need to provide recycling.

Q: How would people refuse service if they don't need it because they are either self-hauling or home composting?

Article 3 requires jurisdictions to provide collection service to all generators (with few exceptions). Additionally, Article 3 allows organic waste generators to self-haul organic waste in a manner that complies with the requirements of Article 7 and manage organic waste on-site. Regarding self-hauling, Article 7, Section 18988.1(b) requires that if a jurisdiction allows generators to self-haul, the jurisdiction must adopt an ordinance or a similarly enforceable mechanism that requires compliance with the requirements in Article 7, Section 18988.3

A key point in not needing a particular container is that the organic waste generator would need to be self-hauling in compliance with Article 7 or managing organic waste on site such that all of the organic waste that would go in the green container is being recycled. If some material is being self-hauled or home composted, but not all, then the organic waste generator may still need service unless the jurisdiction has determined it is a de-minimis amount. If a jurisdiction allows generators to self-haul, the jurisdiction must adopt an ordinance or a similarly enforceable mechanism that requires compliance with the requirements in Article 7, Section 18988.3 [see Article 7 Section 18988.1(b)].

If a person does not need green container service because they are self-hauling or home composting all of the organic waste that they would place in the green container, then they would need to communicate with the jurisdiction. The jurisdiction, or its hauler, would confirm and determine that the organic waste generator does not need the service. The jurisdiction needs to keep track of waivers that are issued.

Q: What if a facility a jurisdiction sends food waste to does not accept food soiled paper?

Since paper is an organic waste that needs to be recycled, the jurisdiction would need to find other facilities to process the food-soiled paper. The jurisdiction, or its hauler, would need to separate the food-soiled paper from the food waste prior to sending the material to the facility that accepts food waste only.

If a person does not need green container service because they are self-hauling or home composting all of the organic waste that they would place in the green container, then they would need to communicate with the jurisdiction. The jurisdiction, or its hauler, would confirm and determine that the organic waste generator does not need the service. The jurisdiction needs to keep track of waivers that are issued.

Q: Why does SB 1383 require residential organic waste collection services?

Residential collection services are necessary because more than half of organic waste is generated by the residential sector. SB 1383 builds upon the state's mandatory commercial organic waste recycling requirements, which began with large commercial generators in 2016 and will now include residential generators in 2022.

Q: What if local organics processing facilities do not accept all organic waste (such as palm fronds, ivy, pet, and human waste, etc.) as defined in the regulations?

If the Local Enforcement Agency determines that a material type cannot be safely recycled, then a jurisdiction would be allowed to list that material as not acceptable.

While palm fronds and monocotyledons have been difficult to handle at composting operations, at least one facility has opened in California that can grind this material and use it in animal feed products, reportedly at a cost significantly less than that of landfilling. Allowing jurisdictions to prohibit this material from being placed in the green container could potentially deter the development of innovative technologies.

A jurisdiction may prohibit human waste in the green or blue container in a 3-container system and in the green container in a 2-container system. This does not apply to pet waste, as many jurisdictions collect manure and take this material to processing facilities that have to meet pathogen reduction requirements. Human and pet waste are not required to be measured as organic waste for the purpose of measuring contamination in Article 3, Section 18984.5.

Q: Should paper be placed in the organics bin or the recycling bin?

The regulations allow jurisdictions to decide what recycling container in which to collect paper. This provision was included in response to comments from jurisdictions about the need for such flexibility.

Q: Do the regulations apply to agricultural waste for organic waste collection?

The regulations define organic waste by material type and not by source sector. Jurisdictions are required to provide organic waste collection services to generators subject to their authority. However, as noted in the regulations, nothing prevents generators from managing their own organic waste on site (e.g. on-farm composting). Additionally, jurisdictions may waive generators from collection requirements if they generate de-minimis amounts of organic waste for collection.

Q: Should textiles be placed in the blue or gray containers? Can textiles and carpets be collected in the green container?

The regulations specifically state that textiles are allowed in the blue and gray container under specified conditions (Sections 18984.1 and 18984.2). Carpets and textiles are allowed in the gray container regardless of where the contents of the container are subsequently managed. For example, if these are the only organic wastes allowed in the gray container the container does not have to be transported to a high diversion organic waste processing facility.

However, textiles and carpets are not normally accepted by organic waste recycling facilities, such as composting or in-vessel facilities, that usually accept materials collected in green containers. However, CalRecycle included this provision allowing textiles in green containers because stakeholders during the informal rulemaking workshops requested such flexibility. CalRecycle is not aware of any compelling reason to prohibit textiles from being placed in green containers.

Q: Will CalRecycle shut down a high diversion organic waste facility if is not in compliance and is the only facility in the region?

The department will not shut down facilities that do not meet the SB 1383 requirement for a high diversion organic waste processing facility. The requirement for ensuring that the material goes to a high diversion organic waste processing facility is on the jurisdictions.

The jurisdiction would have three options in this situation:

1. If the facility can address the issue and meet the recovery rate, then the jurisdiction can continue using the facility
2. Use a different high diversion organic waste processing facility
3. Implement a three-container collection system.

The timeline for any of these options would be laid out in a corrective action plan that is issued to the jurisdiction, as it is understood that any of these options would take some amount of time to address.

Q: Can CalRecycle please define “uncontainerized green waste and yard waste collection service”?

The department will not shut down facilities that do not meet the SB 1383 requirement for a high diversion organic waste processing facility. The requirement for ensuring that the material goes to a high diversion organic waste processing facility is on the jurisdictions.

The regulations state that collection of loose green waste material on the street (i.e., uncontainerized) is allowed as long as it does not include food waste, which must be containerized, and the receiving facility will accept the green waste and still comply with operational and end product quality standards [see Article 3, Sections 18984.1, 18984.2, 18984.3, and 18984.5(b)(1)(B)]. Some jurisdictions use this method year-round to collect green waste and others use it as a supplement in the fall due to spikes in green waste generation. In both cases, it would be costly to provide extra containers for this material when it can be allowed to accumulate on streets where it can be efficiently collected.

The regulations allow jurisdictions or their designee to place educational materials on containers or doors to allow for notification in areas where un-containerized, loose, in-the-street collection is utilized [see Article 3, Section 18984.5(b)(1)(B)].

Q: How can a facility be required to recover only 75 percent of the organics it receives, but landfill less than 10 percent of organic material [see Title 14, Chapter 12, Article 1, Section 18982(a)(14.5)(B)]? What about the remaining 15 percent?

The 75 percent recovery efficiency level is a measure of the amount of organic waste a transfer/processor recovers relative to the amount of organic waste it receives for a source separated collection service or a mixed waste collection service. Material recovery facilities must recover 75 percent of organic material from source-separated or mixed waste collection service and send it on to an organics recovery facility. The organic material sent to an organics recovery facility must meet certain contamination thresholds. Starting in 2022, organics sent to recovery must not have more than 20 percent of incompatible materials. This limit decreases to 10 percent in 2024. This contamination threshold ensures that organics recovery facilities, like composters, have a high-quality feedstock material that yields a high-quality end product. The incompatible materials limit is a cleanliness standard that applies to the organic waste the transfer/processor sends to recovery.

The incompatible materials limit is essential to the integrity of the recovery efficiency measurement, but the two percentages are not cumulative. The incompatible materials limit ensures that the material being weighed as organic waste sent to recovery is actually organic waste. If the organic waste a transfer/processor sends to organic waste recycling facilities (e.g. compost) exceeds the incompatible materials limit, the likelihood of the material being recovered is greatly reduced, and the recovery efficiency numbers would be distorted. See statement of purpose and necessity for Title 14, Chapter 3, Article 6.2, Section 17409.5.1,17409.5.2 through 17409.5.5 and 17409.5.8. regarding recovery efficiency and incompatible materials limits.

Q: Can the contents of organics and recycling containers be transported to a transfer operation or facility before being sent to a subsequent facility for processing (as this practice is common in rural areas or areas lacking processing infrastructure)?

Yes, Article 3 allows the contents of containers to be initially transported to a consolidation site.

Q: Are campgrounds and marinas that rent water equipment like boats regulated by this law?

Yes, all commercial businesses that generate organic waste, including campgrounds and marinas, are subject to complying with SB 1383.

Q: Some border counties transport their solid waste and recyclables other states that are not subject to California requirements. Do the regulations impose requirements on these out-of-state facilities?

California does not have the authority to impose requirements upon out-of-state facilities. The regulations impose requirements upon jurisdictions, organic waste generators, and California solid waste facilities. Jurisdictions are responsible for complying with SB 1383 and cannot avoid these responsibilities by transporting its organic waste out of the state.

Q: Why are the collection service requirements in the regulations so prescriptive?

SB 1383 grants broad regulatory authority to CalRecycle to impose requirements on jurisdictions in order to achieve the organic waste diversion goals of a 50-percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2020 and a 75-percent reduction by 2025. This authority includes creation of rules designed to implement these statewide mandates and ensure that the statewide organic requirements are met. CalRecycle has determined that the mandatory collection service requirements and container color and labeling provisions are necessary to maintain consistent standards throughout the state to reduce contamination of organic waste and ensure that collected organic waste is clean and recoverable.

Q: Is organic waste collection required at specific facilities in airports that deal with international waste regulated by the U.S. Department of Food and Agriculture or quarantined or contraband materials seized by U.S. Customs?

Provisions were added to Article 3, Section 18984.13 to address such quarantined material and overriding federal requirements. This section also specifies that nothing in this chapter requires generators, jurisdictions, or other entities subject to these regulations to manage and recover organic waste that federal law explicitly requires to be managed in a manner that constitutes landfill disposal as defined in this chapter. This section is necessary to ensure that these State regulations do not conflict with Federal rules pertaining to the required disposal of types of organic waste defined in this section. Organics diversion requirements are not required of organics collected from specific facilities in airports dealing with international wastes (regulated by Dept. of Food and Ag) and or dealing with quarantined or seized contraband materials (regulated by U.S. Customs). There are over-riding federal requirements related to the treatment (e.g., incineration, autoclaving, etc.) of solid waste from international flights. Article 3, Section 18984.13 addresses such quarantined material and overriding federal requirements and ensures that these state regulations do not conflict with federal rules pertaining to the required disposal of types of organic waste defined in this section.

Q: Can a jurisdiction implementing a 2-container system in which the gray/blue containers are being used collect bagged organic waste in the blue container?

Bags are allowed in any of the containers. There are no additional requirements for bags used in a gray or blue container. However, there are certain restrictions if a bag is used in a green container. A jurisdiction may allow use of plastic bags to collect organic waste in the green container if the facilities the jurisdiction uses to recover the source separated organic waste for the jurisdiction provide written notice to the jurisdiction indicating they can process and remove plastic bags.

Q: Are plastic bags allowed in the collection of organic waste?

Bags are allowed. However, there are certain restrictions if a bag is used in a green container. A jurisdiction may allow use of plastic bags to collect organic waste in the green container if the facilities provide annual written notice to the jurisdiction indicating they can process and remove plastic bags.

Compostable plastics may be placed in the green container if the material meets the ASTM D6400 standard for compostability, and the facility that handles the source separated organic waste provides written notice annually to the jurisdiction stating that the facility can process and recover that material. There are no additional requirements for bags used in a gray or blue container.

Q: Many cities have programs such as annual/biannual citywide cleanup events where residents can place excess materials outside of their containers for collection. Under SB 1383, is green waste the only uncontainerized material allowed? Regarding bagging excess materials, how are jurisdictions supposed to make sure there isn't contamination?

While a bulky item collection program is not required by SB 1383, the regulations do not prohibit bulky item collection programs. Any organic materials collected in bulky item programs and holiday tree programs must be diverted from landfill disposal in a manner consistent with SB 1383. Jurisdictions that have a bulky item collection program are subject to the Organic Waste Collection and Processing requirements of the regulations for any of the bulky items/reusable items collected that are defined as organic waste. For example, if the bulky items are comingled and not source separated, the material would need to be processed at a high diversion organic waste processing facility to separate out the organic waste from the inorganic waste.

SB 1383 requires jurisdictions to educate residents about properly sorting organic waste from other materials to reduce contamination. Jurisdictions could add organics source separation information to existing bulky item collection education materials.

To reduce contamination, jurisdictions should provide feedback to residents about properly sorting the organic waste from other materials. The organic waste that is placed in the bags will need to be sent to the appropriate facility so that the organic waste is processed. The jurisdiction will need to assess how this will be dealt with at the appropriate facility if organic waste, recyclables, and trash is

placed into the same color bags, e.g., at the facility the bags are opened and the organic waste and recyclables are processed, the bags with organic waste and inorganic recyclables are identified by the resident, etc.

Please see CalRecycle's model franchise agreement on Page 62 for language that could be included in a franchise agreement or permit. https://calrecycle.ca.gov/organics/slcp/education

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Contamination

Q: Can a jurisdiction stop providing blue or green curbside collection containers to habitual contaminators and provide an additional landfill curbside collection container at an extra charge?

The regulations do not allow a jurisdiction to cease providing blue or green collection service to generators that continue to contaminate organic material in the container. The regulations do, however, allow a jurisdiction to dispose of the container's contents if it is too contaminated. This is intended to be a contingency and is not designed to allow a jurisdiction to dispose of the contents of a significant number of green or blue containers [which would be a violation of Article 3, Sections 18984.1(a)(1)-(2) and 18984.2 (a)(1)].

The regulations also allow, but do not require, jurisdictions to impose penalties for contamination. A jurisdiction under its own authority may choose to impose contamination processing fees or penalties on generators that consistently contaminate their containers.

Contaminated material is more expensive to process and recover and ultimately increases the total cost of recovering material. Jurisdictions that choose to levy fees or penalties may recoup the increased cost of processing contaminated material and discourage contamination. A jurisdiction is also required to provide education, so the generator is made aware of the obligation to properly recycle. There are waivers that a jurisdiction can issue, but not for this situation.

Q: When conducting contamination monitoring, what happens when a hauler has a route that crosses jurisdiction lines?

The regulations do not specifically address what happens when a hauler services multiple jurisdictions and has a route that crosses jurisdiction lines.

However, to monitor contamination with a waste evaluation, the hauler could collect material, evaluate contamination levels, and provide education along the hauler route within one jurisdiction. If it is not practical to separately collect the material from each jurisdiction, then another option may be to educate all of the generators in all of the jurisdictions. The jurisdictions should consult with CalRecycle prior to the waste evaluation.

Q: For container contamination minimization, what is a reasonable number of route reviews?

A jurisdiction can determine what a reasonable number of route reviews is. The key is to monitor the containers and provide education if there is an issue. CalRecycle purposely did not set a specific number of route reviews as it can vary so much. This decision was made based upon feedback from stakeholders.

Q: Do jurisdictions have discretion about how to “randomly select” organic waste generators for contamination monitoring and inspection? Is it up to the jurisdiction to decide how containers are randomly selected along a hauler route? To be compliant with the container contamination minimization requirements for commercial accounts, if each commercial route in each jurisdiction gets inspected, will the program count towards meeting these requirements despite the choices not being completely "random" but based on who have been "bad actors" in the past? Can jurisdictions prioritize route reviews to monitor residents and businesses with previously identified high levels of contamination?

The regulations allow jurisdictions to determine random selection that is the least costly and burdensome approach compared to requiring statistically significant sampling.

Q: How will small jurisdictions with a limited number of staff be able to conduct contamination monitoring twice per year for all waste sectors in addition to annually monitoring all waivers?

Jurisdictions are not required to select this alternative approach to container contamination minimization, i.e., waste evaluations conducted twice per year, as described in Article 3, Section 18984.5(c). Also, a jurisdiction is not required to annually monitor waivers that have been granted. After a waiver has been reviewed and granted, then the waiver may be granted for a period of five years. If during that time the jurisdiction has reason to rescind the waiver, then they should rescind it.

Q: If a jurisdiction is going to impose additional contamination processing fees on a generator, can the jurisdiction allow a designee that services the routes to impose fees?

Yes, jurisdictions may allow a designee to impose additional contamination processing fees.

Q: When maintaining records for container contamination minimization, does the number of containers disposed mean the number of truckloads of recyclables and organics sent to the landfill because they were too contaminated?

It means the number of individual curbside containers and not the number of truckloads.

Q: Are jurisdictions or haulers required to maintain monthly photo records of curbside contamination?

Haulers must retain all photographic documentation of contamination but are not required to provide all documentation to jurisdictions in their reports because this is too burdensome. Instead, they may provide some photos in their reports and additional documentation to jurisdictions upon request.

Q: What is the difference between the facility sampling protocol covered in Title 14, Chapter 3, Article 6.2, Section 17409.5.4 and the container contamination minimization waste evaluation sampling language in Article 3, Section 18984.5 (c)(1)(E)?

The jurisdiction, or its designee, conducts the waste evaluation in Article 3, Section 18984.5 (c)(1)(E) to evaluate if there is contamination on a route, whereas, Title 14, Chapter 3, Article 6.2, Section 17409.5.4 is performed by solid waste facilities operators on the waste after processing and is a measure of recovery efficiency.

Q: Is a sample as described in Article 3, Section 18984.5.(c)(1)(E) intended to be a 200-pound sample as described in Article 3, Section 18984.5.(c)(1)(F)?

The samples taken from hauler routes as described in Article 3, 18984.5.(c)(1)(E) do not need to be 200 pounds. Those samples, which are collected from each container stream for the samples conducted per Article 3, Section 18984.5(c)(F), must collectively add up to a total of 200 pounds.

Q: Can a hauler take a jurisdiction's green container stream directly to compost facilities without first sending it to a solid waste facility for processing?

Yes. Nothing in the regulatory text prohibits a jurisdiction from taking source separated organic waste collected in a green container to a compost facility.

Q: What is the difference between the quarterly waste evaluations for the gray container and the waste evaluations that are conducted twice per year?

The regulations require that jurisdictions implementing a collection service must conduct waste evaluations twice per year if they elect to monitor compliance in this form [see Sections Article 3, 18984.1, 18984.2, or 18984.5(c)(1)(A)-(B)]. A jurisdiction that implements a performance-based source separated organic waste collection service must continue to monitor contaminants in the green and blue container twice per year, but must also monitor the gray container every quarter to ensure compliance with the contamination standards.

Q: Can jurisdictions and haulers electronically notify (e.g., via text messaging) residents and businesses of contamination found in their curbside containers?

Yes, jurisdictions and haulers may electronically notify residents and businesses of container contamination, which may include e-mails or text messages.

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Plastics

Q: Are compostable plastics and plastic bags accepted within the three-container system?

The regulations specify that jurisdictions may only allow compostable plastics and plastic bags in their green container collection service if the organics recovery facility has provided written notification indicating that they can accept and recover, or accept and remove, the material.

Q: Would a jurisdiction be found non-compliant with the 1383 regulations if they do not require all compostable plastics to be fully composted?

No. First and most importantly, it is optional whether jurisdictions allow compostable plastics in the collection stream via the green container.

If a jurisdiction accepts compostable plastics in the green container, then the jurisdiction must comply with the following:

1. The jurisdiction must transport compostable plastics to composting or in-vessel digestion operations or facilities.
2. The jurisdiction must have an annual written notification from the facility or facilities that state that they can process and recover compostable plastics.

If a facility is not recovering compostable plastics and is nevertheless stating to the jurisdiction that it can, then that would be an issue for the jurisdiction to work out with the facility, but it will not be a SB 1383 compliance issue for the jurisdiction. Additionally, the hauler will need to address compliance with Title 14, Chapter 3, Article 6.2, Section 17409.5.8 if the sites to which they send the organics cannot recycle compostable plastics.

Q: What if a facility initially accepts compostable plastics, but then determines they can no longer accept this material?

The solid waste facility would notify the jurisdiction that it no longer accepts compostable plastics. This may trigger the jurisdiction to change their collection program.

Q: If the jurisdiction has no direct relationship with the composting facility where their organics are being processed, is it acceptable for the composting facility to give written notification about any changes needed in the collection service to the hauler?

Yes, it would be acceptable for the facility to provide the letter to the hauler and the hauler would provide the letter to the city.

Q: Do organics facilities need to provide jurisdictions with written notification every 12 months, or do they need to get written notification within 12 months of these regulations going into effect?

Organics facilities must provide written notification to the jurisdiction every 12 months after the regulations take effect.

Q: Will a facility violate National Organic Program standards if they put in writing that they accept "synthetic materials" for compostable bags? For reference: National Organic Program (NOP) develops rules and regulation for USDA organics products, including labeling.

Nothing precludes a facility from specifying the type of resins and products the facility will accept.

Q: Is the removal of compostable plastics at a composting facility permitted?

The regulatory language already allows a facility to remove compostable plastics and plastic bags. If a compost facility receives compostable bags, they will have to notify the appropriate jurisdiction that compostable plastics will not be recycled at the facility.

Q: Can CalRecycle require certification by the Biodegradable Product Institute or other third parties recognized by CalRecycle for compostable plastics?

Nothing precludes a jurisdiction from requiring that residents and businesses use compostable plastic bags that meet third-party requirements in addition to those in Article 3, Sections 18984.1(a)1)(A) and 18984.2(a)(1)(C).

Q: Can the use of compostable plastics be eliminated?

Compostable plastics may be collected in green containers if the materials meet appropriate standards and the receiving facility accepts the materials for purposes of recycling. Nothing in the regulations precludes a jurisdiction from limiting or prohibiting these materials and nothing precludes a facility from not accepting these materials. While it is not clear that rigid compostable

plastics can be readily used in composting operations given the timeframes needed for the materials to decompose, there may be technology changes in the future that allow rigid compostable plastics to be composted more readily.

Q: Can organic waste be properly contained in plastic bags, placed in single, unsegregated gray containers, and removed at a transfer or recovery station for further processing?

The regulations do not have any restrictions on the use of plastic bags in the blue or gray containers. The material collected from the single unsegregated gray containers needs to be processed at a high diversion organic waste processing facility.

Q: Will facilities be punished should they choose to not accept compostable plastic?

A facility will not face enforcement if it chooses to not accept compostable plastic bags.

Q: If plastic bags are accepted at organics facilities, do they have to be compostable or clear bags?

Nothing in the regulations precludes the jurisdiction from prohibiting non-compostable plastic bags, requiring clear bags, requiring compostable plastic to meet third party requirements, or requiring compostable plastic bags to meet requirements beyond those in Article 3, Sections 18984.1(a)(1)(A) and 18984.2(a)(1)(C).

Q: If a plastic bag that contains organic waste is placed in the gray container, does it count as a separate container?

No, a bag is not considered a separate container.

Q: If a facility removes regular plastic bags, then can the facility also remove compostable plastic liners if they do not compost them?

Yes, a facility is allowed to remove compostable plastic liners. Plastic bags are allowed under Article 3, Section 18984.1(d). If the material cannot be recovered at a composting facility, it is technically inaccurate to identify the material as compostable. Compostable plastic liners that cannot be recovered and must be removed as a contaminant are functionally equivalent to plastic bags and would be viewed as such.

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Containers

Q: Do the SB 1383 container color requirements apply to indoor containers located within cabinets?

If the bin is located in a cabinet then it does not have to be a specific color, but you do have to comply with the container label requirements of Article 3, Section 18984.8. Labels will help employees and the public know how to properly sort the materials into the appropriate containers that are located within the cabinets.

Q: If a business does not generate organic waste, does it still have to place a blue or green container next to a trash container?

Article 5, Section 18986.3(a) allows a commercial organic waste generator to not have a green or blue container if there is a de-minimus amount of material. For example, if there is no food waste stream present, then a green container for the collection of food waste would not be necessary. However, a blue recycling container would still need to be provided for the collection of other organic waste, such as paper products and cardboard.

Q: Do local education agencies need to ensure that internal containers are labeled and match the color requirements of the local collection service?

For internal containers, local education agencies must either provide collection containers that conform to the container colors of the organic waste recovery service provided by their jurisdiction, or provide containers with labels that comply with the requirements of Article 3, Section 18984.8.

Q: Do exterior dumpsters and compactors need to be the specified color or can the containers have labels only?

Yes, exterior dumpsters and compactors must be the specified color and labeled appropriately if the entity is subscribing to an organic waste collection service instead of self-hauling. The color must be completed within the specified timeframe of Article 3, Sections 18984.7 and labels must be placed on new containers per Article 3, Section 18984.8. Functional containers are not required to be replaced prior to the end of the useful life of those containers, including containers purchased prior to January 1, 2022, or prior to January 1, 2036, whichever comes first.

Q: Does a jurisdiction or its designee the hauler only have to change the lids to be the appropriate color or will they need the entire cart to be the appropriate color?

The color scheme is either:

1. The lid is the specified color, or
2. The body is the specified color and the lid is the specified color, gray or black.

Please note that the exterior of lid or body must be the required color and it does not have to be on the inside.

Q: For our dual stream program, we use a brown container with a blue lid for our paper collection and an all brown container for our cans and bottles. Does this mean that our container for cans will have to change? When will gray containers need to be used for trash?

The blue lid for paper is compliant, but the brown lid for bottles and cans will need to be changed as a brown lid can only be used for food waste.

All containers, including the gray containers would need to be changed when a container is replaced because it is not functional or by Jan. 1, 2036, whichever comes first. See above for requirement for lid or body of the container to be the specified color.

Q: Is there any knowledge of manufacturers that can supply small capacity blue color containers (5-gallon sizes)?

Yes, there are many manufacturers of this type of container. CalRecycle recommends searching on the internet or discussing with the jurisdiction's hauler.

Q: Does the lid of the container have to be attached or can the lid be detached?

There are no requirements in the regulations regarding whether a container lid must be attached or detached to the container body.

Q: Are jurisdictions responsible for inspecting containers to ensure labels are properly maintained?

No, the regulations do not require jurisdictions to maintain labels on containers. The regulations only require jurisdictions to place a label on new containers provided to organic waste generators.

Q: When roll-off boxes are used interchangeably for recyclable materials, solid waste, organics, mixed materials, and C&D, is it acceptable to use labels that are compliant with the container labeling requirements instead of changing the containers to meet container color requirements?

The regulations allow jurisdictions and haulers to apply correctly colored labels to any types of existing bins or lids, including roll-off boxes until the containers are replaced either at the end of their useful life or by Jan. 1, 2036. Correctly colored labels may be applied to existing bins or lids until the containers are replaced at the end of their useful life or by Jan. 1, 2036.

Q: How are jurisdictions supposed to fund the ongoing labeling of containers, especially with multiple haulers? Will there be model labels provided?

The Public Resources Code Section 42652.5(b) allows a local jurisdiction to charge and collect fees to recover the local jurisdiction's costs incurred in complying with the regulations adopted pursuant to this section. Additionally, CalRecycle has provided model labels: https://www.calrecycle.ca.gov/Recycle/Commercial/Organics/PRToolkit/.

Q: Is the container labeling requirement imposed upon the jurisdiction or directly upon the entity who owns the containers, such as, the franchise hauler?

It is the jurisdiction's responsibility to ensure that its franchise agreement provisions coincide with the regulatory requirements in SB 1383. Most franchise agreements contain provisions that allow for renegotiation of the terms pursuant to a change in the applicable law. The regulations do not go into effect until Jan. 1, 2022, which gives both the jurisdictions and the haulers time to make the necessary arrangements. The regulations allow use of the containers until the end of their useful life before replacement. All containers must comply by Jan. 1, 2036, which is 14 years after the regulations go into effect.

Q: For local education agencies, what type of containers would a classroom need?

It would depend on the type of collection service the local education agency, such as a school, has, e.g., three-container, two-container collection service, etc. Additionally, if organics are not present in the classroom, organics bins would not be required to be placed alongside the trash and recycling bins.

Q: Some state agencies have warehouses that are only used for storage and have no on-site staff. What type of containers would be required for this type of facility?

It depends on the type of collection service the warehouse is subscribing to, e.g., three-container, two-container collection service, etc., and the waste generated on site. If no food waste is generated by the warehouse, collection containers would not be required. If paper and cardboard are generated onsite, a collection container for these materials would be required.

Q: Are organic waste containers required in restrooms?

The regulations require placement of containers in all areas except restrooms but does not prohibit a jurisdiction from also placing in containers in restrooms [see Article 3, Section 18984.9(b)(1)]. A jurisdiction can implement more stringent requirements [see Article 9, Section 18990.1(a)].

Therefore, if a jurisdiction's programs support composting or recycling certain types of materials (like paper towels) discarded in restrooms, the jurisdiction is free to add these to its program.

Q: Can a business or jurisdiction be penalized for disposing paper products generated in the restroom of commercial businesses?

The regulations require placement of containers in all areas except restrooms but does not prohibit a jurisdiction from also placing containers in restrooms [see Article 3, Section 18984.9(b)(1)]. A jurisdiction can implement more stringent requirements [see Article 9, Section 18990.1(a)]. Therefore, if a jurisdiction's programs support composting or recycling certain types of materials discarded in restrooms, (like paper towels) the jurisdiction is free to add these to its program. However, a collection container in a restroom is not required, and the regulations do not penalize a commercial business or a jurisdiction for not diverting paper products generated in the restroom from landfill disposal. Also, the regulations do not require penalties for contamination of organic waste generated in restrooms.

Q: Are jurisdictions or haulers responsible for providing containers that meet the color requirements?

Jurisdictions or haulers may be responsible for providing correctly colored containers. Jurisdictions can designate responsibility for providing containers to its hauler [see General Provisions, Section 18981.2].

Q: How can jurisdictions comply with container color requirements on metal containers?

CalRecycle understands that metal containers are likely to last longer than plastic ones. However, metal containers can be repainted. The regulations also allow a lid to be replaced either at the end of its useful life or by 2036, which provides a less burdensome option than replacing the entire metal container. Nothing prohibits a jurisdiction from painting metal containers and lids at an earlier time.

When repainting large, roll-off metal bins, jurisdictions need to comply with the VOC emission limits of the particular air district where the painting is done.

Q: Can jurisdictions develop a phase-out program to comply with the color requirement?

The regulations do not specify that containers must be phased in or how new containers are phased in and allow for discretion of the jurisdiction as long as certain requirements are met. For example, a jurisdiction may replace functional containers with containers that are not compliant with the color requirement as long as the jurisdiction purchased the containers prior to Jan. 1, 2022. A jurisdiction

must purchase containers that are compliant with the color requirement after Jan. 1, 2022. The container color requirements need to be in place by the end of useful life of the containers or prior to January 1, 2036, whichever comes first.

Q: Do jurisdictions also have to provide indoor bins to businesses?

Jurisdictions have to provide organic waste curbside collection containers but not indoor collection bins [see Article 3, Section 18984.7(a)].

Q: Does a commercial business' indoor recycling containers need to be light and dark blue to signify organic and non-organic recyclables?

If a split container is being used indoors, light and dark blue is not required. Any color not already designated for other materials can be used for the internal split container [see Article 3, Sections 18984.1(a)(6)(B) and (C) and 18984.2(d)(1)]. Additionally, the business can use labels instead.

Q: Why cannot yellow containers be used for food waste collection?

During the rulemaking process, stakeholders raised concerns that yellow containers would quickly become discolored and unattractive if used for the collection of food waste, as yellow plastic and paint are not durable under long-term UV exposure. Therefore, CalRecycle designated brown curbside containers for food waste, because brown coloration shows dirt less. Additionally, cart manufacturers can use higher percentages of recycled plastic to make brown containers and lids, leading to more market demand for recycled plastic.

Q: What if a jurisdiction currently uses brown containers for manure?

The jurisdiction would be able to continue to use the brown containers for manure until they reach the end of their useful life or until 2036, whichever comes first.

Q: Are the additional color options offered in the three-container system also an option for a two-container system?

Yes. If a jurisdiction provides two containers with more than two colors, they are providing a split-cart system, which is treated like a three-container system and must meet the requirements of Article 3, Section 18984.1.

Article 3, Sections 18984.1(a)(6)(B) and (C) allow any color not already designated for other materials specified in this section to be used for the split containers.

A jurisdiction could split the recycling portion of a two-container service to further segregate recyclables. However, the gray container would still be required to be transported to a high diversion organic waste processing facility.

Q: What if jurisdictions have local building codes and design requirements that do not accommodate SB 1383 regulations?

Local building codes and HOAs cannot be in conflict with local, state, or federal law and must comply with container color requirements in SB 1383 regulations. Stakeholders raised concerns that the regulations may be in conflict with local building codes and possible restrictions on design/color and other aesthetic requirements, for example in resort communities and jurisdictions with unique climates that require special considerations. However, if a HOA's CC&Rs require use of a particular container color that is not in compliance with these requirements, then the CC&Rs would be in conflict with state law and any local ordinances adopted by jurisdictions pursuant to these regulations. The same would apply to a building code established by a jurisdiction.

Q: Can a jurisdiction's designee place the labels on the containers?

Yes, a jurisdiction's designee can place labels on the containers.

Q: Do the regulations for colors and labels apply to temporary dumpsters and compactors that are provided by the hauler?

The regulations apply to all containers provided by a hauler, including temporary dumpsters. The regulations specify that all containers provided by a hauler must meet both the container color and container label requirements by 2036. However, the regulations do allow for either the lid or the body to meet the color requirement. With respect to compactors owned by private businesses and not the hauler, the containers may conform with either the container color requirements or the container label requirements.

Q: For interior containers, can just the lid be the required color, or does the whole container have to be compliant?

The required color of interior containers can be on either the lid or the body or a label can be placed on the container.

Q: How will text and graphics on container labels be maintained if the waste stream changes?

Article 3, Section 18984.8(c)(1) states that primary materials must be included on container labels. If there is a change in the primary materials, then the information would need to be updated as containers are replaced. This includes all new residential and commercial containers.

Q: What size does a label have to be to meet the requirements?

The regulations do not specify the size of labels.

Q: Would CalRecycle permit a jurisdiction to mail new container labels to commercial and residential generators in lieu of physical placement?

Nothing prohibits jurisdictions from mailing labels to existing containers, in addition to ensuring that new containers are properly labeled.

Q: Are all containers or lids required to be labeled?

Labeling requirements, commencing January 1, 2022, only apply to new containers or lids. Thus, imprinting of labels would be directly onto new containers that replace old containers at the end of their useful life or by 2036.

Q: Regarding Article 3, Section 18984.7 container color requirements, what should a jurisdiction do regarding local building codes and possible restrictions on design/color and other aesthetic requirements, especially in resort communities and jurisdictions with unique climates that require special considerations?

Building codes and HOAs cannot be in conflict with local, state, or federal law. State law would preempt local regulation under these circumstances. If a HOA's CC&Rs require use of a particular container color that is not in compliance with these requirements, then the CC&Rs would be in conflict with state law and any local ordinances adopted by jurisdictions pursuant to these regulations. The same would apply to a building code established by a jurisdiction.

Article 11, Section 7 of the California Constitution provides that "a county or city may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws." To the extent that local ordinances conflict with state requirements, they would be preempted. See eg. City of Riverside v. Inland Empire Patients Health & Wellness Center, Inc. (2013) 156 Cal.Rptr.3d 409, 56 Cal.4th 729, 300 P.3d 494.

Q: Does CalRecycle have authority to require that jurisdictions physically alter property owned by franchise haulers to implement the container color requirements?

Yes. SB 1383 grants broad regulatory authority to CalRecycle to impose requirements on jurisdictions in order to achieve the organic waste diversion goals of a 50-percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2020 and a 75-percent reduction by 2025. This authority includes creation of rules designed to implement these statewide mandates and ensure that the statewide organic requirements are met. CalRecycle has determined that the mandatory collection service requirements and container color and labeling provisions are necessary to maintain consistent standards throughout the state to reduce contamination of organic waste and ensure that collected organic waste is clean and recoverable.

CalRecycle has specific authority to require jurisdictions to impose bin color requirements. The container requirements are placed upon the jurisdictions, even if the hauler is the actual owner of the containers. It is incumbent upon jurisdictions to make the appropriate arrangements with the hauler in order to comply with this requirement. Franchise agreements typically have provisions allowing for a renegotiation of the terms due to a change in the law. Furthermore, the regulations provide that jurisdictions do not have to replace functional containers to comply with color requirements for any containers purchased prior to January 1, 2022, until 2036.

Q: Does CalRecycle have the authority to require commercial businesses to provide containers for the collection of organic waste and non-organic recyclables in all areas where disposal containers are provided for customers?

Yes. SB 1383 grants broad regulatory authority to CalRecycle to impose requirements on commercial businesses in order to achieve the organic waste diversion goals of a 50-percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2020 and a 75-percent reduction by 2025. The regulations ensure that organic waste generators properly sort organic waste for collection as required by the applicable collection service provided by their jurisdiction, or self-haul organic waste to a facility that recovers source-separated organic waste (see Article 3, Section 18984.9).

Approximately 36 percent of disposed organic waste is attributable to residential properties, 49 percent is attributable to commercial businesses, and the balance is self-hauled to landfills. The state cannot achieve the required reductions if generators do not arrange to have their organic waste collected and recovered, or self-haul their organic waste to a facility for recovery.

Q: Is a jurisdiction required to inspect and enforce business generators to ensure they are providing the correct containers in all disposal areas?

Jurisdictions are required to conduct compliance reviews to ensure that generators have service and are in general compliance with the regulations. However, the regulations do not require jurisdictions to inspect commercial businesses, including to ensure they are providing the correct containers in all disposal areas.

Q: Does the term "containers" refer to the containers that are located inside the business or the containers provided by the hauler that are used for curbside collection service?

"Containers" refer to the containers that are located inside the business and the containers provided by the jurisdiction or its hauler that are used for curbside collection service. The regulations address specific container requirements for the commercial businesses and the jurisdiction provided containers.

Q: Are residential care facilities for the elderly (assisted living) required to provide containers in business areas of the building, as well as, inside private resident apartments?

Residential care facilities are required to provide organic waste containers alongside disposal containers in public and common areas, but are not required to provide containers inside residential units.

However, while it is not required, it may be practical in certain situations to provide recycling containers inside living units or for staff to manage the materials

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Generators

Q: Will the requirement for businesses to place recycling and organics containers in customer areas cause an increase in contamination?

Commercial businesses must locate organic waste and recycling containers near disposal containers that customers can access at that business. It also establishes that containers provided by the commercial business conform to the containers used throughout the jurisdiction's organic waste recovery service, as a method to further reduce customer confusion and limit contamination of collection containers (see Article 3, Section 18984.9).

These requirements allow customers the opportunity to recycle their organic waste wherever they discard material, including in businesses. This helps educate consumers and underscores the importance of recovering organic waste in and outside the home. As 40 percent of organic waste is generated at commercial businesses, this ensures that organic waste recovery options are available

in nearly all places that commercial waste is generated. It is necessary to ensure the state is able to meet the organic waste recovery targets established in the statute. These requirements are also necessary to ensure generators have access to organic waste recovery options.

Q: If a business does not generate organic waste that would go in either the blue or green container, does the business have to subscribe to organic waste collection service?

If a business is not generating any organic waste, then the jurisdiction may issue a de-minimis waiver (see Article 3, Section 18984.11). As a part of a de-minimis waiver, a jurisdiction can waive a business from its obligation to comply with "some or all of the organic waste generator requirements…" This includes the obligation to provide internal organic waste recycling containers adjacent to disposal containers. Since they are not generating the material at all, the business should not have to subscribe to the collection service for that type of container. It would not be practicable to require a business to subscribe to organics collection service for the blue or green container when it does not generate any organic material.

Q: If multiple businesses share a single curbside collection container and contamination is found, how do you determine who should be penalized?

The regulations do not require jurisdictions to levy penalties for contamination of containers. However, nothing in the regulations prevents a jurisdiction from imposing processing fees or penalties in an effort to reduce contamination. If a jurisdiction allows for penalties or processing fees, then the jurisdiction would determine how to address the situation of shared collection service.

Q: Can generators remotely monitor container contents in an effort to implement best recycling practices and comply with the law?

Yes. The regulations do not prohibit organic waste generators from monitoring their container contents, remotely or otherwise.

Q: Does Article 3, Section 18984.10 allow a jurisdiction to enter into common areas of a multifamily complex to verify that the property has organics service or not?

This section does not prohibit or authorize a jurisdiction to enter a common area. The regulations do not provide new authority to enter a private living space. If a jurisdiction currently inspects common areas, they are doing so under existing authority, which these regulations do not inhibit.

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Waivers

Q: Will the regulations address exemptions for multifamily dwellings or commercial businesses that don't have space for organic waste collection containers?

Article 3, Section 18984.11(a)(2) allows a jurisdiction to provide physical space waivers, which waives a commercial business' or property owner's obligation to comply with some or all of the organic waste collection service requirements (see Article 3, Sections 18984.11(a)(2), 18984.1(a), and 18984.2). Jurisdictions are not required to provide waivers. To provide this waiver, the commercial business or property owner is required to provide documentation, or the jurisdiction must have evidence from its staff, a hauler, licensed architect, or licensed engineer, that demonstrates that the premises lack adequate space for containers.

The purpose of this section is to authorize jurisdictions to waive a commercial business or commercial property owner with legitimate space constraints from some or all of the requirements in Article 3, particularly the obligation to provide an organic waste collection container. During the regulatory process, CalRecycle designed these waivers based upon jurisdictions that currently authorize this type of waiver. There are very few businesses that can demonstrate the existence of space constraints that cannot be addressed, and therefore few of these waivers would be issued.

This waiver is only applicable in limited scenarios and should decrease in use over the years. Nothing precludes a jurisdiction from requiring a generator to develop a solution to overcome the space constraint during the waiver period. There are few instances in which a business' existing waste collection space could not accommodate an additional organic waste recycling container if the existing containers were downsized. This flexibility allows jurisdictions, businesses, and commercial property owners to modify containers rather than provide an extra container. Finally, the California State Building Code, referenced in Article 8 of this chapter, requires new construction to include space for organic waste collection containers.

This section allows commercial businesses and property owners with legitimate and cost-prohibitive space constraints to obtain waivers from the requirements of Article 3.

Q: Will jurisdictions be required to document all de-minimis waivers?

Yes, jurisdictions will be required to document all de minimis waivers granted to commercial businesses that meet the de minimis thresholds. Article 3, Section 18984.14 outlines the waiver and exemption recordkeeping requirements for jurisdictions. This section specifically requires the jurisdiction to maintain a copy of all de minimis waivers to keep in its implementation record (required by Article 14, Section 18995.2), including the location, date issued, and name of generators. Article 13 also requires jurisdictions to report annually on the total number of generators issued a de minimis waiver.

To ensure that these waivers do not compromise the state's ability to achieve the organic waste reduction targets, this section requires jurisdictions to verify the amount of organic waste a commercial business generates prior to authorizing a waiver, and to verify the amounts every five

years consistent with Article 14, Section 18995.1. A jurisdiction may require a commercial business to provide documentation or the jurisdiction must have evidence demonstrating that either of those conditions are met in order for the jurisdiction to grant the waiver. Further, this section requires jurisdictions to discontinue a waiver if at any time the jurisdiction discovers that the organic waste generated by the business exceeds the amount allowed in this section. These verification and timeframe requirements are necessary to prevent a significant percentage of organic material from being exempted when businesses previously subject to the waiver begin to generate more than the de minimis threshold of organic waste.

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

Q: Are multifamily dwellings in low population waived areas still excluded from the requirement to recycle food waste in AB 1826 and AB 827 (PRC Section 42649.81)?

Yes, the jurisdictions that have received waivers for low population areas would not have to provide collection for food waste and food-soiled paper for multifamily dwellings of five units or more. Additionally, for the regulated businesses, including multifamily dwellings of five units or more, in PRC Section 42649.81 the jurisdiction would only have to provide collection for green waste, landscape and pruning waste, nonhazardous wood waste and not all of the material types in the SB 1383 regulations .

Q: Which containers do the collection frequency waivers apply to?

The regulations allow a jurisdiction to collect gray and blue container waste every other week under a collection frequency waiver, which should help the jurisdiction reduce the cost of collection [see Article 3, Section 18984.11(a)(3)]. This allows a jurisdiction to authorize a generator to subscribe to bi-weekly collection of its blue, gray, or both containers if the generator is using a service that requires all organic waste to be collected in the green container (with the exception of organic waste specifically allowed for collection in the blue container in a three-container collection service).

Q: Are special districts eligible for low population waivers?

Special districts that do not provide solid waste collection services, but that produce organic waste, are a non-local entity and are eligible for a low population waiver if they are located in a jurisdiction that has been granted a low population waiver. A special district would apply to CalRecycle for the waiver from the Article 5 requirements.

Q: Once the rural exemptions expire, will rural jurisdictions need to provide automatic collection services to organic waste generators?

CalRecycle is required to grant an exemption to organic waste collection requirements if the jurisdiction qualifies as a rural jurisdiction under PRC Section 42649.8(a) and adopts a resolution that describes the purpose and need for the exemption. This provides consistency with the Mandatory Commercial Organics Recycling exemption [PRC Section 42649.8(a), et seq,], which states that an exemption should be granted if a rural jurisdiction can establish a need for additional time to comply. The duration of the exemptions will be December 31, 2026. After that, jurisdictions may apply for the low population waivers that are for five-year periods.

Q: What source will CalRecycle be using to determine census tract eligibility for population waivers? Can CalRecycle provide the direct source so jurisdictions can begin to conduct this research as they begin planning to implement the regulations?

Jurisdictions are responsible for determining the census tracts that would be eligible for the population density waiver. It is CalRecycle's responsibility to review the request and approve if appropriate.

CalRecycle will be comparing the waiver requests to the most current available 2020 census data to approve or deny the low population waiver requests (the 2020 Census website states that the data should be available in April 2021).

Jurisdictions should use the 2020 census data to determine whether there are census tracts that would be eligible for the waiver. The reason for using the 2020 census data is that this is the data that CalRecycle will be using and if you use the current census data (2010 Census) the area may have changed in the total people per square mile in a census tract.

U.S. Census data is publicly available here: https://data.census.gov/

TIGER/Line Shapefiles depict the geography of the US Census Bureau census tracts. Using geographic entity codes or GEOIDs the TIGER/Line Shapefiles can be linked to the Census Bureau's demographic data (e.g., population).

TIGER/Line Shapefiles are available at: https://www.census.gov/geographies/mapping-files/time-series/geo/tiger-line-file.html Demographic data is available at: https://data.census.gov/

Q: What is the process for a jurisdiction to apply to CalRecycle for a waiver? When will a jurisdiction be able to apply for a waiver? Can a hauler complete the waiver on behalf of the jurisdiction?

CalRecycle will be creating a process for jurisdictions to submit waivers electronically. CalRecycle will communicate to jurisdictions when they can apply for a waiver. The jurisdiction should submit the request and not the hauler.

Q: Can a jurisdiction apply for both low population and elevation exemptions?

Yes. A jurisdiction may apply to CalRecycle for both low population and elevation waivers. However, a jurisdiction should first discuss with CalRecycle, as a high elevation waiver would be the only waiver that is needed.

Q: For de-minimis waivers, how should a jurisdiction quantify the 10- and 20-gallon thresholds? How does this apply for businesses that generate materials seasonally?

A jurisdiction is not required to grant de minimis waivers for business. If a jurisdiction grants this type of waiver it is allowed to create its own process for making the determination. The regulations do not specify a process that a jurisdiction must use to quantify the 10- and 20- gallon thresholds. The de minimis waiver is not intended for businesses that have fluctuations in the amount of material they generate. The jurisdiction can determine if a waiver should be granted, and when service should be reinstated when the business exceeds the de minimis threshold.

Q: If the jurisdiction qualifies for a waiver, do unified school districts within the jurisdiction also qualify for the waiver?

If a jurisdiction is granted a low population waiver, then the local education agency will not have to comply with the requirements in Article 5. This is allowed because if the jurisdiction doesn't have to comply with Article 3, then there won't be collection services for these entities to utilize.

Q: Are single-family customers eligible for de-minimis waivers?

Jurisdictions are allowed to issue de minimis waivers for single-family customers. The regulations do not include any specific requirements for de minimis waivers for single-family residents, including multifamily units of less than four. Some jurisdictions allow a waiver for the green container if the single-family resident can demonstrate that the green waste is being collected by the landscaper. However, now that food waste must be collected, there will be few single-family households that would be able to manage food waste and green waste on site or prevent all food waste and thus not warrant a collection container.

If a jurisdiction is waiving a resident from having a green container because they are managing on site all of their green waste, food waste, and food-soiled paper, then CalRecycle would see that reflected in the annual report. The annual report will ask about the total number of generators (the total number of residential and commercial businesses, including multifamily dwellings of five units or more, and the total number of each that are subscribed to organics collection service or have waivers. If CalRecycle observes that there is a large number of residential generators not being serviced, staff would investigate.

Q: Are jurisdictions able to grant waivers from the green container collection services to commercial businesses that manage green and food waste on site?

For a commercial business (including multi-family premises) that manage organics on-site (e.g., green and food), the de minimis waiver covers this scenario. De minimis waivers would also apply to businesses that use community composting operations for all of the material that goes in the green container.

Q: Do collection frequency waivers only apply to individual residents, tenants, or businesses, or can the waiver be applied across an entire jurisdiction or hauler route? Do these waivers apply to green bins?

Yes, a jurisdiction may also issue the collection frequency waiver for the entire jurisdiction, specific areas of the jurisdiction, or an entire neighborhood to authorize biweekly collection of the blue container.

A jurisdiction may provide a collection frequency waiver to all of the owners or tenants of any residence, premise, business establishment, or industry that are located within the jurisdiction or that are located on specified hauler routes, provided that the jurisdiction complies with existing requirements cited in Article 3, Section 18984.11(a)(3).

The regulation also specifies that this waiver only applies to gray or blue containers.

Q: Can a jurisdiction include more restrictive requirements for a waiver? Can de minimis waivers only be granted to customers with a three-container system? Will CalRecycle allow jurisdictions to grant de minimis waivers for part-time residential generators that have provided documentation or when the jurisdiction has evidence demonstrating either a total solid waste collection service of less than 95-gallons per week and organic waste comprises less than two gallons per week of the residents' total waste or the amount of total solid waste generated by the resident is less than 35-gallons per week?

The regulations do not prohibit the jurisdiction from having more restrictive criteria. The language does not limit de minimis waivers to three-container systems. Regarding part time residential waivers. CalRecycle is not able to quantify how much material would be exempt, and many of these residents would be captured under the low population waivers in Article 3, Section 18984.12. Such a waiver could compromise the state's ability to meet the organic waste reduction targets as there could be a significant amount of waste generation when the property owner is in residence.

Q: Can the physical space waiver be grandfathered?

According to jurisdictions with similar space constraints waivers, very few businesses can demonstrate the existences of space constraints that cannot be addressed. There are few instances where a business's existing waste collection space could not accommodate an additional organic waste recycling container if the existing containers are downsized (e.g. two 90-gallon bins could be replaced with three 60-gallon bins and occupy the same space). This waiver intends to allow flexibility for businesses with legitimate and cost-prohibitive space constraints without compromising the state's ability to achieve the organic waste reduction targets. Allowing existing business that do have the ability to implement organic waste collection be grandfathered into the space waiver would reduce the state's ability to achieve the established organic waste diversion and greenhouse gas reduction targets .

Q: Does the elevation waiver consider feedstock when evaluating whether a waiver should be granted? How would the elevation waiver be evaluated if a jurisdiction's route advances through various elevations? Could provisions be added in regards in road conditions?

The elevation waiver only exempts generators from collection and separating food waste and food soiled paper. Therefore, the waiver already is considerate of the feedstock. CalRecycle has clarified that an entire incorporated city must be located at or above 4,500 feet elevation. A census tract must be partially located at or above 4,500 feet elevation, if a portion of the tract is at 4,500 feet, the entire tract may be waived. The elevation waiver is intended to address the specific waste collection challenges that jurisdictions 4,500 feet and above face as high-elevation, forested areas that include bear and other wild animal habitat. Food waste collection can attract vectors, including bears, to populated areas creating collection and public safety issues. Food waste separation and recycling would pose public safety issues that would be extremely costly for generators in those jurisdictions to mitigate. The elevation waiver is necessary to prevent those extreme costs as well as the potential threats to public safety. The elevation waiver is limited in scope and jurisdictions that qualify for this waiver will still be subject to other regulatory requirements, including procurement, edible food recovery, and other types of organic waste collection.

Q: Would it be acceptable for a Joint Powers Authority (JPA) to issue exemption waivers to organic material generators? If so, would the contact person be from each of the individual jurisdictions, or would a person from the JPA representing these jurisdictions suffice?

JPAs are included the definition of 'Jurisdiction' in Article 3, Section 18984(a)(36). Further General Provisions, Section 18981.2 specifies that a jurisdiction may delegate certain responsibilities to a public entity such as a JPA.

Q: Will CalRecycle grant waivers and/or extensions to any generator, hauler, or jurisdiction that has made good faith efforts to comply with the requirements of this article but has been unable to identify a facility with sufficient capacity to process the materials?

Article 15, Section 18996.2 includes all circumstances outside of a jurisdiction's control, including the inability to identify a facility with sufficient capacity to process the materials. The regulations require a jurisdiction to demonstrate that extenuating circumstances exist and that it has made a "substantial effort" which means that it has taken all practicable actions to comply.

Q: What are the ramifications for disposing of organic waste during an emergency circumstance? Will the jurisdiction or receiving facility that needs to qualify as 'high diversion' be penalized under such circumstances?

The regulations state that a jurisdiction may dispose of organic waste in an emergency situation without being subject to penalties. Emergency disposal is not factored into recovery efficiency measurements at high diversion facilities. The organic waste will still count as statewide disposal.

Q: In the event of an emergency, should collectors of food waste give preference to organics diversion facilities within a reasonable radius rather than landfilling?

The existing regulatory provisions cited in the emergency waiver (Sections 17210.4 and 17210.9) already include provisions that require diversion first.

Q: Does Article 3, Section 18984.13 apply to abatement of illegal disposal at vacant lots as a part of community clean-up events?

A jurisdiction is not required to separate or recover organic waste that is removed due to illegal disposal as part of a community clean-up event.

Q: How does Article 3, Section 18984.13 (d)(2) regarding Emergency Circumstances address diseased animals that must be depopulated and/or quarantined?

Unprocessed mammalian tissue, such as any dead animals from depopulation, would be subject to Title 14 prohibitions from being processed at compostable material handling facilities or operations (Section 17855.2) and in vessel digestion facilities and operations (Section 17896.7) and would be required to go to either disposal or other uses besides recovery.

Q: Are jurisdictions required to separate and recover organic waste from homeless encampments and illegal disposal sites? Do the regulations specify that any organic waste 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?

Jurisdictions are not required to separate and recover organic waste removed from homeless encampments. While waste removed from homeless encampments or illegal disposal sites does still count as statewide disposal, the jurisdiction is allowed to dispose of the material and is not subject to enforcement for disposing of the material.

As stated in the statement of purpose and necessity for the regulations, specifically Article 3, this regulation does not subject jurisdictions to diversion targets. This regulation cannot alter what activities count as disposal under AB 939.

Q: Does CalRecycle have a way to visually assess relative sizes and de-minimis amounts for waivers? Can we create a tool for this?

We do not currently have a visual but can create one as we develop processes and procedures for waivers.

Q: How is adequate space for waivers going to be decided (for non-local entities and local education agencies)?

A 1383 waiver team will develop guidance for CalRecycle staff for issuing waivers for non-local entities and local education agencies for not having adequate space. One trigger for CalRecycle is if there are a lot requests by a non-local entity or local education agency for not having adequate space, a site visit can be conducted to get an understanding of the space limitations and determine if a waiver is appropriate.

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Education and Outreach

Q: How are jurisdictions supposed to provide outreach and education to landscaping businesses?

If a jurisdiction allows self-hauling, the jurisdiction must adopt an ordinance or other enforceable mechanism to require self-haulers to comply with Article 7, Section 18988. Jurisdictions do not have to track each self-hauler, or have them submit reports. Jurisdictions must provide in their education and outreach information to the organic waste generators about the self-haul requirements.

Q: Will CalRecycle provide statewide education on the regulations and requirements?

CalRecycle is providing educational materials to local jurisdictions and conducting a statewide educational campaign.

Q: Will schools be informed about the regulations and provided with resources for compliance?

CalRecycle will be providing guidance and training to regulated entities including schools.

Q: Will CalRecycle provide educational materials in multiple languages?

Once the regulations are adopted, CalRecycle will create other educational samples resources.

Q: Are jurisdictions required to provide education and outreach to non-local entities and local education agencies?

Local jurisdictions are required to provide education to non-local entities and local education agencies within their geographic boundaries, as they already are doing under PRC Sections 42649.8-42649.87 (AB 1826) and PRC Sections 42649-42649.7 (AB 341). It is important for these entities to know what collection options are available locally. CalRecycle will also provide assistance to non-local entities and local education agencies in implementing programs. The regulations already provide that compliance with this provision by these entities would be enforced by CalRecycle.

Q: Are jurisdictions required to report on the education activities of businesses and property owners?

There is no requirement that jurisdictions report to CalRecycle regarding a business or property owner's education activities, nor is there a requirement for the business/property owner to report to the jurisdiction about education activities. This approach was selected as the least costly and burdensome one that still achieves the organics disposal reductions. If the jurisdiction finds out that a business/property owner is not providing the required education, then the jurisdiction has the ability to begin an enforcement action.

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Non-local Entities

Q: Are jurisdictions responsible for the initial education and offer of services to schools? How does a jurisdiction determine if schools are under the jurisdiction's oversight or the state's?

Jurisdictions are not required to provide collection services or enforce on non-local entities or local education agencies that are not subject to local control, but must provide education and outreach to all organic waste generators. In the regulations, a “local education agency” means a school district, charter school, or county office of education that is not subject to the control of city or county regulations related to solid waste.

Q: Do state agencies have the same procurement requirement as local jurisdictions?

Not in the SB 1383 regulations, but state agencies have separate procurement requirements through Public Contract Code Sections 12153-12217 and 12300-12320. P and these requirements increased in 2020.

Q: Are state parks required to provide organics bins in public spaces?

Yes, State Agency Parks Districts are required to provide organics collection containers for organic waste generators in public spaces.

Q: Are non-local entities and local education agencies required to report to local jurisdictions regarding their education and outreach for employees?

It is not necessary to require this specific set of generators to report to the department or jurisdictions in order to achieve the purpose of the statute. Jurisdictions are required to monitor generators subject to their authority for compliance, but generators are not specifically required to report information to jurisdictions under the regulations.

Q: Can a hauler or jurisdiction report on behalf on local education agencies?

A hauler or jurisdiction could conduct tasks on behalf of the local education agencies, however local education agencies do not have specific organic waste reporting requirements under the regulations.

Q: Are local jurisdictions responsible for ensuring compliance by entities not subject to the jurisdiction’s authority, such as non-local entities, local education agencies, federal facilities, and state-owned facilities?

The regulations clearly state that jurisdictions must enforce requirements on generators subject to their authority, and not those outside their authority like local education agencies and other non-local entities.

Q: Do container color requirements apply to compactors?

It depends on who owns the compactor. If the compactor is owned by the non-local entity or local education agency, they may either conform to the container color or label their compactor in accordance with the labeling requirements in Article 3, Section 18984.8. If the compactor is not owned by the local education agency or non-local entity, the jurisdiction must provide a compactor container that complies with the color and labeling requirements prior to the end of the useful life of the compactor, including compactors purchased prior to January 1, 2022, or prior to January 1, 2036, whichever comes first.

Q: How often should jurisdictions, local education agencies, and non-local entities inspect containers?

Local education agencies and non-local entities are required to inspect containers periodically to ensure organics recycling participation and container contamination minimization. Though there is no set number of inspections specified, entities may be inspecting more frequently at the onset of a program and inspections may taper once users are educated and are participating appropriately.

Q: If schools have “snack time” that occurs in the classroom, would the classroom need an organics bin?

It depends on the type of collection service that the school has. For example, if organics is present in the classroom and the school has a three-container collection service, then an organics container would be required to be placed alongside the trash and recycling containers in the classroom.

Q: For schools that have a central kitchen that delivers meals to additional schools, is the central kitchen or the recipient school responsible for edible food recovery?

The school district can decide the logistics for edible food recovery and may decide that the central kitchen or recipient schools would coordinate with food recovery organizations and services.

Q: Since prisons, public universities, facilities operated by state parks, and fairgrounds are noted separately under the non-local entity definition, does this mean that state agencies are only the ones located within office buildings?

No. State agencies include every state office, department, division, board, commission, or other agency of the state, that is not separately identified in the non-local entity definition. State agencies may have offices, warehouses, etc. For example, it could be a CalTrans District and the associated

facilities within the District (example, office buildings, rest stops, maintenance locations, warehouses, or other facilities they utilize).

Q: If a state park owns a restaurant but leases the space to food providers, who would need to comply with the edible food generator requirements?

The state park would comply with the edible food requirements, because they own the facility, but the restaurant would participate in the program. The state park would make edible food recovery a requirement in their lease with the food providers and work with the vendor to ensure they are complying.

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Haulers

Q: How are jurisdictions supposed to keep track of self-hauling? Will CalRecycle be providing guidance on tracking self-haulers?

Jurisdictions are not required to identify, track, or report self-haulers. They are required to adopt an ordinance that requires compliance and provide general education about self-hauler requirements. During the regulatory process, many stakeholders noted that it would be difficult to identify and provide education information to all self-haulers, such as landscape companies, because jurisdictions do not have business license information on these entities; dedicating additional resources to identifying and educating all self-haulers would be burdensome and costly. Some jurisdictions do require businesses that self-haul, back-haul, share service, or use a third-party independent recycler to submit a Certification of Recycling Service form with information about where they are taking the recyclables or organics. However, this is not required in the SB 1383 regulations. As a result, of this feedback, CalRecycle did not include requirements that jurisdictions separately identify and provide education to all self-haulers, along with associated reporting requirements. CalRecycle included Section 18985.1(a)(7) in Article 4 to require jurisdictions to include educational material on self-hauling requirements in the educational material that the jurisdictions already are required to provide to all generators. Jurisdictions can meet the requirement to educate self-haulers by including information on self-hauling in their general education and outreach material provided to all generators. The Model Ordinance will provide guidance on placing requirements on self-haulers. https://calrecycle.ca.gov/organics/slcp/education

Q: Is it correct that haulers lawfully transporting construction and demolition waste in compliance with Article 8, Section 18989.1 (CALGreen Building Codes) are not subject to the requirements of Article 3 (Organic Waste Collection Services)?

Article 7, Sections 18988.1 and 18988.2 specifically state that the requirements of those sections are not applicable to a hauler that is lawfully transporting construction and demolition debris in compliance with Article 8, Section 18989.1. The reason is to ensure that the requirements of these two sections are not applied to the lawful hauling of construction and demolition debris, which are already subject to requirements under the CALGreen Building Code and are referenced in Article 8.

Q: Will CalRecycle issue guidance to jurisdictions on how to track self-haulers?

Jurisdictions are not required to identify, report, or track self-haulers. They are required to adopt an ordinance that requires compliance and provide general education about self-hauler requirements. Commercial businesses that self-haul need to keep records and the records are subject to inspection by the jurisdiction (see Article 7, Section 18988.3(b)(3)).

During the regulatory process, many stakeholders noted that it would be difficult to identify and provide education information to all self-haulers, such as landscape companies, because jurisdictions do not have business license information on these entities; dedicating additional resources to identifying and educating all self-haulers would be burdensome and costly. Some jurisdictions do require businesses that self-haul, back-haul, share service, or use a third-party independent recycler to submit a Certification of Recycling Service form with information about where they are taking the recyclables or organics.

As a result of this feedback, CalRecycle deleted the requirements that jurisdictions separately identify and provide education to all self-haulers, along with associated reporting requirements. CalRecycle added a new Section 18985.1(a)(7) in Article 4 that requires jurisdictions to include educational material on self-hauling requirements in the educational material that they provide to all generators. The model ordinance will provide guidance on placing requirements on self-haulers. https://www.calrecycle.ca.gov/organics/slcp/education

Q: Are small businesses allowed to self-haul their organics or recyclables to their home to save money on separate business collection service?

Nothing in the regulation prohibits a business owner from self-hauling their organic waste to their home.

Q: Are jurisdictions required to accurately identify all residential self-haulers?

Jurisdictions are not required to identify every self-hauler. They are required to adopt an ordinance that requires compliance and provide general education about self-hauler requirements.

Q: Are landscape maintenance businesses that haul yard trimmings from commercial and/or residential customers considered self-haulers?

Yes. In the regulations landscapers are self-haulers as they are the actual entity generating the waste. If the jurisdiction allows landscapers to self-haul, then the jurisdiction needs to explicitly include this in its ordinance or other enforceable mechanism. The ordinance needs to require all self-haulers to meet the requirements of Article 7, Section 18988.3, which while it does not require registration, does require that self-haulers recycle the organics, either through source separated organics or hauling to a high diversion organic waste processing facility. The jurisdiction is not required to track self-haulers.

Q: Can haulers transport organic materials to an out-of-state?

The regulations do not prohibit the use of out-of-state facilities. However, if the material is not accepted as beneficial use, recycling, or composting, then the material should be reported as solid waste disposal. For capacity planning purposes, the jurisdiction would provide verification, as it would for an in-state facility, regarding the out-of-state facility's ability to process the jurisdiction's organic waste materials. The hauler that is delivering the organic waste material to an out-of-state facility would report via the Recycling and Disposal Reporting System (RDRS).

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CALGreen and Model Water Efficient Landscape Ordinance (MWELO)

Q: What is the correct method to dispose of hazardous wood waste, toxic treated wood, and pre-1924 lumber?

This type of waste must be handled separately and cannot be placed in the gray, green, or blue containers (see Article 3, Section 18984.1(a)(5) and Section 18984.2(c)). The Department of Toxic Substance Control (DTSC) has a guidance document on its website on the proper handling, storage, and disposal of TWW generated by businesses and residents: Requirements for Generators of Treated Wood Waste. For pre-1924 lumber is organic waste and will be subject to the recycling requirements in Article 3.

Q: How do the regulations address the diversion of wood and lumber?

Wood is included in the definition of organic waste. Wood is subject to the organic waste collection requirements for commercial and residential generators. Additionally, the regulations require jurisdictions to enforce CALGreen standards for the recovery of construction and demolition waste, which includes wood waste.

Q: Do the SB 1383 regulations change the CALGreen or MWELO requirements for jurisdictions?

No, the regulations do not change the CALGreen and MWELO requirements.

Q: Since CALGreen is updated every 3 years, what happens if CALGreen is updated and becomes more stringent? Do ordinances need to be updated to be consistent with MWELO and CALGreen updates?

CalRecycle amended the language to codify the most recently adopted versions of CALGreen and MWELO. The revision date of these requirements is included in the regulatory text, rather than incorporating the text by reference, this has the same regulatory effect. CalRecycle cannot adopt regulations that will automatically be updated whenever a later standard of CALGreen or MWELO is adopted. If a more stringent standard is subsequently adopted (e.g. increasing the C&D diversion requirements) jurisdictions can and should comply with the new standard. Complying with a new more stringent CalGreen and MWELO standard would constitute compliance with the SB 1383 regulations; however, CalRecycle could only enforce the standard included in the regulation.

Q: What is CalRecycle's enforcement authority over a jurisdiction's implementation of the CALGreen Building Standards and MWELO in Article 8?

SB 1383 grants CalRecycle specific authority to require jurisdictions to impose requirements upon generators. The regulations do not require CalRecycle to enforce the CALGreen Building Code or MWELO. The regulations impose a requirement that jurisdictions adopt an ordinance or other enforcement mechanism that requires compliance with certain provisions of the CALGreen Building Standards Code and MWELO. Nothing in statute or regulation mandates that solid waste local enforcement agencies enforce these requirements.

Q: Why are CALGreen and MWELO included in the regulations when building standards are issued by the Building Standards Commission and implemented and enforced by local building departments?

The regulations require jurisdictions to enforce the aspects of CALGreen and MWELO requirements that help reduce the disposal of organic waste. Jurisdictions are already required to comply with these requirements. Including them in the regulations ensures that CalRecycle can require that policies that are necessary to reduce organic waste disposal are implemented.

Q: Would it be sufficient to incorporate the CALGreen Building Codes into a building plan review and permit requirements to be in compliance with SB 1383 regulations?

There are various forms of enforceable mechanisms. Requiring compliance with the applicable aspects of CALGreen or MWELO prior to issuing a permit for construction or demolition is a potential type of enforceable mechanism.

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Article 17: Performance-Based Source Separated Organics Collection Services

Q: Is a jurisdiction that is implementing container contamination monitoring outlined in Article 3, Section 18984.5 exempt from performance-based source separated organic waste collection service outlined in Article 17?

A jurisdiction is not required to implement Article 17. However, if a jurisdiction is approved to conduct performance-based source separated collection service, then Article 17 states that a jurisdiction implementing a performance-based source separated organic waste collection service must monitor contamination through waste evaluations under Article 3, Section 18984.5(c).

Q: If jurisdictions implementing a performance-based source separated organic waste collection service exceed 25 percent organic waste in the gray container, do they have to comply with additional requirements?

Jurisdictions are required to conduct specific education and outreach requirements if they exceed the 25 percent threshold. Additionally, jurisdictions may lose their eligibility to implement a performance-based source separated organic waste collection service if they exceed the threshold.

Q: What does CalRecycle recommend for jurisdictions that wish to pursue the performance-based program option? Can those jurisdictions be granted a waiver before the landfills begin a waste characterization evaluation to confirm that the jurisdiction's municipal solid waste contains less than 25 percent organics, or does the jurisdiction need to pay for a waste characterization study?

Before pursuing the performance-based program, a jurisdiction should ensure that it designs its program to meet the requirements of Article 17. Jurisdictions, not landfills, are required to conduct the required waste evaluations.

Q: Do the regulations provide a window of time for a non-compliant jurisdiction to use the performance-based source separated organic waste collection service while coming back into compliance with Article 17?

The regulations provide time for a jurisdiction to come back into compliance. The enforcement provisions in Article 14 provide that a jurisdiction may have 90 days to correct a violation of any requirement, and that timeframe may be extended up to a total of 180 days to correct a violation.

Further, the recovery efficiency for designated source separated organic waste collection facilities is determined on a rolling annual average. The definition of a designated source separated organic waste recycling facility establishes that a facility must meet the annual recovery rates specified for two consecutive quarterly reporting periods or three quarterly reporting periods within three years. The purpose is to ensure that a facility has an opportunity to improve its organic content recovery rate and maintain its status as a designated source separated organic waste recycling facility. This ensures that a single quarter with lower-than-average recovery rates does not automatically disqualify the facility from its status as a high diversion organic waste processing facility. This further provides a jurisdiction sufficient time to become aware of and address failures prior to establishing a program that complies with Article 3 instead.

Q: How will facilities be able to meet the standards of Article 17 since paper is included?

SB 1383 statutory language requires California to achieve strict organic waste reduction targets. Paper is a type of organic waste and constitutes a significant portion of organic waste disposal. Not including paper would mean ignoring a significant portion of the organic waste disposal stream and compromise the state's ability to achieve the organic waste reduction targets.

Q: How will the recovery efficiency standards of 50 percent in 2022 and 75 percent in 2025 for designated source separated organic waste facilities be measured or met?

A facility that is seeking to qualify as a designated source separated organic waste recovery facility can rely upon the sampling and measurement and reporting requirements that are included in Title 14, Chapter 3, Article 6.2, Section 17409.5.8 and Chapter 5, Article 2.2, Section 18815.5.

Facilities are not required to qualify as designated source separated organic waste facilities. They may demonstrate that they meet the standards through the applicable reporting requirements. The requirements in Article 17 rest with jurisdictions who may only use a facility that has demonstrated that it meets the designated source separation organic waste facility standards.

Q: Can a jurisdiction provide a performance-based source separated system in select areas of the jurisdiction or to specific sectors, rather than the entire jurisdiction?

A facility that is seeking to qualify as a designated source separated organic waste recovery facility can rely upon the sampling and measurement and reporting requirements that are included in Title 14, Chapter 3, Article 6.2, Section 17409.5.8 and Chapter 5, Article 2.2, Section 18815.5.

No. CalRecycle acknowledges that some sectors may be more difficult to meet the service requirements than others. However, the standards were established to ensure that the state can achieve the organic waste reduction targets. Requirements related to providing organic waste collection services are not a new requirement, as jurisdictions are already required by law to offer organic waste collection services to the commercial sector. The Article 17 requirements are specifically designed to apply to an entire jurisdiction.

Q: Will CalRecycle notify jurisdictions of designated source separated organic waste facilities that do not meet the requirements?

CalRecycle will inform jurisdictions implementing a performance-based source-separated organic waste collection service if the facility they select is no longer a designated source separated organic waste facility. Jurisdictions are encouraged to maintain an awareness of the recovery efficiency of the facility that they select to receive their organic waste.

Q: When a compost facility sends their overs to a landfill for beneficial reuse or ADC, does it constitute disposal or diversion if the overs contain 10 percent or more organic waste? Does the non-organic fraction in the overs that goes to ADC count as diversion?

The material a compost facility sends to disposal must be sampled according to the sampling frequency established in the regulations. The presence of organic waste in that material is used to determine the percent of organic content in the material the facility sends to disposal, which would in turn be used to determine if the facility qualifies as a designated source separated organic waste facility. ADC and AIC are forms of landfill disposal under SB 1383. Organic material sent from a compost facility to ADC or AIC must be counted as disposal when sampled.

Non-organic material sent to disposal is not considered organic waste disposal or organic waste diversion.

Q: Does a wastewater treatment plant with co-digestion operations qualify as a designated source separated organic waste facility?

Yes. A wastewater treatment plant may operate as an in-vessel digestion facility. If the facility meets the recovery efficiency standards it could qualify as a designated source separated organic waste facility.

Q: How does a jurisdiction track exempted businesses or multifamily residential complexes that do not have green waste and may not need green waste service?

If a jurisdiction has multifamily or residential complexes that do not generate green waste, they could exempt them from collection services, provided that they continue to provide service to at least 90 percent of their generators.

Q: What if fewer than 90 percent of generators subscribe or do not need organic waste collection service?

If fewer than 90 percent of residents or 90 percent of commercial businesses do not subscribe or do not need organic waste collection service, then the jurisdiction is not allowed to implement a performance-based source separated organics collection service. Jurisdictions are not required to pursue compliance with the collection requirements in Article 17 if the jurisdiction is not able to ensure that 90 percent of generators have service. Jurisdictions are required to provide collection services to generators. Offering an organic waste collection subscription is not equivalent to requiring participation in service. A jurisdiction may comply through providing a collection service that complies with the requirements of Article 3, which allows jurisdictions to provide waivers on a case-by-case basis.

Q: If commercial businesses or residents in our service area subscribe to solid waste services, they automatically receive organics collection service. Does this approach satisfy the automatic enrollment requirement?

No. This approach does not meet the requirements for jurisdictions to provide organic waste collection services either under Article 3 or Article 17. This approach relies upon generators subscribing to the service. The jurisdiction must provide collection service to organic waste generators automatically.

Q: How would the 90 percent of organic waste generators subject to the jurisdiction's authority be measured? Is the baseline for numbers of residential and commercial generators established through use of property tax records and business licenses, or should jurisdictions themselves propose how they plan to measure the baseline? How often will the baseline measurement need to be updated and what is the review cycle for compliance?

The requirement to provide organic waste collection service is a constant requirement for either Article 3 or Article 17, and it is not reviewed in arrears. Additionally, if a jurisdiction elects to implement a performance-based organic waste collection service, it must be capable of demonstrating that 90 percent of the commercial and residential generators subject to the jurisdiction’s authority have service.

CalRecycle will verify compliance with this requirement of providing service to all generators per Article 3 or Article 17 through a review of records that jurisdictions are required to maintain, as well as through a review of relevant information reported to CalRecycle by the jurisdiction. Jurisdictions are required to report the number of generators subject to their authority under Article 13. Jurisdictions are required to maintain records showing the total number of generators subject to their authority, the total number of generators subject to their authority that receive services, and a list of generators that do not receive service. The method of demonstration is left to the discretion of the jurisdiction but should be based on substantial evidence. Jurisdictions are also required to annually report on the total number of generators that receive each type of collection service.

Under Article 14, Section 18995.2, all records maintained in the implementation record need to be current within 60 days (i.e. up to the last two quarters).

Q: What data source can a jurisdiction use to determine that 90 percent of organic waste generators are subscribed to service if a jurisdiction chooses to implement a performance-based source separated organic waste collection service?

The regulations do not require the use of a specific data source. Jurisdictions must maintain records that demonstrate that they meet the minimum service requirements. The demonstration should be based on substantial evidence.

Q: Why are jurisdictions implementing a performance-based source separated collection service required to sample the contents of the green and blue containers as a part of their waste composition study requirement?

Jurisdictions are required to perform waste evaluation studies to ensure that organic waste materials are being placed in the correct container. An additional requirement for a performance-based source separated organics collection service is to ensure that not more than 25 percent of organic waste is incidentally or intentionally disposed of in the gray container. Twenty-five percent was established as a threshold to mirror the 75 percent intent and the threshold established in statute. The organic waste threshold measured in the gray container is a key indicator of efficacy.

Q: How does a jurisdiction know if it meets the performance-based source separated collection services requirements?

Jurisdictions that implement a performance-based source separated collection service are required to perform waste evaluations and to notify CalRecycle within 30 days of conducting two samples that exceed 25 percent (see Article 3, Section 18984.5).

Q: Can a city implementing a performance based collection service issue waivers?

A jurisdiction implementing a performance-based source separated organic waste collection service may exempt 10 percent of commercial and 10 percent of residential generators from the requirement to have a source separated organic waste collection service. A jurisdiction implementing a performance-based source separated organic waste collection service is not required to issue waivers in order to exempt these generators.

Q: How do the regulations address performance-based reporting and recordkeeping to joint powers authorities?

If a joint powers authority (JPA) is being utilized to comply with the chapter, an employee of the JPA may be reported as the contact person. However, a performance-based source separated organic waste collection service must be implemented throughout a jurisdiction.

Q: How will the state determine prior to July 2022 if a jurisdiction is eligible to implement a performance-based source separated collection service?

Jurisdictions that intend to implement a performance-based source separated organic waste collection service are required to certify that they provide a compliant service to 90 percent of generators subject to their authority by April 1, 2022. A jurisdiction that cannot certify that it is providing a service to 90 percent of generators is ineligible to implement a performance-based source separated organic waste collection service. The first annual recovery efficiency and waste evaluation averages will be evaluated when a full year of data is available in 2023.

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Community Composting

Q: Do the regulations allow space for community composting even when a franchise agreement with the jurisdiction's hauler is in place?

The regulations allow jurisdictions to include community composting as a means of recycling source separated organic waste. If the generator is not paying a hauling fee for taking material to a community composting site, then an organic waste generator can choose to give its material to a community composting site regardless if there is a franchise agreement in place. A jurisdiction should consult with their legal counsel regarding what is allowable.

Q: Do the regulations support community composting?

CalRecycle acknowledges the benefits associated with community-scale composting and the regulations include provisions relative to such activities. Additionally, since community composting is a method for recovering organic waste, such as food and green waste, jurisdictions are required to consult with community composting operations to determine how much can be handled through these activities.

Q: Will CalRecycle publish a list of best management practices for community composting and micro composting?

CalRecycle does have best management practices on its website at https://www.calrecycle.ca.gov/organics/compostmulch/community.

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Reporting and Recordkeeping

Q: Are special districts that provide solid waste collection services required to report as their own entity or do they report to the county who then reports to CalRecycle?

Special districts that provide solid waste collection services are required to submit their annual report directly to CalRecycle. Counties will submit the organic waste and edible food capacity planning report on behalf of all of the jurisdictions located in the county.

Q: Do public unified school districts report data to CalRecycle or the jurisdiction?

If a local education agency is a commercial edible food generator, there are recordkeeping requirements but no reporting requirements. There are no reporting or recordkeeping requirements regarding a local education agency's organic waste collection program except if it self-hauls material. If it self-hauls, then it must keep a record for five years.

Q: Is the jurisdiction required to report on whether external bins are being used properly, e.g., is there reporting on contamination monitoring?

A jurisdiction is required to monitor the containers provided to generators using a three-container or two-container organic waste collection service.

Article 13 outlines the reporting requirements for contamination monitoring. These include:

1. The number of route reviews conducted for prohibited container contaminants.
2. The number of times notices, violations, or targeted education materials were issued to generators for prohibited container contaminants.

3. The results of waste evaluations performed to meet the container contamination minimization requirements and the number of resulting targeted route reviews.

Article 3, Section 18984.6 outlines the recordkeeping requirements for container contamination monitoring.

Q: Will the annual report due date be the same?

The annual report is due on August 1 of each year. However, there are two additional reports due the first year SB 1383 goes into effect (see Article 13). There is an initial jurisdiction compliance report due on April 1, 2022. This report includes the following:

1. A copy of ordinances or other enforceable mechanisms adopted pursuant Chapter 12.
2. The reporting items identified in Article 13, Section 18994.2 (b).
3. Specified contact information.

Counties must submit their first reports on capacity planning to CalRecycle on August 1, 2022.

There is a second jurisdiction report due on October 1, 2022. The October report covers the period of January 1, 2022, through June 30, 2022. This is necessary for the department to conduct a mid-year review of the jurisdiction's compliance and implementation and allows CalRecycle an opportunity to assist in the implementation phase of the regulations.

Q: Can jurisdictions designate another entity to be the keeper of elements of their implementation record, such as generator inspection records, photos, and enforcement letters, if they can be accessed by CalRecycle upon request?

The implementation record requirements are intended to ensure records are kept within the direct control of the jurisdiction and not spread over multiple locations under the control of various entities (see in Article 14, Section 18995.2).

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Capacity Planning

Q: What needs to be reported after the capacity planning first report if a jurisdiction has a waiver granted by CalRecycle?

Jurisdictions that are exempt from the organic waste collection requirements pursuant to Article 3, Section 18984.12 are not required to conduct the capacity planning required in Section 18992.1. Therefore, those jurisdictions are not required to report on the capacity plans required by Article 11, Section 18992.1 during any report required by Article 11, Section 18992.3 as long as the waiver is still in effect.

Q: How will jurisdictions ensure there is no double counting of capacity at facilities?

Counties, in coordination with jurisdictions and regional agencies located within the county, are required to identify the amount in tons of existing organic waste recycling infrastructure capacity, located both in the county and outside of the county that is verifiably available to the county and jurisdictions located within the county.

A jurisdiction can demonstrate the capacity is verifiably available through a contract, franchise, or other documentation of capacity at a facility, activity, operation, or property that recovers organic waste that will be available to the county or its jurisdiction prior to the end of the reporting period. It is incumbent upon the jurisdiction to ensure that new, expanded, or existing capacity is available to the jurisdiction.

Q: Do jurisdictions that are exempt from the organic waste collection requirements due to a waiver from CalRecycle need to plan for edible food recovery capacity?

Jurisdictions that are exempt from the organic waste collection requirements due to a waiver are not required to conduct the organic waste capacity planning. However, all jurisdictions are required to plan for edible food capacity.

Q: What is the difference between the term ‘jurisdiction’ and ‘cities’ within Article 11?

The term jurisdiction is defined in Article 1, Section 18982 (36). “Jurisdiction” means a city, county, a city and county, or a special district that provides solid waste collection services. A city, county, a city and county, or a special district may utilize a Joint Powers Authority to comply with the requirements of this chapter, except that the individual city, county, city and county, or special district shall remain ultimately responsible for compliance. The terminology used in Article 11 requires that jurisdictions, meaning cities, city and county (refers to San Francisco), special districts that provide solid waste collection services and regional agencies, work in coordination with counties to identify organic waste recycling capacity. Each individual jurisdiction is required to quantify its organic waste and edible food recovery capacity and provide this data to the county. The county is responsible for leading the collaboration. This might include providing due dates and tasks, and identifying what the county will do versus in individual jurisdictions. The counties are required to report to CalRecycle. If a jurisdiction has determined that it does not have enough capacity, then the county will report that to CalRecycle, and the county will inform the individual jurisdiction about the timeframe in which the individual jurisdiction must submit its implementation schedule to CalRecycle.

Q: Why are jurisdictions required to create a schedule for obtaining funding or financially supporting the expansion of organic waste recycling facilities if it is difficult for local jurisdictions to implement the schedule, such as providing funding, due to factors outside of their control?

This requirement is necessary to ensure that jurisdictions are taking specific steps to ensure access to capacity in the future. A lack of organic waste recycling capacity will be a hinderance to achieving the organic waste reduction targets by 2025. The regulations are not only designed to achieve the target by 2025 and beyond. This requires active planning by jurisdictions to identify future needs and secure capacity.

Q: To the extent that organic waste is imported into the county, how would a county identify the organic waste recycling infrastructure capacity that is "verifiably available to the county and the jurisdictions located within the county"?

A county and the jurisdictions located in the county are not required to account for waste generated outside its boundaries. Counties and the jurisdictions located in the county are required to identify the amount of organic waste that each will generate and identify the existing, new, or expanded capacity that each jurisdiction will utilize. Also, the recycling capacity utilized by each jurisdiction does not have to be located within the county's physical borders.

It is true that one facility's verifiably available capacity may be used by a jurisdiction located outside of the county. In this case, the county and its jurisdiction may have to locate to another facility or contemplate the development of new capacity so they can meet their obligation to demonstrate that they have verifiable access to organic waste recycling capacity. This is necessary to ensure sufficient organic waste recycling capacity is available

Q: If there is a "market capacity" problem at the local level, why should jurisdictions plan for capacity?

CalRecycle understands that recycling infrastructure capacity building ultimately depends on the availability of markets for end products. However, estimating how much capacity is needed to handle the amount of organics generated in a jurisdiction or region is dependent on organic waste generation not market availability.

Q: Do the capacity planning requirements allow for a regional agency to serve as the main coordinating entity with the unincorporated county and cities?

A regional agency is allowed to act on behalf of the jurisdiction depending on the specificity in the JPA regional agreement. A regional agency may act on behalf of a county.

Q: Why are paper products, biosolids, and digestate included in capacity planning if there is no basis for combining biosolids, recyclable paper, and other organic wastes into a single organic waste stream and if counties have no authority over the agencies that own and operate publicly operated treatment works (POTWs)?

The capacity planning requirements require that specific types of organic waste are included in capacity planning estimates. The regulations do not require that the jurisdictions combine or only plan for infrastructure that combines those materials for recycling. Capacity planning may require jurisdictions to identify various types of infrastructure capable of recovering different types of organic waste.

The purpose is to require counties, in coordination with cities and regional agencies located within the county, to compile information related to estimating their organic waste tonnage, identify existing organic waste recycling capacity, and estimate organic waste recycling capacity that will be needed. The capacity planning required by this section is necessary to ensure local jurisdictions are aware of and can address their capacity shortfalls and secure access to facilities that recover organic waste. This will help increase organic waste recovery in California.

Article 11, Section 18992.1(c)(2) specifies that POTWs must provide requested information within a specified timeframe.

Q: For capacity planning, can a jurisdiction identify out-of-state facilities since the nearest in-state facility could be further away than the out-of-state facility?

Yes, a jurisdiction may identify out-of-state facilities in the context of organics capacity planning.

Q: Does the county have an enforcement mechanism against jurisdictions?

The county reports to CalRecycle if a jurisdiction does not report the required organic waste and edible food recovery capacity planning data. The county is not required to take enforcement directly.

Q: Can a county use its own capacity planning tool or is it required to use CalRecycle's tool?

The county may use its own tool.

Q: Is a jurisdiction required to ensure there is infrastructure capacity for organics currently disposed by all generators?

Yes, capacity planning must include waste generated by all organic waste generators. Capacity planning is based on estimates of amounts currently disposed.

Q: What percent of total organics should jurisdictions plan to divert?

Jurisdictions need to plan to divert all of the organics.

Q: Is there any recommendation on how to plan for capacity needed for organic tons not hauled via a service provider? How would jurisdictions ensure there was capacity for these tons?

The jurisdiction would utilize CalRecycle's waste characterization study to estimate the amount of material that is being disposed. This tonnage estimate includes self-haul, residential, and commercial generated waste.

Then the jurisdiction would determine how much existing, planned, and new capacity is needed to handle all organic waste generated within the jurisdiction. The regulations provide for the types of entities that the jurisdiction would consult to determine the available existing, new, and planned capacity. If there is a shortfall, then the jurisdiction would have to submit an implementation schedule to CalRecycle regarding how they are going to secure the capacity.

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General and Miscellaneous

Q: Why is this regulation being implemented? What problem does it solve?

California's effort to reduce super pollutants builds on the state's shared commitment to reduce greenhouse gas emissions, improve human health, and create clean jobs that support resilient local economies. Implementing a statewide plan under SB 1383 will reduce short-lived, harmful super pollutants with significant warming impacts, and is essential to achieving California's climate goals.

Q: Will jurisdictions be required to implement SB 1383, AB 1826, and AB 341? In circumstances where the laws have conflicting information, which law supersedes the other? Where in the public resources code does it state which will be used?

The broader, definitive, and prescriptive organic waste recycling requirements of SB 1383 overrides the requirements of AB 1826. SB 1383 applies to all organic waste generators, not just certain businesses, and its definition of organic waste is broader than the definition under AB 1826. Jurisdictions are not required to include enforcement in their AB 1826 programs; however, the SB 1383 regulations requires each jurisdiction to adopt an ordinance, or similar enforceable mechanism, requiring all organic waste generators, haulers, and other entities subject to its authority to comply with the requirements of the SB 1383 regulations.

SB 1383's collection, education and outreach, and reporting requirements far exceed those of AB 1826. Therefore, as a matter of law, any jurisdiction that has complied with SB 1383 has also complied with AB 1826.

AB 341 applies to commercial solid waste, which includes non-organic, as well as organic, recyclables. However, a jurisdiction's compliance with any of the three collection methods of SB 1383 would capture and divert both organic and non-organic recyclables from all organic waste generators. Additionally, as with AB 1826, the collection, education and outreach, and reporting requirements of SB 1383 far exceed those required by AB 341. Accordingly, AB 341 is functionally duplicative because it is unlikely that a jurisdiction's compliance with SB 1383 would not constitute compliance with, or a good faith effort to comply with, AB 341 requirements.

Q: How will CalRecycle measure achievement of the SB 1383 mandate to reduce organic waste disposal by 50 percent by 2020 and 75 percent by 2025?

CalRecycle will use its statewide waste characterization studies and Recycling and Disposal Reporting System to measure achievement of the statewide goals for organic waste and edible food recovery.

Q: Does SB 1383 prohibit use of out-of-state facilities for processing?

Since out-of-state facilities are not obligated to report in RDRS, there would be no way to assess the contamination rate of the source separated organics stream sent out-of-state. If the material is out of compliance with the contamination thresholds, the jurisdiction educates the generators on properly sorting the organic materials. If haulers deliver green bin material to an out-of-state facility, and it is not accepted for either beneficial reuse or recycling and composting, it must be reported via RDRS as disposal of solid waste.

Q: How would reporting work for out-of-state facilities for SB 1383 and RDRS?

CalRecycle does not have the ability to require out-of-state facilities to report in RDRS. The entity delivering the material out-of-state would handle the reporting (i.e. a contract hauler, a transfer/processor, etc.) for that material.

Q: Does Article 9, Section 18990.1(b)(3) contradict the decision in the U.S. Supreme Court Case United Haulers Association, Inc. v. Oneida-Herkimer Solid Waste Management Authority et al., preventing jurisdictions from utilizing solid waste flow control?

Oneida-Herkimer states that an ordinance requiring waste to go to a public facility does not violate the flow control restrictions of the Commerce Clause. It does not authorize or require that municipalities be allowed to do so under the U.S. Constitution, nor does it prohibit a state from prohibiting such restrictions.

The Integrated Waste Management Act (IWMA) explicitly promotes the free movement of material under Public Resources Code Sections 40001 and 40002 and this restriction is designed to ensure that.

Article 9, Section 18990.1 (b)(3) prohibits the limitation of exports outside the jurisdiction, which is necessary in order to address the need for regional collaboration and to ensure the highest diversion rates are achieved in order to meet the goals of the statute.

Q: Does Article 9, Section 18990.1(b)(2) restrict a facility's ability to implement flow control or other agreements to reserve organic waste processing capacity for local use or require a jurisdiction or facility to accept organic material from outside a jurisdiction?

The regulations do not prohibit a jurisdiction from arranging through a contract or franchise for a hauler to transport organic waste to a particular solid waste facility or operation for processing or recovery [see Article 9, Section 18990.1(c)(4)]. The regulations do not prohibit facilities from contracting with various parties, including jurisdictions, for capacity within their facility. What the regulations do prohibit is a jurisdiction adopting an ordinance or similar restriction to legally prohibit material from other jurisdictions from going to facilities within its boundaries simply because of where the material originated. This is consistent with existing case law.

Q: Does Article 9, Section 18990.1 limit a jurisdiction's ability to charge gate fees that are supplemental to the actual costs of operating the site?

Article 9, Section 18990.1(b)(2) does not prohibit differential costs but does prohibit a fee designed to prevent a facility from accepting material originating from out of the jurisdiction. This section does not prohibit reasonable fees intended to recoup additional processing or screening costs. Differential fees must be tied to actual costs.

Q: Does Article 9 preempt direct import bands or ancillary limits such as differential fees?

Article 9, Section 18990.1 (b)(1) prohibits complete bans upon organic waste processing anywhere in the jurisdiction.

Public Resources Code Section 41903 authorizes "special fees of a reasonable amount" on imported waste. This section does not authorize fees that would act as a ban on imported materials, but simply allows reasonable fees to cover additional costs for imported waste.

Q: Does Article 9 prohibit facilities from rejecting organic wastes from outside jurisdictions?

Read together, Article 9, Section 18990.1(b)(3) prohibits a local ordinance that restricts flow, and Article 9, Section 18990.1(c)(4) allow for contractual relationships, which does not restrict the flow of materials. Furthermore, the regulations allow facilities to reject organic waste from outside jurisdictions that does not meet quality standards established by a facility or operation [see Article 9, Section 18990.1(c)(1)] and allow a jurisdiction to arrange for reserved capacity at a facility for organic waste from the jurisdiction [see Article 9, Section 18990.1(c)(2)].

Q: Are solid waste facilities able to control the acceptance of organic waste by origin, source, and material type?

Nothing in the regulatory text would limit the application of appropriate standards to imported waste. The regulations do not require a solid waste facility or operation to accept organic waste that does not meet the quality standards established by the solid waste facility or operation [see Article 9, Section 18990.1(c)(1)].

Q: Does CEQA impose limitations on the implementation of Article 9 Section 18990.1 of the regulations?

CEQA is clear that it does not provide any independent authority to mitigate or avoid significant effects on the environment and that a public agency must use discretionary powers outside of CEQA for such purposes (see PRC Section 21004, CEQA Guidelines Section 15040). A local agency may not use discretionary powers outside of CEQA for purposes of avoiding or mitigating significant environmental effects to the extent those powers rely on laws or ordinances that would be preempted by SB 1383 or associated regulations.

Q: Why are jurisdictions required to adopt ordinances no later than January 1, 2022, when the mandate itself will not be effective until that date?

SB 1383 mandates that these regulations go into effect on January 1, 2022 per the language of the enabling statute. It is clear the Legislature intended for the requirements to be enforceable at that time. The timing for adoption of local ordinances reflects this. The requirement in the proposed regulations for jurisdictions to have enforceable mechanisms consistent with the requirements of the regulations is not enforceable until January 1, 2022. Therefore, this requirement is not in effect until then.

Q: Do the regulations ensure that land application remains a viable method of disposition of biosolids? Does Section 18990.1 allow for local restrictions on and regulation of biosolids land application?

Land application of biosolids constitutes a reduction in landfill disposal provided that the application complies with minimum standards [see Article 2, Section 18983.1 (b)(6)(b)]. To be considered a reduction in landfill disposal for the purposes of this regulation, land application of biosolids must comply with existing regulatory requirements and have undergone composting or anaerobic digestion. While this regulation defines land application as recovery, this regulation does not allow land application of biosolids to be done in a manner that conflicts with existing public health and safety regulations and requirements.

Land application of composted or digested biosolids prevents the landfill disposal of this material and reduces greenhouse gas emissions. This supports the state's efforts to keep organic waste out of landfills and reduce greenhouse gas emissions and is therefore considered a recovery activity for the purposes of this regulation. The additional language will ensure that such restrictions can be reviewed on a case-by-case basis to determine if they are necessary to protect public health and safety, or if they are actually unnecessary restrictions.

Q: Does a jurisdiction for which CalRecycle grants a rural exemption for some or all of the collection requirements of SB 1383, still need to implement Mandatory Commercial Recycling under AB 341?

Yes. A rural exemption for some or all of the collection requirements of SB 1383 regulations does not preclude a jurisdictions from the requirement to comply with PRC, Section 42649.3 (Mandatory Commercial Recycling). Jurisdictions in this situation will also continue to be required to report on Mandatory Commercial Recycling implementation in the Electronic Annual Report.

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Last updated: January 5, 2021
Short-Lived Climate Pollutants (SLCP): Organic Waste Methane Emissions Reductions:
https://www.calrecycle.ca.gov/Organics/SLCP/
Contacts: Organic Waste Methane Emissions Reductions SLCP.organics@calrecycle.ca.gov

Food Recovery FAQ

Edible Food Recovery Goal

Q: Please clarify the 20 percent edible food recovery goal. Do individual jurisdictions or individual generators have to arrange for 20 percent of their edible food to be recovered for human consumption?

SB 1383 requires the state, by 2025, to recover 20 percent of edible food for human consumption that would otherwise be disposed. This is a statewide goal that California must collectively achieve. It is not a goal for individual jurisdictions to achieve. To achieve this statewide goal, SB 1383's regulations require commercial edible food generators donate the maximum amount of their edible food that would otherwise be disposed (not 20 percent of it). The regulations also require jurisdictions to implement edible food recovery programs to help increase food recovery throughout the state.

Q: Does edible food have to be recovered for human consumption?

Yes, edible food must be recovered for human consumption. SB 1383 requires CalRecycle to adopt regulations that include requirements intended to meet the goal that no less than 20 percent of edible food that is currently disposed be recovered for human consumption by 2025.

Q: How will the calculation for the baseline of edible food be determined? Will the baseline year be 2014?

The 2014 baseline year only applies to SB 1383's organic waste disposal reduction targets. A baseline year is not specified in SB 1383's statute for edible food recovery.

CalRecycle's 2018 statewide waste characterization studies will be used to help measure the edible food baseline for SB 1383. CalRecycle's 2018 disposal-based and generator- based waste characterization studies sorted food waste into eight categories based on the edibility of the food that was disposed. The eight food waste categories were defined in a manner that will allow

CalRecycle to quantify the amount of edible food (food intended for human consumption) that is disposed, and the amount of potentially donatable food (edible food that could have potentially been recovered for human consumption) that is disposed.

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Edible Food Recovery Regulation Sections to Review

Q: Where can I find the edible food recovery requirements in the regulations? Note – if there is ever a term in the regulations that is unclear, please refer back to the definitions section to see how the term is defined.

- **The definition of "edible food"** can be found in Article 1, Section 18982 Definitions on page 53

The commercial edible food generators (mandated food donors) that will be required to donate the maximum amount of their edible food are specified in Article 1, Section 18982 Definitions on page 58 under 'Tier One Commercial Edible Food Generator' and 'Tier Two Commercial Edible Food Generator.'

- Edible Food Recovery Education and Outreach: **Article 4, Section 18985.2** (pgs. 77-78)
- Edible Food Recovery Standards and Policies: **Article 9, Section 18990.2** (pg. 85)

Jurisdiction Edible Food Recovery Programs, Food Generators, and Food Recovery: Article 10 (pgs. 85-88)

- Edible Food Recovery Capacity: **Article 11, Section 18992.2** (pgs. 91-92)
- Jurisdiction Annual Reporting: **Article 13, Section 18994.2** Subsection (h) only. (pg. 99, lines 7-19 only)

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Definitions

Q: Does edible food have to meet all food safety requirements for it to be recovered for human consumption?

Yes. All food that is recovered for human consumption must meet the food safety requirements of the California Retail Food Code. SB 1383's regulations specify in the definition of 'edible food' that *"Nothing in this chapter requires or authorizes the recovery of edible food that does not meet the food safety requirements of the California Retail Food Code."* Please note, CalRecycle does not monitor or enforce food safety. Food safety is monitored and enforced by local environmental health departments and the California Department of Public Health.

Q: Please clarify the term “on-site food facility.”

The term “on-site food facility” is only used in the thresholds for the following tier two commercial edible food generators: local education agencies, hotels, and health facilities. The regulations specify that “food facility” has the same meaning as in Section 113789 of the California Health and Safety Code.

As found in California Retail Food Code excerpt from the California Health and Safety Code, Article 2, Section 113789:

"Food facility" means an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption at the retail level, including, but not limited to, the following:

1. An operation where food is consumed on or off the premises, regardless of whether there is a charge for the food.
2. Any place used in conjunction with the operations described in this subdivision, including, but not limited to, storage facilities for food-related utensils, equipment, and materials.

"Food facility" includes permanent and nonpermanent food facilities, including, but not limited to, the following:

1. Public and private school cafeterias
2. Restricted food service facilities
3. Licensed health care facilities, except as provided in paragraph (12) of subdivision (c).
4. Commissaries
5. Mobile food facilities
6. Mobile support units
7. Temporary food facilities
8. Vending Machines
9. Certified farmers’ markets, for purposes of permitting and enforcement pursuant to Section 114370.
10. Farm stands, for purposes of permitting and enforcement pursuant to Section 114375.
11. Fishermen’s markets.
12. Microenterprise home kitchen operations.
13. Catering operation.
14. Host facility.

For additional information on the entities that ‘food facility’ does not include, please refer to Section 113789 subdivision (c) of the California Retail Food Code.

CalRecycle also provided information in the Final Statement of Purpose and Necessity to help clarify the term “food facility” beyond the definition that is provided in the California Health and Safety Code.

Q: Is a privately owned business within a grocery store part of the definition of a 'grocery store?' If they are not a part of the definition, are those businesses subject to the commercial edible food generator requirements?

If a privately owned business within a grocery store meets any of the commercial edible food generator definitions and their associated thresholds, then the business would be required to comply with the commercial edible food generator requirements specified in Section 18991.3 of the regulations. If the privately owned business does not independently meet the commercial edible food generator definitions or thresholds, it is not subject to the commercial edible food generator requirements of SB 1383.

Q: Please clarify the definition of 'restaurant,' as it is not clear what the threshold is for "primarily engaged" fast-food businesses with both sit-down and take-out orders.

Whether the restaurant offers sit-down or take-out orders is irrelevant because fast food is prepared for 'immediate consumption.' A fast food business must comply with the commercial edible food generator requirements specified in Section 18991.3 of the regulations if:

- The business is primarily engaged in the retail sale of food and drinks for on-premises or immediate consumption, and
- The facility is equal to or greater than 5,000 square feet or has 250 or more seats.

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Jurisdictions

Q: Can a jurisdiction contract with their local environmental health department to fulfill some or all the jurisdiction edible food recovery program requirements such as educating commercial edible food generators and monitoring commercial edible food generator compliance?

Yes. Section 18981.2 of the regulations specifies that a jurisdiction may designate a public or private entity, which includes county environmental health departments, to fulfill its regulatory responsibilities. The regulatory text states,

"(b) A jurisdiction may designate a public or private entity to fulfill its responsibilities under this chapter. A designation shall be made through any one or more of the following:

(1) Contracts with haulers or other private entities; or,
(2) Agreements such as MOUs with other jurisdictions, entities, regional agencies as defined in Public Resources Code Section 40181, or other government entities, ***including environmental health departments****.*

(c) Notwithstanding Subdivision (b) of this section, a jurisdiction shall remain ultimately responsible for compliance with the requirements of this chapter.

(d) Nothing in this chapter authorizes a jurisdiction to delegate its authority to impose civil penalties, or to maintain an action to impose civil penalties, to a private entity."

Please note however, if a jurisdiction does designate a separate entity to fulfill any requirements, the jurisdiction shall remain ultimately responsible for compliance with the requirements of this chapter.

Q: Are inspections of food recovery organizations and food recovery services limited to the recordkeeping requirements in Article 10?

To clarify, SB 1383-related inspections of food recovery organizations and food recovery services will be limited to verifying that the recordkeeping requirements of Section 18991.5 have been met. In addition, if a food recovery organization or a food recovery service fails to meet the reporting requirements of Section 18994 (h)(2)(A), then a jurisdiction could inspect the food recovery organization or food recovery service to ensure that the reporting requirements are met.

Q: Will CalRecycle be providing a methodology for estimating the amount of edible food disposed by commercial edible food generators?

CalRecycle will develop a tool to assist jurisdictions with estimating the amount of edible food that will be disposed by commercial edible food generators that are located within the county and jurisdictions within the county.

Please note that this requirement does not require estimates to be exact or absent of uncertainty. Rather it requires that each estimate is defensible and conducted in compliance with the requirements of the edible food recovery capacity planning section of the regulations.

Q: Provide guidance on how to determine if a commercial edible food generator has "intentionally" allowed food to spoil, thereby preventing it from being recovered.

An example of intentionally spoiling **edible food** would be if a commercial edible food generator placed edible food that could be recovered for human consumption into a dumpster and then poured bleach or some other substance over the edible food to render it inedible. There are examples of businesses practicing this kind of activity to prevent individuals from taking food from dumpsters and consuming it. Since some commercial edible food generators do intentionally spoil edible food that could be recovered for human consumption, CalRecycle added language to section 18991.3(e) stating that *"An edible food generator shall not intentionally spoil edible food that is capable of being recovered by a food recovery organization or service."*

Q: Please clarify the entity subject to enforcement action if a county is unable to determine organic waste/edible food capacity needed.

If a county fails to provide the estimates that are required by Article 11, then the county could be subject to enforcement action. If a jurisdiction or regional agency fails to provide the county with the information necessary to comply with the Article within 120 days, then the county is not required to include estimates for that jurisdiction in the report it submits pursuant to Section 18992.3. If a jurisdiction fails to comply with its requirements under Article 11, then the jurisdiction could be subject to enforcement action.

Q: Are jurisdictions required to educate all food facilities or only the tier one and tier two commercial edible food generators?

Jurisdictions are not required to provide education and outreach to all food facilities or food businesses. Jurisdictions are only required to educate tier one and tier two commercial edible food generators (including non-local entity and local education agency commercial edible food generators). However, if a jurisdiction would like to provide education and outreach to all food facilities or businesses in addition to commercial edible food generators, then they may do so.

Q: Are jurisdictions required to provide education to non-local entities and local education agencies?

Although jurisdictions will not enforce non-local entities or local education agencies, jurisdictions are still required to provide non-local entities and local education agencies with edible food recovery education and outreach pursuant to Section 18985.2 of the regulations.

Q: The need for an inspection of commercial edible food generators is duplicative of inspections already required for food safety requirements.

Section 18981.2 specifies that a jurisdiction may designate a public or private entity, which includes county environmental health departments, to fulfill its regulatory responsibilities. If a jurisdiction designated their environmental health department to monitor commercial edible food generator compliance, then the inspections would not be duplicative. Rather the local environmental health department could add to their existing food facility inspections to verify that commercial edible food generators are maintaining records.

In addition, if a jurisdiction designated their environmental health department to monitor commercial edible food generator compliance, then health inspectors could also provide guidance to commercial edible food generators about safe surplus food donation best practices and food safety requirements. Please note that SB 1383 does not include food safety requirements. Food safety requirements are established in the California Health and Safety Code and enforced by environmental and public health departments.

Q: What if a chain supermarket or grocery store does not keep its records for that individual store on site?

The expectation for compliance is that each store maintains its own records specific to the food recovery activities of that store, and that those records are made available to the jurisdiction upon request by the jurisdiction.

Q: With regard to edible food recovery capacity planning, please clarify what "verifiably available" means. Would a jurisdiction report on an edible food recovery service or organization's ability to collect food?

The amount of capacity "verifiably available" to the county and cities within the county, means the amount of capacity that the jurisdiction has verified exists and is available for use. Jurisdictions are required to report to counties and counties are required to report to CalRecycle.

Q: Provide guidance on how to determine if a grocery store or restaurant meets the square footage thresholds. Clarification is needed as to whether this is gross or net square footage (e.g. does it include storage areas, restrooms, etc.).

CalRecycle revised the threshold for grocery stores from 7,500 square feet to 10,000 square feet. This change was made in an effort to have the threshold align with environmental health inspections of grocery stores, so that these commercial edible food generators can be more easily identified by the jurisdiction through their local environmental health department's food facility permit records. The same methodology could be used to help identify restaurants that meet the 250 or more seats or total facility size equal to or greater than 5,000 square feet threshold.

The precise language used in the regulations is a "grocery store with a **total** facility size equal to or greater than 10,000 square feet." This includes storage areas and restrooms. The same is true for restaurants. Restaurants with 250 or more seats or a **total** facility size equal to or greater than 5,000 square feet are required to comply with the commercial edible food generator requirements.

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Food Recovery Organizations and Food Recovery Services

Q: Are food recovery organizations and food recovery services required to enter into contracts or written agreements with commercial edible food generators?

No. Nothing in SB 1383's regulations requires a food recovery organization or a food recovery service to establish a contract or written agreement with a commercial edible food generator.

Q: Are food recovery organizations required to accept a commercial edible food generator's edible food?

No. Food recovery organizations and food recovery services are not required to accept a commercial edible food generator's edible food. Section 18990.2 of the regulations specifies that, *"(d) Nothing in this chapter prohibits an edible food recovery service or organization from refusing to accept edible food from a generator."*

Q: Do SB 1383's food recovery requirements differentiate between healthy foods eligible for donation, and "junk" food that do not meet the minimum nutrition standards for many food pantries and food banks?

SB 1383's statute requires CalRecycle to adopt regulations that include requirements intended to meet the goal that not less than 20 percent of edible food that is currently disposed of is recovered for human consumption by 2025. The statute does not state that 20 percent of healthy or nutritious food must be recovered. As a result, SB 1383's regulations do not include requirements that differentiate between healthy and unhealthy food. CalRecycle recognizes that a core value of many food recovery organizations and services is to reduce food insecurity in their communities by rescuing and distributing healthy and nutritious food to help feed people in need, and that some organizations have nutrition standards for the food they are willing to accept. As a result, CalRecycle included language in Section 18990.2 that states, *"(d) Nothing in this chapter prohibits an edible food recovery service or organization from refusing to accept edible food from a generator."*

Q: Do food recovery organizations need to be formally registered as non-profits? Would a group of people that recovers food (without being formally incorporated) be included in that definition? What about for-profit organizations?

Food recovery organizations do not need to be registered as non-profits. A for-profit business could also be a food recovery organization. Recognizing that many different types of food recovery organizations exist, a broad definition of food recovery organization was developed to ensure that the definition would be inclusive of these non-traditional food recovery groups. The definition of "food recovery organization" is below:

(25) "Food recovery organization" means an entity that engages in the collection or receipt of edible food from commercial edible food generators and distributes that edible food to the public for food recovery either directly or through other entities, including, but not limited to:

(A) A food bank as defined in Section 113783 of the Health and Safety Code;
(B) A nonprofit charitable organization as defined in Section 113841 of the Health and Safety code; and,
(C) A nonprofit charitable temporary food facility as defined in Section 113842 of the Health and Safety Code.

Q: Are food recovery organizations and services required to report to multiple jurisdictions or only one jurisdiction?

Only food recovery organizations and food recovery services that contract with or have written agreements with commercial edible food generators pursuant to Section 18991.3 (b) are required to report information to the jurisdiction. Specifically, they are required to report to **one** jurisdiction the total pounds collected (from commercial edible food generators) in the previous calendar year. They should report to the jurisdiction where their primary address is physically located. They are not required to report to multiple jurisdictions.

For example, if a food recovery organization is recovering food in multiple jurisdictions, the food recovery organization is only required to report the total pounds collected (from commercial edible food generators) in the previous calendar year to the jurisdiction that they are physically located in.

Q: What if double counting of pounds recovered occurs since food recovery organizations and food recovery services are both reporting recovery numbers?

The regulations are structured to ensure that double counting of pounds recovered will not occur. Double counting should not occur because the requirement is for food recovery organizations and food recovery services to only report the pounds they collect or receive **directly** from commercial edible food generators.

For example, if a food recovery service collects food directly from a commercial edible food generator, then the food recovery service is responsible for maintaining a record of those pounds collected and also responsible for reporting those pounds to one jurisdiction (the jurisdiction the food recovery service's primary address is physically located).

If a food recovery organization receives food from a food recovery service, that food recovery organization is not responsible for reporting those pounds of food to the jurisdiction because the food was not collected or received **directly** from a commercial edible food generator.

Q: Are food recovery organizations and services required to separate out jurisdiction- specific data for recordkeeping and reporting?

No. Food recovery organizations and services that contract with or have written agreements with commercial edible food generators shall report the total pounds of edible food recovered (from commercial edible food generators) in the previous calendar year to one jurisdiction (that is the jurisdiction where the organization's or service's primary address is physically located).

Q: Are food recovery organizations and services only required to report the total pounds collected from commercial edible food generators only, or the pounds collected from all food donors?

Any food recovery organization or food recovery service that has a contract or written agreement with one or more commercial edible food generators is required to report the total pounds of edible food that were collected or received directly from the commercial edible food generators that they contract with or have written agreements with. Food recovery organizations and services are not required to report the pounds of edible food recovered from entities that are not commercial edible food generators, nor are they required to track or report residual food waste, as such a requirement could be overly burdensome and infeasible to comply with.

Food recovery organizations and services should have the data on pounds recovered from tier one and tier two commercial edible food generators because Section 18991.5 requires them to maintain a record of the quantity in pounds of edible food collected and received from each commercial edible food generator that they contract with or have a written agreement with pursuant to Section 18991.3(b). If food recovery organizations and food recovery services are in compliance with this section, then they will have the information that is necessary to comply with the requirement to report the total pounds collected from tier one and tier two commercial edible food generators in the previous calendar year to the jurisdiction.

Q: Are food recovery organizations and services required to track and report residual food waste as a result of food recovery activities?

Food recovery organizations and food recovery services are not required to track or report the pounds of residual food waste associated with food recovery activities. They are required to track and report the total pounds of edible food recovered (from commercial edible food generators) in the previous calendar year to the jurisdiction that the organization or service is physically located in.

Q: Do the SB 1383 regulations allow recovery organizations to negotiate contracts and charge commercial edible food generators for their recovery costs?

This question falls outside of CalRecycle's regulatory purview. Nothing in SB 1383's regulations would prohibit a food recovery organization or a food recovery service from developing a sustainable funding model to help cover their costs.

Q: Are food recovery organizations and services required to report individual food donor's names to the jurisdiction?

There is no requirement in SB 1383's regulations for food recovery organizations or food recovery services to report donor names. They are only required to report total pounds collected in the previous calendar year from the commercial edible food generators that they contract with or have written agreements with pursuant to Section 18991.3 (b). Reporting the total pounds collected is critical for measuring progress and to help jurisdictions and CalRecycle identify if more capacity building needs to occur.

Q: Do the regulations address donation dumping?

CalRecycle recognizes that donation dumping occurs and included policies in the regulations to help prevent this activity. The regulations require commercial edible food generators to have a contract or written agreement with a food recovery organization or service. If a food recovery organization or service is concerned that donation dumping could occur, then they should include language in their contract or written agreement to protect themselves against donation dumping. If a commercial edible food generator repeatedly donation dumps, there is nothing in SB 1383's regulations prohibiting a food recovery organization or food recovery service from terminating their relationship with that particular generator.

CalRecycle is developing a model food recovery contract/written agreement that can be customized and used by food recovery organizations, food recovery services, and commercial edible food generators. This model contract/written agreement does include a section for self-hauled edible food, which also includes designated delivery and drop off days and times to establish as well as language to protect food recovery organizations and services from donation dumping and unexpected donations. The model food recovery contract/written agreement is a template and is intended to be customized based on the needs of food recovery entities and commercial edible food generators.

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Commercial Edible Food Generators

Q: Are commercial edible food generators able to donate their edible food to clients, co-workers, or even take them home themselves? Or are they required to donate it to a food recovery organization?

Only edible food that would otherwise be disposed must be recovered. Nothing in SB 1383's edible food recovery regulations prohibits a commercial edible food generator from giving their surplus food to clients or employees. However, if the food would otherwise be disposed, then it must be recovered by a food recovery organization or a food recovery service.

Q: Would an arrangement for food recovery that is not a contract or written agreement be acceptable for compliance?

SB 1383's regulations require commercial edible food generators to establish a contract or written agreement with a food recovery organization or a food recovery service for food recovery. Requiring a contract or written agreement with supporting documentation of the contract or written agreement is critical to ensure that edible food is recovered in a safe, professional, and reliable manner.

Contracts and written agreements add a layer of food safety, professionalism, and reliability into food recovery and can also serve as a mechanism to help protect food recovery organizations and services from donation dumping. CalRecycle developed a model food recovery agreement that can be customized by food recovery organizations, food recovery services, and commercial edible food generators.

Although a contract or written agreement for food recovery must be established, it is at the discretion of food recovery organizations, food recovery services, and commercial edible food generators to determine the exact provisions to include in their contracts or written agreements. For example, some food recovery organizations may include provisions in their contracts to protect their operation from receiving food that they are not able or willing to accept. Other food recovery organizations or food recovery services could include cost-sharing provisions as part of their contracts or written agreements with commercial edible food generators. Nothing in SB 1383's regulations prohibits a food recovery organization or a food recovery service from negotiating cost sharing as part of their contracts or written agreements with commercial edible food generators.

Contracts and written agreements are also critical for enforcement purposes. Jurisdictions will be able to monitor commercial edible food generator compliance by verifying that a contract or written agreement has been established. To further help jurisdictions monitor compliance, the regulations include recordkeeping requirements for commercial edible food generators and for food recovery organizations and services. A jurisdiction could use the record to verify that a commercial edible food generator has established a contract or written agreement with a food recovery organization or service by requesting to see their records.

Q: Clarify and expand on what "extraordinary circumstances" are in Section 18991.3(d)(1)-(2).

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. Please note, "other emergencies" could include planned safety power shut offs to prevent wildfires and business closures due to disease pandemics.

Q: Will Schools with vending machines be required to comply?

Some vending machines, such as vending machines with temperature control units, are required to have a food facility permit and be inspected as a food facility. If a vending machine at a local education agency does meet the California Health and Safety Code definition of "food facility," or the local education agency has any other food facility on- site, then the local education agency will be required to comply with the commercial edible food generator requirements of SB 1383 and to recover the maximum amount of edible food that would otherwise be disposed. This extends beyond donating surplus food from vending machines.

Q: Are commercial edible food generators required to report information to the jurisdiction?

No. Commercial edible food generators are not required to report information to the jurisdiction. However, commercial edible food generators are required to comply with recordkeeping requirements, and jurisdictions can request to see a generator's records to verify that the generator is in compliance with SB 1383's commercial edible food generator requirements.

Q: Are food sales at large events and venues that are not a part of the venue's direct concession services exempt from the food donation requirements? Examples include food trucks located in/at large venues and events, nonregulated food vendors, and persons serving food outside of the event or venue (such as tailgating).

Food vendors operating at large events and venues are not exempt from the edible food recovery regulations. Large event and venue operators must make arrangements to ensure that the food vendors operating at their event or venue are recovering the maximum amount of their edible food that would otherwise be disposed. In a situation where the food vendors at a large venue or event are not in compliance with Section 18991.3 of the regulations, the operator of the large event or venue would be responsible for compliance. SB 1383 does not regulate the activities of tailgaters.

Q: Will commercial edible food generators be penalized if local food recovery organizations or services do not have the capacity to accept the edible food that the business generates?

Section 18991.3 specifies that a commercial edible food generator shall comply unless the commercial edible food generator can demonstrate extraordinary circumstances beyond its control that make such compliance impracticable. One of the extraordinary circumstances specified is a failure by the jurisdiction to increase edible food recovery capacity as required by Section 18992.2, Edible Food Recovery Capacity.

Therefore, if a jurisdiction has failed to increase edible food recovery capacity then commercial edible food generators located in that jurisdiction are not required to comply with the requirements of Section 18991.3 as long as they can demonstrate that the jurisdiction has failed to comply with SB 1383's edible food recovery capacity planning requirements. However, the regulations also specify that the burden of proof shall be upon the commercial edible food generator to demonstrate extraordinary circumstances.

SB 1383 requires jurisdictions to implement edible food recovery programs, which includes the requirement that a jurisdiction shall increase edible food recovery capacity if it is determined that they do not have sufficient capacity to meet their edible food recovery needs. Jurisdictions are required to begin edible food recovery capacity planning in 2022.

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Last updated: December 31, 2020
Short-Lived Climate Pollutants (SLCP): Organic Waste Methane Emissions Reductions:
https://www.calrecycle.ca.gov/Organics/SLCP/
Contacts: Organic Waste Methane Emissions Reductions SLCP.organics@calrecycle.ca.gov

Procurement FAQ

Procurement Overview

Q: Who is required to comply with the SB 1383 procurement requirements? Do any of the procurement requirements pertain to special districts?

The procurement requirements in 14 CCR Section 18993.1 regarding recovered organic waste products pertain to jurisdictions such as cities, counties, or cities and counties, but do not pertain to special districts [(see definition of “jurisdiction” in 14 CCR Section 18993.1(a)]. However, the recycled-content paper procurement requirements (14 CCR Sections 18993.3 and 18993.4) apply to all types of jurisdictions [see 14 CCR Section 18982(a)(36)], including special districts.

Q: What if a jurisdiction already has procurement programs in place? Can that procurement count towards meeting the SB 1383 procurement requirements?

If a jurisdiction is already procuring recovered organic waste products that meet the requirements outlined in 14 CCR Section 18993.1, these can count towards a jurisdiction’s procurement target. A jurisdiction is not required to prove additional procurement beyond any other mandatory or voluntary procurement programs they already have in place, as long as their target is met.

For example, a city may use mulch in a city landscaping project or give away compost to their residents and these end uses may count towards the city’s SB 1383 procurement target, regardless of whether these are already required by existing city programs.

Similarly, a jurisdiction may count eligible renewable gas or electricity products procured from a utility towards their SB 1383 procurement target, regardless of whether that utility has to meet separate renewable energy procurement requirements, such as through the Bioenergy Market Adjusting Tariff (BioMAT) program, or whether the jurisdiction was already procuring eligible renewable energy before the implementation of SB 1383.

Q: Are there enough organics processing facilities in operation to accommodate the quantity of organic waste diverted under SB 1383 and produce the quantity of products that must be procured by jurisdictions?

Unfortunately, California does not currently have sufficient organics recycling capacity to accommodate the more than 27 million tons of organic waste that need to be diverted from landfills in the year 2025 to meet the goals outlined in SB 1383. California will need to build 50-100 new or expanded organic waste processing facilities to accommodate this organic waste.

However, while expanded organics recycling infrastructure is still needed to accommodate newly diverted organic waste, there is sufficient infrastructure currently in operation to produce the quantity of products that must be procured by jurisdictions beginning January 1, 2022. In 2017, approximately 6 million tons of organic waste were processed by composting and in-vessel digestion facilities in California. This is more than enough to produce the quantity of recovered organic waste products necessary to meet the procurement requirements statewide.

The SB 1383 Infrastructure and Market Analysis Report provides more information on the status of currently available infrastructure within California. The primary driver of infrastructure development within the state is the availability of feedstock materials, which will be in abundance as a result of SB 1383. The procurement requirements are designed to provide the regulatory certainty needed to support investment in organics recycling infrastructure and drive market demand for the recovered organic waste products produced by these facilities.

Q: Do recovered organic waste products that a jurisdiction procures need to be sourced from the jurisdiction's generated organic waste, produced in the jurisdiction, or used within the jurisdiction?

No, jurisdictions are not required to procure recovered organic waste products made from "their" organic waste to satisfy the procurement requirements, nor do the products need to be produced or consumed within their jurisdiction. A jurisdiction may purchase or otherwise acquire products from any entity, or produce it themselves, and use these toward their procurement target, provided the end products meet the 14 CCR Section 18982(60) definition of "recovered organic waste products." The jurisdiction may use the end products in a way that best fits local needs, which may include use or free distribution within their jurisdiction or other jurisdictions.

Q: Can regional agencies and special districts coordinate procurement requirements on behalf of their individual member jurisdictions?

Nothing in the regulatory text prohibits a regional agency or special district from coordinating resources for procurement. Jurisdictions are encouraged to work with special districts and similar entities to meet the jurisdiction's procurement targets, provided this is accomplished through a direct service provider contract or written agreement.

Special districts or regional agencies may be considered direct service providers to the jurisdiction, provided that a contract or other written agreement, such as a memorandum of understanding (MOU), is in place to prove the direct service provider relationship. Without said contract or agreement, any entities that are not part of the jurisdiction's departments or divisions would not, by default, be considered part of the jurisdiction, nor would their procurement count towards the jurisdiction's procurement target.

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Procurement Target

Q: How is a jurisdiction's procurement target calculated?

A jurisdiction's procurement target will be calculated by multiplying the per capita procurement target (0.08 tons of organic waste per California resident per year) by the jurisdiction population, as reported in the most recent annual data by the California Department of Finance (DOF): Population Estimates for Cities, Counties, and the State [see 14 CCR Section 18993.1(c)]. The resulting procurement target can then be multiplied by the recovered organic waste product conversion factors included in 14 CCR Section 18993.1(g) of the regulations to obtain the quantities of recovered organic waste products that would need to be procured to meet the procurement target.

See the hypothetical example below of such calculations:

A hypothetical jurisdiction with a population of 100,000 would use the following equation to derive their annual procurement target and the quantities of recovered organic waste products they would need to procure to meet this target.

Procurement target = 100,000 residents x 0.08 tons of organic waste/resident/year = 8,000 tons of organic waste/year:

- If 100% transportation fuel from anaerobic digestion: 8,000 x 21 DGE = 168,000 DGE
- If 100% electricity from anaerobic digestion: 8,000 x 242 kWh = 1,936,000 kWh
- If 100% heating from anaerobic digestion: 8,000 x 22 therms = 176,000 therms
- If 100% biomass conversion electricity: 8,000 x 650 kWh =5,200,000 kWh
- If 100% compost (tons): 8,000 x 0.58 tons = 4,640 tons
- If 100% compost (cubic yards): 8,000 x 1.45 cubic yards = 11,600 cubic yards
- If 100% mulch: 8,000 x 1 ton = 8,000 tons

The calculated product totals above assume the jurisdiction would fulfill 100 percent of their procurement target through the procurement of one single product (e.g., 168,000 DGE of transportation fuel or 4,640 tons of compost). However, the procurement requirements are designed to provide flexibility and a jurisdiction may instead procure a mix of products to fulfill 100 percent of the procurement target.

Q: How can a jurisdiction meet their procurement target? Are they required to purchase recovered organic waste products? Can the sale of recovered organic waste products count towards a jurisdiction's procurement target?

Jurisdictions can meet their procurement target through their own direct procurement or through a direct service provider working on the jurisdiction's behalf. Direct procurement involves a jurisdiction's procurement of products for their own use or giveaway. Procurement through a direct service provider requires that the jurisdiction have a written contract or agreement with the direct service provider to procure recovered organic waste product(s) on behalf of that jurisdiction.

Procurement is achieved through the end use or donation of recovered organic waste products. These products do not have to be obtained solely through purchasing. A jurisdiction may also produce or otherwise acquire products (e.g., free delivery or free distribution from a hauler or other entity via an agreement) and subsequently use or donate those products to meet their procurement target. However, 14 CCR Section 18993.1(e)(1) limits procurement to "use or giveaway," and does not include the sale of products.

The intent is to encourage the demand and use of recovered organic waste products, as this is where most of the environmental benefits are realized. Procuring compost and then selling it via a third party does not meet the intent of these regulations, which is to build markets for the use of recovered organic waste products.

While a direct service provider cannot sell products on the jurisdiction's behalf for procurement credit, the regulations do not prohibit a jurisdiction from hiring a broker to procure and use products on the jurisdiction's behalf.

Q: Does a jurisdiction have to procure specific products, such as compost and mulch, to meet their procurement target?

No, the regulations provide flexibility for jurisdictions to choose the recovered organic waste product(s) that best fit local needs to meet their procurement target. A jurisdiction has the option to meet their procurement target by procuring a sufficient quantity of one product or a mix of products.

Q: What if the jurisdiction's calculated procurement target exceeds the quantity of recovered organic waste products that they are able to use?

The procurement requirements are designed to build markets for recovered organic waste products, which is an essential component of achieving the organic waste diversion targets mandated by SB 1383. The regulations specify a wide variety of eligible recovered organic waste products that may be procured in order to give jurisdictions flexibility to choose products that fit their local needs. However, CalRecycle also recognizes that, in some extraordinary cases, the procurement target may exceed a jurisdiction's need for recovered organic waste products.

14 CCR Section 18993.1(j) provides jurisdictions with a method to lower the procurement target to ensure that a jurisdiction does not procure more recovered organic waste products than it can use by showing that the amount of fuel, electricity, and gas for heating applications procured in the previous year is lower than their procurement target.

Q: 14 CCR Section 18993.1(j) provides jurisdictions with a method to lower their procurement target to ensure that a jurisdiction does not have to procure more recovered organic waste products than it can use. They can do this by demonstrating that their previous year's procurement of energy products (i.e., electricity, transportation fuel, and gas for heating applications) is lower than their procurement target for that reporting year. Why is a jurisdiction's previous year's procurement of compost and mulch not included in this method?

Energy products—such as electricity, heat, and transportation fuel—have readily available organic waste conversion factors. Ineligible energy products can be quantified relatively easily and replaced with an eligible recovered organic waste product (e.g., replacement of fossil-based natural gas with renewable gas derived from organic waste generated within California). Compost and mulch, however, were not included in this method to lower a jurisdiction's procurement target, due to the potential difficulty of determining conversion factors for comparable products to compost or mulch (e.g., liquid chemical fertilizers compared to solid compost).

The focus on energy products is intended to simplify the process by which a jurisdiction can lower its procurement target. Although a jurisdiction may only use their previous year's procurement of energy products to lower their target, the jurisdiction can still meet its lowered target with any recovered organic waste products, including compost and mulch.

Q: When will jurisdictions be notified of their procurement target, so that they may plan for the procurement of recovered organic waste products?

CalRecycle will calculate the annual recovered organic waste product procurement target for each jurisdiction and notify each jurisdiction of this target annually, beginning on or before January 1, 2022.

However, for planning purposes, the jurisdiction may choose to make these calculations on their own to derive their procurement target and determine the quantities of recovered organic waste products needed to meet this target.

CalRecycle has created a Procurement Calculator Tool to assist jurisdictions with making these determinations, which will be made available soon, but jurisdictions may also make these calculations on their own by using the formula set forth in the regulations (see FAQ #6 for an example of these calculations).

It is important to note that calculations made now will be preliminary, as official procurement targets will take into account newer population data than is currently available. The jurisdiction procurement targets for the first year of compliance, 2022, will utilize the January 1, 2021 population

estimates reported by the California Department of Finance (DOF) (Population Estimates for Cities, Counties, and the State), which will be released on May 1, 2021. The procurement targets will be recalculated every five years to reflect population changes.

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General Product Eligibility

Q: What products can a jurisdiction procure to meet its procurement target?

To meet its procurement target, a jurisdiction may procure one or more of the following eligible recovered organic waste products:

- Compost;
- Mulch;
- Renewable gas used for transportation fuel, electricity, or heating applications; and/or
- Electricity from biomass conversion.

These products must meet the requirements and standards of the regulations in order to count towards meeting the jurisdiction's procurement target [see 14 CCR Section 18993.1]. Eligible recovered organic waste products are limited to those that are derived from California, landfill-diverted recovered organic waste processed at a permitted or otherwise authorized operation or facility.

For example, compost may be eligible for procurement if it is produced at an authorized compostable material handling operation or facility or at a permitted in-vessel digestion facility that composts on-site. Similarly, a publicly owned treatment works (POTW) that is authorized to co-digest organic waste may produce renewable gas eligible for procurement if the organic waste is received from a compostable material handling operation or facility, landfill, or transfer/processing facility or operation.

This is necessary to ensure that the procurement and use of the end product (e.g., compost or renewable gas) actually helps reduce the disposal of organic waste and supports the goals of SB 1383. See 14 CCR Section 18993.1 for additional requirements for recovered organic waste product eligibility.

Q: If a jurisdiction or its hauler produces its own recovered organic waste products (e.g., compost) to use towards toward its procurement target, do those products have to meet the same standards as products they might purchase elsewhere?

To count towards the jurisdiction's procurement target, the recovered organic waste products procured must meet the requirements outlined in 14 CCR Section 18993.1 of the regulations. The method of obtaining a product—whether it be produced, purchased, or acquired in another way by the jurisdiction—does not change the standards and requirements that the recovered organic waste products must meet.

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Compost and Mulch

Q: Can biosolids or digestate produced from anaerobic digestion count as compost and as eligible recovered organic waste products for procurement?

A: Biosolids and/or digestate from anaerobic digestion may count as compost, an eligible recovered organic waste product for procurement, if these materials have been composted and meet the definition of compost. Compost is an eligible recovered organic waste product as long as the final product meets the definition of compost, per 14 CCR Section 17896.2(a)(4), and is produced either at a compost operation or facility or large volume in-vessel digestion facility that composts on-site [see 14 CCR Section 18993.1(f)(1)(A) and (B)]. Biosolids and/or digestate that do not meet the compost definition or have not undergone composting at these types of facilities or operations will not count towards the procurement target.

Q: If a jurisdiction chips green material on-site at its parks, would that mulch product be eligible to use toward a jurisdiction's procurement target?

No, green waste chipped on site at a city park to produce mulch would not count towards the procurement target. Mulch may count towards a jurisdiction's procurement target if it meets the requirements outlined in 14 CCR Section 18993.1(f)(4) of the regulations, which require, among other things, that the mulch be produced at specific permitted facilities and comply with land application standards. This is to ensure that material eligible for procurement is derived from solid waste diverted from landfill disposal consistent with the purpose of SB 1383 and is used in a way that complies with environmental health standards.

Q: Why can't mulch derived from chipping and grinding facilities or operations count toward a jurisdiction's procurement target?

Chipping and grinding facilities and operations are excluded because the feedstock entering these facilities is not typically landfilled, and therefore does not contribute to organic waste being diverted from landfill disposal consistent with the intent of SB 1383.

As defined in 14 CCR Section 17852(10), chipping and grinding facilities are limited to handling "green material." "Green material" is defined in 14 CCR Section 17852(21) as "any plant material except food material and vegetative food material that is separated at the point of generation…," which in turn is defined in 14 CCR Section 17852(35) as "material separated from the solid waste stream by the generator of that material." Therefore, material entering a chipping and grinding facility or operation is not considered organic waste diverted from a landfill.

Mulch is an eligible recovered organic waste product for procurement, provided it is derived from certain solid waste facilities [see 14 CCR Section 18993.1(f)(4)(B)]. The intent is to ensure that these materials are diverted from a landfill in order to be consistent with the statutory requirements of SB 1383.

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Renewable Gas

Q: Why can't all of the gas produced at publicly owned treatment works (POTWs) count toward the recovered organic waste product procurement target? Why is it limited to only the gas produced from the digestion of organic waste diverted from landfills?

Renewable gas derived solely from sewage is ineligible for meeting the procurement target because a POTW is not a solid waste facility and therefore not in the scope of the legislative intent of SB 1383. Sewage is also not typically destined for a landfill, so its use does not help achieve SB 1383's landfill diversion goals.

However, Title 14 explicitly authorizes POTWs to accept food waste without a solid waste facility permit, making it functionally similar to incentivizing biomethane from a solid waste facility. Therefore, it is justifiable to allow the portion of renewable gas resulting from the digestion of food waste at POTWs to count toward the procurement targets, provided the POTW accepts food waste from specified facilities or operations [see 14 CCR Section 18993.1(h)(1)] and meets all other applicable requirements in 14 CCR Section 18993.1.

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Recycled-Content Paper Procurement

Q: Is there a procurement target for recycled-content paper purchases, as there is for recovered organic waste product procurement?

No, there is no quantified procurement target for recycled-content paper purchases. Instead, there is a blanket requirement (see 14 CCR Section 18993.3) that purchases of paper products and printing and writing paper be consistent with existing Public Contract Code (PCC) requirements regarding recycled content (PCC Sections 22150-22154) and be eligible to be labeled with an unqualified recyclable label as defined by the Federal Trade Commission [16 Code of Federal Regulations (CFR) Section 260.12 (2013)].

PCC requires that jurisdictions purchase recycled content paper products and printing and writing paper, when available at no greater cost than nonrecycled products (although price preferences by a jurisdiction are not prohibited). Recycled content paper products and printing and writing paper are defined as consisting of at least 30 percent, by fiber weight, postconsumer fiber.

The regulations also requires that paper purchases must be eligible to be labeled with an unqualified recyclable label as defined in 16 CFR Section 260.12 of the Federal Trade Commission's "Guides for the Use of Environmental Marketing Claims" (as known as "Green Guides") [see 14 CCR Section 18993.3].

According to the Green Guides, marketers can make unqualified recyclable claims when recycling facilities are available to at least 60 percent of consumers or communities where the item is sold. This requirement supports the organic waste reduction goals established by SB 1383 by helping to divert paper products and printing and writing paper purchased by jurisdictions from the landfill and recycle them at the end of their useful life.

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Last updated: December 31, 2020
Short-Lived Climate Pollutants (SLCP): Organic Waste Methane Emissions Reductions:
https://www.calrecycle.ca.gov/Organics/SLCP/
Contacts: Organic Waste Methane Emissions Reductions SLCP.organics@calrecycle.ca.gov