



Final Environmental Impact Report

SB 1383 Regulations Short-Lived Climate Pollutants: Organic Waste Methane Emission Reduction

Contractor's Report Produced under Contract by:

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Prepared for:



Department of Resources Recycling and Recovery

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The Draft EIR assesses potential environmental effects that may result from the implementation of the CalRecycle's proposed regulations on SLCP Organic Waste Methane Emission Reduction Requirements. The Draft Program EIR evaluates and describes, on a statewide, program-level basis, the potential environmental impacts associated with the implementation of the regulations, including the expected construction and operation of organic waste recovery facilities, identifies those impacts that could be significant, and presents mitigation measures, which, if adopted by CalRecycle or other responsible agencies, could avoid or minimize these impacts.

Table of Contents

List of Abbreviations	iii
1. Introduction	1-1
1.1. Background.....	1-1
1.2. Overview of the Proposed Regulation.....	1-2
1.3. Overview of the Draft EIR	1-3
1.4. Organization of This Final EIR	1-4
1.5. List of Commenters.....	1-4
2. Comments and Responses	2-1
2.1. Master Responses	2-1
2.2. Agencies, Organizations, and Businesses.....	2-15
2.3. Individuals.....	2-192
2.4. Public Hearing	2-192
3. Corrections and Revisions to the Draft EIR	3-1
3.1. Revisions to the Executive Summary.....	3-1
3.2. Revisions to Section 2.1 Overview of the Proposed Regulation	3-3
3.3. Revisions to Section 2.3 Summary of the Proposed Regulation Changes	3-4
3.4. Revisions to Section 2.5 Reasonably Foreseeable Compliance Responses	3-6
3.5. Revisions to Section 3.3., Air Quality, of the Draft EIR	3-6
3.6. Revisions to Section 3.8, Greenhouse Gas and Climate Change.....	3-9
3.7. Revisions to Section 3.13, Transportation, of the Draft EIR.....	3-9
3.8. Revisions to Section 3.14, Utilities and Service Systems, of the Draft EIR.....	3-11
3.9. Revisions to the Appendix A of the Draft EIR	3-12
4. Report Preparers	4-1
4.1. CalRecycle (Lead Agency)	4-1
4.2. Ascent Environmental, Inc. (CEQA Consultant).....	4-1
4.3. Integrated Waste Management Consulting, LLC (Organics Industry Expert).....	4-2
5. References	5-1

Appendices

Appendix A – Transcript from Public Hearing on August 20, 2019

Appendix B – Comment Letters and Transcript

Appendix C – VMT Estimates to Negate the GHG Benefits of the Proposed Regulation

Appendix D – Comment Letter Tables Formatted for ADA Accessibility Purposes

Tables

Table 1-1 List of Commenters..... 1-5

List of Abbreviations

2017 Scoping Plan California's 2017 Climate Change Scoping Plan

AAQA	Ambient Air Quality Assessment
AB	Assembly Bill
AD	anaerobic digestion
APA	California Administrative Procedure Act
APCD	Air Pollution Control District
BACT	Best available control technology
BAU	Business-as-usual
BMP	Best management practice
CAA	Clean Air Act
CAAA	Clean Air Act Amendments of 1990
CAAQS	California ambient air quality standards
CalEPA	California Environmental Protection Agency
CEQA	California Environmental Quality Act
CalRecycle	California Department of Resources Recycling and Recovery
CAPCOA	California Air Pollution Control Officers Association
CARB	California Air Resources Board
CASP	Covered Aerated Static Piles
CBC	California Building Code
CCC	California Compost Coalition
CCR	California Code of Regulations
CDFW	California Department of Fish and Wildlife
CO	carbon monoxide
CPUC	California Public Utilities Commission
CERF	Compost Emissions Reduction Factor
CWRA	California Waste and Recycling Association
Draft EIR	Draft environmental impact report
DWR	California Department of Water Resources
EIR	Environmental impact report
ERCs	Emission reduction credits
EPS	Essential public service

FHWA	Federal Highway Administration
GHG	Greenhouse gases
GWP	Global warming potential
HSC	California Health and Safety Code
HRA	Health risk assessment
IEPR	Integrated Energy Policy Report
ISOR	Initial Statement of Reasons
LEA	Local Enforcement Agency
LFG	Landfill gas
LFGTE	Landfill gas to energy operations
MMRP	mitigation monitoring and reporting program
MTCO _{2e}	metric tons of carbon dioxide equivalent
MMTCO _{2e}	million metric tons of carbon dioxide equivalent
MRF	material recovery facilities
NAAQS	national ambient air quality standards
NO ₂	nitrogen dioxide
NOP	Notice of Preparation
NO _x	oxides of nitrogen
NPDES	National Pollutant Discharge Elimination System
OIMP	Odor Impact Minimization Plan
OPR	California Office of Planning and Research
PM ₁₀	particulate matter with an aerodynamic diameter of 10 micrometers or less)
PM _{2.5}	fine particulate matter with an aerodynamic diameter of 2.5 micrometers or less
PRC	Public Resources Code
RNG	renewable natural gas
ROG	reactive organic gases

ROM	remnant organic material
RPS	renewable portfolio standard
SB	Senate Bill
SCAQMD	South Coast Air Quality Management District
SGMA	Sustainable Groundwater Management Act
SJAB	San Joaquin Air Basin
SJVAPCD	San Joaquin Valley Air Pollution Control District
SLCP	short-lived climate pollutant
SSO	source-separated organic waste
SRIA	Standardized Regulatory Impact Assessment
SWRCB	State Water Resource Control Board
TAC	toxic air contaminant
USACE	U.S. Army Corps of Engineers
USDA	U.S. Department of Agriculture
USFWS	U.S. Fish and Wildlife Service
VMT	vehicle miles of travel
VOC	volatile organic compound
WDR	Waste Discharge Requirements
WHO	World Health Organization
WWTP	wastewater treatment plant

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1. Introduction

As the lead agency in accordance with the requirements of the California Environmental Quality Act (CEQA) and the State CEQA Guidelines (California Code of Regulations [CCR] Section 15132), California Department of Resources Recycling and Recovery (CalRecycle) has prepared this Final Environmental Impact Report (Final EIR). This Final EIR contains public comments and responses to comments raising environmental issues received on the Draft EIR for the SB 1383 Short-Lived Climate Pollutants: Organic Waste Methane Emissions Reductions Regulation (proposed regulation). The Final EIR consists of the Draft EIR and this document, which includes comments on the Draft EIR, responses to those comments, and revisions to the Draft EIR resulting from responses to comments or information provided by CalRecycle.

1.1. Background

The California Global Warming Solutions Act of 2006 (Assembly Bill [AB] 32, Nunez, Chapter 488, Statutes of 2006) declares that global warming poses a serious threat to the economic well-being, public health, natural resources, and environment of California and charges the California Air Resources Board (CARB) with “monitoring and regulating sources of emissions of greenhouse gases that cause global warming in order to reduce emissions of greenhouse gases (GHGs).” AB 32 provides initial direction on creating a comprehensive multi-year program to limit California’s GHG emissions to 1990 levels by 2020 and initiated the transformations required to achieve the State’s long-range climate objectives. Since then, Senate Bill (SB) 32 (Pavley, Chapter 249, Statutes of 2016) was enacted, which set a statewide GHG emission target of 40 percent below the 1990 level by 2030.

One specific requirement of AB 32 is to prepare a “scoping plan” for achieving the maximum technologically feasible and cost-effective GHG emission reductions by 2020. CARB has prepared and adopted the Scoping Plan with multiple updates. Developing a Short-Lived Climate Pollutant (SLCP) Reduction Strategy is identified in the First Update to the Climate Change Scoping Plan as one of the recommended actions to achieve required GHG emission reductions (CARB 2014). The SLCP Reduction Strategy addresses black carbon, methane, and hydrofluorocarbons, which are powerful climate forcers and harmful air pollutants with an abbreviated atmospheric lifespan compared to other known climate pollutants (e.g., carbon dioxide). GHG reductions are important to achieving the GHG targets called for by AB 32 and SB 32.

SB 605 (Lara, Chapter 523, Statutes of 2014) directed CARB to develop a comprehensive SLCP Reduction Strategy, in coordination with other State agencies and local air quality management and air pollution control districts, to reduce emissions of GHGs. SB 1383 (Lara, Chapter 395, Statutes of 2016) directed CARB to approve and begin implementing the plan by January 1, 2018, and set statewide 2030 emission reduction targets for methane, hydrofluorocarbons, and anthropogenic black carbon. The SLCP Reduction Strategy, approved in March 2017, includes directives for addressing landfill methane emissions via reductions in organic material disposal. The proposed regulation implements these directives.

As required by SB 1383, CalRecycle, in consultation with CARB, is charged with developing regulations to reduce disposal of organic waste by 50 percent of 2014 levels by 2020 and 75 percent by 2025. In addition, at least 20 percent of the edible food in the organic waste stream must be recovered to feed people by 2025. Materials that cannot be effectively recovered for human consumption would be directed to organic waste recovery facilities to make useful products, including compost, fertilizer, fuel, or energy. These facilities may be developed at existing landfills, other waste management sites, or at new stand-alone sites. These regulations must take effect on or after January 1, 2022.

1.2. Overview of the Proposed Regulation

The proposed regulation would direct actions to achieve the statewide organic waste disposal reduction and edible food recovery targets. CalRecycle, in consultation with CARB, has developed a regulatory approach that requires jurisdictions and other regulated entities to implement a suite of programs and comply with specific requirements to achieve the statute's statewide mandates. The proposed regulation would include provisions related to the following types of activities:

- collection, with a focus on mandatory source-separated collection of organic waste;
- edible food recovery, with a focus on commercial edible food generators, such as wholesale food vendors, supermarkets, grocery stores, and restaurants with 250 or more seats or a total facility size equal to or greater than 5,000 square feet;
- recovery standards at facilities processing organic waste and methods for reducing contamination and the presence of organic waste in disposal streams;
- infrastructure planning, with a focus on regional coordination to plan for future organic waste recovery capacity and edible food recovery operations;
- procurement at the local level of compost; mulch; renewable gas used for fuel for transportation, electricity, heating applications; electricity from biomass conversion; and recyclable paper products;
- reporting requirements, which are built on existing systems for reporting to CalRecycle; and
- enforcement, with the primary requirements for mandatory enforcement being placed at the local level, but with CalRecycle also having an expanded enforcement role.

The proposed regulation would apply to approximately 540 jurisdictions in California; millions of households; thousands of businesses; hundreds of haulers and food recovery organizations; hundreds of material recovery facilities (MRFs), processors, recyclers, and landfills; dozens of local government environmental enforcement agencies; and all schools, federal agencies, and State agencies. The proposed regulation broadly defines organic waste as follows (Section 18982[a][46]):

Organic waste includes solid waste containing material originated from living organisms and their metabolic waste products, including, but not limited to, food, green material (i.e., yard trimmings and yard waste), landscape and pruning waste, organic textiles and carpets, lumber, wood, paper products, printing and writing paper, manure, biosolids, digestate (solid, semi-solid, or liquid residue produced in digesters), and sludges (solid, semi-solid, or liquid residue generated during the treatment of domestic sewage in a treatment works).

Organic wastes make up approximately 67 percent of the total disposal stream (CalRecycle 2015, 2019). This total includes organic waste currently sent to landfills for uses considered “diversion” or “beneficial reuse” under previous statutes. These activities include alternative daily cover, alternative intermediate cover, and other beneficial reuse (material used for buttressing, fill or other uses).

1.3. Overview of the Draft EIR

The Draft EIR contains the following environmental analysis sections:

- Aesthetics;
- Agricultural and Forestry Resources;
- Air Quality;
- Archaeological, Historical, and Tribal Cultural Resources;
- Biological Resources;
- Energy;
- Geology and Soils;
- GHG Emissions and Climate Change;
- Hazards and Hazardous Materials;
- Hydrology and Water Quality;
- Land Use and Planning;
- Noise;
- Transportation;
- Utilities and Service Systems; and
- Wildfire.

CalRecycle used several methods to solicit input related to the Draft EIR.

A Notice of Preparation (NOP) of the Draft EIR was circulated on December 11, 2018 to initiate scoping. A scoping meeting was held on Tuesday, January 22, 2019; however, because of technical difficulties, the webcast was not available for a portion of the meeting and online participation was not fully available. To provide full access to this process, a second scoping meeting was held on January 31, 2019. CalRecycle staff accepted comments online and in person during the more than 45-day public scoping period.

The Draft EIR was released on July 30, 2019 for public review and comment for a 45-day period (ending September 13, 2019). The Draft EIR was submitted to the California Clearinghouse; the Draft EIR and/or a Notice of Availability (NOA) was distributed to public agencies (including potential responsible and trustee agencies), interested parties, and organizations; and the Draft EIR and all supporting documents were made

available for review during normal business hours at CalRecycle's offices at 1001 I Street in Sacramento. The Draft EIR was also available for review online at: <https://www.calrecycle.ca.gov/Laws/Rulemaking/SLCP/>.

A public hearing was held on August 20, 2019 at CalRecycle's offices to receive comments on the Draft EIR. A transcript of the public hearing is included as Appendix A to this Final EIR.

1.4. Organization of This Final EIR

This Final EIR/EIS is organized as follows:

- **Chapter 1, "Introduction,"** provides background information and an overview of the proposed regulation, an introduction and overview of the Draft EIR and Final EIR, describes the background and organization of the Final EIR, lists all parties that submitted written comments on the Draft EIR during the public review period, and summarizes the public hearing held during this period.
- **Chapter 2, "Comments and Responses,"** contains reproduced comments from written comments letters received during the public review period, and oral comments on the EIR heard at the public hearing, and responses to those comments raising environmental issues. The chapter begins with a set of master responses that were prepared to comprehensively respond to multiple comments that raised similar issues. A reference to the master response is provided, where relevant, in responses to the individual comment.
- **Chapter 3, "Corrections and Revisions to the Draft EIR,"** presents revisions to the Draft EIR text made in response to comments, or by CalRecycle to amplify, clarify, or make minor modifications or corrections. Changes in the text are signified by strikeouts where text is removed and by underline where text is added.
- **Chapter 4, "Report Preparers,"** identifies the CalRecycle contacts and preparers of the Final EIR.
- **Chapter 5, "References,"** identifies the documents used as sources for the analysis in the Final EIR.

1.5. List of Commenters

Tables 1-1, 1-2, and 1-3 identify the numerical designation for each comment letter received on the Draft EIR, its author, and the date. The letters are organized alphabetically within groups that include agencies, organizations, and business; individuals; and the public hearing on August 20, 2019. The comment letters are reproduced in their entirety in Appendix B; individual comments are indicated by a line bracket and an identifying number in the margin of the comment letter. The individual bracketed comments are extracted and reproduced in Chapter 2, "Comments and Responses," followed by a written response.

Table 1-1 List of Commenters: Agencies, Businesses, and Organizations

Letter/ Hearing #	Commenter	Date of Comment
1	California Compost Coalition	8/20/19
2	California Compost Coalition (resubmitted on 9/13/19)	9/19/19
3	California Waste and Recycling Association (includes SWAPE comment letter)	9/13/19
4	Chemol Company, Inc.	8/21/19
5	Chemol Company, Inc.	8/22/19
6	Churchwell White LLP (representing Western Placer Waste Management Authority)	9/13/19
7	Compology	9/13/19
8	County of Placer	9/13/19
9	County of Sacramento	9/12/19
10	Environmental Diversion Solutions	8/20/19
11	Environmental Health Trust	9/13/19
12	Kern County Public Works Department	9/13/19
13	Los Angeles County Solid Waste Management Committee/Integrated Waste Management Task Force	9/11/19
14	Placer County Air Pollution Control District	9/13/19
15	Recology, Inc.	9/13/19
16	Rural County Representatives of California	9/13/19
17	San Joaquin Valley Air Pollution Control District	9/12/19
18	Sanitation Districts of Los Angeles County (original submittal 9/13/19; resubmitted with editorial correction on 9/16/19)	9/16/19
19	Santa Barbara County Resource Recovery & Waste Management Division	9/13/19
20	Solid Waste Association of North America	9/13/19
21	South Coast Air Quality Management District	9/13/19
22	Waste Zero, Inc.	9/13/19

Table 1-2 List of Commenters: Individuals

Letter/ Hearing #	Commenter	Date of Comment
23	Arthur Boone	8/20/19

Table 1-3 List of Commenters: Public Hearing

Letter/ Hearing #	Commenter	Date of Comment
24	Transcript from August 20, 2019 public hearing	8/20/19

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2. Comments and Responses

This chapter contains reproduced individual comments received during the public review period for the Draft EIR, which concluded on September 13, 2019. In conformance with Section 15088(a) of the State CEQA Guidelines, written responses were prepared addressing comments on environmental issues received from reviewers of the Draft EIR.

Tables 1-1, 1-2, and 1-3 in Chapter 1, “Introduction,” present the list of commenters, including the numerical designation for each comment letter received, the author of the comment letter, and the date of the comment letter.

A public hearing was held, as described in Chapter 1, to receive input from agencies and the public on the Draft EIR. A transcript of the hearing was prepared and is included as Appendix A to this document.

The oral and written individual comments received on the Draft EIR and the responses to those comments are provided below. The individual written and oral comments are reproduced and are followed by a written response.

Additionally, several responses to individual comments note that a change to the text of the Draft EIR was made. Changes in the text are signified by ~~strikeouts~~ where text is removed and by underline where text is added. If you need assistance reading and understanding where deletions or additions are shown please contact the CalRecycle Office of Public Affairs: opa@calrecycle.ca.gov.

2.1. Master Responses

Several comments raised similar and/or related issues. Rather than responding individually, master responses have been developed to address the comments comprehensively. A reference to the master response is provided, where relevant, in responses to individual comments. Three master response topics address the adequacy of the analyses related to greenhouse gas (GHG) emissions, vehicle miles traveled (VMT), and alternatives.

2.1.1. Master Response 1 – Adequacy of the GHG Emissions Analysis

Numerous comments were submitted during the public comment period related to the GHG analysis prepared for the proposed regulation. Comments addressed the adequacy of the Compost Emissions Reduction Factor (CERF) model and GHG emissions related to anticipated changes in VMT. These topics are addressed below. Master Response 2 addresses the programmatic analysis of VMT presented in the Draft EIR.

Use of the CERF Model

Comments on the GHG emission calculations related to the adequacy of using the CERF model. Various concerns were expressed related to the factors used to develop the model and the “final draft” status of the model.

The CERF model was developed by CalRecycle and the California Environmental Protection Agency (CalEPA). The *Method for Estimating Greenhouse Gas Emissions Reductions from Diversion of Organic Waste from Landfills to Compost Facilities, Final Draft, May 2017* (CARB and CalEPA 2017) describes the basis of the CERF model. This paper details various factors associated with compost emissions, including: transportation emissions, process emissions, fugitive emissions, soil erosion, avoided landfilling emissions, fertilizer, and herbicide use (see Impact 3.8-3 beginning in the fifth paragraph on page 3.8-17 of the Draft EIR).

The calculations presented in the Draft EIR were based on a modified version of the CERF model. As described in Impact 3.8-3 of the Draft EIR, the regulation would reduce overall emissions of GHGs, particularly methane. This is summarized beginning in the last paragraph on page 3.8-17 of the Draft EIR:

...CalRecycle and ARB employ a modification to the CERF that results in a more conservative estimate of emission reductions. The CERF model estimates overall average reduction of 0.54 MTCO₂e per 1 ton. To more conservatively estimate this reduction, CalRecycle has adjusted the CERF model to not include emissions reductions achieved through compost application. For the purposes of the regulation and this analysis, CalRecycle assumes a 0.3 MTCO₂e reduction per 1 ton of feedstock diverted from a landfill to a composting facility (CalRecycle 2019a:37–40 and CalRecycle 2019b).

Although GHGs would be emitted from increased VMT and operation of organic waste recovery facilities, the existing CERF calculations, and the modified calculations employed in the regulation demonstrate that the net reductions from avoided landfill emissions alone exceed operation-related emissions from composting, the reductions are even greater if application benefits (e.g., applying compost to land) are included. These numbers represent very conservative emission reduction estimates to avoid overstating benefits. Regardless, it is reasonable to expect that overall emissions of GHGs, particularly methane, would be reduced for the reasons stated above. Therefore, long-term, operation-related GHG emission impacts would be **less than significant**.

As discussed on page 39 of the Initial Statement of Reasons (ISOR) prepared for the proposed regulation and in Impact 3.8-3 of the Draft EIR, this 0.3 metric ton carbon dioxide equivalent (MTCO₂e)-reduction per one ton of diverted organic waste is consistent with the calculations performed in the Short-Lived Climate Pollutant (SLCP) Reduction Strategy, which estimates that through the application of measures contained in the SLCP Reduction Strategy, a statewide GHG reduction of 4 million metric ton carbon dioxide equivalent (MMTCO₂e) would be achieved by 2030 (CalRecycle 2019a). The GHG emission factor for mixed municipal solid waste of 0.223 MTCO₂e was used to estimate the approximate emissions reductions from meeting organic waste reduction targets set forth in SB 1383 (CalRecycle 2019a). The 0.3 MTCO₂e is marginally higher than what is used to develop the SLCP Reduction Strategy targets, as the compostable organic fraction of mixed municipal solid waste comprises approximately 40 percent of the waste stream and has a higher methane emission potential than other municipal

solid wastes. As stated previously, this estimate is more conservative than that of the CERF model, as it accounts only for the avoided methane emissions from diverting organics from landfills, rather than including the benefits associated with land application of compost products. As a result, the climate change benefits of the proposed regulation are likely understated in the Draft EIR. Please see responses to comments 3-2 and 3-8 for additional information related to emissions calculations.

The modified CERF model was developed by experts associated with the California State Agencies: CalRecycle, California Environmental Protection Agency (CalEPA), and the California Air Resources Board (CARB). The basis of the model assumptions and calculations presented in the Draft EIR, consist of substantial evidence, as defined by CEQA: “enough relevant information and reasonable inferences from ... information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached (State CEQA Guidelines Section 15384[a]).” Furthermore, the analysis was based on facts, reasonable assumptions predicated upon facts, and expert opinions supported by facts, which is consistent with the State CEQA Guidelines definition of substantial evidence (State CEQA Guidelines Section 15384[b]). The current version of the CERF model, as modified, provides the best available analysis tool to evaluate the GHG emissions effects of the proposed regulation at the time of release of the Draft EIR. Thus, reliance on the CERF model is appropriate for the evaluation of GHG emissions associated with the proposed regulation.

With respect to claims specific to GHG emissions calculations being unsubstantiated see response to comment 3-5. Furthermore, the commenters have not provided any evidence that the proposed regulation would increase overall GHG emissions. The substantial evidence already in the record establishes that, even under the conservative scenario analyzed by staff, the proposed regulation would reduce GHG emissions, consistent with the goals of Senate Bill (SB) 1383.

GHG Emissions Related to Changes to VMT

As discussed in Section 3.8, “Greenhouse Gas Emissions and Climate Change,” and in greater detail in Master Response 2, “Adequacy of the VMT Analysis,” the proposed regulation would likely result in changes or increased VMT as compared to baseline conditions. Calculating the level of VMT resulting from implementation of the proposed regulation is speculative at this programmatic level of analysis; however, the GHG emission reductions from organic waste diversion can be estimated with a higher degree of certainty. CalRecycle estimates that from a 2019-2030 cumulative perspective, 289 million tons of organic waste would be recovered from landfills and sent to organic waste recovery facilities throughout the state. Recovering these tons in 2019-2030 would result in an 88 MMTCO_{2e} reduction (included as Appendix C to this Final EIR).

In response to this comment, CalRecycle, in consultation with CARB, developed two conservative scenarios to calculate the amount of VMT necessary to negate the GHG reduction benefits (88 MMTCO_{2e}) that would be achieved by the proposed regulation. The VMT calculations are based on emission factors for typical hauling trucks based on

2011 guidance provided by CARB (CARB 2011). The first scenario assumes full 25-ton hauling trucks (25 tons) and the second assumes 80 percent full 25-ton hauling trucks (20 tons). CalRecycle also uses a baseline VMT value of zero to conservatively evaluate the VMT required to negate the GHG reduction benefits of the proposed regulation (Appendix C).

Under the first scenario, 11.56 million truck loads hauling 25 tons of material would each need to travel 3,015 miles to an organic waste recover facility to negate the proposed regulation's GHG reductions. Under the second scenario, 14.45 million truck loads hauling 20 tons of material each would each need to travel 2,412 miles to negate the GHG reductions. These estimates have been developed for CEQA disclosure purposes and are included as Appendix C to this Final EIR. These data are consistent with the evidence and impact conclusions provided in the Draft EIR.

In recognition of the CERF model's findings and additional substantial evidence, GHG emissions and global climate change impacts under the proposed regulation would continue to be less than significant as discussed under Impact 3.8-3. No changes to the document are necessary.

2.1.2. Master Response 2 – Adequacy of the VMT Analysis

Several commenters addressed the VMT analysis included in the Draft EIR and expressed concerns that the discussion should have provided quantified estimates of VMT resulting from implementation of the proposed regulation.

Section 3.13, "Transportation," in the Draft EIR addresses VMT. The VMT analysis is based on the most recent version of the California Governor's Office of Planning and Research (OPR) Technical Advisory on Evaluating Transportation Impacts in CEQA, which provides guidance for conducting VMT analyses (OPR 2018). According to the guidance, agencies are directed to choose metrics that are appropriate for their jurisdiction to evaluate the potential impacts of a project or program in terms of VMT. The guidance provided about VMT significance criteria is focused on residential, office, and retail uses, which would not apply to organic waste recovery activities that would be developed with implementation of the proposed regulation. For rural land uses, the OPR guidance states that projects in rural areas outside of a metropolitan planning organization territory have fewer options available for reducing VMT and significance thresholds may be best determined on a case-by-case basis. As discussed in the second paragraph on page 3.13-16 of the Draft EIR, a qualitative threshold of no net increase in VMT is used in the EIR to determine significance of implementing the proposed regulation. Thus, a relative increase in VMT due to implementation of the proposed regulation is determined to result in a significant effect on the environment.

Section 1.3, "Scope of This Draft EIR," in the Draft EIR states that, "[t]he degree of specificity required in a CEQA document corresponds to the degree of specificity inherent in the underlying activity it evaluates. An environmental analysis for broad programs cannot be as detailed as for specific projects (State CEQA Guidelines Section 15146)." The degree of specificity appropriate for the VMT analysis for the

proposed regulation is a qualitative approach, as discussed in the last paragraph on page 3.13-5 of the Draft EIR:

State CEQA Guidelines Section 15064.3(b)(3) states that a qualitative analysis is appropriate if existing models or methods are not available to estimate VMT. It is not feasible to quantify the estimated change in VMT for various reasons. The primary issue related to attempts to quantify VMT is that the location of potential future compost facilities, anaerobic digestors, or other organic waste recovery facilities cannot be known at this time. This is compounded by various operational unknowns, such as local agreements that jurisdictions have with haulers providing disposal and/or recycling services, and agreements that haulers have with disposal companies. The proposed regulation would allow jurisdictions to pursue a variety of compliance options to meet organic waste collection goals. Depending on the existing collection scheme and how a jurisdiction complies with the proposed regulation, VMT could increase, decrease, or not change substantially. For these reasons, the VMT analysis is not quantified and is presented in a way that provides a general discussion of how solid waste trips may change throughout the state.

Thus, because of the reasons stated above, consistent with State CEQA Guidelines Section 15146 regarding specificity and State CEQA Guidelines Section 15064.3(b)(3), the analysis of VMT is appropriately presented as a qualitative, rather than quantitative, level of analysis.

Impact 3.13-4, "Reasonably Anticipated Increase in VMT," in the Draft EIR describes the reasonably foreseeable changes in trips associated with the proposed regulation. The analysis provides a discussion of how VMT could change throughout the state due to: added routes for collection of food waste from commercial generators, the allowable collection options for residential generator by local jurisdictions, transportation of collected organic waste to recovery facilities and edible food recovery service centers, distribution of produced compost, and transport of generated biogas. As discussed in the third paragraph on page 3.13-13 of the Draft EIR:

Overall, the proposed regulation would likely result in an increase in VMT from new and/or additional transport routes primarily for the delivery of the products of waste recovery to customers. However, because the travel costs of hauling of material can be substantial as distance grows (e.g., the cost of fuel, the collection fleet, and staff), haulers have an incentive to minimize the number and length of trips, regardless of material type.

As discussed in the fourth paragraph on page 3.13-13 of the Draft EIR, although VMT would likely increase, it is important to note the general purpose of a VMT analysis in a CEQA document. As discussed in OPR's technical advisory, the VMT metric supports statutory goals related to the reduction of GHG emissions, the development of multimodal transportation networks, and a diversity of land uses. Overall, the State CEQA Guidelines developed under SB 743 provide that generally, VMT is the most appropriate measure of transportation impacts. (State CEQA Guidelines

Section 15064.3[a].) SB 743 looks primarily toward land use and transportation projects, and was not expressly designed to address public services activities, such as the organic waste disposal reduction goals of the proposed regulation. Thus, it is important to consider that the attendant increase in mobile source emissions (i.e., criteria air pollutants and GHG emissions) associated with the projected VMT increases would be minimal compared to emissions reduction benefits associated with the reduction in disposal of organic waste. Note that State CEQA Guidelines Section 15064.3(c) states that a VMT analysis is required statewide beginning on July 1, 2020; however, agencies may implement the provisions set forth under State CEQA Guidelines Section 15064.3 earlier.

Please see Master Response 1, above, for information related to the influence of VMT on GHG emissions.

2.1.3. Master Response 3 – Adequacy of the Alternatives Analysis

This master response summarizes the following: comments that pertain to the alternatives analysis, the basis for the project objectives developed by CalRecycle, the CEQA requirements for an alternatives analysis, and the alternatives analysis in the Draft EIR. This master response also explains that the Draft EIR evaluated a reasonable range of alternatives and discusses the alternatives recommended by commenters.

Summary of Relevant Comments

Several commenters state that the proposed regulation is overly prescriptive and express their opinions about the alternatives analysis in the Draft EIR, including the desire to consider other alternatives or variants to the proposed regulation or to alternatives considered in the Draft EIR. Suggested alternatives include:

- a reduced scope alternative;
- a less prescriptive alternative that provides more local jurisdiction control in developing programs to meet the underlying goal of reducing SLCPs, similar to the way Assembly Bill (AB) 939 was implemented;
- an alternative that involves phased or tiered implementation of the proposed regulation;
- an alternative that does not include prescribed procurement targets;
- an alternative that combines two of the rejected alternatives to include use of under-sink disposers and more efficient landfill gas collection systems;
- an alternative that more narrowly defines organic waste and excludes textiles, carpets, biosolids, digestate, and sludges; and
- an alternative that implements rule changes that redirect organic materials away from poorer-performing landfills and toward facilities that are more efficient and produce energy.

Some commenters advocate for and state that the Landfill Gas Collection Efficiency Alternative was inappropriately dismissed from detailed consideration, and that with this alternative the landfill gas recovery efficiency target should not be 100 percent.

Other commenters state that the Draft EIR is inadequate because the goals and objectives are too narrowly defined, and some suggested focusing the project objectives on the underlying goal of reducing SLCP emissions rather than focusing on reducing organic waste disposal and increasing edible food recovery.

Master Response to Comments

PROJECT OBJECTIVES

CalRecycle defined the project objectives in the Draft EIR to be wholly consistent with the text of the SB 1383 legislation as described in Section 39730.6 of the Health and Safety Code (as it relates to organic waste disposal reductions) and Section 42652.5(2) of the Public Resources Code (PRC) (as it relates to edible food recovery).

As described on page 2-3 of the Draft EIR, the major implementation objectives of the proposed regulation are as follows:

1. Reduce the level of statewide disposal of organic waste to 50 percent of the 2014 levels by 2020 and 75 percent by 2025.
2. By 2025, recover 20 percent of the amount of edible food currently disposed of so it can be used for human consumption.

Achieving these targets is essential to achieving the GHG emission reductions identified in the SLCP Reduction Strategy, as well as the state's larger 2030 climate change goals.

CEQA REQUIREMENTS FOR ALTERNATIVES ANALYSIS

CEQA and the State CEQA Guidelines identify the requirements for the analysis of alternatives in the EIR. State CEQA Guidelines Section 15126.6 generally addresses the requirements for an alternatives analysis in an EIR:

- An EIR shall describe a reasonable range of potentially feasible alternatives to the project or the location of the project that would attain most of the basic project objectives and would avoid or substantially lessen any of the significant effects of the project.
- There is no ironclad rule governing the nature or scope of the alternatives to be discussed other than the rule of reason.
- The EIR should identify any alternatives that were considered by the lead agency but were rejected as infeasible during the scoping process and briefly explain the reasons for the lead agency's determination.
- The EIR shall include enough information about each alternative to allow meaningful evaluation, analysis, and comparison with the proposed project. If an

alternative would cause one or more significant effects in addition to those that would be caused by the project as proposed, the significant effects of the alternative shall be discussed, but in less detail than the significant effects of the project as proposed.

- The no project alternative should be evaluated along with its impacts. The purpose for describing the no project alternative is so decision makers can compare impacts of approving the proposed project with impacts of not approving the proposed project.
- If it is found that the no project alternative is the environmentally superior alternative, then the EIR should identify an environmentally superior alternative among the other alternatives.

Screening of individual alternatives for consideration in an EIR involves evaluating each alternative for three elements under CEQA:

1. **Accomplishment of most of the basic project objectives:** Alternatives must accomplish most of the basic objectives of the project (State CEQA Guidelines Section 15126.6[c]). CEQA compels consideration of an alternative even if it “would impede to some degree the attainment of the project objectives” (Section 15126.6[b]).
2. **Potential feasibility:** An EIR must consider potentially feasible alternatives (Section 15126.6[a]). Section 15364 defines “feasible” as “capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors.”
3. **Potential to avoid or substantially reduce a significant environmental effect of the proposed project:** An alternative must “avoid or substantially lessen any of the significant effects of the project” (Section 15126.6[a]).

An alternative that does not satisfy all three CEQA requirements would be dismissed from further evaluation in an EIR.

ALTERNATIVES ANALYSIS IN THE DRAFT EIR

As described in detail below, the Draft EIR’s evaluation of alternatives meets the CEQA requirements because it provides a reasonable range of feasible alternatives that meet the basic project objectives, and that are designed specifically to substantially reduce significant impacts associated with the proposed project.

- **Alternative 2: Limit the Types of Facilities, Operations, and Activities that Process or Use Organic Waste in a Way that Constitutes a Reduction of Landfill Disposal.** As described on pages 5-7 and 5-8 of the Draft EIR, this alternative would revise the proposed regulation to include only compost facilities, anaerobic digestion (AD) facilities, and recycling centers as the types of facilities, operations, and activities that would constitute a reduction in landfill disposal or recovery. The proposed regulation would be revised to exclude references to biomass conversion facilities; material used as a soil amendment

for erosion control, revegetation, slope stabilization, or landscaping at a landfill; land application; animal feed; and other operations. It would continue to target the largest components (an estimated 70 percent) of the recoverable organic waste stream (food, paper, and green materials); thus, it is anticipated that the project objectives related to reductions in landfill disposal could be accomplished with implementation of this alternative. It could also include a revision to the definition of organic waste in the proposed regulation (Section 18982[a][46]) to exclude carpet and textiles, which are not suitable for handling at compost facilities, AD facilities, or traditional paper recycling facilities.

With Alternative 2, implementation of the regulation would require the development and operation of a similar number and type of new and expanded facilities to support management of compostable materials. Impacts associated with construction of new facilities under Alternative 2 would be similar to those that would occur under the proposed regulation. However, the management of compostable materials would be different than under the proposed regulation. By excluding biomass conversion facilities; material used as a soil amendment for erosion control, revegetation, slope stabilization, or landscaping at a landfill; land application; animal feed, and other operations, this alternative would avoid significant water quality impacts associated with land application. The Draft EIR also recognizes that Alternative 2 could increase VMT relative to the proposed program and could increase the cost of compliance.

- **Alternative 3: Expand List of Targeted Commercial Edible Food Generators.** As described on pages 5-9 and 5-10 of the Draft EIR, this alternative would expand the Article 10 definition of targeted commercial edible food generators to target all restaurants, all hotels and health facilities with on-site food facilities, and all state agencies with a cafeteria, regardless of their size (rather than employing the more narrow definition in the project that only includes a subset of these facilities based on their size). By expanding the list of targeted generators, Alternative 3 would be expected to increase the volume of edible food recovered and potentially reduce the overall food insecurity rate in California, as well as the amount of food that must be managed as waste.

Alternative 3 would potentially reduce the number of new or expanded organic waste recovery facilities constructed to meet compostable materials disposal reduction goals. The level of impact associated with the construction of new facilities under Alternative 3 would, therefore, be similar or less than those described for the proposed project.

With Alternative 3, there could be less long-haul transport of compostable materials diverted from landfills and postprocessed materials distributed throughout the state for land application. However, VMT may not decrease depending on the location of available food in relation to food recovery services and organizations. In addition, with fewer compost and AD facilities, localized odor impacts would decrease.

REASONABLE RANGE OF ALTERNATIVES

The Draft EIR evaluated a reasonable range of alternatives. Chapter 5, “Alternatives,” of the Draft EIR provides a detailed discussion/evaluation of three alternatives to the proposed regulation (including a No Project Alternative), as well as a brief discussion of four additional alternatives to the proposed regulation that were considered but not evaluated in detail. The Landfill Gas Collection Efficiency Alternatives supported by some commenters was dismissed primarily because it does not meet CalRecycle’s basic objective to reduce the level of statewide disposal of organic waste as required by statute.

The alternatives considered in detail aim to reduce significant impacts of the proposed project (i.e., the proposed regulation) while meeting most of the basic objectives of the project. CEQA does not specify how many alternatives constitute a “range of reasonable alternatives,” but provides the following guidance:

The range of alternatives required in an EIR is governed by a “rule of reason” that requires the EIR to set forth only those alternatives necessary to permit a reasoned choice. The alternatives shall be limited to ones that would avoid or substantially lessen any of the significant effects of the project. Of those alternatives, the EIR need examine in detail only the ones that the lead agency determines could feasibly attain most of the basic objectives of the project. (State CEQA Guidelines Section 15126.6[f])

The discussion of alternatives is subject to a “rule of reason” (*Laurel Heights Improvement Assn. v. Regents of Univ. of Cal.* [1988] 47 Cal.3d 376, 406-407; *Citizens of Goleta Valley v. Board of Supervisors* [1990] 52 Cal.3d 553, 565-566). “There is no ironclad rule governing the nature or scope of the alternatives to be discussed other than the rule of reason.” (State CEQA Guidelines Section 15126.6[a]). ‘The agency’s discretion to choose alternatives for study will be upheld as long as there is a reasonable basis for the choices it has made.’ (1 Kostka & Zischke, Practice Under the Cal. Environmental Quality Act [Cont.Ed.Bar 2d ed. 2012] Project Alternatives Section 15:11, page 743 [rev. 3/12]) (*City of Maywood v. Los Angeles Unified School Dist.* [2012] 208 Cal.App.4th 362, 420-421). “The rule of reason ‘requires the EIR to set forth only those alternatives necessary to permit a reasoned choice’ and to ‘examine in detail only the ones that the lead agency determines could feasibly attain most of the basic objectives of the project’ (State CEQA Guidelines Section 15126.6[f]). An EIR does not have to consider alternatives ‘whose effect cannot be reasonably ascertained and whose implementation is remote and speculative.’ (State CEQA Guidelines Section 15126.6[f][3])” (*In re Bay-Delta Programmatic Environmental Impact Report* [2008] 43 Cal.4th 1143, 1163-1164).

The Draft EIR “permits a reasoned choice” by evaluating a range of alternatives each aimed at reducing significant impacts to key resources. Because the alternatives are designed to reduce specific environmental impacts, each alternative considered in the Draft EIR is substantially different from the others. The Draft EIR did not consider alternatives (other than the No Project Alternative) that could not feasibly attain most of the basic project objectives.

Therefore, a reasonable range of alternatives to the proposed regulation has been presented. The commenters do not suggest additional alternatives that would avoid or mitigate any potentially significant environmental impacts of the proposed regulation while meeting most of the project objectives, or those that would offer substantial environmental advantages, or be more feasible than the alternatives analyzed in the Draft EIR (State CEQA Guidelines Section 15204[a]). Further, no claims of deficiencies supported by substantial evidence were made concerning the discussions of the three alternatives considered in detail and the four alternatives rejected from further consideration in the EIR. Therefore, the range of alternatives in the EIR meet CEQA standards and allow the decision makers and the public to make an informed comparison of the environmental effects of the various alternatives to the proposed regulation.

RECOMMENDED ALTERNATIVES

As discussed above, consideration of alternatives to the proposed regulation is based on the ability of the alternative to meet most of the project objectives and reduce the effects of at least one significant environmental impact of the project. The project objectives are described above.

The Draft EIR identifies significant and unavoidable environmental impacts in the following resource areas (pages 5-2 and 5-3 of the Draft EIR):

- aesthetics;
- agricultural and forestry resources;
- air quality;
- archaeological, historical, and tribal cultural resources;
- biological resources
- geology and soils;
- greenhouse gas emissions and climate change;
- hazards and hazardous materials;
- hydrology and water quality;
- noise; and
- transportation.

The recommended alternatives have been rejected for the following reasons:

A Reduced Scope Alternative

This alternative is recommended in comment 8-1, which states that a less prescriptive option would not prescribe every detail of compliance but allow jurisdictions to select and implement programs that best suit their communities specific conditions while meeting the overarching objectives of the law. Components of this recommendation include: phased implementation, starting with the larger, urban areas of the state;

jurisdiction flexibility to design and select programs; no prescribed procurement targets; allowing material recovery facility (MRF) fines as landfill cover with no organic content restrictions; and not including textiles, carpets, biosolids, digestate, and sludges in the definition of organic waste.

Components of a reduced scope alternative were included in Alternative 2 in the Draft EIR, which would include a revision to the definition of organic waste in the proposed regulation (Section 18982[a][46]) to exclude carpet and textiles, which are not suitable for handling at compost facilities, AD facilities, or traditional paper recycling facilities.

With respect to MRF fines, the proposed regulation does not prohibit the use of MRF fines as landfill cover. The regulation identifies that the use of MRF fines that include organic waste as landfill cover would constitute disposal of organic waste, as the material would ultimately be deposited in a landfill. In practice the use of organic waste as cover material, whether the organic waste is used in isolation (e.g., green waste used as cover) or mixed in with other materials (e.g., MRF fines used as cover) results in the deposition of organic waste in landfill, regardless of the title given to the specific mix of material used. This use is not prohibited but it would be properly counted as disposal. Counting the placement of organic waste in a landfill as anything other than landfill disposal is inconsistent with the clear direction in statute.

While this comment indicates how some of the environmental impacts could be reduced under this alternative, it does not indicate or provide any detail explaining how the objectives of the project would be attained under any of the aspects of their proposed alternative. That is, it is unclear how this alternative would reduce disposal of organic waste and increase edible food recovery as required by statute. For example, the commenter proposes that removing the procurement targets would increase diversion of more organic product types and achieve other benefits, but fails to provide any detail of how removing this requirement would achieve these purported benefits, or consider the organic waste that would be recovered as a direct result of the procurement requirements. Thus, because this alternative would not meet most of the project objectives it does not need to be discussed further.

A Less Prescriptive Alternative that Provides More Local Jurisdiction Control in Developing Programs to Meet the Underlying Goal of Reducing SLCPs, Similar to the Way AB 939 Was Implemented With “Good Faith Effort” Review for Program Compliance

This alternative was raised in several comments, including 8-1, 16-6, 16-11, and 13-32. A program aimed at the underlying goal of reducing SLCPs would not necessarily meet the project objectives, which are aimed at increasing edible food recovery and decreasing statewide disposal of organic waste. The SLCP Reduction Strategy contains many components aimed at reducing SLCPs, including methane. As it pertains to CalRecycle, SB 1383 establishes targets to achieve 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 law requires CalRecycle to adopt regulations designed to achieve these organic waste disposal reduction targets. The law also directs CalRecycle to include provisions in the regulations designed to achieve a target that not

less than 20 percent of the amount of edible food currently disposed of is recovered for human consumption by 2025. Thus, the project objectives and proposed regulation are consistent with the SB 1383 requirements for CalRecycle. None of the arguments that suggest allowing local jurisdictions more control in developing programs to meet the SLCP reduction goals provide evidence that this approach would achieve the statutorily required organic waste reduction targets, or the edible food recovery targets.

CalRecycle has repeatedly noted at public meetings that the Legislature specifically struck requirements from the legislation that would have required the use of “good faith effort” as that standard is prescribed in PRC Section 41825 (SB 1383 Lara, Statutes of 2016, Version 95, amended in Assembly August 31, 2016; SB 1383, Lara, Chapter 395 Statutes of 2016). This action renders consideration of an approach that employs the standard in PRC Section 41825, inconsistent with legislative intent. Further, the impacts disclosed in the EIR are linked to achieving the disposal reductions required in the statute. If employing the good faith effort standard of Section 41825 as proposed were in fact a feasible method of achieving the statewide organic waste reduction targets (e.g., 289 million tons recovered from 2019-2030), then it is unclear how this approach would lessen any of the environmental impacts (e.g., the same amount of material would need to be recovered, and therefore the same number of facilities would need to be constructed). Thus, because this alternative would not meet most of the project objectives it does not need to be discussed further.

With respect to the good faith effort standard (PRC Section 41825), see response to comment 20-2.

An Alternative that Involves Phased or Tiered Implementation of the Proposed Regulation

The tiered or phased alternative is suggested in comments 6-9 and 6-11. The specific details related to how this alternative would be implemented are not provided; however, comment 6-11 states that the regulation could start with larger, high-density urban areas. This recommendation is already included as an aspect of the project as the proposed regulation allows for waivers for rural areas of the state, effectively allowing these areas to phase in requirements through 2027 (previously proposed as 2025). The commenter does not elaborate on how their recommendation differs from or expands on this existing aspect of the project, or how their proposal would reduce physical impacts to the environment. Comment 6-9 indicates that the tiered approach would rely on the level of methane recovered at landfills.

The recommended tiered or phased alternative would rely on methane emissions, rather than objectives related to reducing disposal of organic waste and increasing edible food recovery. In addition, the proposed regulation prohibits setting individual organic waste acceptance targets at landfills, which a landfill phasing approach would clearly violate. Thus, this alternative is not considered feasible because it would rely on methane levels at landfills, rather than actions that would reduce disposal of organic waste and increase edible food recovery.

An Alternative that Combines Two of the Rejected Alternatives to Include use of Under-Sink Disposers and More Efficient Landfill Gas Collection Systems

As noted in comment 16-6, an alternative examining use of under-sink disposers was discussed in the Draft EIR. As discussed in Section 5.3.1, “Under-Sink Disposer Alternative,” of the Draft EIR, this is not considered to be feasible due to the existing availability of under-sink disposers in homes and the conditions of existing wastewater treatment systems. The commenter notes that there is excess capacity available in wastewater treatment plants (WWTPs), however that capacity is not necessarily in alignment with where food waste is generated. In addition, reducing food waste disposal is not the sole objective of the project. Further, it should be noted that nothing in the regulations precludes the use of under-sink disposers; however, as noted in the discussion of rejected alternatives, mandating use of under-sink disposers in lieu of the existing project requirements is not a feasible method of achieving the purpose of the project or the statute as it would not provide recovery options for the organic waste not suitable for under-sink disposal.

Creating more efficient landfill gas collection systems would also not increase the levels of edible food recovery, thereby not improving attainment of the project objectives when combined with the Under-Sink Disposer Alternative. Further, this recommendation is in conflict with the specific statutory requirements and the project objective. The specific project objectives include a requirement to reduce the disposal of organic waste in landfills. This is thoroughly discussed in pages 19-24 of the Initial Statement of Reasons released in January of 2019 (the ISOR was updated in June of 2019 for minor technical clarifications but the original findings were not altered with respect to this issue). Landfill compliance with existing laws and regulations for landfill capture may reduce GHG emissions attributable to those landfills, however it does nothing to reduce the continued disposal of organic waste. As an alternative it would appear to encourage increased disposal of organic waste to preserve investments in landfill gas collection systems. It is important to reiterate that the specific legislative direction in SB 1383 was not only to reduce GHG emissions, but to reduce landfill disposal of organic waste. More efficient landfill gas collection systems cannot not facilitate the achievement of the specific objectives of the project. Thus, because this alternative would not meet most of the project objectives it does not need to be discussed further.

An Alternative that Implements Rule Changes that Redirect Organic Materials Away from Poorer-Performing Landfills and toward Facilities that Are More Efficient and Produce Energy

This alternative is recommended in comment 9-4, noting that technological advances have dramatically improved environmental performance of facilities that take waste, including organic materials, and operate as bio-reacting, power-generating facilities. Redirecting organic materials away from poorer-performing landfills and toward facilities that produce energy with new design specification and operational standards could provide benefits related to reduced methane emissions and increase energy production. This redirection is intended to provide an option other than development and operation of AD and compost processing facilities.

While there may be environmental benefits to disposing of organic waste in landfills that more efficiently capture methane compared to less efficient landfills, this proposed alternative is infeasible as it conflicts with the statutory requirements that guide the implementation of the project. PRC Section 42652.5 states:

“(a) The department, in consultation with the State Air Resources Board, shall adopt regulations to achieve the organic waste reduction goals for 2020 and 2025 established in Section 39730.6 of the Health and Safety Code. **The regulations shall comply with all of the following...**

(3) Shall not establish a numeric organic waste disposal limit for individual landfills...”(emphasis added)

The proposed alternative would necessitate the establishment of numeric organic waste disposal limits for individual landfills which is in direct conflict with existing law. Because this suggested alternative would conflict with existing law it is infeasible and it does not need to be discussed further.

2.2. Agencies, Organizations, and Businesses

Comment Author: California Compost Coalition, August 20, 2019

Comment Number: 1-1

My NOP Comments are re-filed as DEIR Comments in PDF and WORD on the following issues that need to be addressed. Please schedule a meeting in September to review:

- Summary of Benefits from Baseline Conditions
- Net Zero Analysis per AB 32 Scoping Plan Update of 2014
- RNG Procurement of GHG Benefit

CalRecycle Response

The commenter summarizes Notice of Preparation (NOP) comments re-filed as Draft EIR comments. The commenter also requests a meeting to discuss specific topics. These and other scoping comments were considered in preparing the Draft EIR. No specific comments were raised that addressed the adequacy, accuracy, or completeness of the Draft EIR. Response to comment 2-3 discusses baseline landfill emissions. Response to comment 2-4 describes the potential for compost operations to provide net-zero GHG facilities and the procurement and use of renewable natural gas (RNG). No further response is required.

Comment Number: 1-2

My NOP Comments are re-filed as DEIR Comments in PDF and WORD on the following issues that need to be addressed. Please schedule a meeting in September to review:

- Air Quality compared to baseline – VOCs and NOx
- Greenhouses Reductions compared to baseline
- Transportation – RNG Procurement
- Public Services – Compost as an essential public service

CalRecycle Response

The commenter states that NOP comments have been re-filed as Draft EIR comments. The commenter also requests a meeting to discuss specific topics. Response to comment 2-4 addresses Volatile Organic Compound (VOC) emissions, RNG procurement, and GHG emissions related to landfilling organic waste compared to Covered Aerated Static Piles (CASP) and Anaerobic Digestion (AD) facilities. These and other scoping comments were considered in preparing the Draft EIR. No specific comments were raised that addressed the adequacy, accuracy, or completeness of the Draft EIR. No further response is required.

Comment Number: 1-3

Comments on the Compost benefits to the Ag Sectors on Working lands

CalRecycle Response

The commenter provides attachments related to potential benefits to agricultural and working lands. The Draft EIR describes the benefits of applying compost throughout the document. For example, Section 2.7, “Anticipated Benefits of Proposed Regulation,” lists various benefits related to composting, reproduced as follows.

The first paragraph on page 2-36 of the Draft EIR:

Creating Valuable Materials:

Soil Amendments. Soil amendments would result in sequestering carbon from the atmosphere, improving the health of agricultural soils including increased soil water holding capacity, preventing soil erosion, and reducing the need for synthetic fertilizers.

The fourth paragraph on page 2-36 of the Draft EIR:

Health Benefits:

According to the World Health Organization (WHO), SLCPs are GHGs that contribute to ambient levels of ozone and particulate matter less than or equal to 2.5 micrometers in diameter and are directly associated with heart and pulmonary disease, respiratory infections, and lung cancer (WHO 2019). WHO has noted that reducing GHG emissions might also provide health benefits, such as improved diets and more opportunities for safe travel and physical activity. The proposed regulation could also result in the reduced exposure of farmworkers to pesticides and fertilizers, the use of which can be reduced when compost is used in agricultural activities.

The seventh paragraph on page 2-36 of the Draft EIR:

Benefits to California Businesses. CalRecycle expects businesses to benefit in numerous ways, including but not limited to:

...Increased revenues from sales of products, including recycled-content paper, cardboard, compost, and renewable gas. For example, application of compost can help farmers improve soil health, reduce water use, and reduce use of pesticides and fertilizers, resulting in lower costs to produce higher yields of produce. Production of renewable gas can reduce reliance on foreign oil; one study estimates that existing organic waste could supply more than 15 percent of our current natural gas demand if converted to biogas (Southern California Gas Company 2016).

The first paragraph on page 2-37 of the Draft EIR:

Increasing Soil Health.

Adding compost to California's soils is seen as a critical piece of increasing soil health, as well as sequestering carbon. Healthy soil is usually defined by an increase in soil organic matter, which is lost during cultivation. One of the main benefits of adding compost (or digestate) to soils is an increase in organic matter. In addition, emerging work at UC Berkeley and UC Davis seeks to quantify the carbon sequestration benefits of adding compost (or digestate) to working lands.

The second paragraph on page 2-37 of the Draft EIR:

Reducing GHG Emissions. Removing organic waste from landfills prevents the creation of methane from the anaerobic breakdown of the material. This methane can work its way out of the landfill as fugitive emissions, and these emissions currently represent 21 percent of the state's methane emissions annually. Achieving these waste reductions targets would reduce an increasing amount of GHG emissions, ultimately achieving annual reductions of at least 4 million metric tons of CO₂ equivalents (MMTCO_{2e}) annually by 2030. In addition, 1 year of waste reduction avoids 14 MMTCO_{2e} of emissions over the lifetime of waste decomposition.

In addition, Section 3.8, "Greenhouse Gas Emissions and Climate Change," describes benefits of compost used as a soil amendment as follows. The third paragraph on page 3.8-11 of the Draft EIR (discussion for Impact 3.8-1: Short-Term Construction-Related Emissions of [reactive organic gases (ROG)], [oxides of nitrogen (NO_x)], [particulate matter with an aerodynamic diameter of 10 micrometers or less) (PM₁₀)], and [fine particulate matter with an aerodynamic diameter of 2.5 micrometers or less] (PM_{2.5}):

The proposed regulation would also further the goals of the Draft 2030 Natural and Working Lands Climate Change Implementation Plan, which identifies compost application as a mechanism to increase carbon sequestration within the natural and working lands sector (CalEPA et al. 2019:17). The plan sets the goal to increase fivefold the rate of State-funded soil conservation practices, which the

proposed regulation would support through the generation of finished compost materials. Compost would provide the necessary soil amendments to create ~~heavy~~ healthy soils with high carbon sequestration potential. The 2017 Scoping Plan, in addition to the Draft 2030 Natural and Working Lands Climate Change Implementation Plan, indicates that carbon sequestration in the natural and working lands sector must be optimized to meet the State's long-term climate change goals.

The third paragraph on page 3.8-17 of the Draft EIR (discussion for Impact 3.8-3: Long-Term, Operation-Related GHG Emissions):

Improved soil health and carbon sequestration potential would also be achieved as a result of the proposed regulation. The compost materials generated from composting activities would contain the necessary soil amendments to enhance the efficiency of the carbon cycle, which would allow for the sequestering of carbon from the atmosphere. Compost materials would be applied throughout the natural and working lands sector and, consistent with the Draft 2030 Natural and Working Lands Climate Change Implementation Plan and 2017 Scoping Plan, help the State meet its long-term GHG emissions reduction targets (CalEPA et al. 2019; CARB 2017a).

For these reasons, no changes to the Draft EIR are necessary.

Comment Number: 1-4

This report has the GHG benefits of using compost from urban sources on cropland.....please include the benefits in the DEIR in the agriculture section.

CalRecycle Response

The commenter provides reference materials that support the GHG benefits of composting. The GHG benefits associated with composting are discussed in the second paragraph on page 2-37 of the Draft EIR:

Reducing GHG Emissions. Removing organic waste from landfills prevents the creation of methane from the anaerobic breakdown of the material. This methane can work its way out of the landfill as fugitive emissions, and these emissions currently represent 21 percent of the State's methane emissions annually. Achieving these waste reductions targets would reduce an increasing amount of GHG emissions, ultimately achieving annual reductions of at least 4 million metric tons of CO₂ equivalents (MMTCO_{2e}) annually by 2030. In addition, 1 year of waste reduction avoids 14 MMTCO_{2e} of emissions over the lifetime of waste decomposition.

In addition, Section 3.8, "Greenhouse Gas Emissions and Climate Change," describes benefits of compost used as a soil amendment as described in the response to comment 1-3.

Under CEQA, impacts to agricultural lands are associated with conversion of farmland to other uses and conflicts with zoning of agricultural lands (see subheading, “Thresholds of Significance,” on page 3.2-8 of the Draft EIR). The benefits of using compost as an amendment to agricultural lands are recognized in the Draft EIR (see response to comment 1-3); however, use of compost on agricultural lands does not eliminate potential impacts on agricultural lands considered in the context of the State CEQA Guidelines.

**Comment Author: California Compost Coalition (resubmitted on 9/13/19),
September 9, 2019**

Comment Number: 2-1

Rumors propagated last year at the LA Forum that SB 1383 was going to be rolled back, as program development was stalling out in Southern California. Even though Governor Brown had just vetoed a bill that could have infringed upon SB 1383 and Governor-elect Newsom had implemented SB 1383-like programs in San Francisco when he was Mayor, many wanted to be in denial of SB 1383. With the persistent work of CalRecycle, regulatory certainty will be here soon, when the SB 1383 regulations are adopted later this year, giving local government and the industry two years until they become effective. Given the massive investment needed for this mandatory law to protect public health from climate change impacts, composting is providing an essential public service of holistic programs that reduce methane, create healthy soils, and provide carbon neutral energy for local circular economies.

There is a harmonic convergence of activity underway to define SB 1383. China Sword is sucking the recycling out of the room and diverting resources to pay for the blue cart as the cost of the green cart will significantly increase against pricing inelasticity. The statewide recycling rate is in free-fall, without redemption, from 50% to 42% and may end at 33% in 2020. There will be no Bale Out in 2019, as three legislative attempts to plan, incentivize, and fund SB 1383 for the next five years will not move forward. As the industry is gearing up to implement SB 1383, the Bay Area Air Quality Management District is proposing a set of regulations that would impede facility development with unrealistic deadlines and unneeded controls at huge costs. Baselining landfilling to demonstrate that composting is a huge net benefit is underway, as the Ventura County APCD is ready to designate composting as an essential public service.

The Draft Environmental Impact Report for SB 1383 should be the vehicle to fully explain the net benefits of composting, baseline landfill emissions, discuss composting being an essential public service due to impacts to the solid waste utility, designate compost operations as being ‘Net-Zero’ greenhouse gas facilities, and provide the carbon sequestering benefits in agriculture. The DEIR should act as a Program EIR for covered aerated static pile composting and anaerobic digestion, parlaying off the 2011 AD EIR. The SB 1383 Standardized Regulatory Impact Assessment provided scenarios with the amount and types of facilities. The California Air Pollution Control Officers Association also determined scenarios for the numbers, facilities, and tons needed by

2025, per each air district, which can easily be modeled for VOCs to determine the net benefits over landfilling. CEQA requires the decision-making agency to balance the economic, legal, social, technological, or other benefits against its unavoidable environmental risks, and in the case of compost, the DEIR must provide these benefits.

The political landscape of SB 1383 is far reaching into climate change mitigation, with connectivity beyond the institutionalized waste industry. AB 939 did not delve into the collection fleet, fuel production, renewable energy generation, edible food recovery, or incentive funding in relation to disadvantaged communities. SB 1383 offers a closed-loop system where procurement requirements are realized by using self-produced carbon negative RNG fuel in the company's own CNG fleets, while cutting NOx to near-zero with the new CNG engines. SB 1383 procurement can also be achieved by fulfilling BioMAT energy contracts with wood chips or compost on over 100,000 acres of parklands. The Organics Management Group hit the re-set button this year, working in many ad-hoc sub-groups that focus on procurement, CARB HVIP voucher reinstatement, Cap-and-Trade funding, and now the BAAQMD regulations.

SB 1383 programs are mandated to battle climate change and should be designated as an essential public service, but are instead misunderstood and undervalued. Composting employs a systems approach that takes a village of advocacy to promote, as we Fight for our Right To Compost!

CalRecycle Response

The comment is part of the California Compost Coalition newsletter (September 2019 Volume 6, Issue 9). The comment gives an overview of the political landscape of SB 1383 at the time that the newsletter was released, and provides recommendations for the following topics to be addressed in the Draft EIR: the net benefits of composting, baseline landfill emissions, composting as an essential public service, designation of compost operations as being "net-zero" GHG facilities, and the carbon sequestering benefits to agriculture. Response to comment 1-3 provides an overview of how the Draft EIR describes the benefits of composting and carbon sequestration related to the proposed regulation. Response to comment 2-4 discusses baseline landfill emissions. Response to comment 2-4 describes the potential for compost operations to provide net-zero GHG facilities. Response to comment 2-5 describes the relationship between composting and designation of essential public services.

Comment Number: 2-2

This Legislative Year has been the weakest this decade regarding composting and recycling, given the overwhelming challenges. As the China Sword gutted the statewide recycling rate from 50% to 42%, it is projected to fall toward 33% by 2020, and with recycling centers getting no hope or redemption, CalRecycle is being compared to the DMV. Given the global strife, many in Southern California had hoped that SB 1383 would be rolled back, which was not the case since organic programs are cost-effective local greenhouse gas reduction strategies and not bound to export markets.

There were three significant legislative attempts to facilitate the required \$2 to \$3 billion SB 1383 investment, but all failed. AB 144 (Aguilar-Curry) attempted to have the Strategic Growth Council prepare a Scoping Plan for the urban, agricultural, and forest sectors to manage organic waste in a comprehensive manner with incentives and strategies to support carbon neutral or carbon negative strategies, but the price tag of \$400,000 was too much. It could have been paid out of Cap-and-Trade revenues and not the General Fund. SB 667 (Hueso) was more focused on having CalRecycle develop a five-year strategy to develop financial incentives for in-state recycling infrastructure, but failed due to the potential of on-going costs of \$1.2 to \$1.8 million. The bill analysis claims that the IWMA has a structural imbalance, with expenditures exceeding revenues by several million dollars annually, which is untrue as the increase in disposal tons has added revenue of over \$11 million this year, compared to 2012. AB 1583 (Eggman) had been on track to increase the revenues with a generator fee or a landfill tipping fee to pay for some of SB 1383, but shied away in favor of extending the sale taxes inclusion to 2026 and creating a needed oversight Recycling Commission.

There will be no Bale Out this year, and with three strikes on legislation, CalRecycle motored on by providing regulatory certainty with the upcoming adoption of the SB 1383 regulations.

CalRecycle Response

The commenter provides a discussion of legislative actions associated with composting. This comment does not address the contents of the Draft EIR or raise issues associated with environmental impacts related to implementation of SB 1383.

Comment Number: 2-3

CCC attended both Notice of Preparation meetings of the Environmental Impact Report (EIR) for the SB 1383 regulations and filed two sets of comments on January 9, 2019 and January 30, 2019. The 513 page document was released on July 30, 2019, where comments are due on September 13, 2019, and a public workshop was held on August 20, 2019, where CCC presented point-by-point comments and re-filed the comments.

CCC had hoped to have this document be the needed Program EIR for CASP facilities such as CalRecycle prepared in 2011 for AD facilities. The benefits of composting and AD over landfilling are not presented in a tangible manner. CARB assumes that there will need to be 53 compost facilities by 2020 and 74 composting facility by 2025. To assess the air quality impacts, these new CASP emissions could be compared to the landfilling baseline.

CalRecycle Response

The commenter summarizes the California Compost Coalition's (CCC) attendance and participation in public meetings associated with the proposed regulation. The commenter also states that the benefits of composting and AD over landfilling are not presented in a tangible manner. The commenter does not indicate the specific benefits

that should be considered in the Draft EIR. See response to comment 2-4 for a discussion related to air quality emissions associated with composting aerated static piles (CASPs) versus landfills.

Comment Number: 2-4

The DEIR fails to present baseline conditions of landfilling organic waste compared to CASP and AD, as required by CEQA law, even though CCC provided the math for criteria pollutants and greenhouse gases. Landfilling organic waste emits 1.9 times more VOCs than CASP composting. Compost and AD facilities are

‘Net-Zero’ GHG facilities now, as defined by CARB and should be illustrated in the DEIR. The benefits of sequestering carbon on agricultural lands were overlooked. The procurement and use of RNG was provided but not used. The impacts to utilities and the current infrastructure was not evaluated, where an ‘essential public service’ discussion is warranted.

CCC will meet with CalRecycle staff later this month to provide the math again, make the case, and ensure that each of our comments are addressed and included in the Final EIR, where benefits of composting and AD are evident.

CalRecycle Response

The commenter asserts that the Draft EIR does not present accurate baseline conditions regarding air pollution and GHG emissions related to landfilling organic waste compared to Covered Aerated Static Piles (CASP) and Anaerobic Digestion (AD) facilities. The commenter also indicates that the procurement of renewable natural gas, potential for net-zero GHG compost and AD facilities, carbon sequestration on agricultural lands, and issues related to an “essential public service,” was overlooked.

As discussed under the subheading, “Methodology,” in Section 3.3.3, “Environmental Impacts and Mitigation Measures,” operational emissions of criteria air pollutants and ozone precursors (presented in Impact 3.3-2) are assessed qualitatively because of the programmatic nature of the proposed regulation. Impact 3.3-2 discusses the comparative reduced levels of VOCs, NO_x, and PM associated with digestion and composting of organic materials versus decomposition of organic waste in existing landfills. In addition, the analysis includes estimates of the potential net difference between existing emissions from landfills continuing to operate under a business-as-usual or a without-proposed-regulation scenario and emissions from newly constructed AD, compost, and chip and grind facilities by air basin for 2030 (see Table 3.3-3 in the Draft EIR). This table presents baseline conditions at landfills compared to projected recovery activities. The commenter does not provide evidence to support the statement that landfilling emits 1.9 times more VOCs than CASP composting; thus, no changes can be made to the document.

The commenter recommends that the Draft EIR include a discussion that compost, and AD facilities would be “net zero” with respect to GHG emissions as defined by CARB. However, achieving net-zero GHG emissions for new facilities constructed and operated as a result of implementation of the proposed regulation would be achieved through a

suite of project design features and on- and off-site mitigation measures. The feasibility and extent of project design features and mitigation measures would be assessed on a project-by-project basis and cannot be accurately evaluated at this programmatic level.

Additionally, the commenter asserts that the Draft EIR should include a discussion of RNG use. RNG is a byproduct of AD operations and its replacement of natural gas in the mobile, commercial, and residential sectors is discussed on Page 3.8-17 of the Draft EIR. The proposed regulation does not include a statutory requirement that AD facilities utilize RNG generated by AD operations; therefore, the extent to which RNG would displace natural gas within these sectors is speculative.

See responses to comments 1-3 and 1-4 for a discussion related to the benefits of compost on agricultural lands and GHG emissions. See response to comment 2-5 regarding essential public services.

Comment Number: 2-5

Mandating the diversion of organic waste from landfill and developing over 75 compost and AD facilities, SB 1383 implementation will result in providing an essential public service to battle climate change. Essential Public Services (EPS) are facilities considered essential to public health and safety, and in some cases this designation could result in the facility's owner/operator not being required to offset the facility's emissions.

The California Air Pollution Control Officers Association (CAPCOA), with CalRecycle and CARB, published the Discussion Paper in August 2018, Composting in California – addressing Air Quality Permitting and Regulatory Issues for Expanding Infrastructure, which presents a thorough discussion on EPS designation. AB 1036 (McCarty, 2017) attempted to add composting facilities to the EPS definition, but failed due to opposition by several air districts. Of the 35 air districts, 21 have an EPS definition in their district rules. Twelve districts include landfills (in two air districts facilities only qualify as EPS if they are publicly-owned and operated). Seventeen air districts include wastewater treatment facilities as EPS, 12 of which are included as EPS only if they are publicly-owned and operated. Air districts have the authority to determine the definition of EPS for their district through a public rulemaking process, such as the process underway in Ventura County. CCC will be pressing the BAAQMD to add composting facilities as a EPS in their current rulemaking package.

EPS facility emissions will still need to be accounted for, even if the owner/operator is not required to purchase ERCs to offset them. However, these facilities could continue to operate and emit pollutants (e.g., ozone precursors like VOCs, NOx) during smog episodes. EPS designation for compost facilities include access to a community bank/priority reserve of ERCs specifically for EPS projects; a reduced or free cost of these credits; and/or a higher threshold for requiring ERCs. Sixteen of the thirty-five air districts have a community bank/priority reserve rule. In general, between five and ten percent of the ERCs generated from a given facility are deposited in ERC banks for use by EPS and other priority projects. Sometimes there is a bank within a bank designated for EPS projects.

The point of defining these facilities as EPSs would be to ensure that essential services could be permitted in a district where VOC offsets may be limited. However, most districts have very few, if any, credits available in their ERC community banks. Aside from Ventura and the Bay Area, most districts have only enough credits, if any at all, to permit perhaps one or two facilities, and these air districts might need to reserve these credits for other non-profit making EPSs.

CalRecycle Response

The comment pertains to the designation of compost and AD facilities as an essential public service (EPS) and the potential benefits of that designation. In response to this comment, text has been added to the regulatory setting portion of Section 3.14, "Utilities and Service Systems," of the Draft EIR. This change is presented below and in Chapter 3, "Corrections and Revisions to the Draft EIR," of this Final EIR. The correction does not alter the conclusions with respect to the significance of any environmental impact.

The following text has been added following the first full paragraph on page 3.14-3 of the Draft EIR:

Local Essential Public Service Designation

The essential public service (EPS) designation is one option considered by CARB, the California Air Pollution Control Officers Association (CAPCOA), and CalRecycle (CARB et al. 2018) to help facilitate permitting of compost facilities. EPSs are facilities considered essential to public health and safety. Schools, fire departments, and law enforcement are recognized examples of EPSs. The EPS designation could result in a compost facility's owner/operator not being required to offset the facility's emissions. Facilities designated as an EPS could also continue to operate and emit pollutants during smog episodes. Local air districts have the authority to determine the definition of an EPS for their district through a public rulemaking process. Of the 35 air districts throughout California, 21 have an EPS definition in their district rules.

Potential benefits of the EPS designation include:

- access to a community bank/priority reserve of emission reduction credits (ERCs) for EPS projects (such as compost facilities);
- a reduced or free cost of these credits; and/or
- a higher offset threshold for requiring ERCs.

Potential challenges with the EPS designation include:

- air districts already face extensive challenges in attaining national and state ambient air quality standards, and as such, this may restrict their ability to set aside ERCs for an EPS bank.

The point of defining these facilities as EPSs would be to ensure that essential services could be permitted in a district where volatile organic carbon (VOC) offsets may be limited.

Comment Number: 2-6

Throughout over thirty months of SB 1383 rulemaking CCC and Edgar & Associates have teamed CalRecycle and are actively engaged in providing comments, written and verbal, in letters and meetings, formal and informal, public and private, line-by-line, which shaped the future of organic materials management. Our comments have ranged from the minutiae of wordsmithing specific definitions to the broader policy issues of methane reduction, performance based tracking, and everything in between.

CCC supports the use of market-based mechanisms, which limit contamination in the incoming feedstocks to their facilities. Our members believe that mandating specific contamination limits at processing facilities is impractical and difficult to execute; they would prefer to rely on their discretion to evaluate materials and their ability to work with feedstock suppliers to establish improved practices that will yield meaningful reductions in contamination. We believe that setting an artificial contamination limit (10% or otherwise) will have a significant impact on operators, which will unnecessarily limit flexibility in systems design. For example, companies with vertically-integrated operations that would prefer to invest heavily in pre-processing equipment and manpower mainly at their composting operations would be forced to duplicate much of that investment at materials recovery facilities, transfer stations, or landfills in order to meet this regulatory burden, where it may have limited utility at substantial cost. Throughout CalRecycle's iterations of the SB 1383 regulations, we have encouraged them to ensure that performance of diverting organics from landfill is placed above simply programmatic compliance with a three-bin system. This ensures that all jurisdictions are on an even playing field whether they chose to have a purse source separation platform, mixed waste processing, or a combination of the programs.

Developing markets is a key concern of many local governments and other policymakers. Mandating procurement can be part of the solution. The procurement of the products will provide local governments a feedback loop on the quality of available materials and insight the importance of proper collection techniques, outreach and education, and processor success in meeting market needs.

While we support local government procurement requirements, we also believe state agencies and departments, and other non-local entities should be required to be part of the solution for markets and have their own procurement mandates.

The potential spread of pathogens, physical contamination, and water quality impacts that result from current land application practice have largely flown under the radar statewide; the overall practice has been largely unquantified, which should be remedied by the reporting required under AB 901. Following are two concepts which should have been introduced to SB 1383 regulations:

Chipping and grinding operations/facilities shall be required to provide notification of Title 14 regulatory requirements for direct land application and/or receive certification from any landowner and operator where they send processed materials which will be land applied.

Land application operations over a specified tonnage/volume limit (e.g., 100 tons; 1,000 cubic yards; 10 tons/acre) shall be required to provide notification to local EA, regional water board, and county Agriculture Commissioner under a process similar to current EA Notification regulations for other operations in Title 14. This EA Notification process may require the landowner/operator to verify the agronomic benefit being derived from the land application activity by use of appropriate soils testing.

We worked closely with CalRecycle to ensure that edible food reporting mechanisms are in place to meet food safety standards, as the State moves toward enhancing current infrastructure, and to consider a performance based approach when adding Tiers of included generators, should the State be unable to meet the 20% edible food recovery goal with the two current groups of generators. We stressed the importance of sustainable funding and the key role of haulers being at the table with their communities during these discussions.

CalRecycle Response

The commenter summarizes comments submitted to CalRecycle related to the contents of the proposed regulation. The commenter does not raise environmental issues or concerns regarding the adequacy, accuracy, or completeness of the EIR. The comment is instead directed at regulatory concepts in the underlying rulemaking. Comments on the substance of the regulations should be made during the appropriate comment periods associated with the formal rulemaking process under the California Administrative Procedure Act (APA).

Comment Author: California Waste and Recycling Association (includes SWAPE comment letter), September 13, 2019

Comment Number: 3-1

On behalf of the Cal. Waste and Recycling Association ("Commenter"), this Office respectfully submits, pursuant to the California Environmental Quality Act ("CEQA"), this email and attached expert comments (including CVs) from SWAPE consultants to the California Department of Resources Recycling and Recovery ("CalRecycle") regarding the Draft Program Environmental Impact Report ("PEIR") for the proposed regulations under SB 1383 for Short-Lived Climate Pollutant Reduction Strategies ("SLCP Regulations").

CalRecycle anticipates roughly 169 new composting and anaerobic digesters will be established by 2030 to process organic waste diverted from existing landfills to comply with the SLCP Regulations ("Project"). The compliance expenditures may approach \$21 billion according to CalRecycle's Regulatory Impact Assessment. The PEIR is

intended to serve as a "comprehensive" review of the potentially significant adverse and beneficial impacts from this Project (PEIR, pp. 1·2 -1·3).

The CWRA is a trade association in the waste and recycling industry with operations in the County of Los Angeles and surrounding areas. CWRA believes that a competitive marketplace delivers superior service to customers and municipalities at fair rates. The Association has worked for over three decades with elected and appointed officials at all levels of local, regional and state government. The CWRA promotes best practices, environmental sustainability, and its members are on the front lines working towards zero waste communities.

This PEIR is very important to CWRA, our members, their employees and the customers and jurisdictions they serve. The PEIR is intended to address, with substantial evidence, an exciting and consequential question that is key to the future of our industry-- what are the full life-cycle environmental impacts of taking organics out of today's modern landfill gas collection systems, and instead creating the new SB 1383 organics diversion program?

We are very disappointed therefore, that the DEIR does not answer this question with substantial evidence. The DEIR unfortunately is replete with unsubstantiated conclusions, reliance on unpublished emails and lacks an air quality or greenhouse gas ("GHG") modeling appendix that shows its work. We can, and must, do better for a Project of this magnitude.

Our members are proud to be investing tens of millions of dollars in organics infrastructure and programs. CWRA is a key stakeholder and partner in SB 1383 compliance, and we appreciate our strong, candid relationship with CalRecycle staff. But CWRA members want their investments and businesses to be built on a foundation of sound policy and fact-based regulatory decision making.

We know Cal Recycle wants the same.

CalRecycle Response

The comment is an email introducing the role of the California Waste and Recycling Association (CWRA) and an attached comment letter from SWAPE consultants with detailed comments. See responses to comments 3-2 through 3-13.

Comment Number: 3-2

As discussed in the attached expert comments, shortcomings in the PEIR include but are not limited to:

The PEIR Table 3.3-3 concludes that the Project will reduce NO_x and PM_{2.5} emissions over baseline landfill conditions by relying on unsubstantiated assumptions and undisclosed source testing, emission calculations, and landfill disposal data not provided in the PEIR.

CalRecycle Response

The comment states that the data provided in Table 3.3-3 of the Draft EIR relies on unsubstantiated assumptions and undisclosed source testing, emission calculations, and landfill disposal data not provided in the Draft EIR. As discussed in the third paragraph on page 3.3-18 of the Draft EIR:

In coordination with CARB, CalRecycle estimated the potential net difference between existing emissions from landfills continuing to operate under a business-as-usual or a without-proposed-regulation scenario and emissions from newly constructed AD, compost, and chip and grind facilities by air basin for 2030. As shown below in Table 3.3-3, organic materials diverted to AD, compost, and chip and grind facilities would produce substantial reductions in NO_x and PM_{2.5} relative to landfill disposal of organic waste. The values in Table 3.3-3 include landfill combustion pollutants (both PM_{2.5} and NO_x) associated with the flares and landfill gas recovery systems that are present at landfills, where most of these pollutant emissions are from landfill gas recovery systems compared to flaring.

The source for Table 3.3-3 is listed as “CalRecycle 2019.” This reference provides the detailed calculations used to develop the data presented in Table 3.3-3. The data meets the definition of substantial evidence under CEQA, “facts, reasonable assumptions predicated upon facts, and expert opinions supported by facts (State CEQA Guidelines Section 15384(b)).” See response to comment 3-8 for more information related to the development of the data presented in Table 3.3-3.

Section 15148 of the State CEQA Guidelines states that sources of information used in the preparation of an EIR, such as scientific documents, “should be cited but not included in the EIR.” Consistent with that requirement, the information and data upon which the Draft EIR analysis and conclusions were based on were cited in the document and listed in the References section. Furthermore, the Formal Notice of Availability, the public announcement CalRecycle sent to interested parties at the beginning of the comment period, and the hearing notice posted on August 20, 2019 all included the following language:

“This Draft EIR is available for review online at:
<https://www.calrecycle.ca.gov/Laws/Rulemaking/SLCP/>

It can also be reviewed in person, along with all documents cited in the Draft EIR, on any business day between 8:00 a.m. and 4:00 p.m. at CalRecycle’s offices at 1001 I Street in Sacramento.”

Comment Number: 3-3

The PEIR does not attempt to evaluate the increase in vehicles miles traveled (“VMT”) and mobile emissions under the Project claiming it would be too speculative, despite Cal Recycle making prior predictions of likely import/export rates between air districts, and having internal data regarding potential facility sites.

CalRecycle Response

The commenter states that the EIR does not provide enough information related to VMT impacts. See Master Response 2, “Adequacy of the VMT Analysis.”

The commenter states that CalRecycle made prior predictions regarding the import/export rates between air districts. In the Draft EIR, CalRecycle assumes tons would be recovered in the same air district in which they are currently disposed. This assumption is not the same as projecting the physical location of potential facility sites. There are 35 air districts of varying size in California, thus it is speculative to predict specific facility locations within air districts. The siting of new facilities would be subject to approval by jurisdictions with land use or permitting authority, and based on factors such as: zoning, including: zoning provisions, cost of land, proximity to residential neighborhoods, local air quality attainment status and related regulations, availability of air quality offsets, water availability and ground water/surface water proximity, proximity to necessary infrastructure, technology choices, and local construction costs. Thus, attempts to predict exactly where new facilities would be located within California, would be speculative. See response to comment 3-9 for additional information.

Comment Number: 3-4

The PEIR relies on the beneficial uses of organic waste in the form of renewable natural gas (“RNG”) for truck fleets and natural gas pipeline injection while ignoring sister agencies’ (e.g., CARB, CPUC) potential efforts to shift policy to a different direction with electrification.

CalRecycle Response

The commenter states that assumptions related to renewable natural gas use are contrary to objectives of other state agencies. As stated in the second paragraph on page 2-36 of the Draft EIR, “[a]naerobic digestion of organic materials can support the State’s efforts to obtain at least 50 percent of its electricity from renewable resources, aid in reducing the carbon intensity of transportation fuels, and displace fossil natural gas consumption. Biogas can be made into RNG that can be used in medium- and heavy-duty trucks in lieu of diesel fuel.” The comment does not address how the use of natural gas is contrary to State goals and overlooks areas where the State has recognized the use of RNG. For instance, the Low Carbon Fuel Standard program administered through the California Air Resources Board and the Clean Transportation Program administered through the California Energy Commission both support the production of vehicle fuel from RNG through incentives and grants. Additionally, the 2017 Short-Lived Climate Pollutant Strategy (SLCP) states that, “The analysis assumes that all biogas generated through organic waste diversion will be used as transportation fuel, as this represents the highest value use of biomethane.” (Appendix F, p. 30). Finally, the 2017 Integrated Energy Policy Report (IEPR) states on page 284 that, “This 2017 Integrated Energy Policy Report has revealed that renewable gas produced from anaerobic digestion used as a transportation fuel in near-zero emission, heavy-duty vehicles is the most likely near-term solution.” Regardless, the State does not explicitly

prohibit the use of natural gas as a fuel. No further response is necessary. Also see response to comment 3-11.

Comment Number: 3-5

The PEIR's GHG analysis discounts the Project's foreseeable induced VMT and mobile emissions by citing to a Draft 2017 Compost Emissions Reduction Factor ("CERF") study that relied on the sampling of merely six, purportedly representative composting facilities, based on internal Cal Recycle staff discussion and personal communications not disclosed in the CERF study. Furthermore, the general emissions factors in the CERF study never studied the number and geographic distribution of facilities contemplated in the PEIR and specific Project, nor has the Draft CERF been revised to cure its admitted shortcomings such as relying on non-California specific studies locations and default assumptions. At a minimum, a Project-specific SB 1383 criteria air and GHG model and study based on substantial evidence and data should be provided in a revised PEIR.

The PEIR relies on facility processing rates and site locations that are untethered to prevailing baseline conditions, which serves to underestimate the reasonably foreseeable response to the SLCP Regulations-such as the likely siting of new facilities in rural areas that accept organic waste imported from distant urban areas that will increase VMT.

The abovementioned defects defeat the goal of CEQA review, which is to provide a reasonable and good faith effort to inform decisionmakers and the public of potential environmental impacts of the proposed SLCP regulations -- backed by substantial evidence. See CEQA Guidelines § 15002(a); see also *Cleveland National Forest Foundation v. San Diego Assn. of Governments* (2017) 17 Cal.App.5th 413, 441 (lead agency "obliged to disclose what it reasonably can ... [or] substantial evidence showing it could not do so."); *Kostka & Zischke, Practice Under the Cal. Env'tl. Quality Act*, (2d ed. 2016) § 9.18 (explaining that technical data and specialized analyses cited in a draft EIR must be made available to the public for review). The PEIR fails to serve the purpose of a program EIR, which here is to provide the public and Cal Recycle an opportunity to consider the foreseeable "cumulative impacts" and "program wide" impacts from and mitigation measures for the SLCP Regulations. See CEQA Guidelines § 15168(b).

In sum, we respectfully feel the PEIR does not answer with substantial evidence and fact-based decision-making the fundamental question presented as to whether the SLCP Regulations and Project will result in reductions in criteria pollutant and GHG emissions.

CalRecycle Response

The commenter asserts that the Draft EIR's GHG analysis discounts the proposed regulation's foreseeable induced VMT and mobile emissions by citing the CERF model, which relied on the sampling of six representative composting facilities. See Master Response 1, "Adequacy of the GHG Analysis," for additional discussion of the CERF model and its applicability to climate change impacts under the proposed regulation.

The commenter states that the likely siting of new facilities in rural areas that accept organic waste imported from distant urban areas would increase VMT. See Master Response 2, “Adequacy of the VMT Analysis.”

With regard to the adequacy of substantial evidence cited in the Draft EIR, see response to comment 3-2; with regard to projections of where recovery activities could occur, see response to comment 3-9; with regard to projected facility capacity see response to comment 3-10.

With regard to criteria air pollutant emissions, Section 3.3, “Air Quality,” of the Draft EIR discussed the reasonably foreseeable changes to local and regional air quality associated with implementation of the proposed regulation. Table 3.3-3 in the Draft EIR summarizes the anticipated reductions in NO_x and PM_{2.5} emissions from business-as-usual (BAU) landfill operations and estimates that each air basin would expect reductions in emissions as compared to baseline conditions. However, the analysis contained in Section 3.3, “Air Quality,” recognizes that air pollution, which produces local and regional impacts rather than State- or global-level impacts, could be redistributed to air basins in the State currently in nonattainment for the National Ambient Air Quality Standards (NAAQS) or California Ambient Air Quality Standards (CAAQS). As a result, despite reductions achieved simply through reduced rates of organic decomposition at landfills, the Draft EIR takes a conservative approach and concludes air quality impacts from implementation of the proposed regulation would be significant, and mitigation is recommended.

The analysis presented in the Draft EIR presents a good-faith effort at evaluating the environmental effects of the proposed regulation. Discussions presented in the Draft EIR and this Final EIR rely on substantial evidence to support conclusions. No changes to the document are necessary.

Comment Number: 3-6

Respectfully, CalRecycle must recirculate a Draft PEIR that shows its math and accounts for foreseeable consequences of the SLCP Regulations, such as the impacts resulting from induced VMT from the Project.

Please put this email and attached expert letter in the administrative record for the Project.

Finally, on behalf of CWRA, this Office requests, to the extent not already on the notice list, all notices of CEQA actions, hearings and any approvals, Project CEQA determinations, or public hearings to be held on the Project under any state law requiring local agencies to mail such notices to any person who has filed a written request for them. See Pub. Res. Code §§ 21080.4, 21083.9, 21092, 21092.2, 21108, 21167(f). Please send notice by electronic and regular mail to: Gideon Kracov, Esq., 801 S. Grand Avenue, 11th Fl., Los Angeles, CA 90017.gk@gideonlaw.net.

CalRecycle Response

The comment states that the Draft EIR must be recirculated to shows its math and account for foreseeable consequences of the proposed regulation, such as the impacts

resulting from induced VMT. State CEQA Guidelines Section 15088.5 states that an EIR must be recirculated when significant new information is added to the EIR after the after the Draft EIR has been released for public review. Significant new information that requires recirculation includes:

- A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented (State CEQA Guidelines Section 15088.5[a][1]);
- A substantial increase in the severity of an impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance (State CEQA Guidelines Section 15088.5[a][2]);
- A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the environmental impacts of the project, but the project's proponents decline to adopt it (State CEQA Guidelines Section 15088.5[a][3]; and
- The draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded (State CEQA Guidelines Section 15088.5[a][4]).

As discussed in the responses to comments 3-5 and 3-2, the analysis presented in the Draft EIR presents a good-faith effort at evaluating the environmental effects of the proposed regulation, including the impacts resulting from induced VMT. Discussions presented in the Draft EIR and this Final EIR rely on substantial evidence to support conclusions. Significant new information that requires recirculation has not been identified. Thus, recirculation is not required.

The commenter provides closing remarks and requests that the comment letter be included as part of the administrative record and noticing of future CEQA actions related to the EIR. Although provision of 10 days prior review is only required for public agencies to receive proposed responses, per Section 15088(b), CalRecycle will also provide a similar accommodation to CWRA and its attorney, Gideon Kracov, of release of this Final EIR at least 10 days prior to certification of the EIR; the Final EIR includes written responses to comments raising significant environmental issues.

Comment Number: 3-7

We have reviewed the Draft Program Environmental Impact Report (“DEIR”) prepared by the Department of Resources Recycling and Recovery (“CalRecycle”) for the SB 1383 Regulations on Short-Lived Climate Pollutants: Organic Waste Methane Emission Reduction (“Project”) located in the State of California. The Project proposes to adopt regulations that would reduce the disposal of organic waste by 50 percent of 2014 levels by 2020 and 75 percent by 2025 through required reductions in landfill disposal of organic waste, required edible food recovery, and food recovery programs and markets.

Our review concludes that the DEIR fails to adequately evaluate the Project’s air quality and greenhouse gas impacts. The DEIR repeatedly fails to provide substantial evidence for its calculations. As a result, emissions and greenhouse gas impacts associated with the Project are underestimated and inadequately addressed. An updated DEIR should be prepared to adequately assess and mitigate the potential air quality and greenhouse gas impacts that the Project may have on the environment.

CalRecycle Response

The commenter asserts that the Draft EIR fails to provide substantial evidence for its calculations of air quality and GHG emissions associated with the proposed regulation. The commenter indicates that the Draft EIR should be revised to adequately assess and mitigate these impacts. Response to comment 3-8 below expands upon CalRecycle’s methodology for evaluating foreseeable air pollution and GHG emissions under the proposed regulation and describes the substantial evidence upon which the analysis was based. This comment is noted for consideration by decision makers.

Comment Number: 3-8

The DEIR concludes that “organic materials diverted to AD, compost, and chip and grind facilities would produce substantial reductions in NO_x and PM_{2.5} relative to landfill disposal of organic waste” (p. 3.3-18). CalRecycle attempts to justify this fundamental conclusion by comparing total new facility NO_x and PM_{2.5} emissions with those from purported Business-as-Usual (“BAU”) landfilling (see excerpt below) (Table 3.3-3, pp. 3.3-19 - 3.3-20).

Air Basin	Total New Facility NO _x Emissions (AD + Compost + C&G, tpy) ³	Total New Facility PM _{2.5} Emissions (AD + Compost + C&G, tpy)	BAU Landfill NO _x Emissions (tpy)	BAU Landfill PM _{2.5} Emissions (tpy)	SB 1383 NO _x Emissions (Total New Facility Emissions - Landfill Emissions; tpy)	SB 1383 PM _{2.5} Emissions (Total New Facility Emissions - Landfill Emissions; tpy)
South Coast	62	5142	7737	8857	-7674	-3715
San Francisco Bay	21	1640	2451	2806	-2430	-1166
San Joaquin Valley	16	1214	1802	2062	-1786	-848
San Diego County	15	1179	1775	2032	-1760	-853
Sacramento Valley	10	731	1094	1253	-1084	-522
South Central Coast	8	625	934	1069	-926	-444
Mojave Desert	6	389	583	668	-578	-278
North Central Coast	5	301	447	511	-442	-210
Salton Sea	2	83	125	144	-124	-60
Lake County	2	20	30	34	-28	-14

Air Basin	Total New Facility NO _x Emissions (AD + Compost + C&G, tpy) ³	Total New Facility PM _{2.5} Emissions (AD + Compost + C&G, tpy)	BAU Landfill NO _x Emissions (tpy)	BAU Landfill PM _{2.5} Emissions (tpy)	SB 1383 NO _x Emissions (Total New Facility Emissions - Landfill Emissions; tpy)	SB 1383 PM _{2.5} Emissions (Total New Facility Emissions - Landfill Emissions; tpy)
Mountain Counties	2	18	27	31	-26	-13
Great Basin Valleys	2	14	20	23	-19	-10
Northeast Plateau	2	7	10	11	-8	-5

Notes: BAU = business as usual; NO_x = oxides of nitrogen; PM_{2.5} = fine particulate matter (particulate matter with an aerodynamic diameter of 2.5 micrometers or less)

¹ Landfill disposal data was aggregated into air basins based on location of each landfill, and tonnage received at each landfill.

² North Coast and Lake Tahoe Air Basins have no landfills, therefore no tons were allocated to these basins.

³ Compost, Chip, and Grind, and Anaerobic Digestion emission factors for NO_x and PM are derived from emissions data from source testing conducting for air district permits. Data is applied to future facilities projected to be constructed in response to the regulations. All new facilities are assumed to process 100,000 Tons Per Year.

⁴ Landfill Emissions factors for NO_x and PM_{2.5} are derived from EPA's LMOP database (Jaffe Study, June 2016) for total methane generated and from Table .24, USEPA's AP-42 (October 2008) guidance document for calculating NO_x emission. This estimate represents 92 percent of waste in place, and therefore represents a conservative estimate.

Source: CalRecycle 2019

As can be seen in the table above, CalRecycle determined that new facility emissions would be significantly lower than existing BAU landfill emissions. However, this conclusion is almost entirely unsubstantiated.

First, the only citation provided for total new facility NO_x emissions claims that "emission factors for NO_x and PM are derived from emissions data from source testing conducting for air district permits. Data is applied to future facilities projected to be constructed in response to the regulations" (p. 3.3-20). This citation fails to substantiate any of the calculations provided in the DEIR, as CalRecycle does not actually include any of this emissions data. No air quality appendix or modeling is provided. By failing to provide more information, the data and calculations conducted in the DEIR cannot be substantiated, and thus the claimed reductions from the Program may be significantly overestimated. Without disclosing the source of the data, or the specific calculations,

there is no way to verify CalRecycle’s conclusions. CEQA requires far more. A more thorough evaluation of emissions should be completed.

Second, CalRecycle does not explicitly include the calculations for BAU landfill NO_x and PM_{2.5} emissions, but instead simply provides three citations for how the calculations were done. These include EPA’s Landfill Methane Outreach Program (LMOP) Database, the Jaffe Study (June 2016), and USEPA’s AP-42 guidance document for calculating NO_x emissions (October 2008) (see excerpt above [footnote 4]). However, while these documents do contain some relevant data, our review concludes that more data is needed to actually calculate emissions data by air basin. For example, the LMOP does not include values for the concentration of each pollutant in landfill gas used to calculate BAU Landfill NO_x and PM_{2.5}. As a result, we are unable to utilize the equations provided in USEPA’s AP-42 guidance to verify CalRecycle’s calculations. Thus, without including calculations in the DEIR or disclosing all of the information required to make calculations, there is no way to verify the DEIR conclusions and thus, BAU emissions may be significantly overestimated. A more thorough evaluation of emissions must be completed.

Third, Table 3.3-3 assumes that the Project will eliminate all NO_x and PM_{2.5} landfill emissions. However, this assumption fails to account for the fact that NO_x and PM_{2.5} landfill emissions are not solely caused by organic waste (for example, combustion products due to mobile sources)¹ or the fact that the Project requires 50 and 75 percent reduction (from 2014 levels) of organic waste from landfill by 2020 and 2025 (respectively) (DEIR, p. ES-1) — not 100 percent. Thus, the DEIR’s assumptions are not substantiated.

Finally, the DEIR states that “[l]andfill disposal data was aggregated into air basins based on location of each landfill, and tonnage received at each landfill” (p. 3.3-20). However, CalRecycle fails to provide the specific information regarding each landfill’s location and tonnage received. Without providing this information, we are unable to understand or verify the categorization of landfills. In addition, none of the citations provided by CalRecycle categorize the landfills in this way. Without providing more information, we are unable to verify CalRecycle’s categorization and thus, it remains unsubstantiated. A more thorough evaluation of this aggregation is necessary.

CalRecycle Response

The commenter intimates that the values shown in Table 3.3-3 in Section 3.3, “Air Quality,” of the Draft EIR are not supported by substantial evidence. The comment contains concerns related to the source materials used to prepare Table 3.3-3 of the Draft EIR and the methods used to calculate NO_x and PM_{2.5} emissions.

Below Table 3.3-3 in the Draft EIR, there are notes that addressed how the emissions data was calculated. Four notes contain general information regarding the calculations, reproduced as follows (see page 3.3-20 under Table 3.3-3 of the Draft EIR):

¹ Landfill disposal data was aggregated into air basins based on location of each landfill, and tonnage received at each landfill.

² North Coast and Lake Tahoe Air Basins have no landfills, therefore no tons were allocated to these basins.

³ Compost, Chip, and Grind, and Anaerobic Digestion emission factors for NO_x and PM are derived from emissions data from source testing conducting for air district permits. Data is applied to future facilities projected to be constructed in response to the regulations. All new facilities are assumed to process 100,000 Tons Per Year.

⁴ Landfill Emissions factors for NO_x and PM_{2.5} are derived from EPA's LMOP database (Jaffe Study, June 2016) for total methane generated and from Table .24, USEPA's AP-42 (October 2008) guidance document for calculating NO_x emission. This estimate represents 92 percent of waste in place, and therefore represents a conservative estimate.

In addition, Table 3.3-3 of the Draft EIR references CalRecycle 2019, which is listed in Chapter 8, "References," of the Draft EIR as:

CalRecycle. 2019 (July 10). Email to Nanette Hansel at Ascent Environmental from Hank Brady of CalRecycle dated July 10, 2019—spreadsheet that includes tons allocated by recovery option and potential air basin locations for compost and anaerobic digestion facilities. Sacramento, CA.

The information contained in the reference provides the equations, emissions calculator data, and source emission assumptions used to create Table 3.3-3 of the Draft EIR, which indicates that organic materials diverted to AD, compost, and chip and grind facilities would produce substantial reductions in NO_x and PM_{2.5} relative to landfill disposal of organic waste. The reference is cited in Chapter 8, "References," of this Final EIR as CalRecycle 2019c and again included in the administrative record for the EIR. Section 15148 of the State CEQA Guidelines requires that information relied upon for the preparation of an EIR to be "cited but not included in the EIR." The reference materials listed in Chapter 8, "References," of the Draft EIR, including the source of information in Table 3.3-3, have been available through CalRecycle (either by contacting CalRecycle staff or visiting their offices in Sacramento during normal business hours) starting at the time of release of the Draft EIR (see response to comment 3-2). Similarly, the reference materials listed in Chapter 5, "References," of this Final EIR are also available through CalRecycle.

The above-reference material (referred to as CalRecycle 2019 in Section 3.3 of the Draft EIR) contains information used to compiled business-as-usual (or a without proposed regulation scenario) and emissions from newly constructed AD, compost, and chip and grind facilities by air basin for 2030. CalRecycle attempted to provide a conservative analysis of the emissions reductions so as to not overstate the potential air quality benefits associated with implementation of the proposed regulation. To provide for greater clarity and to help the public to better understand the potential effects of the proposed regulation, the data sources and assumptions used to derive Table 3.3-3 of the Draft EIR are further described below.

Data and assumptions related to PM_{2.5} emissions data presented in Table 3.3-3 of the Draft EIR

The following data sources and assumptions were used in deriving Table 3.3-3 of the Draft EIR:

- Emissions of PM_{2.5} for all facility types were derived from permits issued by the San Joaquin Valley Air Pollution Control District (SJVAPCD) and the South Coast Air Quality Management District, and emission factors from EPA.
- The SJVAPCD permit data was used to obtain PM₁₀ emissions factors that could be applied on a throughput basis (e.g., on a per ton received basis). CalRecycle assumed that half or 50 percent of the PM₁₀ emissions that are generated at a facility represent the fraction of PM_{2.5} emissions. Air districts typically determine the fraction of PM₁₀ that is PM_{2.5} at a given facility on a case-by-case basis, which is not practical or appropriate for a statewide program. PM_{2.5} is typically found to represent between 10 and 50 percent of the PM₁₀ at a facility. By assuming that 50 percent of the PM₁₀ emissions generated at a facility are PM_{2.5}, CalRecycle is being conservative and careful about not underestimating PM_{2.5} emissions associated with the proposed regulation.
- EPA has determined that ammonia (NH₃) is a precursor to PM and all PM_{2.5} precursors are presumptively required to be addressed in an air district's statewide implementation plan to comply with NAAQS (see Title 40 of the Code of Federal Regulations Parts 50, 51, and 93). CalRecycle relied upon SJVAPCD permit data to project ammonia emissions that would be generated on a per ton basis from the receiving, storage, mixing operations, and the decomposition of organic waste. CalRecycle conservatively assumed that all ammonia emissions represent secondary PM_{2.5}. A standard molar conversion factor of 4.700117 tons of ammonium nitrate (NH₄NO₃) per ton of ammonia (NH₃) was used to calculate an emission factor for PM_{2.5} associated with the formation of ammonium nitrate related to the decomposition of one ton of organic waste. An ammonia emission rate for chipping and grinding is assumed to be the same as stockpiling emissions found at compost facilities. This assumption may overestimate emissions at chip and grind facilities, as stockpiles at chip and grind facilities were assumed to be onsite for up to 7 days, but materials are generally only allowed to remain onsite for up to 48 hours per Title 14 of the California Code of Regulations (CCR) Section 17852(a)(10)(A)(2). Additionally, chip and grind feedstocks were assumed to be the same as compost facilities, however, unlike landfills and compost facilities, chip and grind operations are not permitted to handle food waste. Food waste has a higher potential to generate ammonia and, therefore, total ammonia and ultimately PM_{2.5} emissions from chip and grind facilities may be overstated. Overall, this produces a conservative assumption for PM_{2.5} emissions that would occur as a result of implementation of the proposed regulation. This was done to avoid understating PM_{2.5} emissions that could occur from the implementation of the proposed regulation.

- Potential PM emissions calculations for anaerobic digestion facilities relied upon data from an air district permit in the South Coast Air Quality Management District for a newly permitted anaerobic digestion facility. PM emissions from the permit were applied to tons of organic waste projected to be delivered to AD facilities.
- Landfill emissions of PM_{2.5} also occur from gas that is captured at the landfill and combusted in either an Internal Combustion engine (IC engine) or a flare. The level of PM_{2.5} (as well as NO_x) emissions associated with flares and IC engines is attributable to the amount of gas that is captured by individual landfills. For the purpose of this EIR, it is important to note that assuming a higher capture efficiency would ultimately increase projected landfill emissions, as a greater amount of gas would need to be managed through a flare or IC engine. To project the emissions that would occur from flaring and combustion in an IC engine, CalRecycle relied upon historic landfill methane capture data to develop an estimate of landfill emissions associated with using captured landfill gas in a flare or IC engine that would occur under a business as usual scenario (i.e., no regulations) in 2030. (The distribution between IC engines and flares is discussed under the fifth bullet under the header “Data and assumptions related to NO_x emissions presented in Table 3.3-3 of the Draft EIR.”)

Data and assumptions related to NO_x emissions data presented in Table 3.3-3 of the Draft EIR

- Emissions of NO_x for all facility types was derived from permits issued by the Bay Area Air Quality Management District (BAAQMD), the South Coast Air Quality Management District, and emission factors derived from EPA.
- Operation of stationary and mobile source equipment at facilities results in emissions of NO_x. CalRecycle conservatively assumed that diesel-powered equipment would be used at chip and grind and compost facilities, rather than electric equipment. This is a conservative assumption and potentially overstates compost and chip and grind emissions because many air districts may require new or expanded facilities to use electric equipment as a method to reduce NO_x emissions.
- To estimate potential NO_x emissions from organic waste handling, data from BAAQMD for tub grinders and trommel screens was used to calculate an annual emission factor of NO_x per ton of feedstock.
- CalRecycle conservatively assumed that NO_x emissions associated with mobile processing and handling equipment would be comparable at landfills, compost, anaerobic digestion, and chip and grind facilities. This is assumed to substantially underestimate NO_x emissions occurring from equipment operating at landfills. For example, bulldozers and other off-road equipment common at landfills are unlikely to operate at organic waste recovery operations such as compost and chip and grind facilities. Mobile equipment employed at landfills is substantially

heavier and produces higher emissions per operating hour than the heaviest types of equipment commonly found at compost or chip and grind facilities. Additionally, best available control technologies (e.g., CASP systems) used at compost facilities may reduce or eliminate the need for certain diesel-powered mobile equipment such as windrow turners, further reducing emissions of NOx that may occur at compost facilities as the regulations are implemented.

- For AD facilities, NOx is associated with combustion of natural gas in boilers. South Coast Air Quality Management District permit data was used to calculate a NOx emission factor per ton of organic waste recovered at AD facilities. Additionally, for landfills, NOx is also associated with combustion of landfill gas in flares and IC engines. Emission factors from EPA's AP-42: Compilation of Air Emission Factors report were used to calculate the amount of NOx resulting from the combustion of landfill gas in a flare or IC engine. While the future allocation of landfill gas that would be captured and flared or fed into an IC engine cannot be known, published data notes that in 2015 approximately 55 percent of captured gas was flared and 45 percent was used in an IC engine. CalRecycle relied upon historic landfill disposal and methane capture data to develop an estimate of business as usual NOx emissions by air basin for the year 2030.

The commenter requests more detailed information related to individual landfill emissions data. To estimate more precise air quality impacts resulting from the implementation of the proposed regulation, an agency would need to know at a minimum the following:

- the exact emission control technology employed at each existing facility losing feedstock (e.g., landfills) and each new or expanded facility receiving new material (i.e., organic waste recovery facilities);
- the amount of feedstock lost or gained at specific facilities;
- a general profile of the type of organic waste received;
- the types of mobile and stationary equipment used at each facility; and
- the existing and projected operating hours for the facility.

This type of analysis may be possible at a site-specific project level where a new organic waste recovery facility is constructed and the exact control technology to be employed at the new operation is known as well as the location of, the methane capture efficiency of, and the control technology employed at the landfills from which organic waste feedstock would be diverted. Diverting material from landfills with low capture efficiencies to compost facilities would result in substantially higher GHG emission reductions, but lower reductions of NOx and PM_{2.5}. Conversely, diverting material from landfills with higher capture efficiencies may result in more conservative reductions in GHGs, but more substantial reductions in NOx and PM_{2.5}.

Due to this uncertainty, while the calculations underlying Table 3.3-3 support a conclusion that long-term operational emissions of NOx, PM₁₀, and PM_{2.5} may be less than significant, CalRecycle conservatively discloses in the Draft EIR that, "... because emissions of air pollutants from the operation of organic waste recovery facilities

implemented in response to the proposed regulation could surpass the applicable thresholds of significance of a local air district, operational-related air quality impacts would be **potentially significant**. (fourth paragraph on page 3.3-22 of the Draft EIR).”

Because the specific location of future organic waste recovery facilities proposed under the proposed regulation is unknown at this time (see Chapter 2, “Project Description), this analysis makes a good faith effort to qualitatively disclose the potential adverse human health impacts that could occur from operational emissions of criteria air pollutants and ozone precursors under the proposed regulation. As detailed above, the data presented in Table 3.3-3 of the Draft EIR is based on substantial evidence, as defined by CEQA: “enough relevant information and reasonable inferences from ... information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached (State CEQA Guidelines Section 15384[a]).” Furthermore, the analysis was based on facts, reasonable assumptions predicated upon facts, and expert opinions supported by facts (i.e., this data was estimated in coordination with CARB, as noted in the third paragraph on page 3.3-18 of the Draft EIR), which is consistent with the State CEQA Guidelines definition of substantial evidence (State CEQA Guidelines Section 15384[b]). Thus, the data presented in Table 3.3-3 of the Draft EIR is based on substantial evidence that is contained in the record.

As discussed in response to comment 3-2, this data was calculated in coordination with CARB, and is consistent with the definition of substantial evidence under CEQA, “facts, reasonable assumptions predicated upon facts, and expert opinions supported by facts (State CEQA Guidelines Section 15384[b]).” No changes to the document are necessary.

Comment Number: 3-9

This comment contains tables that do not meet accessibility requirements. For fully accessible versions of the tables presented in this comment, please see Appendix D.

Unsubstantiated Changes from the Baseline Scenario

The DEIR concludes that 108 new compost and 61 new anaerobic digestion facilities will be constructed in the state by 2030 (pp. 2-17 – 2-19) but has unsubstantiated assumptions of where they will be located. As can be seen in our summary table provided below, the geographic distribution of projected facilities indicated in the DEIR significantly varies from that of the status quo, without adequate explanation. For example, despite the South Coast accounting for only 7% of total existing baseline composting facilities in the state, the DEIR claims that facilities in the South Coast will increase to 42% and 43% by 2025 and 2030, respectively. Conversely, despite the San Joaquin Valley accounting for 33% of baseline composting facilities in the state, the DEIR claims that the geographic concentration in the San Joaquin Valley will decrease to merely 11% and 10% in 2025 and 2030, respectively. These huge changes from the baseline lack substantiation.

The DEIR fails to provide any reasoning supported by substantial evidence to why these drastic changes in geographic distribution of composting and digester facilities will occur. Rather, the DEIR relies on an undisclosed spreadsheet sent as an email between two CalRecycle employees for the relevant citation (p. 8-1). This is not substantial evidence. Without providing the spreadsheet, or justification for the selection of projected facilities, these claims are unsubstantiated. As a result, these assertions cannot be verified, and the significant difference assumed in the DEIR between the baseline and projected facility geographic distribution lacks substantial evidence.

Air District	Baseline [a]		2025 Projected [b]		2030 Projected [b]		Baseline [a]		2025 Projected [b]		2030 Projected [b]	
	Facilities	% Total	Facilities	% Total	Facilities	% Total	Facilities	% Total	Facilities	% Total	Facilities	% Total
South Coast	3	7%	44	42	46	43	5	33	23	39	24	39
San Francisco Bay	5	11	14	13	15	14	4	27	8	14	8	13
San Joaquin Valley	15	33	11	11	11	10	1	7%	6	10	7	11
San Diego County	1	2%	10	10	11	10	0	0%	6	10	6	10
Sacramento Valley	6	13	7	7%	7	6%	2	13	4	7%	4	7%
South Central Coast	3	7%	6	6%	6	6%	3	20%	3	5%	3	5%
Mojave Desert	5	11	4	4%	4	4%	0	0%	2	3%	2	3%
North Central Coast	5	11%	3	3%	3	3%	0	0%	2	3%	2	3%
Salton Sea	2	4%	1	1%	1	1%	0	0%	1	2%	1	2%
Lake County	1	2%	1	1%	1	1%	0	0%	1	2%	1	2%
Mountain Counties	0	0%	1	1%	1	1%	0	0%	1	2%	1	2%
Great Basin Valleys	0	0%	1	1%	1	1%	0	0%	1	2%	1	2%
Northeast Plateau	0	0%	1	1%	1	1%	0	0%	1	2%	1	2%
North Coast	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%
Lake Tahoe	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%
Statewide Total	46	100%	104	100%	108	100%	15	100%	59	100%	61	100%

Notes:

Figures in red denotes discrepancy from baseline conditions of five percent or more.

[a] Aggregated from Figure 2-1 of the DEIR (DEIR, p. 2-13).

[b] Facilities from Table 2-3 of the DEIR (DEIR, p. 2-18).

CalRecycle Response

The commenter requests information related to assumptions of where composting and AD facilities could be located. As required by CEQA, a lead agency must consider the direct and indirect physical changes to the environment that may be caused by a project (State CEQA Guidelines Section 15064[d]). The basis of this analysis is described in Section 2.5, “Reasonably Foreseeable Compliance Responses,” of the Draft EIR. CalRecycle developed the reasonably foreseeable compliance responses stated in Chapter 2, “Project Description,” of the Draft EIR based on reasonable assumptions of physical changes to the environment necessary to meet the goals of the proposed regulation. Assumptions related to the reasonably foreseeable compliance responses are discussed throughout Section 2.5, “Reasonably Foreseeable Compliance Responses,” of the Draft EIR.

Regarding the assumptions for facility locations, CalRecycle made reasonable assumptions about the location of future facilities based upon publicly available factual data reported through its Disposal Reporting System to determine the tons of solid waste currently disposed in landfills in each air basin within California. The Disposal Reporting system is a publicly available tool that can be used to generate the data CalRecycle relied upon. The specific data pulled from the Disposal Reporting System to substantiate these assumptions were cited in the Draft EIR in Chapter 8, “References”: CalRecycle. 2019a (May 16). Email to Nanette Hansel at Ascent Environmental from Hank Brady of CalRecycle dated May 16, 2019—spreadsheet that includes tons allocated by recovery option and potential air basin locations for compost and anaerobic digestion facilities. Sacramento, CA. This reference material was available during Draft EIR review and continues to be available upon request to CalRecycle.

CalRecycle determined that the location of new facilities would be driven by the volume of solid waste material generated in an air district rather than projecting general future facility locations based strictly on percentage of total facilities per air district. CalRecycle reasonably determined that the need for new facilities is a function of the volume of solid waste that needs to be handled. Solid waste materials are currently collected from generators and either hauled directly to a landfill or moved to a transfer station prior to being transported to a landfill in a specific air basin for disposal. While it is possible that material currently disposed in one air district could be exported to another air district for recovery, CalRecycle found no basis or rationale to definitively conclude that the materials would be transported to a specific air basin, other than the air basins where the materials are currently disposed, for recycling.

Additionally, the commenter has provided no substantial evidence for making such a projection. Rather, the commenter has analyzed where certain recovery facilities are currently located and argues that new facilities would be proportionally located in the same air basins. While the commenter’s assumption is theoretically possible, it is untethered to any linkage of where solid waste is currently generated and managed. The assumption that material would be shipped farther appears to assume that fuel costs would be a minor consideration by local decision makers. (See Appendix C regarding the fuel costs necessary to negate the GHG reductions that are projected to

be achieved through the implementation of the project.) The reasonably foreseeable compliance responses described in the Draft EIR is provided to evaluate the potential environmental impacts of the proposed regulation. As discussed in Section 2.5, “Reasonably Foreseeable Compliance Responses,” in the Draft EIR, collected organic materials would be composted, anaerobically digested, be chipped and ground or recovered through other means identified in article two of the proposed regulations.

As noted above, CalRecycle reasonably assumed that new compost, digestion, and chip and grind infrastructure would be built in the same air basin where the material is currently disposed. It is important to note that there is an economic incentive for solid waste transport and disposal service providers to maintain control of that solid waste and to develop new recycling infrastructure that is co-located at existing processing or disposal facilities to maintain control of the waste. CalRecycle reviewed the list of operational AD facilities available on its website that have opened in the last decade and determined that a majority of those facilities were co-located at an existing transfer station or landfill. Additionally, review of the nine compost facilities that have been funded by CalRecycle’s greenhouse gas reduction grant program indicated that seven of those facilities were co-located at existing processing or disposal facilities (Levenson 2018, Levenson 2014, Levenson 2017, CalRecycle 2019d). The trends observed for both construction of new compost and AD facilities supports CalRecycle’s original finding that there is no rationale supporting an assumption that the materials would be transported from the air basin where they were previously disposed to another air basin for recycling.

Finally, the scenario presented in the Draft EIR is presented to disclose reasonably foreseeable potentially significant environmental impacts that may occur as a result of the project. As noted in Section 3.3-3 of the Draft EIR (third and fourth paragraphs on page 3.3-22):

Because the specific location of future organic waste recovery facilities proposed under the proposed regulation is unknown at this time (See Chapter 2, “Project Description”), this analysis makes a good faith effort to qualitatively disclose the potential adverse human health impacts that could occur from operational emissions of criteria air pollutants and ozone precursors under the proposed regulation.

Although there would be substantial reductions in fugitive air pollution from landfills, because emissions of air pollutants from the operation of organic waste recovery facilities implemented in response to the proposed regulation could surpass the applicable thresholds of significance of a local air district, operational-related air quality impacts would be **potentially significant**.

The ultimate location of yet-to-be-constructed facilities would not change the finding that despite a projected net decrease in air quality pollutants, the air quality impacts from organic waste recovery could be potentially significant. This finding remains accurate and would not change under the scenario presented by the commenter.

Regarding the evidence cited in the Draft EIR, see response to comment 3-2 for a description of the substantial evidence included in the administrative record.

Comment Number: 3-10

This comment contains tables that do not meet accessibility requirements. For fully accessible versions of the tables presented in this comment, please see Appendix D.

So too, the DEIR’s assumption that each new facility will process 100,000 tons per year (“tpy”) (pp. 2-16, 2-19) significantly deviates from the status quo. Thus, in reality far more facilities are likely needed to meet the state’s targets – meaning that the DEIR therefore likely underestimates the Project’s true environmental impacts including vehicle miles travelled.

As confirmed by CalRecycle’s own numbers in its joint discussion paper prepared with the California Air Resources Board (“CARB”) and the California Air Pollution Control Officers Association (“CAPCOA”),² existing composting and anaerobic digesters do not coming close to this 100,000 tpy rate capacity. Therein, and as summarized in the below table, the state had 407 active facilities (e.g., composters, biomass converters, chippers and grinders, anaerobic digesters, etc.) as of 2015 with an approximate total capacity to processes 25.8 million tpy of organic waste (average 63,514 tpy per facility),³ with actual throughput at roughly 19.8 million tpy (average 48,695 tpy). Existing anerobic digesters have an average capacity and throughput rate of 35,923 and 14,385 tpy (respectively), while composters have an average capacity and throughput rate of 47,337 and 36,686 tpy (respectively)—substantially less than the 100,000 tpy assumed in the DEIR. The DEIR cites CARB’s 2017 Short-Lived Climate Pollutant Reduction Strategy Appendix for justification of this 100,000 tpy rate (pp. 2-6, 8-1). However, CARB assumed the 100,000 tons per year without justification or consideration of realistic condition as reflected by conditions at existing facilities.⁴ As a result, the DEIR may substantially underestimate the total number of facilities needed to reach the capacity targets under the Project’s DEIR. This means it is likely there will be more overall environmental impacts than the DEIR assumes.

Facility Type	Statewide Active Facilities	Capacity		Current Throughput	
		Total (tpy)	Facility Average (tpy)	Total (tpy)	Facility Average (tpy)
Anaerobic Digestion	13	467,000	35,923	187,000	14,385
Biomass Conversion	23	5,300,000	165,625	5,300,000	165,625
Composting	169	8,000,000	47,337	6,200,000	36,686
Composting–Research Operation	14	93,000	6,643	92,000	6,571
Chipping & Grinding	156	11,200,000	71,795	7,300,000	46,795
Other Organics Management	23	790,000	34,348	740,000	32,174
Total	407	25,850,000	63,514	19,819,000	48,695

² CalRecycle, et al. (Aug. 2018) COMPOSTING IN CALIFORNIA: Addressing Air Quality Permitting and Regulatory Issues for Expanding Infrastructure, p. 6 (Fig. 2), <http://californiacompostcoalition.org/wp-content/uploads/2018/11/FINALC1-1.pdf>.

³ Much closer to the 60,000-75,000 tpy or 60,000 tpy average assumption previously used by CalRecycle. Ibid., pp. 68, 70 (Tbl. E.3).

⁴ CARB (3/14/17) Appendix F: Supporting Documentation for the Economic Assessment of Measures in the SLCP Strategy, pp. 24-25, 36, <https://ww2.arb.ca.gov/sites/default/files/2018-12/appendixf%20Final%202017.pdf>.

CalRecycle Response

The commenter indicates that there are discrepancies between anaerobic digester capacity discussions included in the Draft EIR and other State documents and that by assuming these facilities would have a 100,000 tons per year capacity that the Draft EIR may underestimate environmental impacts. Page 2-15 of the Draft EIR describes the basis for the capacity of these facilities as follows:

Reasonably Foreseeable Compliance Response

It is reasonable to expect that new or expanded compost facilities would be constructed in response to the proposed regulation. Most new or expanded facilities would likely be developed using ASP composting technology, either to comply with required VOC limits established by local air districts or to comply with the statewide general order for composting from the State Water Resources Control Board (General Order) to protect water quality. The General Order does not require forced air composting, but the ability of forced air systems to handle more material (than windrow systems) on a smaller footprint would improve the cost-effectiveness of water quality order compliance (i.e., smaller site footprint equals less capital cost for drainage controls). The infrastructure report noted above demonstrated that the mean of tonnage processed by survey respondents is 112,000 tons per year. Further, a majority of composters reported throughput in excess of 300 tons per day. At a minimum of 260 operating days, this would translate to throughput of 78,000 tons. These numbers are in close alignment with the SLCP Reduction Strategy assumption that new facilities would process 100,000 tons per year (CARB 2017b:25–26, 36). CalRecycle finds that it is reasonable to assume that new compost facilities would each handle an estimated 100,000 tons per year of organic waste.

The 100,000 tons per year figure is reasonable for expected future (new) composting and AD facilities for several reasons.

First, the data in the table provided in this comment that lists 169 compost facilities does not recognize that there are essentially two classes of composting facilities. The Draft EIR focuses on facilities that would manage the feedstocks associated with the proposed regulation—i.e., composting facilities that are designed and permitted to accept food, food soiled paper, and other materials. The number of existing facilities

capable of handling the breadth of SB 1383 materials is smaller than 169 (probably closer to 30) and they tend to be larger facilities. The smaller composting facilities included in the cited table, including facilities that only possess a notification permit or a research permit that skews the throughput average.

Most of the SB 1383 material would be controlled by haulers and brought to regional processing facilities that would likely use aerated static piles (ASPs) for composting. Page 2-15 of the Draft EIR describes that most “new or expanded facilities would likely be developed using ASP composting technology, either to comply with required VOC limits established by local air districts or to comply with the statewide general order for composting from the State Water Resources Control Board (General Order) to protect water quality.” The financial investment required for these types of control technologies becomes more cost effective with higher throughputs of material.

The commenter also does not recognize that existing composting facilities would likely expand to increase their permitted capacity to handle SB 1383 materials (CalRecycle 2019e), so the Draft EIR is being conservative by analyzing the impacts of new facilities, when in fact the impacts of expanding an existing facility are likely less than developing a new one. For example, if a jurisdiction adds collection of residential food scraps to an existing green materials collection program and the jurisdiction/hauler takes that material to an existing facility, the Impacts would be substantially less than those associated with constructing a new facility to collect a separate container type that is not already a part of the jurisdictions existing collection service.

In addition, as part of the *SB 1383 Infrastructure and Market Analysis Report* (CalRecycle 2019e) existing composters were surveyed regarding the amount of material they processed annually. The average amount of material processed by the approximately 50 survey respondents was about 114,00 tons annually. For these reasons, no further response is necessary.

Comment Number: 3-11

Failure to Consider Foreseeable Difficulties in Siting New Facilities and Use of RNG Into the Future

The DEIR concludes that composting facilities are easier to site in agricultural communities (DEIR, pp. 2-14, 3.3-7).⁵ The DEIR states that rural areas tend to have greater availability of sites not within 1,000 feet of sensitive receptors (DEIR, pp. 3.3-4, 3.3-11 – 3.3-12, 3.3-26, 3.3-28). So too, securing permits, local zoning restrictions, and receiving adequate subsidies make urban facilities difficult to construct.⁶ The difficulties of siting new composting and anaerobic digestion facilities in urban areas likely indicates that facilities will continue to track the status quo—usually being sited in rural areas. The DEIR fails to reconcile this by analyzing the true impacts caused when organic waste must be transported long distance from urban areas (as discussed further below). For example, the new Perris Biomethane Facility with anaerobic digestion is designed to convert municipal organic waste into biogas and renewable natural gas (“RNG”) to either fuel for truck fleets or be injected into natural gas pipelines.⁷ Despite completion of its initial CEQA review and approval in 2011, that facility only started

operation of its first of four phases in 2017 with its full capacity only possible with a minimum of \$3-plus million grant funding.⁸

Moreover, the end product of RNG for truck fleet and augmenting natural gas pipelines—the same use intended under the Project (DEIR, pp. ES-53, ES-61, 1-1, 2-2, 2-6, 2-10, 2-21, 2-36, 3.3-19), runs counter to CARB’s and the Public Utility Commission (“PUC”)’s new push for electrification over RNG technologies,⁹ and emerging arguments that RNG purportedly extends the state’s reliance on fossil fuels by extending the useful life of natural gas pipelines.¹⁰ The DEIR must come to terms with this foreseeable incongruence in policy among the sister agencies.

CalRecycle fails to consider the foreseeable potential impacts of approving a Project designed to generate RNG when its sister agencies CARB and the PUC may be going an entirely different direction (i.e., electrification via solar and wind technologies). The DEIR must address this.

Failure to Adequately Evaluate Mobile Emissions

The DEIR states that mobile emissions – even though likely to significantly increase as a result of the Project – cannot be quantified, claiming that “attempting to quantify the level of [vehicles miles traveled (“VMT”)] generated from this activity would be too speculative to be meaningful, because the specific locations of treatment facilities cannot be known at this time” (pp. 324). However, this claim is incorrect, as the DEIR includes a list of potential air basin locations for compost and anaerobic digestion facilities (Table 2-3, p. 2-18). The source for this table, as mentioned previously, is an email spreadsheet from Hank Brady to Nanette Hansel that is not disclosed (p. 8-1). By failing to disclose this spreadsheet, we are unable to calculate mobile emissions for the planned facilities. Thus, mobile emissions can and should be calculated according to this information and CalRecycle should disclose the corresponding spreadsheet for verification.

In any event, the DEIR must do more on calculating VMT with substantial evidence. The DEIR should analyze the VMT and mobile emissions reasonable expected when accounting for the imbalance between the likely locations of organic waste processing facilities (i.e., rural areas) and location of organic waste producers (i.e., urban areas). In fact, CalRecycle has already made some assumptions about the likelihood of waste being exported to other air districts.¹¹ The DEIR admits that the locations most likely for composting and anerobic digestion facilities are in the rural areas of the state (DEIR, p. 2-14).

*Hence, contrary to claims otherwise, VMT induced by the Project is not entirely “uncertain” or “speculative” (DEIR, pp. 3.3-16 3.3-18). The DEIR must make a good-faith effort to assess the mobile emissions from both a) transportation of organic waste being transported to foreseeable distant facilities, and b) transportation of organic end-products (e.g., compost, mulch, land application, etc.) to foreseeable markets. Failure to do so ignores the potential impact to rural areas experiencing significant increase VMT and co-contaminants from mobile-emissions—particularly those areas in nonattainment status—as well as GHG impacts.*¹²

⁵ Supra fn. 2, p. 66 [Figure showing largest throughput composting and anaerobic digestion facilities in rural areas, such as the San Joaquin Valley and Mojave Desert].

⁶ Ibid., pp. 23, 36, 42, 43.

⁷ California Energy Commission (May 2017) Grant Request Form, PDF p. 22-24 (including project overview and synopsis of past and current review), https://ww2.energy.ca.gov/business_meetings/2017_packets/2017-05-10/Item_12c_ARV-16-028.pdf.

⁸ Ibid., p. 1.

⁹ CARB (2/25/19) Advanced Clean Truck Workgroup Meeting, <https://ww2.arb.ca.gov/sites/default/files/2019-02/190225actpres.pdf>; CARB (4/18/19) Current Assessment of the Technical Feasibility of Lower NOx Standards and Associated Test Procedures for 2022 and Subsequent Model Year Medium-Duty and Heavy-Duty Diesel Engines, p. 2 (noting “CARB is aiming to encourage the use of zero emission vehicles and equipment where possible.”), https://ww3.arb.ca.gov/msprog/hdlownox/white_paper_04182019a.pdf?utm_medium=mail&utm_source=govdelivery; Clean Energy (2019) HVIP: Opposition To Defunding Low NOx Vehicles, p. 1 (noting opposition to recommendations to defund low NOx heavy-duty vehicle programs supporting RNG vehicles), <https://www.cleanenergyfuels.com/wp-content/uploads/2019/07/Coalition-Opposition-Letter-HVIP-Low-Nox-Defunding.pdf>; PUC (2019) Transportation Electrification Activities Pursuant to Senate Bill 350, <https://www.cpuc.ca.gov/sb350te/>; Utility Dive (8/2/19) California opens \$1B in efficiency funding to electrification (“The California Public Utilities Commission (CPUC) voted unanimously to alter the ‘three-prong test’ that was originally adopted in the early 1990s to avoid encouraging programs that substitute electricity for natural gas.”), <https://www.utilitydive.com/news/california-opens-1b-in-efficiency-funding-to-electrification/560096/>; PUC (2019) Transportation Electrification Programs Overview, <https://www.law.berkeley.edu/wp-content/uploads/2019/06/Session-3-CPUC-Transportation-Electrification-Activities.pdf>.

¹⁰ San Diego Union Tribune (2/28/19) SDG&E and SoCalGas want to offer renewable natural gas to customers, <https://www.sandiegouniontribune.com/business/energy-green/sd-fi-renewable-natural-gas-20190228-story.html>; Sierra Club & Earthjustice (4/5/19) PUC Protest of Sierra Club RE Application of Southern California Gas Company and San Diego Gas & Electric Company for Renewable Natural Gas Tariff, <https://earthjustice.org/sites/default/files/files/Protest.pdf>.

¹¹ Supra fn. 2, p. 68 (Tbl. E-2 indicating scenario where 75 percent of organic waste originating from South Coast AQMD would be export to other air districts).

¹² Such as San Joaquin Valley (nonattainment status for 8-Hour Ozone and PM2.5) or Mohave Desert (nonattainment status for 8-hour Ozone and PM10 standards). See CABR (2019) Area Designations Maps / State and National, <https://ww3.arb.ca.gov/desig/adm/adm.htm>.

CalRecycle Response

The commenter states that the Draft EIR does not discuss impacts caused when organic waste must be transported long distances from urban areas and should do more to calculate VMT. See Master Response 2, “Adequacy of the VMT Analysis.”

The commenter states that discussions of RNG procurement are contrary to State goals for electrification. RNG is a byproduct of AD operations and its replacement of natural gas in the mobile, commercial, and residential sectors is discussed on page 3.8-17 of the Draft EIR. The proposed regulation does not include a requirement that AD facilities utilize RNG generated by AD operations and the objective of this project is not to generate RNG. The extent to which RNG would displace natural gas within these sectors is therefore speculative. Regardless, the commenter does not cite substantial evidence suggesting a particular environmental impact from the generation of RNG.

The use of renewable natural gas as outlined in the 2017 Climate Change Scoping Plan (2017 Scoping Plan) (CARB 2017), which is the official plan for how the State will meet the greenhouse gas emissions requirements pursuant to Assembly Bill 32 (Nuñez, Chapter 488, Statutes of 2006) and SB 32 (Pavley, Chapter 249, Statutes of 2016). The 2017 Scoping Plan lists the organics diversion regulation as a measure that will be utilized to ensure this emissions reduction goal is met, and states that “procurement policies [are] needed to encourage in-vessel digestion projects and increase the production and use of renewable gas (CARB 2017: 68).” The following excerpts from the 2017 Scoping Plan additionally outline how renewable natural gas is viewed as necessary to reduce the State’s greenhouse gas emissions:

- Organic matter can ... provide a clean, renewable energy source in the form of bioenergy, biofuels, or renewable natural gas (CARB 2017: ES12).
- Moving forward, reducing use of fossil natural gas wherever possible will be critical to achieving the State’s long-term climate goals. For end uses that must continue to rely on natural gas, renewable natural gas could play an important role. Renewable natural gas volume has been increasing from approximately 1.5 million diesel gallon equivalent (dge) in 2011 to more than 68.5 million dge in 2015, and continued substitution of renewable gas for fossil natural gas would help California reduce its dependence on fossil fuels. In addition, renewable gas can be sourced by in-vessel waste digestion (e.g., anaerobic digestion of food and other organics) and recovering methane from landfills, livestock operations, and wastewater treatment facilities through the use of existing technologies, thereby also reducing methane emissions. The capture and productive use of renewable methane from these and other sources is consistent with requirements of SB 1383 (CARB 2017: 66).
- Production and use of bioenergy in the form of biofuels and renewable natural gas has the potential to reduce dependency on fossil fuels for the transportation sector (CARB 2017: 89).

Further, the regulatory procurement requirements were developed in consultation with the California Air Resources Board and the California Energy Commission. Per the provisions of Section 39730.8 of the Health and Safety Code, the regulatory procurement requirements were designed to be in alignment with the recommendations found in the 2017 Integrated Energy Policy Report (IEPR), which was developed by the California Energy Commission in consultation with the Public Utilities Commission and the California Air Resources Board. This text is reproduced as follows.

Section 39730.8... (b) **The energy commission, in consultation with the state board and the commission**, shall develop recommendations for the development and use of renewable gas, including biomethane and biogas, as a part of its 2017 Integrated Energy Policy Report prepared pursuant to Section 25302 of the Public Resources Code. In developing the recommendations, **the energy commission shall identify cost-effective strategies that are consistent with existing state policies and climate change goals by considering priority end uses of renewable gas**, including biomethane and biogas, and their interactions with state policies, including biomethane and all of the following:

- (1) The Renewables Portfolio Standard program (Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code).
- (2) The Low-Carbon Fuel Standard regulations (Subarticle 7 (commencing with Section 95480) of Title 17 of the California Code of Regulations).
- (3) Waste diversion goals established pursuant to Division 30 (commencing with Section 40000) of the Public Resources Code.
- (4) The market-based compliance mechanism developed pursuant to Part 5 (commencing with Section 38570) of Division 25.5.
- (5) The [Short-lived Climate Pollutant] strategy.

(c) **Based on the recommendations developed pursuant to subdivision (b)**, and to meet the state's climate change, renewable energy, low-carbon fuel, and short-lived climate pollutants goals, including black carbon, landfill diversion, and dairy methane targets identified in the strategy, **state agencies shall consider and, as appropriate, adopt policies and incentives to significantly increase the sustainable production and use of renewable gas, including biomethane and biogas.**

(d) Based on the recommendations developed pursuant to subdivision (b), the commission, in consultation with the energy commission and the state board, shall consider additional policies to support the development and use in the state of renewable gas, including

biomethane and biogas, that reduce short-lived climate pollutants in the state...” [Emphasis added]

Sections 39730.6 and 39730.8 of the Health and Safety Code were adopted concurrently with Section 42652.5 of the PRC as a part of SB 1383. In compliance with the statute, CalRecycle (a State agency) considered the recommendations of the IEPR, and as appropriate is proposing to adopt regulations that require the procurement of recovered organic waste products including renewable natural gas.

The commenter states that a shift in funding incentives provided by CARB is evidence that CalRecycle’s inclusion of procurement requirements is “going in an entirely different direction,” then sister agencies. The CARB policy that the commenter’s cited addresses the *2019-20 Funding Plan for Clean Transportation Incentives*. The revised funding proposal presented in the plan may ultimately result in fewer financial incentives being available for the purchase of natural gas engines that run on renewable natural gas. However, as explained in the funding plan itself, this revision is the result of CARB’s interpretation that markets for this specific technology have matured, and remain eligible for other incentive programs offered by CARB. Further, at the October 24, 2019 hearing, the CARB Board approved retaining voucher funding for the 11.9 liter low NOx CNG engine paired with in-state produced RNG (CARB 2019).

The commenter presents a partial quote from a CARB staff white paper titled California Air Resources Board Staff Current Assessment of the Technical Feasibility of Lower NOx Standards and Associated Test Procedures for 2022 and Subsequent Model Year Medium-Duty and Heavy-Duty Diesel Engines. The letter presents the quote from the report in the following manner: “(noting “CARB is aiming to encourage the use of zero emission vehicles and equipment where possible.”).”

The quote is presented as a complete sentence without acknowledgement that critical aspects of the full sentence were omitted. The commenter’s omissions from the original quote are substantial. The edited quote suggests that CARB is only encouraging the use of zero emission vehicles and equipment. The complete quote states: “In order to meet our air quality goals and GHG emission and petroleum use reduction targets, CARB is aiming to encourage the use of zero emission vehicles and equipment where possible, **while simultaneously ensuring conventional technologies are as low-emitting as feasible.**” (emphasis added)

Natural gas and renewable natural gas vehicles are generally understood as a method to ensure conventional technologies are as low-emitting as feasible and help meet air quality goals and reduce GHG emissions, which is why CARB has financially incentivized their use through a variety of programs. While CARB’s revised funding plan may make the purchase of heavy-duty fleet vehicles that run on renewable natural gas less financially attractive, there is no conflict with this policy and CalRecycle’s procurement requirements. There is no evidence of divergent policies that must be remedied to avoid a potential environmental impact.

With respect to an potential conflict with other State energy policies, such as those adopted by the California Public Utilities Commission (CPUC), and a push for electrification via solar and other renewables rather than use renewable natural gas, The CPUC consulted on the development of the 2017 IEPR, which per statute required the adoption of recommendations to increase the use of renewable natural gas in light of certain policies, included the renewables portfolio standard, the organic waste reduction targets, the low carbon fuel standard, and other environmental mandates.

The regulations were specifically crafted, in consultation with CARB and CEC, to ensure that the policy does not discourage electrification or use of other alternative technologies. First, the procurement requirements applied to cities and counties do not specifically require the procurement and use of renewable natural gas. The procurement requirements specify that cities and counties must procure a certain amount of organic waste in the form of recovered organic waste products, of which one product is renewable natural gas when it is used for transportation, electricity, or heating. Cities and counties seeking to eliminate the use of fossil fuels could procure compost, mulch, or biomass electricity in lieu of renewable natural gas. Second, cities that eliminate or substantially reduce their total use of natural gas can lower or eliminate their procurement target under the regulations (see Section 18993.1[j]). For example, if the City of Berkeley derived all of its energy for electricity, transportation, and heating from solar or wind power and eliminated its procurement of natural gas entirely, the city's procurement obligation under the regulations would be reduced to zero. The city would not be required to procure renewable gas, or any of the other recovered organic waste products for any use.

With regard to the commenter's claim that the Draft EIR fails to account for potentially increased hauling distances resulting from the proposed regulation, see Master Response 1, "Adequacy of the GHG Analysis."

Comment Number: 3-12

Failure to Adequately Quantify GHG Emissions

The DEIR concludes that net greenhouse gas ("GHG") emissions benefits will offset any significant impacts resulting from Project construction and operation. Yet, for both construction and operation, the DEIR entirely fails to quantify emissions for this Project or the SB 1383 regulations. There is no modeling specific to SB 1383, or any meaningful quantitative effort to prove the validity of this most fundamental conclusion central to why this Project and DEIR are being proposed in the first instance.

In an attempt to justify the omission of a quantitative analysis for construction-related GHG emissions, the DEIR states,

"Although it is foreseeable that the GHG emissions benefits achieved from implementation of the proposed regulation would be sufficient to negate emissions from facility construction, future environmental review would be conducted at a project level and GHG emissions benefits associated with organic waste recovery could not be credited toward construction emissions. Thus, the

construction of new or expanded organic waste recovery facilities would generate GHG emissions that could exceed applicable local agency thresholds of significance. This impact would be *potentially significant*” (p. 3.8-13, *emph. original*).

To justify the omission of a quantitative analysis for operation-related GHG emissions, such as the increase VMT caused by the transportation of feedstock/byproduct to and from facilities, the DEIR further relies on the “Final Draft” Compost Emissions Reduction Factor (“CERF”) model prepared by CARB and the California Environmental Protection Agency (“CalEPA”), stating,

“Although GHGs would be emitted from increased VMT and operation of organic waste recovery facilities, the existing CERF calculations, and the modified calculations employed in the regulation demonstrate that the net reductions from avoided landfill emissions alone exceed operation-related emissions from composting, the reductions are even greater if application benefits (e.g., applying compost to land) are included. These numbers represent very conservative emission reduction estimates to avoid overstating benefits. Regardless, it is reasonable to expect that overall emissions of GHGs, particularly methane, would be reduced for the reasons stated above. Therefore, long-term, operation-related GHG emission impacts would be less than significant” (p. 3.8-18).

As you can see in the above excerpts, the DEIR relies on off the shelf general calculations from the Draft CERF document not specific to SB 1383 or this Project description to demonstrate that on the whole the net reductions achieved as a result of the Proposed Project would outweigh the operational GHG emissions.

We find several flaws within the calculations quantifying increased transportation emissions associated with compost facilities. First, the Draft CERF model itself is not properly substantiated. As a component to the CERF model’s calculation of emission reductions achieved through composting, CARB compares transportation emissions from landfill facilities to transportation emissions from composting facilities. The CERF model concludes that the two are “functionally equivalent with regards to transportation emissions” (p. 7). Thus, according to the CERF calculations, the net change in transportation emissions between composting and landfilling is zero. However, these calculations are unsubstantiated, as the 6 composting facilities utilized to calculate transportation emissions cannot be verified as a representative sample and therefore potentially underestimate transportation emissions due to composting. In the CERF model, average transportation distance is based on only “six geographically representative compost facilities across the state” (p. 7).

Table 1. Feedstock collection (inbound) and compost delivery (outbound) transportation distances.

Location	Inbound (miles)	Outbound (miles)
Oxnard	5	15
Rancho Cucamonga	30	30
San Jose	37	26
Northern California (various locations)	50	50

San Diego	108	N/A
Southern San Joaquin	55	20
Average	47.5	28.2
Sum	75.7	
Emissions	0.008 MTCO₂/ton	

As shown in the excerpt above, one of these facilities is denoted as not applicable for outbound transportation distance and is thus not included in the average. As a result, the transportation emissions calculations utilize only 6 facilities to estimate the inbound transportation distances and 5 facilities to estimate the outbound transportation distances – for a projected total of 169 new composting and digester facilities all through the state under this Project.

Second, the 6 compost facilities that the DEIR claims to be representative of compost facilities around the state were selected through “discussions with CalRecycle staff” (p. 7). Regarding these discussions, the CERF document cites a personal communication with Robert Horowitz that is not disclosed. Not only does the CERF fail to include the details of this communication, but also fails to indicate the merits of the representative sample. The DEIR and CalRecycle can and must do better. Thus, the CERF fails to substantiate the selection of these six compost facilities and verify that they are in fact representative of facilities around the state, both existing and proposed. Without verification of the methodology by which the compost facilities were selected, this sample cannot be utilized to estimate transportation emissions for existing and 169 new projected compost and digester facilities in the state. A Project-specific model must be prepared in a revised DEIR.

Lastly, the CERF document is considered a “final draft”, with CARB purporting the document to be “dynamic and will be updated when new information becomes available.”¹³ Yet, after two years, this document has yet to be revised to cure admitted shortcomings, such as: a) variability in the compost processing and physical soil properties; b) lack of scientific understanding of emissions pathways for landfills and compost piles; c) absence of literature articles; d) reliance on non-California specific study locations and default assumptions; e) erosion and water use results were extrapolated from lab-scale experiments instead of macro scale field methods; f) herbicide results were based on only one study, and pesticide life-cycle information was used as a proxy (CERF, pp. 20-22).

In sum, contrary to CARB/CalEPA warning (id. at p. 22), the DEIR’s GHG analysis fails to use the CERF in a “judicious” manner. CalRecycle must do better than rely upon on a “Final Draft” CERF of limited samples, undisclosed data, included admitted shortcomings, and which never considered the prospect of adding 169 new facilities many of which located long distances from organic waste producers.

CalRecycle Response

The commenter indicates that the conclusions provided for construction and operational GHG emissions are not meaningful as no quantitative modeling was performed for facilities constructed and operational under the proposed regulation. The Draft EIR for the proposed regulation was performed at a programmatic level consistent with State CEQA Guidelines Section 15168 and generally characterizes the anticipated later activities that could occur from implementation of the proposed regulation. See response to comment 6-2 for more information related to the level of specificity associated with the Draft EIR.

The commenter also finds flaws in the calculations used in the CERF model, primarily with the estimates of VMT associated with composting facilities. See Master Response 1, “Adequacy of the GHG Analysis” for the explanation as to why the basis of the model assumption and calculations presented in the Draft EIR consists of substantial evidence, as defined by CEQA, that supports CalRecycle’s analysis and conclusions.

Comment Number: 3-13

In sum, the DEIR fails to provide substantial evidence to support its assumptions of the air quality and GHG benefits of the Project. Moreover, and as noted by even advocates of composting, the DEIR fails to present the benefits of the Project over baseline conditions in a “tangible manner.”¹⁴ The DEIR must take a holistic analysis of the Project’s impacts—particularly as it relates to foreseeable mobile emissions and induced VMTs—if it is to serve as program environmental review of the comprehensive and cumulative effects of the Project as intended by CalRecycle (DEIR, p. 1-2).

Additional information may become available in the future; thus, SWAPE retains the right to revise or amend this report when additional information becomes available. Our professional services have been performed using that degree of care and skill ordinarily exercised, under similar circumstances, by reputable environmental consultants practicing in this or similar localities at the time of service. No other warranty, expressed or implied, is made as to the scope of work, work methodologies and protocols, site conditions, analytical testing results, and findings presented. This report reflects efforts which were limited to information that was reasonably accessible at the time of the work, and may contain informational gaps, inconsistencies, or otherwise be incomplete due to the unavailability or uncertainty of information obtained or provided by third parties, or in the DEIR

CalRecycle Response

The commenter provides closing remarks related to the contents of its letter, which states that the air quality and GHG benefits of the project, in light of mobile source emissions and induced VMT associated with the program, are not supported by substantial evidence in the Draft EIR. See Master Response 1, “Adequacy of the GHG Analysis” for the explanation as to why the basis of the model assumption and calculations presented in the Draft EIR consists of substantial evidence, as defined by

CEQA, that supports CalRecycle's analysis and conclusions. and Master Response 2, "Adequacy of the VMT Analysis" for the explanation as to why the degree of specificity appropriate for the VMT analysis for the proposed regulation is a qualitative approach.

Stipulations about the contents of the comment letter provided by the commenter do not raise environmental issues or concerns regarding the adequacy, accuracy, or completeness of the EIR. This comment is noted for consideration by decision makers.

Comment Author: Chemol Company, Inc., August 21, 2019

Comment Number: 4-1

Thank you for the opportunity to provide public comments regarding the Draft Environmental Impact Review. We have submitted previous public comment regarding SB 1383. These new comments will provide more detail regarding the expected diversion of "waxed" corrugated packaging - diversion from landfills to cardboard recycling. The comments will include projections of additional Greenhouse Gas benefits associated with that diversion.

Summary

The draft EIR assumes that certain volumes of packaging will be diverted from landfills to other uses; two solutions included in the draft EIR are recycling and composting. We suggest that Greenhouse Gas reductions calculated in the draft EIR might be increased substantially if the EIR includes an emerging technology that is currently being introduced, that is, diverting "waxed" corrugated produce boxes that are currently going to landfills from the landfill stream to the typical cardboard or OCC recycling stream.

Conventional paraffin-waxed boxes provide water resistance and wet strength for packaging and shipping California-grown produce. These coated boxes cannot be recycled along with regular corrugated cardboard because the wax coating interferes with repulpability and paper quality. Restaurants, grocery stores and other consumers typically separate the "waxed" boxes from regular cardboard and the waxed boxes are landfilled.

Emerging technology provides a substitute coating that does not interfere with the recycling process. This allows the coated boxes to be diverted from landfills and recycled along with the regular OCC cardboard stream. The new coating is produced from natural fats and vegetable oils, so, the new coating, like biofuels, has the added benefit of reducing petroleum use.

The estimated annual volume of boxes landfilled in California is about 0.2 million metric tons, California grows and ships produce (lettuce, carrots, etc.) internationally and to other states, utilizing a total of

about 0.8 million metric tons of boxes annually. If this fiber goes into landfills, then the fiber is degraded to methane. If the fiber is diverted from landfill to fiber recycling, then the fiber can be reused as many as six -nine times, leading to a Greenhouse Gas reduction. Looking at only California landfill diversion, this figure is projected to be more

than 1.0 million metric tons of CO₂e annually. If the boxes produced in California but shipped out of state are similarly diverted from landfills, the global effect is calculated at more than 4 million metric tons of CO₂e annually.

The draft EIR calculates a total benefit of the SB 1383 program as about 4 million tons of CO₂ annually. Therefore, the new technology has the potential for substantially increasing the GHG reduction benefit with an added reduction of at least 1 million tons of CO₂e in California and 5 million tons of CO₂ globally.

CalRecycle Response

The commenter requests that the GHG reduction analysis be redone to include additional reductions that would occur from emerging technologies surrounding the disposal of waxed, corrugated boxes, which typically are sent to landfills rather than 60 common cardboard recycling streams. The commenter notes that there are emerging technologies that provide substitute coatings that do not interfere with the recycling process and allows the coated boxes to be recycled alongside typical cardboard products rather than transported to landfills. The commenter estimates that the GHG reduction benefit from recycling these products could be approximately 1 million MTCO₂e within the State annually and 5 million MTCO₂e globally.

The commenter does not provide citations or substantial evidence to support these GHG reduction estimates; however, the climate change analysis prepared in the Draft EIR recognizes that GHG reduction benefits would occur that would outweigh new sources of operational GHG emissions (e.g., mobile source emissions). The Draft EIR concludes that climate change impacts would be less than significant. The content of the comment would not affect this significance conclusion. No changes to the Draft EIR are required in response to this comment.

Comment Number: 4-2

1. Table 2.1, Primary Components of Organic Waste Stream: Paper is a component of the current organic waste stream totaling about 6.8 million tons or about 22.3 % of total organic wastes.
2. Regarding Table 2.2, Compliance Methods: We would suggest that the GHG benefits of the new technology be included in the categories of "Recycling" and/or "Emerging Technologies." Including this emerging technology in the GHG reduction calculation would doubtless increase the GHG reductions attributable to solutions within those categories.
3. The emerging technology allows conventionally "paraffin-waxed" corrugated boxes that are currently landfilled (wax interferes with fiber recovery and paper quality) to be diverted to recycling along with regular non-waxed cardboard.

CalRecycle Response

The commenter reiterates aspects of comment 4-1 related to the recovery of waxed, corrugated cardboard and associated GHG reductions. See response to comment 4-1.

Comment Number: 4-3

4. There is a GHG reduction of about 0.965 metric tons of CO₂e for each ton of corrugated cardboard diverted from landfills to recycling. (Life Cycle Associates - 2018) EPA suggests a rate of 3.1 metric tons of CO₂e per ton of paperboard but that rate includes recycling and composting; paperboard diverted to composting continues to generate some greenhouse gas components so composting is not as efficient at reducing GHG's compared to recycling. Life Cycle Associates suggests that with typical number of "diversions from landfill to recycling" steps (six to nine), the value would exceed 5 tons of CO₂e per ton of cardboard recycled.

CalRecycle Response

The commenter reiterates that per ton of diverted corrugated cardboard from landfills would result in approximately 1 MTCO₂e of GHG reduction, although the U.S. Environmental Protection Agency (EPA) indicates that this rate may be higher (i.e., 3.1 MTCO₂e per ton). See response to comment 4-1. No changes to the Draft EIR are required in response to this comment.

Comment Number: 4-4

5. EPA has estimated that about 30.5 million tons of corrugated boxes are produced annually and that about 10.5 % of corrugated boxes, or 3.2 million tons, are landfilled.
6. The Coalition for Resource Recovery and the Fiber Box Association estimates that about 5 % of all boxes produced annually in the US are waxed boxes that are all landfilled {2014}. Using EPA data, waxed boxes would account for about one-half of landfilled boxes or about 1.6 million tons of waxed boxes annually (US),
7. California utilizes a significant amount of waxed boxes due to its #1 ranking in the production of fresh produce. For example, USDA estimates that California produces 68 % of the nation's head lettuce, 82 % of the leaf lettuce, 72 % of the romaine and 83 % of the spinach. California box manufacturing facilities also manufacture boxes for neighboring states. When Arizona is included, the two states produce almost 100 % of the nation's leafy fresh produce. Leafy fresh produce is water- or ice-cooled quickly after harvest and accounts for a high percentage of waxed box usage.
8. One box manufacturer estimates that at least 60% of its non-recyclable waxed boxes are produced in California. A rate of 60% of the total US waxed boxes would suggest that about 0.96 tons of corrugated boxes are utilized for California fresh produce.

CalRecycle Response

The commenter provides numerical data related to the amount of cardboard generated in the U.S., the fraction that is waxed cardboard, and the amount landfilled annually. The proposed regulation and the Draft EIR (see Table 2-1) recognize that a significant amount of paper, including waxed cardboard, is landfilled annually. The comment does

not raise environmental issues or concerns regarding the adequacy, accuracy, or completeness of the Draft EIR. The comment is noted for consideration by decision makers.

Comment Number: 4-5

9. California's population is about 13 % of the US population so it can be assumed that, at a minimum, 13 % of the waxed boxes that are being landfilled in the US account for about 0.208 million tons of waxed boxes, leading to California in-state GHG reductions of at least 0.2 million metric tons of CO₂e annually. Considering that fiber from recycled boxes may be reused as many as six to nine times, this may help achieve a CO₂e reduction of more than 1.0 million metric tons of CO₂e annually, just in California.
10. California has received high visibility by taking a leadership role in global efforts to reduce greenhouse gases. Many of the waxed boxes that are utilized for California fresh produce will be diverted from landfills in other states and countries, thereby creating a global reduction in greenhouse gases. California utilizes over 60 % of the US production of waxed boxes; if 90 % of these boxes were diverted from landfills to recycling, even if in other states or countries, then the global effect, just for California boxes, would equal 0.83 million tons of CO₂e reduction. Again, using the six to nine diversions expected by recycling boxes, the California-produced boxes would generate a global reduction of over 4 million metric tons of CO₂e.

CalRecycle Response

The commenter indicates that California's population comprised 13 percent of the total population in the US and therefore, 13 percent of U.S. total waxed boxes that are landfills would account for approximately 0.2 MMCO₂e/year. The commenter also asserts that California uses about 60 percent of all U.S. waxed boxes. Based on these statistics, the commenter concludes that the recycling of waxed boxes would result in a reduction of 0.83 MMTCO₂e/year.

The commenter does not provide citations or substantial evidence to support these GHG reduction estimates; however, the climate change analysis prepared in the Draft EIR recognizes that GHG reduction benefits would occur that would outweigh new sources of operational GHG emissions (e.g., mobile source emissions). The Draft EIR concludes that climate change impacts would be less than significant. The content of the comment would not affect this significance conclusion. No changes to the Draft EIR are required in response to this comment.

Comment Number: 4-6

11. California has a collection infrastructure in place for paper recycling and the use of this technology will not require additional investments. The collection system of cardboard waste and its transportation to existing cardboard recycling facilities already exists and no additional infrastructure or transportation investment should be necessary. Waxed boxes are typically not found in household or consumer use but are found in restaurants, grocery stores, and produce distributors. Those users

already have cardboard collection systems in place and the new cardboard boxes can be processed along with the regular cardboard boxes without the need for separation and landfilling. Box manufacturers are currently devising printing and other marks that help waste sorters easily identify that the boxes can be included in the regular recyclable cardboard stream, even though the box will appear to be coated. We expect that some training will be necessary for the waste sorters.

- Several jurisdictions have shifted from single-stream to dual-stream collection systems, which collect paper and fiber separately from other recyclables. Haulers implementing these systems indicate that implementing these systems results in reductions in contamination and residual waste and improved marketability for paper. Again, we would expect that the new boxes with markings that easily identify the box as "recyclable" would cause the waste sorter to treat the box as ordinary recyclable cardboard.

CalRecycle Response

The commenter describes that existing collection and recycling systems are already in place and use of their technology would not require additional investments. The comment does not raise environmental issues or concerns regarding the adequacy, accuracy, or completeness of the Draft EIR. The comment is noted for consideration by decision makers.

Comment Number: 4-7

Our interest in SB 1383: SLCP

Chemol Company, Inc. is a North Carolina-based company with on-going business in California. Chemol has a 50+ year history of providing sustainable, highly degradable substitutes for petroleum-derived paraffin waxes and provides these types of products for a wide array of industries: agriculture, packaging, lubricants, energy, and personal care products.

Chemol manufactured the first commercial volumes of biodiesel in the US in 1994 but is not currently involved in biofuel production.

Our comments are intended to make Cal Recycle and industry partners aware of a new solution based on emerging technology that will make a significant contribution to California's stated goals of reducing the overall volume of waste going to landfills while specifically reducing Greenhouse Gas emissions from organic wastes in landfills. This solution consists of replacing non-recyclable cardboard boxes coated with paraffin wax with recyclable cardboard boxes that are coated with a sustainable, highly degradable bio-based wax (non-petroleum). The boxes with the bio-wax coatings are available today in California in demonstration quantities and will be made available industry-wide with increased demand from California's produce growers and packagers, grocery and food distributors, restaurants, and other food outlets.

The emerging technology

The new technology utilizes a highly degradable bio-based wax alternative to replace the paraffin wax that is currently used in coating corrugated boxes. Conventional, non-recyclable paraffin-coated boxes must be landfilled; the substitution of a new bio-based alternative wax allows waste corrugated boxes to be re pulped and recycled along with standard old corrugated cardboard.

Both paraffin wax and alternative wax coatings provide water resistance and wet strength to boxes that may be used to ship and store meat products (poultry, red meat, fish, ice) and produce. In some cases, the waxed boxes are packed with produce and then cooled with a water/ice slurry or chilled water. The wax adds water resistance and wet strength to protect the integrity of the corrugated box during cooling, storage, and transportation.

Paraffin-coated boxes are typically not recyclable and must be landfilled. Using the new technology, bio-wax coated boxes can be diverted from landfills, reducing the organic matter that contributes to greenhouse gas through degradation of waste paper fibers to methane. Chemol Company, Inc. is conducting studies to determine the potential for greenhouse gas reductions by recycling and diverting this source from landfills. Initial calculations show the potential for almost 6 million MT of CO₂e annually.

Alternative waxes do not interfere with fiber recovery and repulpability of the boxes and the alternative-waxed boxes may be diverted from landfills to OCC recycling (Old Corrugated Cardboard) to be included with conventional, non-waxed boxes. As the new types of boxes are utilized, more fiber becomes available for recycling and landfill wastes and related greenhouse gas emissions are reduced.

California will be an early adopter of the new technology as cascade waxed boxes are fully-introduced into the California market. California has taken a leadership position in creating a sustainable carbon economy with legislation and regulations that ensure a low-carbon, zero-waste future, not only for its own citizens, but as an example for the country and the world to follow.

The California EPA (Cal EPA) recycling division, Cal Recycle, continues to move forward with SB 1383 which requires that 50% of all organics to be redirected out of landfills by 2020, and 75 % redirected by 2025. This sets the stage for zero-waste policies, not just in California, but around the country. For California to realize these goals, it will be imperative that all paper products currently being landfilled be redirected, preferably to higher-use recycling efforts. Until recently, most paper products have been successfully recycled, with the exception of paraffin wax coated produce boxes. Since more than half of all produce in America is grown in California it's safe to assume that a large portion of those waxed boxes begin life in the Golden State.

CalRecycle Response

The commenter describes their bio-wax cardboard coating as an emerging technology that would significantly contribute to the State's goal of reducing the volume of waste landfilled and GHG emissions. The comment does not raise environmental issues or

concerns regarding the adequacy, accuracy, or completeness of the Draft EIR. No further response is required.

Comment Author: CHEMOL Company, Inc., August 22, 2019

Comment Number: 5-1

My name and company:

Fred Wellons, President
Chemol Company, Inc.
Greensboro, NC 27455
949-735-3752

I sat in on by webcast on Tuesday. During the opening remarks, and during a slide presentation, someone made reference to methane being about 80 times worse as a greenhouse gas compared to CO₂. I wrote that down in my notes. In life cycle analyses, I had seen 23 – 27 times but not the 80 times.

Before using the 80 x number, I wanted to confirm that that was what I heard and then try to find a reference so that I could start including that number in my calculations.

Did I mishear that or write down the wrong number?

I have since visited the SB 1383 page regarding public meetings and comments but I do not see a transcript or video of the August 20 meeting, yet.

FYI, Chemol Company is a chemical company that provides coatings for cardboard packaging that allow the cardboard to be recycled rather than sent to landfills. There is a significant GHG reduction in diverting these “coated boxes” from landfills to recycling, hence my interest in the methane translated to CO₂ equivalents.

CalRecycle Response

The commenter expressed concern regarding a reference to methane’s global warming intensity as being 80 times greater than carbon dioxide (CO₂) and suggests that this value should be between 23 and 27.

The Intergovernmental Panel on Climate Change (IPCC), the international body responsible for overseeing scientific review regarding anthropogenic global climate change, periodically releases assessment reports to reflect nascent science and findings. The IPCC develops a scale for assessing the degree of warming associated with various GHGs called global warming potential (GWP). GWP is a measure of how much energy the emissions of one ton of a gas will absorb over a given period of time relative to one ton of CO₂, which has a GWP value of one. The IPCC generally uses a 100-year horizon for assessing GWPs; however, GHGs with shorter atmospheric lifetimes, such as methane, cause a greater degree of warming when reviewed on a 20-year lifespan.

In its Fifth Assessment Report, IPCC indicates that methane has a GWP value of 28 on a 100-year lifespan, which is an increase from the Fourth Assessment Report's value of 25. These values are generally consistent with the commenter's range of 23 to 27 (IPCC 2015).

The 20-year GWP lifespan is sometimes used as an alternative to the 100-year GWP for gases with shorter lifetimes. In the case of methane, which has a short atmospheric lifespan, a 20-year GWP is between 84 to 87 times greater than CO₂ depending on the version of IPCC's assessment reports (IPCC 2015).

It is likely that the value referred to by the commenter of "80" was referenced in consideration of a 20-year GWP lifespan rather than a 100-year GWP lifespan. No changes to the Draft EIR are required in response to this comment. This comment is noted for consideration by decision makers.

Comment Author: Churchwell White LLP (representing Western Placer Waste Management Authority), September 13, 2019

Comment Number: 6-1

Churchwell White LLP represents the Western Placer Waste Management Authority ("WPWMA"), a Joint Powers Authority comprised of the unincorporated areas of Placer County and the cities of Lincoln, Rocklin and Roseville. The WPWMA operates a Materials Recovery Facility, sanitary landfill and compost facility to provide recycling and waste disposal services to the majority of Placer County. On behalf of the WPWMA, this letter provides comments to the Draft Environmental Impact Report for SB 1383 Regulations, Short-Lived Climate Pollutants: Organic Waste Methane Emission Reduction (the "Draft EIR").

The WPWMA has actively participated in the underlying rule making for the proposed SB 1383 Regulations, as the WPWMA's operational and monitoring costs will significantly increase if the regulations are adopted as proposed. These costs must be borne by all customers and ratepayers who utilize the WPWMA's facilities. Any cost increase related to regulatory requirements should therefore be justified through a thorough environmental analysis confirming that the regulatory burden will result in significant environmental benefits to justify the expense. The Draft EIR in this case, however, does not provide sufficient analysis to clearly show whether the proposed SB 1383 Regulations will in fact achieve the purpose of the Short-Lived Climate Pollutant ("SLCP") program - i.e., result in a net reduction in global greenhouse gases - where the Reasonable Foreseeable Compliance Responses and other direct and reasonably foreseeable indirect impacts of the SB 1383 Regulations will lead to significant increases in carbon dioxide and other greenhouse gas emissions that could potentially offset most, if not all of the estimated methane reductions.

CalRecycle Response

The commenter provides an overview of the Western Placer Waste Management Authority and states that the Draft EIR does not provide sufficient analysis to clearly

show whether SB 1383 would achieve a net reduction in GHG emissions. See response to comment 6-3 and Master Response 1, "Adequacy of the GHG Analysis."

Comment Number: 6-2

(1) The Draft EIR project description does not provide a thorough understanding of the 2014 environmental baseline with regard to organics disposal.

SB 1383 sets forth a broad greenhouse gas reduction strategy, through a two-pronged approach. First, SB 1383 required the California Air Resources Board ("CARB") to adopt a short-lived climate pollutant strategy "to achieve a reduction in the statewide emissions of methane by 40 percent, hydrofluorocarbon gases by 40 percent, and anthropogenic black carbon by 50 percent below 2013 levels by 2030."¹ To achieve these goals, SB 1383 requires CARB to evaluate "the best-available scientific, technological, and economic information to ensure that the strategy is cost-effective and technologically feasible.

Second, SB 1383 requires the above methane emissions reduction goals to be achieved through (1) a 50-percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2020; and (2) a 75-percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2025.³

The statutory mandate under SB 1383 is clear: statewide reductions are needed in organics disposal, and their corresponding greenhouse gases.

SB 1383 includes a provision limiting CalRecycle from adopting regulations that "establish a numeric organic waste disposal limit for individual landfills."⁴ SB 1383, however, does not restrict CalRecycle from tiering its regulations according to specific metrics, such as annual tonnage of organics disposal, which would apply broadly to all jurisdictions in California.

Pursuant to SB 1383's clear statutory mandate to achieve statewide reductions in organics disposal, along with its requirement to develop cost-effective, technically feasible regulations, the Draft EIR Project Description must analyze organics disposal rates on a jurisdictional basis in order to fully analyze whether the environmental impacts of the proposed regulations are warranted, especially in lower-density areas where a larger amount of vehicle-miles traveled (VMT's) are required to meet the proposed diversion goals of the SB 1383 Regulations.

The Draft EIR must include a project description that allows for a full understanding of the impacts of the project, especially where there are no practical impediments to providing such details.⁵ SB 1383 establishes a 2014 baseline for disposal rates, however, the Draft EIR does not provide any baseline analysis of the 2014 organics disposal rates at a jurisdictional level. A jurisdictional approach is needed to understand where organics disposal rates are concentrated. Presumably, organics disposal rates are more concentrated where population densities are higher, however, there may be some variation due to yard waste or other factors within the definition of "organics". A jurisdictional review would establish the 2014 baseline to compare all impacts of the proposed SB 1383 Regulations. The Draft EIR must provide this information, especially

where impacts of the project, such as VMT's, have the potential to offset the greenhouse gas reduction goals of SB 1383 in less populated areas.

The Project Description focuses on Reasonably Foreseeable Compliance Responses, such as the development of organics diversion facilities, including composting and anaerobic digestion sites. Without any analysis of jurisdictional disposal rates, however, the reader cannot make an informed decision as to the potential impacts of the proposed SB 1383 Regulations in attempting to meet the statewide reduction mandate. The Draft EIR should therefore be revised to evaluate and summarize the overall organics disposal rates across all jurisdictions in California.

CalRecycle Response

The commenter states that the Draft EIR project description does not provide a thorough understanding of the 2014 environmental baseline with regard to organics disposal. As discussed in the second paragraph on page 2-1 of the Draft EIR:

As it pertains to CalRecycle, SB 1383 establishes targets to achieve 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 law requires CalRecycle to adopt regulations designed to achieve the organic waste disposal reduction targets. The law also directs CalRecycle to include provisions in the regulations designed to achieve a target that not less than 20 percent of the amount of edible food currently disposed of is recovered for human consumption by 2025.

The baseline for the Draft EIR analysis is the existing conditions at the time of release of the Notice of Preparation (December 11, 2018), consistent with State CEQA Guidelines Section 15125 (a)(1). The environmental setting, described in each section of Chapter 3, "Environmental Impacts and Mitigation Measures," in the Draft EIR, present the baseline conditions of each resource topic area.

The commenter states that the Draft EIR project description should analyze organics disposal rates on a jurisdictional basis. Section 1.3, "Scope of This Draft EIR," in the Draft EIR states that, "[t]he degree of specificity required in a CEQA document corresponds to the degree of specificity inherent in the underlying activity it evaluates. An environmental analysis for broad programs cannot be as detailed as for specific projects (State CEQA Guidelines Section 15146) (third paragraph of page 1-3)." As further discussed (beginning in the last paragraph on page 1-3 of the Draft EIR):

The general location of existing landfills, organic waste recovery facilities, and edible food recovery facilities are known within California; however, decisions by project proponents regarding the choice of compliance options and the precise location of new or modified facilities related to implementation of the proposed regulation cannot be known at this time. Furthermore, due to local planning, political (i.e., the willingness of jurisdictions to address local opposition to the siting of new or expanded facilities), and economic influences, attempting to predict project approvals about the specific location and design of facilities and

operations undertaken in response to the proposed regulation would be speculative and infeasible at this stage.

The Draft EIR analyzes the types of impacts that would occur due to the reasonably foreseeable compliance responses associated with the proposed regulation. Mitigation measures are provided to reduce potentially significant impacts. However, as mentioned throughout the Draft EIR, there is some inherent uncertainty in the degree of mitigation that would ultimately need to be implemented to reduce any potentially significant impacts identified in the Draft EIR. Consequently, a conservative approach is taken when considering post-mitigation significance conclusions because there is a risk that feasible mitigation may not be implemented by the agency with authority to do so or the mitigation may not be sufficient. The document provides an appropriate level of review, in compliance with CEQA requirements, related to an EIR's required degree of specificity (State CEQA Guidelines Section 15146). No changes to the document are necessary.

Comment Number: 6-3

(2) The Draft EIR did not adequately analyze the net impact of the proposed SB 1383 Regulations regarding greenhouse gas emissions.

Impact 3.8-3 finds that "[i]mplementation of the proposed regulation could result in increases in statewide and regional VMT associated with the collection of organic waste from targeted generators, the movement of organic material to an organic waste recovery facility, the hauling of edible food from Tier I and Tier II commercial edible food generators to edible food recovery operations or other feeding agencies, and the distribution of finished products (e.g., compost, biogas) to end uses." The Draft EIR concludes, however, that this impact would be less than significant, as GHG reductions achieved through implementation of the SB 1383 Regulations "would be substantially greater than additional travel-generated emissions." Unfortunately, the Draft EIR does not provide any data or technical analysis to support this conclusion.

The Draft EIR asserts that "attempting to quantify the level of VMT's generated from this activity would be too speculative to be meaningful, because the specific locations of treatment facilities cannot be known at this time." However, as noted above, if the Draft EIR identified the areas where organic disposal rates are most heavily concentrated, reasonable assumptions could be made as to the location of disposal sites and the VMTs needed to achieve the objectives of the project. Moreover, the Draft EIR notes that the transportation sector comprises the largest source of statewide GHG emissions. However, no analysis is provided to correlate the increase in VMTs with the overall GHG reductions from organics waste diversion. This analysis is critical for Cal Recycle, as the lead agency, to make an informed decision, and for the public and stakeholders to understand the true environmental impact regarding the SB 1383 Regulations. Reasonable estimates of annual trips and VMT's can easily be generated, and CalEEMOD has standardized the emissions data for the light and heavy-duty trucks that would be utilized to transport compost and other compliance activities. Traffic modeling is feasible, and necessary to confirm that the increase in VMTs in certain geographic areas will not completely offset the GHG reduction goals of the SB 1383 Regulations.

For purposes of CECA, the central feature of this project is to evaluate the environmental impact of the proposed SB 1383 Regulations in light of the project objectives to adopt meaningful, cost-effective measures to reduce greenhouse gases through the diversion of organic waste. If the Project Description or Section 3.8 had sufficiently analyzed GHG emissions at a jurisdictional level across California, then reasonable assumptions could be developed to inform whether the proposed SB 1383 Regulations should be adjusted or revised in certain jurisdictions to avoid any impacts, such as significant increases in VMT's, that would offset the intended benefits of the regulation.

CalRecycle Response

The commenter states that the Draft EIR does not substantiate the conclusion that the VMT generated by the proposed regulation would not be sufficient to negate the GHG benefits achieved from the proposed regulation. See Master Response 1, "Adequacy of the GHG Analysis," regarding the sufficiency of the GHG impacts described in the Draft EIR. See Master Response 2, "Adequacy of the VMT Analysis," for a discussion of reasonable estimates of VMT under the proposed regulation.

Comment Number: 6-4

(3) The Draft EIR does not sufficiently analyze the water resource needs for implementing the proposed SB 1383 Regulations.

Impact 3.10-4 finds that water resources are needed for composting and other organic waste diversion facilities. Despite this impact, the Draft EIR improperly assumes that compliance with the Sustainable Groundwater Management Act ("SGMA") will prevent any impact from occurring, therefore no mitigation is needed. This conclusion broadly generalizes that compliance with SGMA is a foregone conclusion. Again, a more nuanced jurisdictional view is needed. Water impacts will continue to be significant, especially in the Central Valley, where composting activities are more common and desirable, and where SGMA compliance cannot be assumed. Water availability will dictate whether composting is a feasible compliance alternative and must therefore be evaluated in more detail in the Draft EIR.

CalRecycle Response

The comment states an opinion that the analysis of groundwater impacts is too broad and relies too heavily on the Sustainable Groundwater Management Act (SGMA). The comment also states that compliance with SGMA cannot be assumed in the Central Valley, where composting activities are expected to be most common. A description of the regulatory provisions of SGMA is included in Section 3.10.1, "Regulatory Setting," of the Draft EIR. As described, SGMA requires groundwater accounting and sustainability plan implementation for all medium and high priority groundwater basins by 2022. The California Department of Water Resources (DWR) prioritizes groundwater basins based on numerous criteria listed in Water Code Section 10933, including: the population and expected population growth within the basin, how groundwater is used, total number of wells, existing groundwater impacts, and potential for adverse effects to surface waters.

In April 2019 the groundwater prioritization mapping prepared by DWR confirmed the previous 2014 prioritization mapping and indicated that all Central Valley groundwater basins will be classified as medium or high priority basins (DWR 2019). Therefore, while the proposed regulation may add to water demand in at-risk groundwater basins, this increase would be subject to the sustainability requirements of local Sustainable Groundwater Management Plans. Additionally, new composting facilities implemented in response to the proposed regulation would be subject to project-level environmental review and local permitting requirements, which would require an assessment of project-specific groundwater effects.

Furthermore, as described in Impact 3.10-2 of the Draft EIR, composting facilities would be required to comply with State Water Resource Control Board (SWRCB) National Pollutant Discharge Elimination System (NPDES) permit conditions, including capture and reuse of rainwater, which would reduce the overall water demand of each facility. For these reasons, the Draft EIR appropriately concludes that the potential for the proposed regulation to result in overdraft of groundwater is less than significant. No changes to the document are required.

Comment Number: 6-5

(4) The Draft EIR did not adequately analyze air quality impacts and related health hazards.

The Draft EIR notes that composting facilities generate ozone emissions and other criteria pollutants, however, sufficient analysis regarding the impact on human health is not provided.⁶ More meaningful analysis is needed for the public to understand whether the compliance responses, such as significant increase in composting, would carry the unintended consequence of increasing the risk to human health. Again, more nuanced analysis is also necessary to correlate potential risks to areas where higher rates of organics diversion are required.

CalRecycle Response

The commenter states that the EIR does not adequately analyze air quality impacts and related health hazards. The comment is referencing the California Supreme County decision in *Sierra Club v. County of Fresno* (226 Cal.App.4th 704) (referred to as the *Friant Ranch Decision*). This decision is summarized on page 3.3-13 of the Draft EIR. The Draft EIR provides a qualitative discussion of the potential adverse human health impacts that could occur from emissions of criteria air pollutants that exceed an applicable air district's thresholds of significance and why it is not scientifically feasible to provide a quantified analysis. Table 3.3-2 summarizes the potential acute and chronic illnesses that may be caused by exposure to concentrations of criteria pollutants in exceedance of the National Ambient Air Quality Standards (NAAQS) and California Ambient Air Quality Standards (CAAQS).

In addition, health implications of exposure to criteria air pollutants is discussed throughout Section 3.3, "Air Quality," of the Draft EIR, including within the following impact discussions:

- Impact 3.3-1: Short-Term Construction-Related Emissions of ROG, NO_x, PM₁₀, and PM_{2.5}
- Impact 3.3-2: Long-Term Operational Emissions of ROG, NO_x, PM₁₀, and PM_{2.5}
- Impact 3.3-4: Exposure of Sensitive Receptors to toxic air contaminant (TAC) Emissions

These discussions provide a qualitative description of the potential adverse health effects related to exposure to criteria air pollutants and TACs. Providing a more detailed analysis of the potential health effects related to air pollution is difficult because as described on page 3.3-21 of the Draft EIR “[t]he precise location of facilities, and therefore, where or to what magnitude a health impact could affect sensitive receptors cannot be known at this time. Therefore, quantifiable estimates of project-level emissions of criteria air pollutants and ozone precursors, exposure of specific receptor populations, and resulting location-specific health impacts are not feasible.” In addition, as discussed in the second paragraph on page 3.3-18, “although VOCs, NO_x, and PM would be emitted during the digestion and composting of organic materials, and during the operation of other organic waste recovery facilities, these emissions would be reduced compared to emissions currently emitted from the decomposition of organic waste in existing landfills.” Thus, the health implications of potential air emissions are adequately discussed in the Draft EIR and no changes to the document are necessary.

Comment Number: 6-6

(5) The Draft EIR did not properly analyze the impact of SB 1383 Regulations that change the application of intermediate cover.

Section 216951 subdivision (h)(4) of the proposed SB 1383 Regulations requires a landfill operator to demonstrate that intermediate cover is as effective as final cover if the intermediate cover will be applied for more than 12 months. This provision may have the effect of accelerating the implementation of final cover in certain areas, by requiring intermediate cover be as effective as final cover, thereby reducing the overall capacity of a landfill. The Draft EIR should evaluate this provision, to fully disclose the potential environmental impact of potentially reducing statewide landfill capacity, including that of the WPWMWA's sanitary landfill.

CalRecycle Response

The subdivision noted in the comment was removed from the final draft of the proposed regulation and is therefore no longer a part of the project. There are no environmental impacts to analyze associated with any perceived reduction in landfill capacity as the requirement cited by the commenter has been removed.

Comment Number: 6-7

(6) The Draft EIR failed to explain or analyze how increased waste stream sampling is necessary to meet the environmental objectives of the SLCP program.

The project objectives of the SB 1383 Regulations have a clear environmental goal, to reduce short-lived climate pollutants through significant reductions in organic waste disposal. The proposed SB 1383 Regulations, however, require significant monitoring activities that do not provide any additional environmental benefit. For example, as the WPWMA has stated in previous comments to CalRecycle, the daily measurement requirements contained in Sections 17409.5.2, 3, 4, 5, 6, 7 and 8 of the proposed SB 1383 Regulations are overly onerous, burdensome, and costly to facility operators. The waste stream does not vary drastically over short periods of time. Therefore, these waste composition studies could be conducted much less frequently and still provide representative data. The Draft EIR does not contain any significant discussion of these testing requirements, nor does it justify how or why this level of testing is necessary to meet the desired environmental outcome of the project objectives.

CalRecycle Response

The commenter states that the Draft EIR should include a discussion of the testing requirements contained in Sections 17409.5.2 through .8 of the proposed regulation. These requirements direct the operator for facilities to weigh the organic waste separated from collected waste material. This would not require the construction of new buildings, require a substantial increase in staff, or otherwise result in changes to the physical environment that could cause a significant impact. The comment does not provide any examples of potentially significant impacts that could occur related to implementation of the requirements in Sections 17409.5.2 through .8. No changes to the document are required.

Comments on the substance of the regulations, such as those pertaining to daily measurement requirements described in the comment, should be made during the appropriate comment periods during the formal rulemaking process under the APA.

Comment Number: 6-8

(7) The Draft EIR did not adequately analyze the impact of SB 1383 Regulations that change the definition of alternative daily cover.

Section 18983.1 of the proposed SB 1383 Regulations would require the application of material recovery fines to be considered as organic waste disposal, unless all organic waste is removed from the fines. Again, as the WPWMA has previously stated, no market currently exists or will foreseeably exist for this material. SB 1383 clearly states that the implementing regulations must be cost-effective and technically feasible. The Draft EIR must therefore discuss this provision in more detail and consider alternatives where no feasible method exists to implement the regulation, as proposed.

CalRecycle Response

The commenter states that the Draft EIR should address Section 18983.1 of the proposed regulation. Section 18983.1 includes definitions of landfill disposal. This would not require the construction of new buildings, require a substantial increase in staff, or otherwise result in changes to the physical environment that could cause a significant impact. The comment does not provide any examples of potentially significant impacts that could occur associated with Section 18983.1. No changes to the document are required.

Comment Number: 6-9

(8) Impacts to existing landfill gas operations must be disclosed in the Draft EIR.

SB 1383 proposes to reduce organic waste in landfills, which will ultimately reduce the amount of landfill gas generated. The Draft EIR assume that organics will be diverted to anaerobic digestion facilities that more efficiently capture energy. However, there are far fewer current and projected AD facilities than compost facilities, so the majority of diverted organic waste will more likely be sent to compost facilities that do not produce energy. Therefore, the EIR should be revised to better evaluate the impacts to landfills, landfill gas-to-energy facilities, statewide energy production, and conflicts with the issuance of renewable energy credits for landfill methane recovery under AB 32. Additionally, the Draft EIR should acknowledge the measures already taken by landfill operators to capture methane, as part of the baseline environmental setting. This analysis would inform better discourse on alternatives to the proposed SB 1383 Regulations, such as tiered or phased implementation.

(CW082311.2)

CalRecycle Response

The commenter states that the EIR should evaluate the impacts to landfills, landfill gas-to-energy facilities, statewide energy production, and conflicts with the issuance of renewable energy credits for landfill methane recovery under AB 32. See response to comment 18-4 regarding for issues related to landfill gas generation. See Master Response 3, “Adequacy of the Alternatives Analysis,” regarding a tiered or phased implementation alternative.

Comment Number: 6-10

(9)The Draft EIR underestimates land use conflicts stemming from new site requirements for anaerobic digestion and composting facilities.

The EIR concludes that the SB 1383 Regulations will not lead to any significant land use conflicts, based on the assumption that anticipated facilities will either be co-located with existing facilities or in appropriately sited zones. However, a jurisdictional review will illustrate that not all jurisdictions may have these options. The Draft EIR should analyze the land use conflicts associated with lack of appropriate zoning, which may be a significant hurdle for the development of needed facilities.

CalRecycle Response

The commenter states that the Draft EIR should analyze the land use conflicts associated with lack of appropriate zoning. As discussed in the last paragraph on page 3.11-4 of the Draft EIR, “Projects proposed to implement the regulation would be reviewed by the local lead agency for consistency with local plans, policies, and ordinances.” Appropriate zoning for such facilities would be determined by the lead agency with approval authority, typically a county or city. Thus, because new facilities could only be approved in areas where zoning allows for their development, a determination made by local jurisdictions, land use conflicts would not be anticipated from new AD or composting facilities. No changes to the document are necessary.

Comment Number: 6-11

(10)The Draft EIR should consider a better range of alternatives, such as phased or tiered implementation of the SB 1383 Regulations, or other options that provide jurisdictional flexibility.

It is imperative for the SB 1383 Regulations to consider phased implementation, starting with larger, higher-density urban areas. As mentioned above, SB 1383 requires statewide reductions, as opposed to mandating that each jurisdiction achieve the same level of reduction. This, coupled with the dear statutory directive to implement cost-effective and feasible regulations, requires at least an analysis of one project alternative with a phased or tiered approach to implementation. This alternative may likely be the environmentally superior alternative, by concentrating implementation measures where the greenhouse gas impacts and reduction potential has the greatest benefits.

CalRecycle Response

The commenter provides recommendations related to alternatives that should be considered. See Master Response 3, “Adequacy of the Alternatives Analysis,” in Section 2.1 of this Final EIR.

Comment Number: 6-12

Thank you for the opportunity to comment on the Draft EIR. A thorough environmental analysis of the proposed SB 1383 Regulations on a jurisdictional level will result in more effective tiered implementation strategy, similar to many other regulatory programs. More reasonable monitoring and waste stream sampling should also be imposed, as there is no environmental benefit to the current regulations.

CalRecycle Response

The commenter provides closing remarks for the letter, suggesting that considering environmental effects of the proposed regulation on a jurisdictional level would be more effective for tiering from the EIR. See responses to comments 6-2 and 6-10, which explain the rationale for the programmatic approach used for the EIR and addresses project-level review for subsequent projects implemented in response to SB 1383.

The commenter also suggests that more reasonable monitoring and waste stream sampling be imposed. See response to comment 6-7.

Comment Author: Compology, September 13, 2019

Comment Number: 7-1

Dear Mr. Santillano

Please find Compology's comments on the Draft Environmental Impact Report for the adoption of Regulations to Implement SB 1383 - Short Lived Climate Pollutants. Compology is a California-based stakeholder in the waste and recycling industry providing technological solutions for remote monitoring of containers and generator behavior that facilitates efficient regulatory enforcement and collection operations.

Our comments follow:

3.13 Transportation

3.13.1 Regulatory Setting

The Federal Highway Administration has established goals for reducing vehicle miles travelled. An excerpt of the goal is provided below. We request that this goal included in 3.13.1

(Regulatory Setting).

Reducing Vehicle Miles Traveled • Statutory Language

The goal of reducing vehicle miles traveled (VMT) is an official goal of the U.S. Government policy as it is stated in actions of the Clean Air Act (CAA), the President's 1993 Climate Change Action Plan (CCAP), and in the Congestion Mitigation Air Quality Improvement Program (CMAQ) included in both the Intermodal Surface Transportation Efficiency Act (ISTEA) and the Transportation Equity Act for the 21st Century (TEA-21), U.S.C. 23, Section 149. The relevant sections of the CAA, CCAP, and CMAQ are reproduced below.

<https://www.fhwa.dot.gov/policyinformation/hpms/epastat.cfm>

3.13.3. Environmental Impacts and Mitigation Measures

Thresholds of Significance

Thank you for clearly stating the thresholds of significance for transportation related environmental impacts. We agree that any net increase in VMT is significant.

CalRecycle Response

The commenter provides background information on Compology, requests that the Federal Highway Administration's (FHWA) goal to reduce VMT be included in the Draft EIR, and agrees with the significance conclusion related to VMT in the Draft EIR. The following change is also included in Chapter 3, "Corrections and Revisions to the Draft

EIR,” of this Final EIR. The correction does not alter the conclusions with respect to the significance of any environmental impact.

In response to this comment, the following sentence has been added at the end of the third full paragraph on page 3.13-1 of the Draft EIR:

FHWA also has a goal to reduce VMT consistent with U.S. Government policy.

Comment Number: 7-2

This comment contains tables that do not meet accessibility requirements. For fully accessible versions of the tables presented in this comment, please see Appendix D.

3.13-4: Reasonable Anticipated Increase in VMT

We agree that added routes for collection of food waste from commercial generators (as stated in the following) would result in increases in VMT.

- Under the proposed regulation, commercial and residential generators would separate their food waste from other solid waste. Some commercial generators, such as supermarkets or restaurants, tend to generate high volumes of food waste that would be collected by trucks separate from those used to collect the rest of their solid waste. While many of the larger commercial generators are already subject to organic waste collection requirements under the Mandatory Commercial Organic Waste Recycling Law described in Section 3.13.1, "Regulatory Setting," the added routes for collection of food waste from commercial generators would result in localized increases in VMT.

We feel it is prudent to consider that increases in 'non-food' organics (i.e., paper and paper products) being moved from waste containers to recycling containers is also likely to increase VMT from collection operations that support recycling container collection. This is a reasonable conclusion since the regulations will prohibit all organics in waste containers.

Finally, we believe that the likelihood of extra-handling of materials will result in increases in VMT. Extra-handling of materials results from prohibited materials being placed in containers, collected and transported to facilities where the prohibited materials are removed/recovered and then further transported to the appropriate facility. For example, if a bag of trash is placed in a recycling container and collected along with the recyclables, the bag of trash must be removed and transported to a disposal facility. This extra 'leg' of transportation results in an increase in VMT.

We agree with the finding of potentially significant related to the environmental impacts of increased VMT.

Mitigation measures

We disagree with the finding that no feasible mitigation is available to reduce or offset the increase in VMT.

VMT reduction, or offsets to new VMT sources, is readily attainable when remote monitoring is deployed to 'right-size' subscription service levels and reduce prohibited material (commonly referred to as contamination) in containers. Remote monitoring, therefore, is a feasible mitigation measure for the impact associated with collection of commercial organics, as well as increased VMT from material extra-handling.

Right-sizing is an industry term that refers to a generator matching the amount of container yards subscribed to with the amount of waste/recycling that is generated, with a preference for reducing days of service. For example, a generator may subscribe to a 6 yard container getting emptied/serviced 3x per week for a total weekly container yard subscription of 18 yards (6yd x 3). A truck is discharged to service the container 3x per week, regardless of the actual volume of material inside the container. With remote monitoring, the generator has actual, current data documenting that they generate less than 12 yards of waste/recycling per week. Accordingly, the generator can change subscription levels to 2x per week service for a total of 12 container yards of subscription service. The number of weekly lifts for said generator is reduced from 3 to 2.

Reducing prohibited material in containers means that such materials are placed in the appropriate container before the truck collects the contents. This reduces extra-handling and VMT as detailed in the sheet.

The accompanying spreadsheet provides detail on both VMT Reduction from Right-Sizing and Lift Reduction, and from a Material Extra-Handling Decrease. In summary, the data shows that a 25% reduction in the number of container service events, and comparable reduction in VMT, is readily attainable with remote monitoring data. Additionally, we find that a 60% reduction in the number of containers with prohibited materials is achievable. We think this easily leads to a substantial reduction in extra-handling. We show a conservative 8% reduction in the attached sheet.

VMT Reductions with Compology Remote Monitoring

VMT can be significantly lowered with Compology monitoring and content visibility. The total number of trucks needed to service a community, and extra handling of materials, can be reduced thereby lowering VMT.

VMT Reduction from Right-Sizing and Lift Reduction

Presently, generators subscribe to service levels (container size and days of service) using incomplete information: generators don't regularly receive data on the volumes that they generate. Remote monitoring data, such as where Compology monitoring system is in place on actual containers, shows that this routinely results in oversubscribing to service yards (wrong size container/too many days of service) by 25-30%, which results in at least 25% more lifts than necessary. There is a direct correlation between lifts and VMT. The more lifts, the more trucks needed to service a geographic area, and the more VMT.

Our pilot project with the SBWMA resulted in publicly available data that shows how a reduction in lifts (whether initiated by customer changes in service days, or by hauler)

can be accommodated/implemented and still preserve a conservative amount of container yards serviced compared to yards of material collected

SBWMA Pilot Project data was analyzed for four week periods (Sun-Sat) in February and March 2018. See subsequent worksheets and summary below. Compology automatically collected data on container size, # of lifts, volume collected and container volume served.

The 'right-sizing' analysis presented is directional. A more detailed analysis would likely result in some adjustments to the aggregated data presented, and likely would result in additional lift reduction opportunity being identified. The aggregated data is appropriate for supporting an estimate of the number of lifts reduced, and therefore, truck and VMT reductions.

February 2018	<u>Lifts (Total)</u>	<u>Est. # Trucks*</u>	<u>Container Yards Serviced</u>	<u>Yards Collected</u>	<u>Yards per Lift</u>	<u>Avg Fullness</u>
Recorded Lifts	1625	0.65	4863	2731.3	1.7	56.20%
Cut Lifts by 25%	1219	0.49	3647	2731.3	2.2	74.90%
		25%	Truck Reduction			
March 2018	<u>Lifts (Total)</u>	<u>Est. # Trucks*</u>	<u>Container Yards Serviced</u>	<u>Yards Collected</u>	<u>Yards per Lift</u>	<u>Avg Fullness</u>
Recorded Lifts	1677	0.67	5068	2768	1.7	54.60%
Cut Lifts by 25%	1258	0.5	3801	2768	2.2	72.80%
		25%	Truck Reduction			
*FL Truck can perform 125 lifts per day						

Example of VMT reduction for every 1250 containers

	<u>without Compology</u>	<u>with Compology</u>
Number of Containers	1250	1250
Number of Cameras	0	1250
Number of Lifts	1250	938
Lifts per FL Truck	125	125
Number of Trucks	10	7.5
Annual VMT per Truck	70,000	70,000
Annual Total VMT	700,000	525,000
Annual VMT Reduction		175,000

Example of CO₂e reduction for every 1250 containers

	<u>without Compology</u>	<u>with Compology</u>
Number of Containers	1250	1250
Number of Cameras	0	1250
Number of Lifts	1250	938
Lifts per FL Truck	125	125
Number of Trucks	10	7.5
Annual CO ₂ e (MT) Emitted*		
Diesel	160.72	160.72
CNG	141.55	141.55
RNG	89.12	89.12
Total Annual CO ₂ e (MT)		
Diesel	1607	1205
CNG	1416	1062
RNG	891	668

Annual CO₂e Reductions per 1250 containers (MT)

Diesel	0	402
CNG	0	354
RNG	0	223

*Assumes: (1) 70k annual miles traveled, (2) 7 MPG for diesel and 5.95 MPG for CNG and (3) engine model year 2010. Emissions for 2010 Standard Compliant Trucks.

	CO (lb)	NOx (lb)	PM ₁₀ (lb)	PM ₁₀ (TBW) (lb)	PM _{2.5} (lb)	PM _{2.5} (TBW) (lb)	VOC (lb)	VOC (Evap) (lb)	SOx (lb)	CO ₂ e (MT)
Diesel	83.64	258.65	5.40	22.53	5.09	2.93	8.02	8.18	1.55	160.72
CNG	1,271.38	38.80	5.40	22.53	5.09	2.93	8.02	8.18	0.90	141.55
RNG	1,271.38	38.80	5.40	22.53	5.09	2.93	8.02	8.18	0.90	89.12

VMT Reduction from Material Extra-Handling Decrease

Material extra-handling results when prohibited materials are placed in containers. Prohibited material must be removed from the collected materials and eventually deposited at the appropriate facility. To achieve this, the processing, removal and transport of the prohibited material (commonly referred to as contamination or residual waste) results in extra handling and VMT. VMT reduction can be achieved by remote monitoring and removal of contamination in a blue or green bin prior to collection.

Unnecessary VMT can be significant for extra handling as illustrated below, expanding on SBWMA data on 150 containers:

	Four Week Volume (CY)	Assumed % Contamination	Contamination Volume (CY) in Sample Containers	Estimated Contamination Volume (CY) in Total Containers*	Extra Loads at 100 CY per load for Contamination	Extra Handling Miles per Load**	Total Extra VMT	
February	2731	10%	273	10925	109	30	3278	
March	2768	10%	277	11072	111	30	3322	
		Assumed % Contamination with Compology Monitoring						Reduced Extra VMT
February	2731	2%	55	2185	22	30	656	2622
March	2768	2%	55	2214	22	30	664	2657

*The SBWMA Project was a pilot involving a portion of total containers. Data was extrapolated to all 6,000 containers

**Number of extra miles that contamination volume may travel by first going to a recovery facility before it is eventually sent to landfill, rather than directly to landfill.

Cost of VMT Reduction from Right-Sizing and Lift Reduction

Comparison of the annual cost of Compology vs. extra collection trucks for oversubscribed generators

		w/out Compology	w/ Compology
Number of Containers		1250	1250
Number of Cameras		0	1250
Number of Lifts		1250	938
Lifts per FL Truck		125	125
Number of Trucks		10	7.5
Annual Cost of Operating One Truck*		\$260,000	\$260,000
Total Annual Truck Cost		\$2,600,000	\$1,950,000
Annual Truck Savings		0	\$650,000
Compology Cost			
Hardware	at \$40	0	50000
Software	at \$15/month	0	225000
Total Annual		0	275000
Annual VMT Cost w/ Lift Reduction net of Cost of Compology		0	-\$375,000

*\$100/hr operating cost including operating cost and amortization of capital. 50 hr/week run time.

CalRecycle Response

The comment generally agrees with the discussion provided in Impact 3.13-4: Reasonably Anticipated Increase in VMT. The comment disagrees that mitigation measures are not available to reduce or offset the increase in VMT, providing the examples of right-sizing and remote monitoring, which would allow for a reduction in the number of containers and weekly lifts. The proposed regulation provides jurisdictions with various collection options (see response to comment 8-7).

In response to this comment, CalRecycle has made the following changes to the mitigation measure and post-mitigation significance discussion associated with Impact 3.13-4.

Mitigation Measures

~~Vehicular travel associated with implementation of the proposed regulation is related to changes in the way that organic waste is processed. The distance required to accommodate new trips is related to the location of facilities that would receive and process the waste, as well as the location where processed compost, other byproducts of organic waste recovery facilities, and recovered food would be distributed. According to the SB 743 Technical Advisory, potential mitigation measure that can reduce VMT include actions such as~~

improved alternate transportation facilities, land use planning, and disincentives to driving (e.g., roadway pricing, limited parking availability). Land use decisions, including those related to the siting of organic waste recovery facilities, are subject to local jurisdictions (PRC Section 40059). The locations where compost, other byproducts, and recovered food would be distributed is contingent on various influences outside of CalRecycle's control, including local land uses and economics. Other mitigation measures, such as providing improved alternative transportation facilities and establishing disincentives to driving, would not have sufficient nexus with the impact or offer rough proportionality to the impact to be considered feasible mitigation (*Dolan v. City of Tigard*, 512 U.S. 374 [1994]; *Nollan v. California Coastal Commission*, 483 U.S. 825 [1987]). Therefore, no feasible mitigation is available.

Mitigation Measure 3.13-4: Employ Remote Monitoring Technology to Measure Remaining Container Capacity and Monitor Container Contamination

As described in Section 1.2, "Purpose of this EIR," the authority of CalRecycle and LEAs is statutorily limited. They do not have authority to require implementation of mitigation measures that would reduce potentially significant increases in vehicle miles traveled. Mitigation measures to reduce VMT can and should be implemented by local jurisdictions with land use authority. Site-specific, project impacts and mitigation would be identified during a project's local review process. A proposed project would be approved by a local government and potentially another permitting agency that can apply conditions of approval.

The following mitigation measures can and should be required by agencies with project approval authority for waste collection services to avoid or minimize VMT:

- Require placement of remote monitoring technology in collection containers or on collection vehicles that are capable of identifying underused container capacity (e.g., whether a bin is partially full) and the presence of contaminants in a container, on a regular basis or when a container is tipped into a collection vehicle.
- Establish practices to identify optimization of vehicle routes in a manner that reduces the collection of partially full containers and/or informs customers that could downsize their container size.
- Identify opportunities to reduce VMT by limiting the collection of contaminated containers in a manner that commingles the container contents with clean material.
- Encourage businesses and residents to right-size their container to reduce unnecessary vehicle trips.

Significance after Mitigation

Implementation of Mitigation Measure 3.13-4 would reduce the severity of impacts from VMT increases because the number of collection trips could be decreased. However, overall, the proposed regulation would likely result in an increase in VMT from new and/or additional transport routes primarily for the delivery of the products of waste recovery to customers for the reasons described under Impact 3.13-4. Therefore, while the severity of significant impacts from VMT increases could be decreased through implementation of Mitigation Measure 3.13-4, it would not reduce the impact to a less-than-significant level because new and/or additional transport routes to collect waste would still be required throughout the State that could result in an increase in VMT.

Furthermore, the authority to review site-specific, project-level impacts and require project-level mitigation lies primarily with local jurisdictions for individual projects. As stated above under the pre-mitigation significance determination, to meet CEQA's mandate of good-faith disclosure and to not risk understating potential future impacts in light of uncertainties related to the proposed regulation, this impact is classified as **potentially significant and unavoidable**.

State CEQA Guidelines Section 15088.5 states that an EIR must be recirculated when significant new information is added to the EIR after the after the Draft EIR has been released for public review. Significant new information that requires recirculation includes:

- A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented (State CEQA Guidelines Section 15088.5[a][1]);
- A substantial increase in the severity of an impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance (State CEQA Guidelines Section 15088.5[a][2]);
- A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the environmental impacts of the project, but the project's proponents decline to adopt it (State CEQA Guidelines Section 15088.5[a][3]; and
- The draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded (State CEQA Guidelines Section 15088.5[a][4]).

The addition of this mitigation measure would not result in new significant environmental impacts or otherwise constitute new significant information that requires recirculation under State CEQA Guidelines Section 15088.5. The level of significance of the impact after application of feasible mitigation remains the same as noted in the Draft EIR.

Comment Author: County of Placer, September 13, 2019

Comment Number: 8-1

On behalf of Placer County, thank you for the opportunity to provide comments on the Draft Program Environmental Impact Report (EIR) for the Statewide Adoption of Regulations for Short-Lived Climate Pollutants: Organic Waste Methane Emission Reduction. The County's comments are as follows:

The Alternatives are inadequate and should include a reduced scope option.

The purpose of evaluating alternatives is to identify a reasonable range of alternatives that could feasibly attain most of the basic project objectives and would avoid or substantially lessen any of the significant environmental impacts of the proposed project. While the EIR did identify three alternatives for analysis – No Project and two more prescriptive alternatives – the No Project was found environmentally superior because the other two increased costs (so less feasible to implement), were less likely to meet project objectives, and did not lessen impacts. Since alternatives analyzed should be feasible, reasonable, and lessen impacts, the EIR should evaluate one or more reduced scope alternatives, e.g., a less prescriptive option, that could both reduce impacts and meet the project objectives, which are to reduce the statewide disposal of organic waste and recover edible food to achieve the targets in the statute. (Note that neither the statute nor the objectives provide justification for the over-prescriptive nature of the proposed regulation, which likely makes full implementation infeasible, if not impossible.)

A less prescriptive option would not prescribe every detail of compliance but allow jurisdictions to select and implement programs that best suit their communities' specific conditions while meeting the overarching objectives of the law. One such example is AB 939, the California Integrated Waste Management Act of 1989. The Act requires jurisdictions to divert 50% of their waste but allows jurisdictions to implement a variety of waste reduction, recycling, and composting programs that best suit their communities. Today, the majority of jurisdictions are meeting or exceeding the mandate. In fact, only seven jurisdictions have been fined for failure to comply since the enactment of AB 939 in 1989, which demonstrates that jurisdictions are capable of identifying practical and effective programs and meeting mandates when afforded maximum flexibility.

A potential, less prescriptive/more flexible, option, and environmental benefits, could include:

- **Phased implementation, starting with the larger, urban areas of the state.** This option would lessen impacts related to air quality, vehicle miles travelled (VMT), greenhouse gas emissions (GHG), land use conflicts, water and energy consumption, and vectors.
- **Jurisdiction flexibility to design and select programs.** This would likely result in fewer wildlife impacts, vectors, VMT, and GHG and other emissions, and cost impacts discussed below, since programs would be designed to be efficient, cost effective and achieve maximum benefit.

- **No prescribed procurement targets.** This option would increase diversion of more organic product types, reduce the impacts from potential stockpiling or landfilling of compost, and would significantly reduce jurisdiction costs, improving overall feasibility of regulation implementation.
- **Allow MRF fines as landfill cover with no organic content restriction.** Due to the nature of the material, there is often no other feasible diversion potential for MRF fines, but the material serves a useful and effective purpose as cover material, serving to reduce odors, vectors, and other impacts, and reducing the amount of clean soil placed in the landfill.
- **A definition of “organic waste” more consistent with current state law** – E.g. do not include textiles, carpets, biosolids, digestate, and sludges and only include materials that can be reasonably and feasibly collected and recovered.

CalRecycle Response

The commenter states the alternative analysis is inadequate and should include a reduced scope option. With respect to MRF fines, the proposed regulation does not prohibit the use of MRF fines as landfill cover. See also Master Response 3, “Adequacy of the Alternatives Analysis.”

Comment Number: 8-2

The No Project alternative does not adequately evaluate existing conditions.

CEQA requires that the “no project” should be evaluated along with its impacts and that the projected impacts of the proposed project or alternative projects should be compared to the impacts that would occur under the existing condition. The EIR does not evaluate all impacts occurring currently or that would occur without approval of the proposed project. This evaluation is needed in order to compare the impacts of the proposed project with impacts that would occur without approving the proposed project and would better support some of the EIR’s overarching impact conclusions.

CalRecycle Response

The commenter states that the no project alternative analysis should include all of the impacts that are currently occurring or that would occur without approval of the proposed regulation. See Master Response 3, “Adequacy of the Alternatives Analysis.”

Comment Number: 8-3

Many reasonably foreseeable impacts were not adequately evaluated in the EIR:

- **Impacts to local air quality management plans.** The EIR evaluates impacts to statewide plans; however, potential impacts to local plans are overlooked. Therefore, the EIR should analyze conflicts with local plans, policies, and rules from implementation of the project.

CalRecycle Response

The commenter asserts that the evaluation of the proposed regulation with statewide plans to reduce air pollution resulted in the Draft EIR overlooking consistency with local and regional air quality plans. The commenter suggests that the Draft EIR provide such a discussion.

The proposed regulation looks at consistency with two statewide plans: (1) the Mobile Source Strategy and (2) the SLCP Reduction Strategy. As a statewide regulation, it is appropriate to review the proposed regulation with air quality plans that would similarly be implemented statewide. The construction and operation of organic waste recovery facilities would be treated as a project under CEQA, where consistency with appropriate air quality plans would be evaluated during that process. This impact is generally linked to the evaluation of long-term operational-related emissions of air pollution, which would also be analyzed in a project-level CEQA document. The proposed regulation identifies long-term operational air quality impacts to be potentially significant, and recommends mitigation that could be applied to reduce impacts to less-than-significant levels.

In response to this comment, the following text edits have been made to page 3.3-24 in between the second and third paragraphs to improve clarity:

Future organic waste recovery facilities would undergo project-level CEQA evaluation and consistency with applicable plans, policies, and programs related to air quality would be reviewed. However, as a statewide regulation, the plans applicable to the proposed regulation are those that are similarly implemented statewide, rather than on a local level. While it is foreseeable that a new or expanded organic waste recovery facility that undergoes environmental review could be inconsistent with the goal and policies of a local or regional air quality plan, such as a SIP or attainment plan, the implementation of the proposed regulation in its entirety would be consistent with the Mobile Source Strategy and SLCP Reduction Strategy, which serve to reduce air pollution across the state rather than by individual air basin or county.

The text above would not alter the significance determination contained in the Draft EIR and mitigation would not be required. The impact remains less than significant.

Comment Number: 8-4

- **Increased VMT and GHG emissions from additional organic waste collection activities, route reviews, business inspections, traffic at facilities, edible food collection, and distribution.** Transportation is the largest GHG emission producing sector in the state. While the EIR does acknowledge some increase in VMT from “post-recovery activities”, it states that “the collection modifications would not substantially change the amount of travel needed.” Compliance with the regulations will very likely result in additional VMT and related GHG emissions from numerous additional collection activities, route reviews, business inspections, traffic at facilities, edible food collection, and distribution, which should be evaluated. Placer County recently conducted a study evaluating the GHG emission impacts from adding one

additional collection service. The study concluded that the average annual CO₂ emissions were projected to increase by 42 percent due to the additional routes, fuel consumption, and VMT.

CalRecycle Response

The commenter states that the proposed regulation would result in additional VMT and related GHG emissions. The commenter cites a study performed by Placer County that concluded average annual transportation CO₂ emissions were projected to increase by 42 percent due to additional routes, fuel consumption, and VMT. However, the commenter does not provide a reference for the study; therefore, CalRecycle cannot review its adequacy. See Master Response 1, “Adequacy of the GHG Analysis,” and Master Response 2, “Adequacy of the VMT Analysis,” regarding assumptions made with respect to GHG emissions and VMT from the proposed regulation. No changes to the Draft EIR are required in response to this comment.

Comment Number: 8-5

- **Impacts from lack of infrastructure or markets.** The proposed regulation mandates collection of many types of organic materials. The EIR assumes those materials will be diverted from landfills and processed at an organic processing facility, although the state also acknowledges that there is currently a severe lack of organics processing infrastructure and that markets for commodities such as paper markets have severely declined. The EIR should analyze the impacts associated with the potential inability for jurisdictions to process or market organic materials.

CalRecycle Response

The commenter states that the Draft EIR should evaluate impacts related to the lack of infrastructure and markets.

CalRecycle has conducted four statewide studies of organics processing infrastructure since 2001. The most recent study (*SB 1383 Infrastructure and Market Analysis*) was completed in April 2019 and can be accessed at:

<https://www2.calrecycle.ca.gov/Publications/Download/1401>). This report documents the availability of over 4 million tons of existing, permitted statewide compost capacity. In all four studies completed since 2001, survey respondents reported marketing all organic products successfully. Agriculture is consistently the largest market for urban compost. Given California’s massive agricultural industry, the potential agricultural market is unlikely to ever be saturated. CalRecycle is also funding new compost, anaerobic digestion, and food rescue capacity through the Greenhouse Gas Reduction Funds grant process. To date CalRecycle has funded 24 organics recovery facilities, with expected redirection of over 850,000 new tons per year (CalRecycle 2019e). The latest solicitation is currently open.

Section 2.5.4, “Recycling Facilities” of the Draft EIR recognizes the impact that National Sword (a 2017 policy established in China that banned the import of certain types of solid waste and set strict contamination limits on recyclable materials) has had in increasing demand for processing and producing a cleaner stream of paper.

Finally, Section 2.5, “Reasonably Foreseeable Compliance Responses,” of the Draft EIR describes that to meet the disposal reduction and edible food recovery goals of the proposed regulation, it is reasonably expected that new or expanded organic waste recovery and edible food recovery facilities would be developed. The following actions would be reasonably foreseeable compliance responses with the potential to result in either a direct or indirect physical change in the environment. These include construction activities, infrastructure and equipment installations, and substantial operational changes to facilities. The rates of disposal of organic waste and edible food recovery varies greatly across the State. Achieving the goals of the proposed regulation would require expansion of organic waste collection services and recovery facilities to varying degrees across California communities. The types of facilities and programs that are reasonably expected to be developed in response to SB 1383 are listed in Table 2-2 and described in Section 2.5 of the Draft EIR. Sections 3.1 through 3.15 of the Draft EIR address the impacts of constructing and operating these facilities. No further response is necessary.

Comment Number: 8-6

- **Demand for energy, water, and other resources to expand and operate facilities.** In-state electricity generation is the third largest GHG emissions producing sector in the state. The 150 new facilities potentially to be constructed will consume energy and other resources, such as water (used in compost facility operation) and wastewater services, yet the EIR incorrectly assumes there will be energy offsets from organic waste diverted to facilities that capture energy. The EIR should better analyze these impacts.

CalRecycle Response

The comment expresses concern related to the increased use of energy related to expanded utility systems. In-state electricity generation is ranked as the third largest source of statewide GHG emissions, per the California Air Resources Board (CARB) 2017 Statewide GHG Inventory. A 2019 report published by CARB identifying trends in GHG emissions between 2000 to 2017 found that the GHG emissions per megawatt hour of electricity declined during this period for both in-state and imported electricity. The report found that “the overall decrease in carbon intensity of California’s electricity generation is driven primarily by the large increase in zero-GHG and renewable energy resources due in part to California’s Renewable Portfolio Standard (RPS) and the Cap-and-Trade Program.” The generation of electricity through biogas produced through AD and biomass conversion is considered an RPS eligible renewable energy source under PRC Section 25741a(1).

The proposed regulation would add to the availability of energy resources that support meeting the State’s mandate for 60 percent of all electricity generation to be produced from renewable energy sources by 2030 under SB 100. These renewable energy procurement requirements apply to all load-serving entities that provide retail electricity within the State, including the utilities providing electricity to residents and businesses in Placer County. Given that the water pumping and wastewater treatment referenced

typically rely on grid-sourced electricity provided by regional utilities, efforts to expand statewide renewable energy capacity would help with meeting incremental increases in energy demand resulting from the construction and operation of waste management systems anticipated under the proposed regulation.

Comment Number: 8-7

- **Disposal of bins and lids replaced by new container requirements.** The proposed regulation requires that all garbage and recycling containers comply with the prescribed color and labeling requirements. This will likely result in many containers and or lids ultimately being replaced and discarded, even those that are functional. The EIR should analyze the impacts of discarding these containers and lids, many that are plastic, a material category high on the state's list to reduce.

CalRecycle Response

The commenter states that new container requirements associated with the proposed regulation would require replacement of existing bins and lids, resulting in a substantial increase in disposal rates. As described on page 2-4 of the Draft EIR, Article 3 of the proposed regulation contains the minimum standards for organic waste collection services. Article 3 allows jurisdictions to provide a variety of organic waste collection services including a three-container (green/blue/gray) collection service (a fourth container can be used for food waste if a jurisdiction wishes to source-separate green material and food waste), two-container (green/gray or blue/gray) collection service, and an unsegregated single-container (gray) collection service. Container colors and labels indicate what waste is intended for collection. In addition, a jurisdiction is not required to replace functional containers until January 2036; thus, turnover would occur over time.

The regulations allow jurisdictions to determine the number of bins used for collection services, provided that the minimum regulatory standards including container color are complied with. If a jurisdiction opts to implement a collection program that would require the use of a new type of container (e.g., a container with a different color requirement), the regulations allow for a phase-in period (through 2036), as noted in the ISOR this phase-in period exceeds the container replacement rate indicated by waste companies (CalRecycle 2019a). In addition, collection containers that would no longer be used could be recycled, and thus not decrease the existing capacity at landfills. Because distribution of new bins and collection of non-compliant bins would occur once, and further it is not a definitive requirement of the regulation, but subject to the option selected by local jurisdictions, it would not substantially affect plastic collection rates. No changes to the document are necessary.

Comment Number: 8-8

- **Vectors from separate organic collection.** The EIR acknowledges the potential for attraction of vectors at organic waste processing facilities and that impacts would be less than significant with compliance with existing laws and regulations to control vectors. However, there is also the potential for attraction of vectors at residences

and businesses from the set out of separated food waste. The EIR should evaluate these impacts.

CalRecycle Response

The commenter states that collection of separated food waste would result in attraction of vectors at residences and business. The proposed regulation would not increase the overall production of food waste within the State. Vector attraction would not substantially increase at residences and businesses if food waste is collected separately from other household waste because the same quantities of food waste would be present at the residence or business. All waste materials would likely be stored in the same location as under current conditions (e.g., in garages, outside houses, within storage sheds). No changes to the document are necessary.

Comment Number: 8-9

- **Socio-economic impacts.** The EIR should evaluate economic or social changes resulting from the project. Compliance with the regulation may have significant economic and social impacts affecting numerous demographics, which should be evaluated, such as costs to local government, solid waste facilities, residents and businesses.

CalRecycle Response

The State CEQA Guidelines (14 California Code of Regulations Section 15000 et. seq.) establish the scope of analysis of social and economic impacts of a project and their indirect effects that is required under CEQA. These provisions, which are described below, provide a framework for considering the commenter's request to evaluate social and economic effects of the project, including costs to local government, solid waste facilities, residents, and businesses.

CEQA is concerned solely with whether a project may have adverse effects on the physical environment. Accordingly, State CEQA Guidelines Section 15064(e) provides that "[e]conomic and social changes resulting from a project shall not be treated as significant effects on the environment. Economic or social changes may be used, however, to determine that a physical change shall be regarded as a significant effect on the environment." Section 15131 of the State CEQA Guidelines states that "economic and social effects of a project shall not be treated as significant effects on the environment, [a]n EIR may trace a chain of cause and effect from a proposed decision on a project through anticipated economic or social changes resulting from a project to physical changes caused in turn by the economic or social changes."

In evaluating the environmental impacts of a project, an EIR must evaluate indirect physical effects, in addition to the direct effects of a project. Direct effects are effects that are caused by a project and occur in the same time and place. An indirect environmental effect is a change in the physical environment that is not immediately related to a project but that is caused indirectly by a project. CEQA does not require the analysis of generalized social and economic effects, such as costs to residents and businesses, as suggested in this comment.

The commenter is directed to the Standard Regulatory Impact Assessment (SRIA) that accompanies the proposed regulation (available at: http://www.dof.ca.gov/Forecasting/Economics/Major_Regulations/Major_regulations_Table/documents/Final_Sria_11-16%20.pdf). The primary purpose of the SRIA is to inform the public, policymakers, and stakeholders of economic and fiscal impacts of the proposed regulation and the tradeoffs the agency promulgating the major regulation is making. Section 3.3.4 of the SRIA describes estimated costs to local jurisdictions, and costs to residents and businesses are discussed in Sections 3.4, 3.5, and 3.16.

Comment Author: County of Sacramento, September 12, 2019

Comment Number: 9-1

On behalf of the Sacramento County Board of Supervisors, attached are comments on CalRecycle’s Draft Program Environmental Impact Report (EIR) for the Adoption of Regulations for Short-Lived Climate Pollutants: Organic Waste Methane Emission Reduction (SCH #2018122023) for your consideration.

Section 3.2 Agricultural Resources and Section 3.5 Biological Resources

Neither of these sections addresses the environmental impacts of the increase in uncontrollable application of micro plastics to farmland and landscaped areas. These impacts could be quantified using existing compostable material and waste stream characterizations, coupled with reports of plastic contamination from existing facilities.

Negative impacts include irreversible accumulation of micro plastics and other contaminants in agricultural land and landscaped areas, potentially resulting in significant long term, irreversible impacts to soil quality and public health. Further, there could be impacts to aquatic life generated by stormwater runoff carrying micro plastics and other contaminants to waterways. Research has been conducted on the problem of uncontrolled plastics being released into the environment, which is an unavoidable result of application of compost derived from residential and commercial waste streams. The Final EIR should consider an analysis of these impacts. An example of the research on micro plastics impacts from compost is found here: <https://phys.org/news/2018-04-microplastics-biowaste-compost-fertilizers.html>.

CalRecycle Response

The comments states that Section 3.2, “Agricultural Resources,” and Section 3.5, “Biological Resources,” do not address the potential effects of the uncontrolled release of plastics to farmland and landscaped areas. A discussion of the potential for land application of compost to result in uncontrolled release of plastics is included in the Draft EIR Section 3.10, “Hydrology and Water Quality,” in Impact 3.10-3. Additionally, the potential effects to water quality from composting operations are discussed in Impact 3.10-2. No changes to the document are required.

Comment Number: 9-2

Section 3.3 Air Quality and Section 3.13 Transportation

Neither of these sections realistically quantifies nor addresses transportation-related emissions, including greenhouse gases. While mention is made in Section 3.13 that jurisdictions are potentially “allowed” to collect organic material on a bi-weekly basis, it is unrealistic to anticipate that they will all do so. Solid waste collection vehicle miles traveled can be anticipated to increase anywhere from 16% to 25% in a jurisdictions choosing weekly solid waste and weekly organics collection, depending on the nature of their collection programs. Additionally, new edible food recovery programs will increase vehicle miles traveled for local jurisdictions. The Final EIR should include the vehicular emissions impacts demonstrated by this analysis. CalRecycle should study this adequately and quantify the increase in vehicular emissions and its impact on local roadways for inclusion in the Final EIR.

CalRecycle Response

The commenter states that the proposed regulation would increase VMT and result in increased vehicular emissions. The commenter states that solid waste collection VMT is anticipated to increase anywhere from 16 to 25 percent in jurisdictions, depending on the nature of their collection programs. The origin of these percentages is unknown, as a reference was not provided. Moreover, as discussed in the methodology portion of Section 3.8 on Page 3.8-9, operational GHG emissions, including those from the transportation sector, were assessed qualitatively due to the uncertainty surrounding the location and magnitude of increases or decreases in VMT as a result of implementation of the proposed regulation. The Draft EIR makes a good faith effort to disclose the reasonably foreseeable changes to VMT from baseline conditions associated with various actions under the proposed regulation; however, quantification of VMT changes and associated GHG emissions would be speculative.

See Master Response 1, “Adequacy of the GHG Analysis,” and Master Response 2, “Adequacy of the VMT Analysis,” regarding assumptions made with respect to GHG emissions and VMT from the proposed regulation. No changes to the Draft EIR are required in response to this comment.

Comment Number: 9-3

Section 3.9 - Hazards and Hazardous Materials, Impact 3.9-3, Vectors and Pathogens

The discussion of Impact 3.9-3 is inadequate as it only discusses the impacts at existing and future organic material management facilities. The discussion does not address the impact of vector populations and pathogens at the point of waste generation. The greatest impact of this regulation will be at home or places of business.

Adding a container for food waste at every generator’s location (or alternatively adding food waste to green waste containers) will double the potential habitat and attractive locations for vectors and pathogens.

Notably, since the advent of mandatory food waste diversion programs, rat infestations in California's urban areas have surged with public health consequences. The correlation of separated food waste collection and vector population increases needs additional study and the impacts should be addressed in the Final EIR.

See: <https://losangeles.cbslocal.com/2019/07/16/la-rats-rodents-california-health-emergency/>, <https://www.sfgate.com/news/article/Rat-complaints-rise-in-San-Francisco-12212404.php>

CalRecycle Response

The commenter states that adding a container for food waste would double the potential habitat and attractive locations for vectors and pathogens. The potential for attraction of vectors and the propagation and transport of pathogens is discussed under Impact 3.9-3 in the Draft EIR. As discussed in this impact, organic waste-handling facilities and operations, including compost and AD facilities, facilities that process green material and wood waste, and edible food recovery programs, are regulated by existing laws and regulations to protect human and environmental health. As described in the last paragraph on page 3.9-17 of the Draft EIR:

For facilities designated as compost facilities, 14 [California Code of Regulations (CCR)] Section 17867 stipulates that "all handling activities shall be conducted in a manner that minimizes vectors, litter, hazards, nuisances, and noise impacts; and minimizes human contact with, inhalation, ingestion, and transportation of dust, particulates, and pathogenic organisms." If regulated as a transfer processing facility, the AD site would be required to "take adequate steps to control or prevent the propagation, harborage and attraction of flies, rodents, or other vectors, and animals, and to minimize bird attraction" (14 CCR Section 17410.4). These articles give the LEA and CalRecycle broad discretion to ensure that organic waste-handling facilities do not provide a suitable environment to promote the generation of vectors. In addition, local pest management agencies (i.e., mosquito abatement districts, environmental health departments) have the authority to inspect facilities and enforce compliance with vector control. Vector populations can be kept under control with implementation of BMPs such as enclosing waste storage areas within a building, providing routine cleaning, installing insect traps, using rodent control services, using chemical treatment, and minimizing the extent of stagnant water.

The proposed regulation would not increase the overall production of food waste within the State at households and businesses. Vector attraction would not substantially increase at residences and businesses if food waste is collected separately from other household waste because the same quantities of food waste would be present at the residence or business in waste receptacles, regardless of implementation of the proposed regulation. Separating food waste from other materials would be subject to decisions made by local jurisdictions. As discussed on page 2-4 of the Draft EIR, Article 3 allows jurisdictions to provide a variety of organic waste collection services including a three-container (green/blue/gray) collection service (a fourth container can be used for food

waste if a jurisdiction wishes to source separate green material and food waste), two-container (green/gray or blue/gray) collection service, and an unsegregated single-container (gray) collection service. Thus, the proposed regulation would not increase attractants for vectors. No changes to the document are necessary.

Comment Number: 9-4

Section 5- Alternatives

The choice of what alternatives to evaluate should be reconsidered. For example, the Landfill Gas Collection Efficiency Alternative discussed in Section 5.3.2 suggests that landfill gas collection systems would be required to collect 100% of methane generated at that facility, yet there is no such requirement for anaerobic digestion (AD) or composting facilities in the proposed regulation. Additionally, the alternative does not consider the impacts of other air contaminants that impact the environment in AD and compost processing. The modern sanitary landfill is a valuable community resource that is designed to entomb waste materials and significantly reduce impacts to public health and the environment. Advances in recent years include the dramatically improved environmental performance of facilities that take wastes, including organic materials, and operate as bio reacting power generating facilities. One alternative would be to implement rule changes that redirect organic materials away from poorer-performing landfills and towards facilities that produce energy with new design specifications and operational standards. The accompanying improvements in system-wide performance should be analyzed in the Final EIR.

CalRecycle Response

The comment pertains to the choice of alternatives evaluated in the Draft EIR. See Master Response 3, “Adequacy of the Alternatives Analysis.”

**Comment Author: Environmental Diversion Solutions,
Haller, Anna, August 20, 2019**

Comment Number: 10-1

We embrace technologies like biochar gasification that reduce organic waste material volumes regionally or at the point of generation while allowing us to combine organic waste with no worry of contamination but also enhance compost and AD facilities.

When will the qualification path for new technologies begin in order to obtain diversion compliance for under SB-1383?

Closed loop franchised waste hauler transfer stations are on their way!

CalRecycle Response:

The comment expresses support for technologies such as biochar gasification and requests information related to future qualification paths. The comment does not raise a significant environmental question and is instead directed at regulatory concepts in the

underlying rulemaking. Comments on the substance of the regulations should be made during the appropriate comment periods in the formal rulemaking process under the APA.

Comment Author: Environmental Health Trust, September 13, 2019

Comment Number: 11-1

1. The following specific provisions of SB 1383 regulations will result in significant environmental impacts including:

- 17402.18.6

(18.6)“Source Separated Organic waste” or “Source Separated Organic Waste 16 Collection Stream” means organic waste that is collected in a green container as 17 specified in Sections 18984.1(a)(1) and 18984.2(a)(1), “source separated blue 18 container organic waste,” as defined in this section, and organic waste 19 collected in ~~or an additional a yellow container or other~~ container as specified in 20 Section 18984.1(a)(6) of this division. 21

- 17402.18.7

(18.7) “~~S~~source separated blue container organic waste” means the organic 22 wastes collected in a blue container that is limited to the collection of those 23 organic wastes and non-organic recyclables as defined in Section 18982 (a)(43) 24 of this division

- **Section 17409.5.6. Source Separated Organic Waste Handling.**

(a) Source separated organic waste processing shall be kept separate from other solid waste streams.

(1) Remnant organic material separated from the gray container collection stream can be combined with organic material removed from the source separated organic 10 waste collection stream once the material from the separated organic waste collection stream has gone through the measurement protocol described in Section 17409.5.4.

(1) Construction and Demolition Debris, as defined in Section 17381, shall be kept separate from the source separated organic waste collection stream and the mixed waste organic collection stream and shall not be included in the measurements required pursuant to Sections 17409.5.1-17409.5.8 17

(b) Source separated organic waste and organic waste removed from a mixed waste 18 organic collection service for recovery shall be:

(1) ~~s~~Stored away from other activity areas in specified, clearly identifiable areas as 20 described in the Facility Plan or Transfer/Processing Report; and, 21

(2) Removed from the site consistent with Section 17410.1 and either: 22

(A) transported only to another solid waste facility or operation for additional 23 processing, composting, in-vessel digestion, or other recovery as specified in 24 Section 18983.1 of this division; or, 25

(B) used in a manner approved by local, state, and federal agencies having 26 appropriate jurisdiction.

- **Section 17409.5.10.5 Solid Waste Handling at Co-located Facilities**

(a) The operator of an attended operation or facility that accepts a mixed waste 11 organic collection stream for processing and passes the organic waste removed 12 from the mixed waste organic collection stream for processing to a co-located 13 activity within the boundary of the facility is subject to the following 14 requirements: 15

(1) If the permitted facility as a whole disposes of less than 10 percent of the 16 organic waste then only the organic waste that is sent off-site for further 17 processing and disposal are subject to the requirements of Sections 17409.5.1 18 through 17409.8 and 17409.5.11. 19

(2) If the permitted facility as a whole disposes of more than 10 percent of the organic waste then the organic waste removed after processing and sent for further processing on-site or off-site and disposed is subject to the requirements of Sections 17409.5.1 through 17409.8.

- **Section 17409.5.11. Remnant Organic Material ~~in the~~ Separated From Gray 25 Container ~~Collection Stream~~ Processing. 26**

27

(a) Remnant organic material separated from the gray container collection stream is not 28 subject to the requirements of Sections 17409.5.1 and 17409.5.8 of this division. 29

(1) Remnant organic material removed from the gray container collection stream can 30 be combined with organic material removed from the source separated organic waste 31 collection stream once the material from the source separated organic waste 32 collection stream has gone through the measurement protocol described in Section 33 17409.5.4.

2. Background:

The INITIAL STATEMENT OF REASONS for the SB 1383 regulations from June accurately states the following concerning SECTION 17409.5.6(a) **for SOURCE SEPARATED ORGANICS WASTE HANDLING**:

The purpose of this new section is to specify the handling procedure for the source separated organic waste. This section is necessary to reduce

cross contamination from mixed waste processing and to clarify where source separated organic waste can be taken.

Subdivision (a)

The purpose of this section is to specify that the processing of the source separated organic waste be separate from other solid waste streams. This section is necessary to prevent mixing of the waste streams to reduce contamination.

The INITIAL STATEMENT OF REASONS for the SB 1383 regulations from June inaccurately and incongruently states the following concerning SECTION 17409.5.6(a)(1) for

Subdivision (a)(1)

The purpose of this section is to clarify that organic material separated from the gray container collection stream can be combined with processed organic waste from the source separated organic waste once it has gone through the measurement requirements of Section 17409.5.4. This section is necessary to establish when select streams of material can be combined.

Yes the ISOR identifies **that there is probable cross contamination from mixed waste** but the ISOR and the EIR completely fail to study the scope of this contamination and failed to identify feasible mitigations and alternatives in their alternative analysis of the better option of keeping it away from and separated from all source separated organics.

It is also very incongruent to have one code line (SECTION 17409.5.6(a)) say that SSO **shall be kept separate** together and next to another line of code SECTION (17409.5.6(a)(1)) that says: Remnant organic material separated from the gray container collection stream **can be combined with organic material removed from the source separated organic** waste collection stream once the material from the separated organic waste collection stream has gone through the measurement protocol described in Section 12 17409.5.4.

Measuring the amount of each of these two types of waste will not abate the cross contamination from the mixed waste!!

The EIR for the 1383 regulations fails to address the Significant environmental impacts from the SB 1383's changes to SECTION 17409.5.6(a)(1) for **SOURCE SEPARATED ORGANICS WASTE HANDLING**. The SB 1383 regulatory changes explicitly changes the code to allow **source separated organic (SSO) collected materials to be mixed and combined with "Remnant organic material (ROM)" that is newly defined term representing material that is separated from the garbage, trash, gray waste container collection stream!**

The significant environmental impacts that will result from SB 1383's regulatory changes surrounding the Handling of SOURCE SEPARATED ORGANICS has not been

adequately acknowledged and studied in any of the following Project and CEQA documents:

- [Formal Comment Period Notice](#)
- [Amendment to Original ISOR](#)
- [Amendment to Original ISOR with Track Changes](#)
- [Regulatory Text SLCP Organic Waste Reductions](#)
- [Summary of Changes Made to the Proposed Organic Waste Reduction](#)
- [Notice of Proposed Rulemaking](#)
- [Initial Statement of Reasons](#)
- [Formal Proposed Regulation Text, January 18, 2019](#)
- [Formatting Sheet \(notes formatting changes from December 12 draft\)](#)
- [Standardized Regulatory Impact Assessment \(SRIA\)](#)
- [CEQA Scoping Meeting & Documents](#)

When the Statutory Background and Final Informal Draft of 5-1-2018 documents were released. These documents both stated that 1383 intent was to :

“Eliminating the disposal of organics in landfills would align California with a growing range of efforts to do so in other states and countries. **In California, San Francisco and Alameda County require that food waste be separated and kept out of the landfill,** and both Los Angeles and San Francisco, along with other cities, have plans in place to achieve zero-waste.”

But unfortunately, changes were gradually inserted into the SB 1383 regulatory text stepping to aggressively change the direction of 1383 to achieve the Statutory visions. Changes first appeared in the regulation text on 1-17-2019 see page 62 of 86

Section 17409.5.6. Source Separated Organic Waste Handling. 38

(a) Source separated organic waste processing shall be kept separate from other solid waste streams.

(1) Remnant organic material separated from the gray container collection stream can be combined with 40 organic material removed from the source separated organic waste collection stream once the material from the separated organic waste collection stream has gone through the measurement protocol described in Section 17409.5.4.

(b) Source separated organic waste and organic waste removed from a mixed waste organic collection service for recovery shall be:

- (1) stored away from other activity areas in specified, clearly identifiable areas as described in the Facility 46 Plan or Transfer/Processing Report; and, 47
- (2) Removed from the site consistent with Section 17410.1 and either:
 - (A) transported only to another solid waste facility or operation for additional processing, composting, in-49 vessel digestion, or other recovery as specified in Section 18983.1 of this division; or, 50
 - (B) used in a manner approved by local, state, and federal agencies having appropriate jurisdiction.

This added ambiguity of source separated mixed with ROM has created an decipherable noise and substantially disturbed the public's understanding of what exactly is meant in section 17409.5.6.

Importantly any reasonable reader of code understands that the highest level of this code is Section 17409.5.6(a) should override all of the the secondary code that is to delve into more details but 17409.5.6(a)(1) does not describe any detail of SSO instead it jumbles off and talks instead about non-Source Separated Organic Material Handling. Because 17409.5.6(a) says that "...source separated organic waste processing shall be kept separate from other solid waste streams." But it is completely incongruent with the next set of text. There is direct conflict in the SB 1383 code text that requires modification. Changes need to be made to remove this conflict and because there are significant environmental impacts associated with mixing ROM with SSO we think that 17409.5.6(a) to keep the SSO from being contaminated by leaching of gray bin garbage, trash toxics including heavy metals and toxics from the enormous amount of plastics that are in garbage today from the states waste characterization studies that show that plastics are high and that e waste and electrical cords are still discarded into the garbage and diapers that the fine plastics pieces have been shown to be un sortable.

Importantly the newly inserted part for the mixing of ROM with SSO was never ever presented in any of the Agency Policy Summary documents created as the regs were changed and never presented at any of the meeting presentation slides instead slides that depicted the SSO being kept separate from ROM with a bold line between them and the words separated was instead graphically shown at meetings misleading the public to never know that these new significant changes to the SB 1383 regulations were made. See Agency slides from the meetings. Its important that it be known that these substantial changes were glossed over and never clearly presented to the public directly at the 3-5-2019 Cal Recycle presentation concerning their adding in the significant change of policy regarding "mixed waste". It was neither noted in the Policy Change document that the Agency put together which misdirected readers trying to understand the regs. Nor was there any mention of it in their presentation slides on 3-5-2019. Instead in the meeting presentation on slides page 14,15 and on Organic Waste Collection Services they explicitly stated that to decrease landfilling to the level required

by 2025, generators must source reduce and have access to building guidelines for organic waste collection services.

Having user friendly in building shuts and infrastructure to cleanly manage the recycling of source separated organics and share tables and refrigerators to share unwanted food with each other would better collect and reduce contamination to maximize the amount of collected organics are recovered.

It was insufficient for Agency staff to ask the public without any public notification of the following questions:

- What additional or alternative concepts can increase or improve generator participation in organics recycling collection services?
- What additional or alternative concepts can manage or reduce contamination?
- What additional or alternative concepts can increase or improve infrastructure capacity and financial planning?
- What additional or alternative concepts can strengthen markets for recycled organic products?

Especially when the IS and CEQA EIR has no in depth study of the source of common contamination that occurs from mixing of organic material together with other non-organic material mention of the and the evaluation in the sections on Hazards where contamination is mentioned has no discussion of the many studies completed on established contamination that occurs in Mixed Biological Treatment (MBT) that is ongoing in Europe that is used as a method to treat remnant organic WASTE that is generated in the EU before it is disposed of in a landfill. CA should more carefully study and evaluate what has been done in the EU and commit to learn from their mistakes and their accomplishments.

3. Significant contamination of Source Separated Organic SSO material and reduced recycling participation will both result from the current draft of SB 1383 regulations. All of the attached papers discuss Source Separation and the importance of it to achieve low impact success.

The following is discussion on the Significant Contamination that will occur from the current SB 1383 regulations because allowing ROM to be mixed with SSO has been shown to result in significant contamination of the SSO including the transfer of heavy metal pollutants and phthalate pollutants and plasticizer toxics and glass shards and other volatile organic material from the breakdown of plastics and plastic film packaging and from pharmaceuticals drugs that are regularly dumped into the gray bin garbage that leach out into the ROM organic material and the aqueous liquid to contaminate the SSO. The Agency needs to include in the EIR study of the contamination issues that have been published world wide. I've attached a few of the key papers to show that the EIR is inadequate but the Lead Agency in CEQA really needs to complete a proper

evaluation of these impacts and evaluate the available mitigations and alternatives to reduce environmental impacts.

The following significant environmental impacts are not sufficiently covered in the above documents namely the following impacts have not been clearly noted and identified, studied, mitigated, nor has there been any sufficient review and study of the feasible alternatives available to avert the associated environmental impacts. The specific changes in code surrounding the handling of Source Separated Organic recyclables will have the following significant adverse environmental impacts:

1. The quality of the compost or AD products made from source separated organic material will be measurably reduced and degraded from added contamination from the remnant organic material pulled from the garbage. --Contamination will occur from leaching of chemicals from cigarette ashes and butts, plastic films, plastic toys, and other plastic parts, Pharmaceutical waste including pills and plastic jars, electronic devices, parts and electrical cords, PVC piping, diapers, pet waste, barbecue ashes, cosmetics, toothpaste and their containers thrown in the garbage.
2. Recycling participation rates will also be measurably reduced and degraded over time from learned knowledge that SSO and ROM are being combined and this will exacerbate the level of contamination and further increase the reduction in quality of the compost or AD products.

Note it is a clear environmental engineering principal not to engage in either dilution activities of materials that contain hazards and not to transfer the materials with contaminants in it to another media from land to water or air. Treatment practices are specific. Also attached is a US EPA Statement of Policy under the Resource Conservation and Recovery Act (RCRA) that clarifies the US Land Disposal Restrictions (LDR) prohibition on dilution by mixing that is supported in Title 40 of the Code of Federal Regulations in section 268.3 of the Federal Land Disposal Restrictions that were created to **protect human health and the environment from the dangers of contamination.**

Attached are many published scientific papers and globally collected testimonies from actual experience that support that the above contentions.

1. There are scientific studies showing that heavy metals and other toxic organic chemicals including endocrine disrupting phthalates and fluorinated compounds from e waste and found in most children's toys today leach out from discards that are commonly found in the grey bin garbage including the ashes from tobacco smokers that make up 25% of the population can that have the propensity to contaminate source separated organic materials.
2. Final Report of the High-Level Panel of the European Decarbonisation Pathways Initiative - Chapter 5 - A circular approach to agriculture, land use and the bioeconomy: an opportunity to restore soil fertility and decarbonise the economy.

4. Discussion:

The specific SB 1383 regulatory provisions outlined above have been inadequately addressed and glossed over both in the CEQA documents and in the Agency presentation materials.

The above SB 1383 regulatory provisions have also been insufficiently studied and evaluated in both the Amended ISOR (that was amended in June after the Source Separation Handling Allowance provisions were added into the regulations after the first draft ISOR was released) and in the CEQA EIR relative to the wealth of measurable data, and comparative analysis and longitudinal analysis throughout the world exhibiting the adverse impacts that these provisions result in.

The the CEQA EIR and Amended ISOR also have provided inadequate evaluation of best practices for mitigation of the significant impacts that will otherwise prevail if the above SB 1383 regulatory provisions are included in the Final SB 1383 regulations.

Recovery and Treatment of Remnant Organic Material (ROM) is very beneficial but it should not be mixed with SSO. It should be treated under proper regulations it will not emit SLCPs.

There are significant environmental impacts from mixing of Remnant Organic Material (ROM) with Source Separated Organic Material (SSO) **as discussed below.**

- 1. All mixing of ROM with SSO should be strictly prohibited in the SB 1383 regulations.-**
- 2. SB 1383 should be revised to clearly prohibit any mixing of ROM into SSO.**
- 3. All mixing of ROM with SSO should be strictly prohibited in the SB 1383 regulations.**

Clarification is needed to be added such that all Sections of the SB 1383 regulations delete all text sections that allow mixing of ROM with SSO. They should be deleted from the SB1383 regulations.

Clarification is needed to ensure that all organic material is treated before being landfilled to remove and abate all possible significant adverse environmental impacts of any further SLCPs emissions if landfilled or land applied.

2. These added Source Separation Handling Allowance provisions in the new SB 1383 regulations have also been insufficiently studied and evaluated in both the Amended ISOR (that was amended in June after the Source Separation Handling Allowance provisions were added into the regulations after the first draft ISOR was released) and in the CEQA EIR relative to the wealth of measurable data, and comparative

analysis and longitudinal analysis throughout the world exhibiting the adverse impacts that these provisions result in.

3. There has also been an inadequate level of mitigation of these significant impacts in the CEQA EIR and Amended ISOR. Separately recovering, treating and source reducing Remnant Organic Material (ROM) is very beneficial. But because there are significant environmental impacts from the mixing Remnant Organic Material (ROM) with Source Separated Organic Material (SSO) it should be strictly prohibited and the SB 1383 regulations should be revised to clearly prohibit this from happening as a result of these regulations by adding clarification.

There is insufficient study of the environmental impacts of the current Regulations in Article 8.

The actual and real infrastructural building impediments that are impeding the State in meeting the expected high quality source separation of organics has not been sufficiently addressed. The EIR fails to objectively present the current California facts associated with recycling inside of commercial buildings that make up the majority of office and apartment and hospitals. They are currently infrastructurally ill equipped to meet the current expected dive in the amount of organics that is expected to be diverted. There is no study of the number of commercial and low and high rise buildings are in CA and the amount of infrastructural building modifications that may be needed to make possible user friendly achievable collections. The EIR includes 13 references to the California Green Building Standards (CALGreen); that

*“...CALGreen contains both mandatory and voluntary measures that may be applied to projects throughout the State. The current version is the 2016 CALGreen Code, which will remain in effect until December 31, 2019. It is anticipated that a new version of the CALGreen code will replace the current code on January 1, 2020. The CALGreen Code sets equivalent or more stringent design requirements than the California Energy Code for energy efficiency, water efficiency, **landfill waste reduction**, and indoor air quality.*

However the SB 1383 regulations fail to include or study of the existing new Zero Waste building guidelines that could be used to mitigate the current infrastructural road blocks in commercial and residential buildings failing to include Building Code to support the needed organic material collection system and standard required reuse tables and refrigeration systems for assistance for sensible food recovery. Attached are the NYC AIA the [Zero Waste Design Guidelines](#)

<https://www.zerowastedesign.org/> that should be added into the SB 1383 as a mitigation and some evaluation of the now many case studies including in in NY, PA that should be integrated into the 1383 regulations along with and the case studies in Baltimore.

5. Conclusions: Please revise and change to SB 1383 to mitigate the impacts.

Its a good deed and environmentally sound to keep remnant organic material (ROM) that is fished out of the garbage out of the landfill and away from incineration but its not

sustainable and its counterproductive to combine and cross contaminate it with source separated organics (SSO!

We respectfully ask that you revise the regulations to remove the sections that act to allow mixing Remnant Organic waste or any waste that is not Source Separated Organics with Source Separated Organics.

All of the following specific provisions of SB 1383 regulations will result in significant environmental impacts if they are not revised as follows:

(18.5) “Organic Waste” has the same meaning as in Section 18982(a)(46) of Chapter 12 of this division.

(18.6) “Source Separated Organic waste” or “Source Separated Organic Waste Collection Stream” means organic waste that is collected in a green container as specified in Sections 18984.1(a)(1) and 18984.2(a)(1), ~~“source separated blue 18 container organic waste,” as defined in this section, and organic waste 19 collected in or an additional a yellow container or other container as specified in 20 Section 18984.1(a)(6) of this division. 21~~

~~(18.7) “Ssource separated blue container organic waste” means the organic wastes collected in a blue container that is limited to the collection of those organic wastes and non-organic recyclables as defined in Section 18982 (a)(43) of this division~~

Section 17409.5.6. Source Separated Organic Waste Handling.

(a) Source separated organic waste processing shall be kept separate from other solid waste streams.

(1) ~~Source separated Remnant organic material separated from the gray container collection stream can~~ shall not be combined with organic material removed from the gray container at any time including during collection, handling and processing, composting and anerobic digestion. Sites ~~source separated organic waste collection stream once the material from the separated organic waste collection stream has gone through the measurement protocol described in Section 17409.5.4.~~

(1) ~~Construction and Demolition Debris, as defined in Section 17381 including dimensional lumber, shall be kept separate from the source separated organic waste collection stream and the mixed waste organic collection stream and the lumber shall also be stored separately in lumber racks aside from the other C&D to avoid damage of reusable pieces. And the lumber it shall not be included in the measurements required pursuant to Sections 17409.5.1-17409.5.8 17 except for the dimensional lumber in jurisdictions that have deconstruction ordinances to measure the amount of lumber that is handled.~~

(b) ~~Source separated organic waste and organic waste removed from a mixed waste 18 organic collection service for recovery shall be:~~

(1) sStored away from other activity areas in specified, clearly identifiable areas as 20 described in the Facility Plan or Transfer/Processing Report; and, 21

(2) Removed from the site consistent with Section 17410.1 and either: 22

(A) transported only to another solid waste facility or operation for additional 23 processing, composting, in-vessel digestion, or other recovery as specified in 24 Section 18983.1 of this division; or, 25

(B) used in a manner approved by local, state, and federal agencies having 26 appropriate jurisdiction.

Section 17409.5.10.5 Solid Waste Handling at Co-located Facilities 10

(a) The operator of an attended operation or facility that accepts a mixed waste organic collection stream for processing and passes the organic waste removed from the mixed waste organic collection stream for processing to a co-located activity within the boundary of the facility is subject to the following requirements:

(1) If Tthe permitted facility shall as a whole shall keep separate records for the amount of organic material is sent off for disposal and shall disposes of less than 10 percent of the organic waste for each of the collocated facilities and the then-only the-organic waste that is sent off-site for further processing and disposal from each site is are subject to the requirements of Sections 17409.5.1 18 through 17409.8 and 17409.5.11. 19

(2) If any of the permitted facilities as-a-whole disposes of more than 10 percent of the organic waste then the organic waste removed after processing and sent for further processing on-site or off-site and disposed is subject to the requirements of Sections 17409.5.1 through 17409.8.

Section 17409.5.11. Miscellaneous Remnant Organic Material (MOM) in theSeparated From Gray Container Collection StreamProcessing. 26

27

(a) Miscellaneous Remnant organic material separated from the gray container collection stream is **not** subject to the requirements of Sections 17409.5.1 and 17409.5.8 of this division.

(1) Remnant organic material removed from the gray container collection stream can NOT be combined with organic material removed from the source separated organic waste collection stream at any time including during collection, handling and processing,composting and anerobic digestion. once the material from the source separated organic waste 32 collection stream has gone through the measurement protocol described in Section 33 17409.5.4.

CalRecycle Response:

Several of the comments do not raise a significant environmental question and are instead directed at regulatory concepts in the underlying rulemaking. Comments on the

substance of the regulations should be made during the appropriate comment periods during the formal rulemaking process under the APA.

For comments regarding potentially significant environmental effects from contamination in relation to combining source-separated organic waste (SSO) and remnant organic material (ROM), SSO handling as described in proposed 14 CCR Section 17409.5.6 does require material to be processed separately to avoid contamination with the other waste collection streams (Mixed Waste and Gray Container). However, once these waste streams have been processed (separately) and have gone through proper sampling protocols, organic waste removed from these waste streams can be consolidated and sent out for recovery, potentially reducing vehicle trips.

Proposed 14 CCR Section 17409.5.6 also requires SSO and ROM to either be: (1) transported to another solid waste facility or operation for additional processing, composting, in-vessel digestion, or other recovery; or (2) used in a manner approved by local, State, and federal agencies having appropriate jurisdiction. With regard to the former proposed regulatory requirement, existing provisions in Title 14 of the CCR already require composting and in-vessel digestion operations or facilities to meet environmental health standards for pathogens, heavy metals, and physical contaminants on finished material (14 CCR Sections 17868.1 et seq. and 17896.59 et seq.). Thus, any combined SSO and ROM sent to such facilities would be subject to regulatory requirements to protect public health, safety, and the environment. With respect to the latter requirement, existing 14 CCR Section 17852(a)(24.5) requires the land application of uncomposted organic material to meet the same environmental health standards. Such activities may also be subject to further regulation by the State Water Resources Control Board (SWRCB), such as pursuant to Waste Discharge Requirements (WDRs). Thus, any combined SSO and ROM sent to land application would also be subject to measures to protect public health, safety, and the environment. Therefore, the combination of SSO and ROM would not cause a significant effect on the environment. No changes to the document are required.

Comment Author: Kern County Public Works Department, September 13, 2019

Comment Number: 12-1

The Kern County Public Works Department has reviewed the Draft Environmental Impact Report for SB 1383: Short-Lived Climate Pollutants. The department would like to offer support to the comments submitted by the Solid Waste Association of North America's Legislative Task Force (SWANA LTF), as well submit the attached comments for further consideration of the impacts of SB 1383 legislation upon the County of Kern's waste management system.

The County of Kern is a large, geographically varied county with relatively ample open space compared to more developed counties. The County, along with other similarly developed counties throughout the Central Valley, can feasibly be considered as an ideal location for large-scale organic waste management operations. Proximity to major urban hubs in Southern California by road or rail could further incentivize development

of large-scale organics operations within the County of Kern. While development of organic materials processing facilities may benefit the County through an addition of jobs or revenues, the environmental impacts of organics processing facilities should be considered in a more regional context reflective of the most likely development outcome.

CalRecycle Response:

The comment offers support to the comments submitted by the Solid Waste Association of North America’s Legislative Task Force (SWANA LTF) and provides introductory remarks. This comment does not pertain to the contents of the Draft EIR. No further response is provided.

Comment Number: 12-2

The department would like to offer comments on the following impacts and their analysis:

Impact 3.3-6: Exposure of Sensitive Receptors to mobile-Source CO Concentrations

Comment 1: The Draft EIR does not adequately analyze the regional impact of reasonably foreseeable outcomes of SB 1383 on exposure of sensitive receptors to mobile-source CO concentrations.

The Draft EIR assumes that implementation of the proposed regulation would result in increased Vehicle Miles Travelled (VMTs) as a result of the movement of organic wastes to recovery facilities. Increases in CO emissions as a direct result of the increase in VMTs is analyzed as being distributed statewide, with no regional impacts, resulting in a less than significant impact.

As stated throughout the Draft EIR, development of new organics processing facilities can be anticipated to occur within close proximity to existing waste handling operations. Historically, these facilities are located in areas already exposed to increased levels of air pollutants as a result of industrial activities. Expansion of organics waste handling activities, including increased trucking of materials into these localities, could expose communities in already impacted areas to experience even greater exposure to mobile source CO concentrations.

The Department believes that the impacts of increased transportation of organic materials to waste recovery and processing facilities poses a Potentially Significant and Unavoidable Impact upon communities located in close proximity to potential expansion areas. The increase in mobile source CO emissions in and around these communities should be reevaluated in a regional context that more accurately analyzes the localized impacts that may occur.

CalRecycle Response:

The commenter states that the Draft EIR’s carbon monoxide (CO) analysis is deficient and should provide a regional impact analysis of CO impacts. The commenter states

that the anticipated increased in VMT from implementation of the proposed regulation would expose communities already affected by high CO concentrations. However, as discussed in Section 3.3, “Air Quality,” CO is a pollutant that disperses rapidly under normal meteorological conditions. Moreover, air districts do not recommend that CO impacts be assessed on a regional level, rather at a local level typically near intersections that support very congested intersections. As discussed in Master Response 2, “Adequacy of the VMT Analysis,” the anticipated changes in VMT, including the magnitude and location, are speculative in this programmatic analysis; therefore, the locations where VMT could result in congestion that could produce a local CO impact is unknown.

From a regional perspective, all of the State’s counties and air basins are in attainment or unclassified for the NAAQS and CAAQS (CARB 2018). This is largely attributable to the efficacy of catalytic converters in internal combustion engines (ICEs) as well as the transition from ICEs to electric or zero-emission vehicles that do not emit CO. No changes to the Draft EIR are required in response to this comment.

Comment Number: 12-3

Impact 3.13-4: Reasonably Anticipated Increase in VMT

Comment 1: The Draft EIR does not adequately evaluate the impacts of additional Vehicle Miles Travelled (VMTs) as a result of SB 1383 impacts on the waste collection and management system.

The Draft EIR anticipates that impacts to vehicle miles traveled would be potentially significant and unavoidable. As stated in the Draft EIR, VMTs are expected to increase due to the potential for increased collection of putrescible wastes as part of curbside pickup services. The Draft EIR also assumes that composting facilities will be located relatively close to the populations generating the organic material.

The Department believes the EIR should address the regional impacts to VMTs as a result of reasonably foreseeable outcomes following implementation of SB 1383. As a large county with ample open space, the County of Kern, is ideal for location of large scale composting facilities. Proximity to major California cities in Southern California, with limited abilities to site large scale composting operations, could result in an increased pressure for compostable materials to be diverted out of densely populated metros towards inland composting facilities. This movement of organics material over larger geographic distances will have a more significant impact on geographic areas receiving organic materials due to the concentration of inbound traffic.

New food recovery programs and compliance actions will also generate additional VMTs. Collection cart and commercial compliance inspections will be an integral part of reducing contamination within the waste stream. Inspections of carts will lead to an increase in VMTs from inspectors travelling throughout the collection area. Transportation of edible food to consolidation points and recipients are likely to represent a new source of VMTs. In areas of air quality nonattainment such as Kern County, any increase in VMTs constitutes a Potentially Significant and Unavoidable Impact.

Changes to the existing cart structure will also contribute to additional VMTs. Modification of existing cart collection systems, such as the addition of a second or third cart in some areas, will require additional haul routes and thus generate additional VMTs. As with any collection system, errors in routing may occur and require additional VMTs to correct. As complexity of the waste collection system increases, and especially when implemented over large geographic areas such as the County of Kern, the impact of routing errors can become substantial. Analysis of these impacts should be further evaluated in the Draft EIR.

The Department requests that the Final EIR address the regional impacts of VMTs on the inland counties that may be subject to disproportionately larger impacts due to the attractiveness of the area for development of new waste facilities and existing problems with air quality nonattainment.

CalRecycle Response:

The commenter states that the Draft EIR does not adequately evaluate the impacts of additional VMT. See Master Response 1, “Adequacy of the GHG Analysis,” and Master Response 2, “Adequacy of the VMT Analysis.”

Comment Number: 12-4

Impact 3.14 – 1: Increased Demand for Water Supplies

Comment 3: The Draft EIR does not adequately evaluate the impacts of reasonably foreseeable compliance responses to SB 1383 legislation on demands for water supply.

Organic waste recovery and processing facilities utilize more water to process wastes than traditional landfilling operations. The Central Valley and Mojave Desert regions of Kern County resent seasonally hot and arid conditions that will require supplemental water for composting operations to be successful. The region relied on water intensive agricultural activities for a large portion of economic activity. These operations rely on adequately recharged groundwater supplies and the state’s water delivery system to provide irrigation during the region’s dry, hot summers. Large scale expansion of organics processing facilities would compete for this already scarce resource.

The draft EIR assumes that the reasonably foreseeable outcomes of SB 1383 will increase demand for water, but that there would be no significant impact to water supply due to the requirement that all new projects would need to demonstrate adequacy of water supply with local providers. This analysis fails to acknowledge that the cyclical drought cycles in the State of California can place severe restrictions on water supply throughout the state, leading to the inability for new projects to demonstrate adequate water supply.

The Draft EIR needs to address the impact on demand for water supply during drought conditions. Failure to analyze this impact does not address the burden many jurisdictions may face in approving or maintaining organics operations during drought years. The Department believes the impacts to demands for water supply should be considered a Potentially Significant and Unavoidable Impact.

CalRecycle Response:

The commenter states that the Draft EIR does not consider that organic waste recovery and processing facilities utilize more water to process wastes than traditional landfilling. The proposed regulation does not direct how a jurisdiction would redirect organic waste from landfill disposal. As discussed under Impact 3.14-1 in the Draft EIR, new water supplies may be necessary for the processing of organic waste (such as tank cleaning at AD facilities or retaining moisture in compost files), for domestic use (employee restrooms), and fire suppression. The impact states (last paragraph on page 3.14-6 of the Draft EIR) that “the planning of facility sites would consider sufficiency of water supply and adequacy would need to be demonstrated prior to ground-breaking activities, and therefore the impact on water supply would be less than significant.” In addition to the water supply analysis that would be necessary to meet CEQA requirements, a description of water supplies for process water is required to obtain a compostable materials handling facility permit under Title 14, Article 3.2, Section 18227(k) of the California Code of Regulations. Thus, new facilities must demonstrate that adequate water supplies are available to receive operational permits. No changes to the document are necessary.

Comment Number: 12-5

The Department understands the goal of the SB 1383 legislation and is committed to continually evaluating and implementing new waste management strategies to improve the public and environmental health of the residents of Kern County. The comments submitted above reflect concerns with the inadequacy of the analysis of the Draft EIR and conclusions that The Department believes do not correctly identify the level of impact of reasonably foreseeable outcomes of SB 1383 implementation.

CalRecycle Response:

The commenter summarizes comments on the Draft EIR presented in its letter. See responses to comments 12-2 through 12-4.

Comment Author: Los Angeles County Solid Waste Management Committee/Integrated Waste Management Task Force, September 11, 2019

Comment Number: 13-1

The Los Angeles County Solid Waste Management Committee/Integrated Waste Management Task Force (Task Force) would like to thank the California Department of Resources Recycling and Recovery (CalRecycle) for providing the opportunity to comment on the subject “Draft Program Environmental Impact Report” (Draft EIR) which was released for 45-day public comment period on July 30, 2019.

<https://www.calrecycle.ca.gov/docs/cr/laws/rulemaking/slcp/sb1383eir.pdf>

One of the Task Force priorities in addressing solid waste management issues is to ensure public health and safety as well as the protection of our natural resources. As such, the Task Force has been in support of efforts addressing the impacts of

greenhouse gas (GHG) emissions and climate change. To this end, the Task Force would like to provide the following comments on the subject Draft EIR:

CalRecycle Response:

The commenter provides an introduction to their comment letter, background details related to their role in addressing solid waste management issues, and describes their support for efforts that address the impacts of GHG emissions and climate change. The comment does not raise environmental issues or concerns regarding the adequacy, accuracy, or completeness of the Draft EIR. The comment is noted for consideration by decision makers. See responses to comments 13-2 through 13-38.

Comment Number: 13-2

1. The subject Draft EIR attempts to address potential impacts of the Senate Bill 1383 (2016) implementing regulations which are still in a draft proposal format. It appears that the subject Draft EIR is prepared as if the 2nd formal draft of the proposed SB 1383 implementing regulations, released on June 17, 2019, were final. Such an assumption is inappropriate and, as such, the subject Draft EIR may have to be revised to address any and all changes to the June 17, 2019 version of the proposed SB 1383 implementing regulations, if any.

CalRecycle Response:

The commenter states that the Draft EIR addresses a draft version of the proposed regulation and revisions to the draft regulation are expected. The comment is correct that the proposed regulation is not yet approved; however, contrary to statements made in the comment, preparation of the Draft EIR is appropriate at this time, because the draft regulations contain substantive elements of the proposal that would influence potential physical environmental effects. CalRecycle reviewed modifications to the proposed regulation and determined that the refinements were of an editorial nature and did not substantively alter the project description and analyses presented in the Draft EIR. Upon completion of the Final EIR, CalRecycle staff will make recommendations to the director regarding the completeness of the EIR, including its adequacy in terms of describing and analyzing the environmental effects of the proposed regulation. The director will then consider staff's recommendations and public and other agency comments and decide whether to certify the EIR as being prepared in accordance with CEQA, adopt the mitigation, monitoring, and reporting program (MMRP) and CEQA findings, and approve the proposed regulation for processing through the Office of Administrative Law's rulemaking procedures.

The commenter does not indicate how modifications to the proposed regulation would affect the text of the Draft EIR; thus no further response can be provided.

Comment Number: 13-3

2. Pursuant to California Public Resources Code - PRC § 21003 (b), the Legislature has found and declared that it is the policy of the state that documents (Draft EIRs) prepared pursuant to Division 13 of the PRC be organized and written in a manner

that will be meaningful and useful to decision makers and to the public (emphasis added). Unfortunately, the subject Draft EIR fails to comply with this requirement of state law. For example, it is not clear to a member of the public as to (a) what the requirements of the final regulations would be, (b) what factors were initially used to establish the annual compost procurement of 0.7 tons/capita and the subsequent increase to 0.8 tons/capita, (c) why the annual compost procurement is applicable to cities and counties but not state agencies, (d) why the proposed regulations are attempting to disallow the state existing “good faith efforts” policy (PRC 41825), and if implemented what would be the mitigating measures to render the significant negative impacts of this decision to non-significant, etc.

CalRecycle Response:

The commenter states that the Draft EIR is not written in a manner that is meaningful and useful to decisionmakers and the public. State CEQA Guidelines Section 15187(a) requires CalRecycle, and other agencies, to perform an environmental analysis of the reasonably foreseeable methods of compliance of a proposed rule or regulation. Section 2.5 of the Draft EIR, “Reasonably Foreseeable Compliance Responses,” provides an overview of the methods of compliance expected to occur due to implementation of the proposed regulation. Chapter 3 of the Draft EIR provides an analysis of the environmental impacts of these reasonably foreseeable compliance responses. The Draft EIR presents a thorough analysis, based on substantial evidence supported by facts. No changes to the document are required.

The commenter cites to findings of the Legislature in CEQA. Those findings also state that the purpose of an environmental impact report is to identify the significant effects on the environment of a project, to identify alternatives to the project, and to indicate the manner in which those significant effects can be mitigated or avoided (PRC Section 21002.1(a)) and that environmental impact reports omit unnecessary descriptions of projects (PRC Section 21003(c)). In furtherance of those stated goals, the EIR does not include exhaustive descriptions of aspects of the proposed regulation that do not result in significant effects on the environment. Items (a) through (d) in the comment are policy questions and do not, and are not alleged to, result in physical changes to the environment. Regulatory language is subject to APA requirements and the issues raised by the commenter are addressed in the Initial Statement of Reasons and will be further addressed in the Final Statement of Reasons and responses to public comment that will be issued at the close of the APA rulemaking process. Comments on the substance of the regulations should be made during the appropriate comment periods during the formal rulemaking process under the APA. With respect to the good faith effort standard (PRC Section 41825), see response to comment 20-2.

Comment Number: 13-4

3. The subject Draft EIR finds that the “No Project Alternative” is the environmentally preferred project, but it is not selected because it does not fulfill the project objectives. Unfortunately, the project (proposed regulations) objectives are too narrowly defined, too prescriptive, and extremely costly due to its significant data

collection (bean-counting) requirements. State law requires a reduction in the landfill disposal of organic waste by 50 percent below the 2014 level by 2020 and 75 percent by 2025. However, as required by SB 1383, the Draft EIR analysis fails to consider the impact of reducing Short Lived Climate Pollutants (SLCPs). Utilizing emerging technologies that would reduce SLCPs may be as environmentally preferable as the “No Project Alternative”, while still consistent with SB 1383’s goals. This new alternative would be less prescriptive, and it would allow local government to minimize impacts based on local conditions.

CalRecycle Response:

The commenter suggests consideration of a new, less prescriptive alternative that uses emerging technologies. See Master Response 3, “Adequacy of the Alternatives Analysis,” and responses to comments 13-5 and 20-2.

Comment Number: 13-5

As an Alternative to the project (the proposed regulations), the subject Draft EIR has failed to recognize the success of the California Integrated Waste Management Act of 1989 (AB 939). Similar to SB 1383, AB 939 requires jurisdictions divert 50 percent of waste generated in the jurisdictions while allowing jurisdictions to develop their own source reduction, composting and recycling plans that best suit their communities. Today, most of jurisdictions are meeting and exceeding the mandate; in fact, only seven jurisdictions have been fined for failure to comply since the enactment of AB 939 in 1989. Unfortunately, the Draft EIR fails to recognize the success of the AB 939 which was not accomplished based on a command and control procedure as the one being proposed by SB 1383 regulations. Further unlike the SB 1383 proposed regulation, AB 939 was consistent and in compliance with the provisions of Section 40059 of the PRC which unfortunately is being disregarded by the proposed SB 1383 regulations. Specifically, Section 40059 of the PRC indicates:

“40059 (a) Notwithstanding any other provision of law, each county, city, district, or other local governmental agency may determine all of the following:

(1) Aspects of solid waste handling which are of local concern, including, but not limited to, frequency of collection, means of collection and transportation, level of services, charges and fees, and nature, location, and extent of providing solid waste handling services.

(2) Whether the services are to be provided by means of nonexclusive franchise, contract, license, permit, or otherwise, either with or without competitive bidding, or if, in the opinion of its governing body, the public health, safety, and well-being so require, by partially exclusive or wholly exclusive franchise, contract, license, permit, or otherwise, either with or without competitive bidding. The authority to provide solid waste handling services may be granted under terms and conditions prescribed by the governing body of the local governmental agency by resolution or ordinance.

(b) Nothing in this division modifies or abrogates in any manner either of the following:

(1) Any franchise previously granted or extended by any county or other local governmental agency.

(2) Any contract, license, or any permit to collect solid waste previously granted or extended by a city, county, or a city and county.”

The Draft EIR needs to consider a less restrictive set of regulations, similar to AB 939’s regulations and consistent with requirement of PRC 40059 as an “Alternative to the Project.”

CalRecycle Response:

The comment does not raise a significant environmental question and is instead directed at regulatory concepts in the underlying rulemaking. Comments on the substance of the regulations should be made during the appropriate comment periods during the formal rulemaking process under the APA.

Pursuant to CEQA, an EIR is required to focus on project alternatives that can avoid or substantially lessen a project’s significant environmental effects (CEQA Statutes Section 21002 and State CEQA Guidelines Section 15126.6). The commenter suggests that “a less restrictive set of regulations, similar to AB 939’s regulations” should be considered as a project alternative. Besides issues of vagueness with the scope of the alternative, the commenter is suggesting consideration of an alternative designed to address the alleged compliance and/or economic burden of the proposed project rather than reducing or avoiding significant environmental effects. Therefore, the alternative recommended by the commenter is not considered a feasible alternative under CEQA and is not be considered in the EIR.

Comment Number: 13-6

4. The subject Draft EIR fails to consider impacts to local government planning efforts such as general plans, conditional use permits, zoning, etc. However, the Draft EIR fails to recognize that the proposed regulations will impact every aspect of every local government activities as well as impacting every resident, business, etc., within the state. Each impact and the mitigation measures for each impact need to be identified in the Draft EIR. Unfortunately, the Draft EIR has taken a position that project impacts would be reviewed individually by local jurisdictions. Using this assumption, the subject Draft EIR has limited its analysis only to the potential impacts of the development of source-separated organic waste collection systems that transport all organic waste to composting and anaerobic digestion facilities for diversion. The subject Draft EIR must evaluate the impacts of **all compliance responses**, including each variation of organic waste collection, each activity, process, or technology that can be used to divert organic waste from landfills including thermal conversion technologies, and the full impacts of creating, procuring, storing, and utilizing recovered organic waste products (emphasis added).

CalRecycle Response:

The commenter states that the Draft EIR should evaluate the impacts of all compliance responses, including each variation of organic waste collection, each activity, process, or technology that can be used to divert organic waste from landfills, and the impacts of creating, procuring, storing, and utilizing recovered organic waste products. The commenter correctly states that the Draft EIR states that jurisdictions would individually review project-level impacts.

Section 1.3, "Scope of This Draft EIR," in the Draft EIR states that, "[t]he degree of specificity required in a CEQA document corresponds to the degree of specificity inherent in the underlying activity it evaluates. An environmental analysis for broad programs cannot be as detailed as for specific projects (State CEQA Guidelines Section 15146)." As further discussed (beginning in the last paragraph on page 1-3 of the Draft EIR):

The general location of existing landfills, organic waste recovery facilities, and edible food recovery facilities are known within California; however, decisions by project proponents regarding the choice of compliance options and the precise location of new or modified facilities related to implementation of the proposed regulation cannot be known at this time. Furthermore, due to local planning, political (i.e., the willingness of jurisdictions to address local opposition to the siting of new or expanded facilities), and economic influences, attempting to predict project approvals about the specific location and design of facilities and operations undertaken in response to the proposed regulation would be speculative and infeasible at this stage.

The Draft EIR contains analysis of the types of impacts that would occur due to the reasonably foreseeable compliance responses associated with the proposed regulation. Mitigation measures are provided to reduce potentially significant impacts. However, as mentioned throughout the Draft EIR, there is inherent uncertainty in the degree of mitigation that would ultimately need to be implemented to reduce any potentially significant impacts identified in this Draft EIR. Consequently, a conservative approach is taken (i.e., avoiding the risk of understating an impact) when considering post-mitigation significance conclusions because local governments have the discretion to implement feasible mitigation, so some may not be implemented. The document provides an appropriate level of review, in compliance with CEQA requirements related to an EIR's required degree of specificity (State CEQA Guidelines Section 15146). No changes to the document are necessary.

Comment Number: 13-7

- **Section ES-4, Intended Uses of This EIR**, beginning on page ES-3 -- It has been stated on page ES-4 that,

"Like any proposed development project, organic waste and food waste recovery facilities would be reviewed individually by local jurisdictions, in response to applications submitted by project proponents. The goal of this Draft EIR is to

consider the types of potential environmental effects of the reasonably foreseeable compliance responses that would be anticipated to meet the requirements included in the proposed SB 1383 regulation.”

However, as indicated in the General Comment No.4, the Draft EIR fails to recognize that the proposed regulations will impact every aspect of local governments’ activities as well as the involved stakeholders. Therefore, each impact and the mitigation measures to address each negative impact need to be identified in the Draft EIR.

CalRecycle Response:

The commenter states that the Draft EIR needs to address each negative impact and identify mitigation measures. The Draft EIR provides a rigorous review of the significant environmental impacts that could occur due to implementation of the proposed regulation. Chapter 3 of the Draft EIR presents the analysis of environmental impacts and describes environmental issues dismissed from further detailed analysis in the Draft EIR. Each section of Chapter 3 addresses a particular topic and describes the existing environmental and regulatory setting as it relates to that topic, discusses environmental impacts associated with implementation of the proposed regulation that relate to that topic, and identifies mitigation measures for each significant (or potentially significant) impact. In addition, Chapter 4 describes the cumulative setting and discusses the cumulative effects for each of the environmental resource topics addressed in Chapter 3. Chapter 5 provides a discussion of feasible alternatives to the proposed regulation, as well as alternatives evaluated but rejected from further consideration.

The commenter does not provide any information related to significant environmental impacts that were not addressed or feasible mitigation measures that were not included in the Draft EIR. No further response can be provided.

Comment Number: 13-8

- **Section 2.4.3. Foster Recovery Programs and Markets**, beginning on page 2-10 -
- The Draft EIR mentions that procurement requirements would support the markets for the produced compost, mulch, and renewable fuels and energy. The Draft EIR needs to address the potential economic impacts of the procurement requirements on local jurisdictions and impacted stakeholders. These impacts could include the substantial financial burden on local government agencies required to procure recovered organic waste products, such as compost, fuel, energy, etc., at a higher cost than comparable products not created from recovered organic waste. The impact analysis needs to thoroughly discuss negative impacts as well as identifying measures to mitigate the negative impacts.

The procurement of recycled materials by local governments is regulated by the Public Contract Code (PCC), Sec. 21150 et seq. The state law is considerate of local procurement processes and costs to local jurisdictions and thus requires products created from recycled materials to be purchased only when the recycled products are available at the same or a lessor cost than non-recycled products (emphasis added).

The Draft EIR needs to analyze the financial impacts to local jurisdictions resulting from compliance with the procurement requirements of the proposed regulations as well as providing mitigation measures for those cases that local governments would be forced to disregard the requirements of the PCC, Section 21150 et seq. in order to be in compliance with the proposed regulations' procurement requirements.

Furthermore, the SB 1383 regulations only require local jurisdictions such as counties and cities, but not state agencies, to procure compost created from recovered organic waste. Therefore, the Draft EIR needs to be revised to sufficiently analyze the economic and environmental impact of placing the entirety of the procurement requirements on counties and cities. The analysis should include the potential cost impacts to local government agencies and the environmental impacts of using the recovered organic waste products while factoring in the emissions associated with creating and transporting these recovered organic waste products.

The Draft EIR needs to be further expanded to identify factors used to establish the proposed regulations' annual per capita procurement target, the impact of selected factors on regulated communities as well as mitigating measures to render the impacts non-significant. Additionally, the annual per capita procurement target was increased from 0.07 tons of organic waste per California resident per year to 0.08 tons in the second formal draft of the proposed regulations. The explanation needs to include a full cost-benefit analysis showing the additional financial impacts to counties and cities required to increase their annual procurement of recovered organic waste products and the environmental benefits of the increased annual procurement.

CalRecycle Response:

The commenter states that the Draft EIR needs to address the potential economic impacts of the procurement requirements on local jurisdictions and affected stakeholders. State CEQA Guidelines Section 15131(a) states that economic or social effects of a project are not significant environmental effects, unless they cause a physical change to the environment. The commenter does not explain how the potential economic effects related to procurement could result in physical changes to the environment. Comments on the substance of the regulations should be made during the appropriate comment periods during the formal rulemaking process under the APA. Economic issues related to the rulemaking will be addressed as required by the APA.

Comment Number: 13-9

In addition, the Draft EIR must also analyze the environmental impacts of requiring local jurisdictions to procure excess amounts of compost, including how the compost will be managed to mitigate impacts such as fires, harmful discharges into the water supply, and the potential for unfinished compost to be land-applied.

For example, piles of organic material easily combust, and temperatures must be carefully monitored. Even if monitoring is adequate for the loading and processing of the materials, combustion associated with dust in chippers and grinders can be a potential ignition source. Methane can be generated due to decomposition of organic materials.

In a one-week period, organic materials in collection containers could become hot enough to combust or pose hazards when opened. Especially in drought-stricken areas such as Los Angeles County, which has experienced numerous devastating wildfires in recent years, these materials pose a fire risk when being transported in a truck. If the materials in a truck ignite, the common practice is to dump the load as quickly as possible, potentially along a roadway, which increases the risk of a wildfire. There are also increased risk of fires at facility sites. Methane gas produced at organic waste processing facilities can migrate underground and come up in unexpected areas, such as inside buildings, and can enter water systems. The presence of methane gas poses increased fire risks. This risk needs to be thoroughly analyzed by the Draft EIR and mitigating measures need to be identified.

CalRecycle Response:

The commenter requests that the Draft EIR include a discussion of the potential risk of fire in composting facilities and evaluate the potential for water quality degradation from composting and land application of compost. A discussion of the potential for land application of compost to result in uncontrolled release of plastics is included in the Draft EIR Section 3.10, Hydrology and Water Quality, in Impact 3.10-3. Additionally, the potential effects to water quality from composting operations are discussed in Impact 3.10-2.

The commenter states that the Draft EIR should evaluate the potential for combustion related to piles of organic material, particularly in areas where wildfire risks are high. Impact 3.15-2 in the Draft EIR addresses the potential for increased wildfire risk related to development of organic waste facilities. The impact is summarized in the first paragraph on page 3.15-13, as follows:

The proposed regulation would involve development of organic waste recovery facilities and associated infrastructure. Such infrastructure developments, including the facilities themselves, could increase the risk of wildfire ignitions. For example, electrical malfunctions could ignite proximal vegetation, thereby starting a wildland fire. However, development standards, safety inspections, and regulatory oversight have become increasingly stringent in recent years. These factors substantially reduce the risk of wildfire ignitions caused by infrastructure, especially electrical infrastructure. Compost and mulch operations can pose a unique fire risk related to the spontaneous combustion of material. Adherence to State minimum standards (14 CCR 17867[a][9]) that apply to all compostable materials handling operations related to fire prevention, protection, and control measures would reduce these risks. Additionally, developments associated with the proposed regulation would occur only in areas already zoned for development and where development already exists and therefore would not introduce ignition sources in new areas. Consequently, this impact would be less than significant.

Thus, due to existing regulations and standard operational practices, there would not be an increased risk to fire due to construction of new compostable materials handling facilities.

The commenter states that organic materials in collection containers could become hot enough to combust or pose hazards when opened, and that trucks that experience ignited loads commonly dump the load, potentially along a roadway. The commenter provides no evidence to support these claims. Internet searches conducted in support of this Final EIR did not reveal any instances where organic waste collection containers have spontaneously ignited within a week of collection, or instances where collected compostable materials specifically caused collected materials in a truck to ignite. Further, as noted in response to comment 9-3, the proposed regulation would not increase the overall production of organic waste within the State at households and businesses. The commenter provides no evidence to suggest that the potential for spontaneous combustion occurs, or would substantially increase if organic waste is collected separately from other waste because the same quantities of organic waste would be present in the collection system (both containers and trucks) regardless of implementation of the proposed regulation. Separating organic waste from other materials would be subject to decisions made by local jurisdictions. As discussed on page 2-4 of the Draft EIR, Article 3 allows jurisdictions to provide a variety of organic waste collection services including a three-container (green/blue/gray) collection service (a fourth container can be used for food waste if a jurisdiction wishes to source separate green material and food waste), two-container (green/gray or blue/gray) collection service, and an unsegregated single-container (gray) collection service. Thus, the proposed regulation would not increase attractants for vectors. No changes to the document are necessary. Without further information to support these potential impacts, no further response can be provided.

Comment Number: 13-10

- **Section 2.5.7. Food Waste Collection Programs and Processing Facilities,** beginning on page 2-28 -- This section describes reasonably foreseeable compliance measures that jurisdictions must implement pursuant to the proposed regulations to collect organic waste. The Draft EIR must be expanded to analyze the impact of the proposed regulations on local jurisdictions' authority for solid waste collection and management services. Changing waste collection methods and recycling services will impose a tremendous burden and responsibility on counties and cities, more than any other stakeholder group. The Draft EIR needs to thoroughly analyze the implications of the waste collection requirements and recycling services being inconsistent with the provisions of the Article XI of the California Constitution in re to general law and charter cities and counties as well as provisions of the PRC 40059 (a) which, in part, states, "each county, city, district, or other local governmental agency may determine all the following:

Aspects of solid waste handling which are of local concern, including, but not limited to, frequency of collection, means of collection and transportation, level of services, charges and fees, and nature, location, and extent of providing solid waste handling services." (emphasis added)

State law, Section 40001 (a) of the PRC, declares that "the responsibility for solid waste management is a shared responsibility between the state and local

governments” (emphasis added). Therefore, the Draft EIR should describe the legal implications of disregarding provisions of Section 40001 (a) of the PRC in order to allow the state to dictate local jurisdictions’ solid waste collection and management practices through the SB 1383 regulations.

Furthermore, SB 1383 does not preclude CalRecycle from considering a county or a city’s “good faith efforts” to comply with the regulations. Section 42652.5. (a)(4) of the PRC specifically requires CalRecycle to consider “good faith effort” in determining a jurisdiction’s progress in complying with the law. It states that CalRecycle “shall base its determination of progress on relevant factors, including, but not limited to, reviews conducted pursuant to Section 41825.” Since PRC Section 41825 establishes the process to determine whether a jurisdiction has made a “good faith effort” to comply with the law, it is clear that CalRecycle is required to consider “good faith effort” in making its determination of a jurisdiction’s progress and compliance with the requirements of the proposed regulations. Therefore, the Draft EIR needs to be expanded to include a cost-benefit analysis, demonstrating the economic impacts to counties and cities, required to implement the majority of the regulatory requirements and the environmental impacts of neglecting to include “good faith effort” provisions in the proposed regulations. The analysis should also include a description of the measures used to mitigate any negative impacts to counties and cities resulting from not including “good faith effort” provisions in the proposed regulations.

CalRecycle Response:

The commenter states that the Draft EIR should analyze the impact of the proposed regulation on local jurisdictions’ authority for solid waste collection and management services. The Draft EIR describes the types of impacts that could occur due to implementation of the proposed regulation, based on the scenarios described in Section 2.5, “Reasonably Foreseeable Compliance Responses,” of the Draft EIR. The commenter does not provide information related to a significant impact associated with the proposed regulation that was not disclosed. Therefore, no further response can be provided.

The commenter also raises issues pertaining to consistency of the proposed regulation with existing laws. Comments on the substance of the regulations should be made during the appropriate comment periods during the formal rulemaking process under the APA.

See responses to comments 8-9 and 13-8 regarding potential economic effects of the proposed regulation. With respect to the good faith effort standard (PRC Section 41825), see response to comment 20-2.

Comment Number: 13-11

- **Section 3.2. Agricultural and Forestry Resources**, beginning on page 3.2-1 -- The discussion needs to be expanded to analyze the impacts to agricultural resources and land resulting from the significant amounts of chip and grind materials, mulch, and compost that will be used by businesses engaged in agricultural activities,

including cost, emissions of GHG and other air pollutants, discharges into the stormwater and groundwater supply, and other impacts. Needless to say, mitigating measures need to be provided to address the resulting negative impacts.

CalRecycle Response:

The commenter states that discussions related to agricultural resources should describe the chip and grind materials, mulch, and compost that would be used by businesses engaged in agricultural activities. The commenter recommends that these impacts be considered as they relate to cost, GHG emissions and other air pollutants, discharges into stormwater and groundwater supply, and other impacts. The Draft EIR addresses these topics in Sections 3.3, “Air Quality;” 3.8, “Greenhouse Gas Emissions and Climate Change;” and 3.10, “Hydrology and Water Quality.” The commenter does not indicate what specific impacts were not included in the document. No further response can be provided.

Comment Number: 13-12

- **Section 3.3. Air Quality**, beginning on page 3.3-1 -- The analysis in this section needs to be expanded to analyze the impacts to Long-Term Operational Emissions of ROG, NOx, PM10, and PM2.5 (beginning on page 3.3-17); Compliance with Air Quality Management Plans (beginning on page 3.3-23); and Exposure of Sensitive Receptors to Odors (beginning on page 3.3-28) resulting from the operation of high-diversion organic waste recovery facilities compared to source separated organic waste recovery facilities.

CalRecycle Response:

The commenter states that the air quality analysis in the Draft EIR needs to evaluate the operational differences and associated air quality impacts from high-diversion organic waste recovery facilities compared to source separated organic waste recovery facilities.

CalRecycle defines a “high-diversion organic waste processing facility” as a facility that is in compliance with the reporting requirements of 14 California Code of Regulations (CCR) Section 18815.5(d) and meets or exceeds an annual average mixed waste organic content recovery rate of 50 percent between January 1, 2022 and December 31, 2024, and 75 percent after January 1, 2025 as calculated pursuant to 14 CCR Section 18815(e) for organic waste received from the “mixed waste organic waste collection stream” as defined in 14 CCR Section 17402(a)(11.5).

CalRecycle also defines a “designated source separated organic waste facility” as a solid waste facility that accepts a source separated organic waste collection stream as defined in 14 CCR Section 17402(a)(18.6) and complies with the requirements of a “transfer/processor” facility as defined in 14 CCR Section 18815.2(a)(62) or is a “composting operation” or “composting facility” as defined in 14 CCR Section 18815.2(a)(13).

Variations in operational emissions of air pollutants between these facility types would occur primarily from uneven VMT. Source separated collection, which entails the collection of multiple materials (e.g., garbage, recyclables, organics) in discrete bins, may require the operation of several vehicles with distinct collection jobs. This collection method could result in higher VMT as compared to collection methods involving comingled materials into one bin, which could be sent to a high-diversion organic waste processing facility. Conversely, a high-diversion facility may require the operation of more equipment or workers to separate organics from non-organics, and may even result in VMT from the movement of non-organics to other processing facilities such as recycling plants or landfills.

The difference in operational emissions between these facilities cannot be accurately estimated at this programmatic level. It is unknown at this time the number, locations, and types of organic waste recovery facilities that would be operated under the proposed regulation. Additionally, the method of collection would be implemented by a local agency based on a number of factors, including existing waste recovery systems and economic pressures. As a result, this EIR does not attempt to quantify the difference in operational emissions of air pollutants between such facilities. No changes to the Draft EIR are required in response to this comment.

Comment Number: 13-13

- **Environmental Impacts and Mitigating Measures - Impact 3.3-2. Long-Term Operational Emissions of ROG, NOX, PM10, and PM2.5**, beginning on page 3.3 17 -- The discussion includes a faulty analysis of nitrous oxide (NOx) and particulate matter (PM2.5) emissions resulting from organics recycling facilities. Table 3.3-3. “Summary of NOx and PM2.5 Inventory for New Organic Waste Recovery Facilities (Tons per Year)”, beginning on page 3.3-19, assumes that all emissions of NOx and PM2.5 from landfills will be eliminated through the implementation of SB 1383 organics recycling. This assumption is unrealistic because SB 1383 has a target to only reduce organics disposal in landfills by 75 percent by the year 2025, not 100 percent. Furthermore, NOx and PM2.5 emissions from landfills are not solely caused by organic waste as defined under SB 1383. Therefore, this section of the Draft EIR needs to be revised to accurately reflect the reduction in NOx and PM2.5 emissions resulting from the implementation of the regulations, together with calculations as well as a discussion on potential mitigating measures

CalRecycle Response:

The commenter states that the values presented in Table 3.3-3, which summarizes emissions of NO_x and PM_{2.5} from existing BAU landfills and the anticipated emissions reductions achieved through diversion of organics to organic waste recovery facilities from landfills, includes unrealistic assumptions because SB 1383 has a target to reduce organics disposal in landfills by 75 percent by 2025, not by 100 percent. The commenter is correct in stating this; however, Table 3.3-3 does not assume a 100 percent diversion of organic waste from landfills but rather the 75 percent target that would be met by 2025 and extended to 2030. The commenter also notes that landfills produce emissions

of NO_x and PM_{2.5} from sources other than organic waste decomposition. This statement is also true; NO_x is often emitted as a byproduct of fuel combustion (i.e., vehicle exhaust) and PM_{2.5} results from ground disturbing activities and fuel combustion. However, the proposed regulation is not intended to reduce these emissions directly. Table 3.3-3 serves to demonstrate the operational emissions of NO_x and PM_{2.5} from operations specific to organic waste recovery facilities that would occur, but would amount to less than would otherwise occur had such waste decomposed at landfills. No changes to the Draft EIR are required in response to this comment. See response to comment 3-8 regarding the information relied upon for Table 3.3-3 of the Draft EIR.

Comment Number: 13-14

- **Environmental Impacts and Mitigating Measures - Impact 3.3-3 Compliance with Air Quality Management Plans**, beginning on page 3.3-23 -- The discussion needs to be expanded to consider conflicts between the requirements for local jurisdictions' compliance with the proposed regulations vs. their local climate action plans.

CalRecycle Response:

The commenter indicates that the air quality analysis must include a discussion of compliance with local air quality management plans. See response to comment 8-3.

The commenter also states that future organic waste recovery facilities must be reviewed for compliance with applicable climate action plans (CAPs). As discussed on Pages 3.8-5 through 3.8-6 of the Draft EIR, CAPs are GHG reduction plans developed by jurisdictions based on existing inventories and reduction targets. Often, CAPs will identify policies to reduce GHG emissions from the waste sector, which is consistent with objectives under the proposed regulation. Additionally, future organic waste recovery facilities that undergo project-level CEQA evaluation could be considered in the context of a local CAP; however, consistency with CAP policies is often not a condition of approval, but rather a threshold to evaluate a project's contribution to global climate change. Such an evaluation would occur on a project-by-project basis, would be applied at the discretion of a lead agency, and is beyond the scope of the programmatic analysis. No changes to the Draft EIR are required in response to this comment. This comment is noted for consideration by decision makers.

Comment Number: 13-15

- **Environmental Impacts and Mitigating Measures – Impact 3.3-4 Exposure of Sensitive Receptors to TAC Emissions**, beginning on page 3.3-24 -- The Draft EIR assumes that organic recycling facilities will not be sited within 1,000 feet of sensitive receptors (stated on page 3.3-26). However, in densely populated and highly urbanized areas such as Los Angeles County, a sufficient number of such sites may not be available, requiring the facilities to be sited significant distances from organic waste generators, resulting in air quality impacts from increased transportation of organic waste.

CalRecycle Response:

The commenter states that in densely populated communities such as Los Angeles County, new organic waste recovery facilities could be sited within 1,000 feet of sensitive receptors. In paragraph four on Page 3.3-26, the Draft EIR states:

Organic waste recovery facilities would be expected to be sited within an appropriate land use (i.e., industrial) and would not be located within 1,000 feet of a sensitive receptor. Therefore, operation of facilities under the proposed regulation would likely not expose off-site sensitive receptors to TAC concentrations and would not be expected to expose sensitive receptors to an incremental increase in cancer risk (e.g., one that exceeds 10 in one million) or hazard index value (e.g., 1.0 or greater).

The proposed regulation is a statewide action that would be implemented through coordination with local jurisdictions. The approval of future organic waste recovery facilities would be within the discretion of local jurisdictions and would be beholden to the zoning and land use designations contained in an applicable general plan. In cases where future organic waste recovery facilities are proposed in areas inconsistent with the zoning and land use designations of a general plan, a general plan amendment would be required pending project approval. Such an action would be beyond the purview of CalRecycle. Thus, CalRecycle assumes for this analysis that the land use maps contained in general plans would be applied as adopted, thus reducing the potential for industrial stationary sources of TACs to adversely affect existing sensitive receptors. Additionally, in cases where future organic waste recovery facilities would be sources within the vicinity of a sensitive receptor, a lead agency may conduct a health risk assessment (HRA) to evaluate the degree and location of impacts (Impact 3.3-4). Also, stationary sources of TACs would be required to comply with air district rules and permits including the application of best available control technology (BACT), which reduces TAC emissions (Pace 3.3-6 through 3.3-7 under the discussion of Local regulations).

CalRecycle, thus, concludes that compliance with general plans and air district rules and permits would reduce the potential to expose sensitive receptors to TAC emissions to a less-than-significant level. No changes to the Draft EIR are required in response to this comment.

Comment Number: 13-16

- **Environmental Impacts and mitigating Measures - Impact 3.3-6: Exposure of Sensitive Receptors to Mobile-Source CO Concentrations**, beginning on page 3.3-31 -- It has been stated that the impact of sensitive receptors being exposed to mobile-source carbon monoxide concentrations is less than significant because the increase in vehicle miles traveled (VMT) would be dispersed throughout the state. However, certain areas of the state, such as those with a high concentration of organic waste generators or those with a high number of organic recycling facilities, will see higher increases in VMT compared to other parts of the

state, potentially exposing sensitive receptors to significant and unavoidable concentrations of mobile-source carbon monoxide emissions. The impacts in the Draft EIR need to be re-analyzed to consider that certain impacts may be more significant in certain parts of the state and that the dispersion of impacts throughout the state does not render them insignificant.

Additionally, the Draft EIR states “the proposed regulation would result in an increase in VMT related to the movement of organics to organic waste recovery facilities; however, VMT would be distributed statewide. It would not be expected that the increase in VMT would result in additional vehicle trips per hour to the degree that a CO impact would occur as compared to existing baseline conditions.” However, the said conclusion has not been quantified, and for the purpose of this Draft EIR it needs to be. Similarly, all emissions analysis throughout the subject Draft EIR, including, but not limited to, those surrounding operations-related matters are to be quantified even though claims have been made that they are not expected to cause additional impacts as compared to the existing baselines.

CalRecycle Response:

The commenter states that the air quality analysis’s CO impact discussion is inadequate. The Draft EIR’s CO impact analysis is discussed in response to comment 12-2. See Master Response 2, “Adequacy of the VMT Analysis,” for a discussion related to the VMT evaluation presented in the Draft EIR.

Comment Number: 13-17

- **Section 3.6. Energy**, beginning on page 3.6-1 -- The analysis needs to be expanded to analyze the impacts to Wasteful, Inefficient, or Unnecessary Consumption of Energy during Project Construction or Operation (beginning on page 3.6-10), resulting from the operation of high-diversion organic waste recovery facilities compared to source-separated organic waste recovery facilities.
- **Section 3.6. Energy**, beginning on page 3.6-1 -- The analysis needs to be expanded to address the potential impacts to energy usage resulting from the transportation of organic waste. The analysis needs to cover from the urbanized areas of the state where organic waste is generated to rural areas where compost facilities are usually located and where recovered organic products such as compost are used for agriculture and land application.

CalRecycle Response:

The commenter states that the analysis of wasteful, inefficient, or unnecessary consumption of energy during project construction or operation should be expanded to include the energy use associated with high-diversion organic waste recovery facilities compared to source separated organic waste recovery facilities and transportation. Impact 3.6-1 provides a thorough analysis of the potential for the proposed regulation to result in the wasteful, inefficient, or unnecessary consumption of energy, describing construction-related energy at new processing facilities; operational energy at new or

expanded organic waste handling facilities; transportation fuel consumption for organic waste collection, waste transport, processed product transportation, and food recovery; and, biofuel production. This discussion is consistent with requirements related to the level of specificity required for a statewide program level document and provides an overview of energy use associated with the proposed regulation including operation and transportation energy requirements. (See response to comment 13-6 for a discussion on the level of specificity needed for this EIR). No changes to the document are necessary.

Comment Number: 13-18

- **Section 3.7, Geology and Soils**, beginning on page 3.7-1 -- It should be noted that while Best Management Practices and engineering design often mitigate impacts from erosion, landslide, seismic activities, etc. to below a level of significance, the impact mitigation comes after careful consideration of the conditions at the particular site, and it cannot be assumed in advance. This is a critical factor that needs to be recognized by the Draft EIR.

CalRecycle Response:

The commenter correctly states that best management practices (BMPs) used to mitigate geologic impacts require consideration of site-specific conditions to be effective. The Draft EIR's analysis of potential effects related to geology and soils describes the need and requirements for BMPs to be based on individual site conditions and geotechnical investigations. Please see the discussion in Section 3.7.3, "Environmental Impacts and Mitigation Measures," and in Section 3.7, "Geology and Soils," of the Draft EIR.

Comment Number: 13-19

- **Section 3.8. Greenhouse Gas Emissions and Climate Change**, beginning on page 3.8-1 -- The Draft EIR needs to be expanded to include a life-cycle analysis regarding the GHG emission reduction resulting from use of thermal conversion technologies such as gasification and pyrolysis to divert organic waste, not limited to only biomass as defined under PRC 40106, from "landfill disposal." The analysis of the environmental impacts, beginning on page 3.8-10, focuses on composting and anaerobic digestion only, although other processes are considered reductions in landfill disposal under the second formal draft of the SB 1383 regulations and there are other landfill disposal reduction technologies, such as thermal conversion technologies, that will also result in GHG emissions reductions when used to recycle organic waste.

Further, the Draft EIR needs to be expanded to provide an explanation of why the activities that constitute a reduction in landfill disposal are limited to anaerobic digestion and composting, even though it has been established that conversion technologies are not incineration, achieve the same greenhouse gas reduction goals as anaerobic digestion and composting, and can process additional types of organic waste. The subject Draft EIR needs to recognize activities conducted by the former

California Integrated Waste Management Board (CIWMB - now CalRecycle) on conversion technologies which have been summarized in their Conversion Technology Report to The Legislature, and formally submitted to the Legislature by the CIWMB via their Resolution No. 2005-78 in March 2005, a copy enclosed.

CalRecycle Response:

The commenter states that the Draft EIR does not consider recovery activities beyond composting and anaerobic digestion and argues that a life-cycle analysis regarding GHG emissions reductions achieved from the use of thermal conversion technologies should be performed. The proposed regulation does not contain any reference or requirement specifically relating to thermal conversion technologies such as gasification and pyrolysis. Since these technologies are not a component of the project, the EIR does not need to analyze for their environmental effects. The commenter cites to no substantial evidence as to the GHG emission reductions involved in thermal conversion technologies or how conducting such an analysis would identify or mitigate a potentially significant environmental impact of the project.

Regarding CalRecycle’s determination on activities that constitute a reduction in landfill disposal, the comment is directed at regulatory concepts in the underlying rulemaking. Comments on the substance of the regulations should be made during the appropriate comment periods during the formal rulemaking process under the APA. CalRecycle nevertheless notes that the cited analysis of environmental impacts on page 3.8-10 of the Draft EIR (as part of the summary of Impact 3.8-1) is general to “organic waste recovery facilities” and not limited to compost and anaerobic digestion, and specifically states: “The purpose of the proposed regulation is to reduce fugitive methane emissions from landfills through the redirection of organics to organic waste recovery facilities (such as compost and AD facilities)” Compost and AD are provided as examples, but they are not they are not the only technology considered.

The proposed regulation specifically identifies a set of recovery activities in a manner that is consistent with statutory guidance. The regulations also allow for additional technologies that are not specifically defined as constituting landfill disposal to qualify as activities that constitute reductions in landfill disposal provided that the technology proponent can demonstrate emission reductions comparable to one of those activities (composting). A discussion of why composting was selected as the benchmark is included in the ISOR (CalRecycle 2019a), and the justification for the emission reductions associated with composting is included in Master Response 1, “Adequacy of the GHG Emissions Analysis.”

Theoretically, specific pyrolysis, gasification and other conversion technologies could, in the future, qualify as activities that constitute a reduction in landfill disposal (recovery activities) provided that an application is submitted for CalRecycle to determine whether a particular process qualifies as a reduction in accordance with the performance standards established in the regulation. The scope of potential activities that could qualify as recovery if they meet this performance standard is unlimited. Currently in California, there are no permitted gasification facilities and no permitted solid waste

facilities utilizing pyrolysis due to challenges in meeting existing strict statutory and regulatory standards. Performing a life-cycle analysis for every conceivable technology, including those that are not in, or unlikely to be in operation in California is speculative, infeasible and beyond the specific scope of this project and what CEQA requires. The commenter requests a life-cycle analysis for one specific technology without providing any justification for why this technology should be preferred over others. CalRecycle notes that the permitting of any future projects using yet-to-be determined or approved technology constituting a reduction in landfill disposal would be subject to site-specific CEQA analysis where a GHG analysis of the project would be less speculative.

See the responses to comments 15-2 and 18-1 regarding completing an emission reduction factor or life-cycle analysis for each potential type of recovery activity being beyond the scope of the project.

Comment Number: 13-20

- **Section 3.8. Greenhouse Gas Emissions and Climate Change**, beginning on page 3.8-1 -- The analysis needs to be expanded to provide legal justifications and the necessity for the proposed regulations to require new technologies that may constitute a reduction in landfill disposal (such as thermal conversion technologies) to demonstrate a permanent lifecycle GHG emissions reduction equivalent to the emissions reduction from composting organic waste (0.30 MTCO₂e/short ton organic waste), when the SB 1383 mandates is to reduce the landfill disposal of organic waste (emphasis added). Contrary to the statutes' requirement, the proposed regulations establish more stringent requirements for new technologies than for composting and anaerobic digestion, which without a thorough life cycle analysis have already been identified as acceptable activities that constitute a reduction in landfill disposal of organic waste. The Draft EIR must provide all data and analysis used to reach the said conclusion as well as providing mitigation measures to address the proposed regulations negative impacts on development of thermal conversion technologies together with potential delay in achieving the SB 1383 landfill disposal and SLCP reductions.

CalRecycle Response:

The commenter does not raise a significant environmental question. The first comment requests that additional landfill disposal reduction technologies be considered in the EIR. However, the additional technologies raised by the commenter are not part of the proposed regulation. Although Section 18983.2 allows a process for CalRecycle to make a determination regarding additional technologies that may be considered a reduction in landfill disposal, that is subject to a potential future process and any evaluation of such technologies that are not specifically part of the proposed project would be speculative.

The second comment is directed at regulatory concepts in the underlying rulemaking. Comments on the substance of the regulations should be made during the appropriate comment periods during the formal rulemaking process under the APA.

With regard to data supporting conclusions, see Master Response 1, “Adequacy of the GHG Emissions Analysis.”

Comment Number: 13-21

Additionally, the Draft EIR needs to examine the impacts of all pollutants, not limiting the analysis to GHG emissions only. For example, composting organic waste may reduce GHG emissions but it may also generate nitrogen dioxide and other hazardous air emissions, and surface and ground water pollutants, so it may not be preferable overall compared to other technologies such as thermal conversion technologies.

CalRecycle Response:

The commenter states that the Draft EIR needs to examine the impacts of all pollutants, not just GHG emissions, including nitrogen dioxide (NO₂), other hazardous air emissions, and surface and groundwater pollutants. Criteria air pollutant impacts are discussed in Impacts 3.3-1, 3.3-2, and 3.3-3 in Section 3.3, “Air Quality.” TAC and odor impacts are discussed in Impacts 3.3-4 and 3.3-5 respectively in Section 3.3, “Air Quality.” Surface and groundwater impacts are discussed in Section 3.10, “Hydrology and Water Quality.” No changes to the Draft EIR are required in response to this comment.

Comment Number: 13-22

- **Section 3.8. Greenhouse Gas Emissions and Climate Change**, beginning on page 3.8-1 -- The Draft EIR needs to be expanded to address the potential for the generation and emission of methane from incomplete composting (aerobic) activities and chip and grind operations. Although the methane generated from these processes is from biogenic sources, the effects must be considered because there is no difference between methane generated in a landfill, which is also biogenic, and methane generated from a compost or a mulch pile.

CalRecycle Response:

The commenter states that the Draft EIR needs to include a discussion of aerobic activities and chip and grind operations as well as consideration of biogenic methane in addition to anthropogenic methane. The commenter also suggests that methane emissions from landfill operations are also considered biogenic; however, this is untrue. Landfill-related methane emissions are considered anthropogenic sources, because the anaerobic decomposition of organic materials in landfills is a human-made condition.

Biogenic methane emissions could occur from improper handling of materials at a compost or chip and grind facility; however, properly aerated decomposition of organic materials minimizes the release of fugitive methane emissions. In many cases, a well-managed composting and chip and grind facility do not produce methane emissions. Landfill-generated methane emissions comprise 21 percent of the State’s total methane emissions. By comparison, any fugitive methane that would be emitted from the operation of compost and chip and grind facilities would be nominal to those released

from organic decomposition within landfills. While these emissions could occur in cases where facilities are improperly managed, they would not be substantial such that the significance determination of the Draft EIR would change. Climate change impacts remain less than significant. No changes to the Draft EIR are required in response to this comment.

Comment Number: 13-23

- **Section 3.8. Greenhouse Gas Emissions and Climate Change**, beginning on page 3.8-1 -- The analysis needs to be expanded to address the potential impacts to GHG emissions resulting from the transportation of organic waste from generally urbanized areas of the state where organic waste is generated to rural areas where compost facilities are usually located and where recovered organic products such as compost are used for agriculture and land application.

CalRecycle Response:

The commenter states that the Draft EIR's discussion of VMT needs to be expanded to include a narrative that trip lengths between urban centers and composting facilities would likely be long as composting facilities would likely be sited within rural, agricultural areas. See Master Response 2, "Adequacy of the VMT Analysis," for a discussion of anticipated changes to VMT associated with the proposed regulation.

Comment Number: 13-24

- **Section 3.9. Hazards and Hazardous Materials - Impact 3.9-3: Generation of Vectors and Pathogens That Would Exceed Regulatory Thresholds and Create a Significant Health or Environmental Hazard**, beginning on page 3.9-17 -- The Draft EIR needs to be expanded to fully address the impacts of the potential importation and exportation of contaminated organic waste from quarantined areas of state to non quarantined areas. On Page 3.9-18 of the Draft EIR, a statement has been made that:

"Agricultural officials have the power to restrict the movement of green material (CalRecycle 2019[f]). They may prohibit materials from leaving the quarantine zone or may attach conditions to ensure that pests do not move along with restricted materials, which could include green material or food wastes. Every entity in the chain of custody for handling green material from a quarantine zone, including haulers, transfer stations, chip-and-grind facilities, and composting facilities or landfills, must have the appropriate compliance agreements from the county Agricultural Commissioner's office in place to handle these materials."

However, millions of additional tons of organic waste will be collected, transported, processed, and recycled due to the proposed regulations. Local agricultural commissioners and every entity in the chain of custody may not be able to successfully prevent all quarantined materials from being transported erroneously outside of the quarantine zone. A significant amount of organic waste will be

mulched or composted and used by farmers or otherwise land-applied. Pathogens and microorganisms may be present in mulch compost that is not processed appropriately. The Draft EIR needs to identify the impacts of using compost containing pathogens and/or microorganisms as well as listing possible mitigation measures in the event that quarantined material is accidentally commingled with non-quarantined material and/or transported outside the quarantine zone.

In addition, this section needs to be further expanded to analyze the impacts of dust suppression stimulating the population of fungal organisms causing Valley Fever and the impacts of flies who may be attracted to food waste being source-separated for collection and who may spread disease in all areas of the state with separate food waste collection.

CalRecycle Response:

The commenter states that the EIR should include a discussion of the use of compost that contains pathogens, such as valley fever spores. As noted in the comment, Impact 3.9-3 describes regulations for composting operations, which require reducing pathogen concentrations in composted materials to acceptable levels. Further the regulations specifically allow the disposal of material that is subject to quarantine. With respect to the regulations resulting in the attraction of flies see response to comment 9-3.

The proposed regulation would not change the methods or reduce existing public health and safety standards relative to methods used to apply compost to land, cultivate crops on the landscape, or manage soil resources, which would constitute the potential to influence exposure to soil-borne pathogens, such as Valley Fever. Therefore, it is reasonable to conclude that the risk of exposure would not change substantially and that all applicable regulations protecting people from exposure would continue to be followed. No changes to the document are necessary.

Comment Number: 13-25

- **Section 3.11. Land Use and Planning - Impact 3.11-1. Significant Environmental Impact from a Conflict with a Land Use Plan, Policy, or Regulation Adopted for the Purpose of Avoiding or Mitigating an Environmental Effect**, beginning on page 3.11-4 - - A statement has been made that:

“Organic waste recovery facilities would be reasonably expected to co-locate with existing, permitted solid waste facilities or wastewater treatment plants or locate in areas zoned for industrial or solid waste–handling activities and are thus anticipated to comply with land use planning and zoning requirements.”

However, the Draft EIR did not include an analysis of land use planning and zoning requirements throughout the state to determine if a sufficient number of suitable sites exist to locate organics recovery facilities, especially in urban areas such as Los Angeles County. Furthermore, even a site that has an existing, and fully permitted facility or has suitable zoning may experience significant impacts due to an increased amount of traffic, odors, noise, air pollutants, etc., resulting from organics

recycling activities. Therefore, the Draft EIR needs to be revised and expanded to analyze all environmental impacts of siting a significant number of organics recycling facilities including, but not limited to, composting facilities, anaerobic digestion facilities, chipping and grinding facilities, recycling facilities, biomass conversion facilities, and potential emerging technology facilities throughout the state.

CalRecycle Response:

The commenter states that Impact 3.11-1, which addresses land use planning conflicts, should consider the siting of composting facilities, AD facilities, chip and grind facilities, recycling facilities, biomass conversion facilities, and potential emerging technology facilities. See response to comment 6-10.

Comment Number: 13-26

- **Section 3.13. Transportation**, beginning on page 3.13-1 - - This section needs to be expanded to address the potential economic and environmental impacts resulting from the significant shortage of infrastructure capacity to collect, store, process, and manage the amount of organic waste required to achieve the SB 1383 targets. The Draft EIR must identify where organic waste will go and how far it will have to be transported. The analysis must provide a comprehensive transportation impact analysis and potential mitigation measures. This section of the Draft EIR focuses mostly on food waste and green waste and does not address the additional economic and environmental impacts that will result from diverting other types of organic waste, such as food-soiled paper, paper products, green waste, textiles, carpets, digestate, biosolids, and manure.

CalRecycle Response:

The commenter states that Section 3.13, “Transportation,” should be expanded to include the potential economic and environmental impacts that could result from diverting other types of organic waste, such as food-soiled paper, paper products, green waste, textiles, carpets, digestate, biosolids, and manure. Generally, economic or social effects of a project are not considered to be significant effects on the environment, unless an economic or social change resulting from the project causes a physical change to the environment (State CEQA Guidelines Section 15131). The Draft EIR provides an analysis of the environmental impacts related to the reasonably foreseeable compliance responses that would be expected to result from implementation of the proposed regulation. (See Section 2.5, “Reasonably Foreseeable Compliance Responses,” of the Draft EIR for a discussion of the physical changes to the environment that would be expected from implementation of the proposed regulation.) Without specific comments related to the environmental effects that have not been addressed, no further response can be provided. See also the responses to comments 8-9 and 13-8 regarding potential economic effects of the proposed regulation, and see Master Response 2, “Adequacy of the VMT Analysis.”

Comment Number: 13-27

- **Section 3.13. Transportation - Impact 3.13-4: Reasonably Anticipated Increase in VMT**, beginning on page 3.13-11 -- The analysis in this section needs to be expanded to detail how the collection of organic waste such as food waste may result in an increase in VMT by collection vehicles, especially if a jurisdiction intends to collect food waste in a brown container separate from green waste or if a jurisdiction intends to conduct weekly pickup frequencies for the blue container or gray container. It is not sufficient for the Draft EIR without any verifiable/quantified data to simply state that, “Residential generators that separate green material would likely comply with the proposed regulation by commingling food waste and green material in the same container” and “collection modifications would not substantially change the amount of travel needed,” considering multiple variations of organic waste collection systems. Further the analysis must recognize that many jurisdictions that currently use chipping and grinding to process green waste would not be able to collect food waste commingled with green waste.

CalRecycle Response:

The commenter requests additional details related to how the collection of organic waste could affect VMT. See Master Response 2, “Adequacy of the VMT Analysis.”

Comment Number: 13-28

In addition, the Draft EIR should fully analyze the economic impacts of each collection system allowed under the regulations. For example, in a system where green material would be commingled with food waste in the same container, the Draft EIR should analyze the economic impacts of composting grass instead of processing it through chipping and grinding to determine if this system would be economically viable. As another example, for a system where food waste is collected separately in a fourth container, the impacts to wildlife and litter should be analyzed as well. Separation of food materials is an invitation for wildlife such as bears, racoons, possums, and vermin to break into food waste containers and possibly dump food and litter into the street and the stormwater collection system, resulting in significant health and safety issues and requiring local jurisdictions to invest significant additional resources to clean up and mitigate these health and safety issues.

CalRecycle Response:

The commenter states that the Draft EIR should analyze the economic impacts of each collection system allowed under the proposed regulation. See the responses to comments 8-9 and 13-8 for a discussion related to how an EIR addresses economic impacts.

The commenter expresses concerns related to potential attraction of vermin due to separation of food materials from other waste. See the responses to comments 9-3 and 16-3.

Comment Number: 13-29

Additionally, the Draft EIR must analyze and address public safety issues associated with bears, which in Los Angeles County have been visiting neighborhoods located at elevations as low as 400 feet above mean sea level (MSL). It is common knowledge that bears are attracted to garbage and food waste, and implementation of the proposed regulations with food waste containers will further the public safety problem. As such, the Draft EIR needs to recognize this public safety concern and address the issue with the California Department of Fish and Wildlife (DFW) and other appropriate state agencies. It should also be noted that the DFW's regulations (Section 251.1) prohibit the harassment of wild animals. Feeding wild animals (invitation via a food waste container) disrupts the animals' normal behavior patterns and is considered "harassment" subject to penalties. Therefore, the Draft EIR needs to develop plans with appropriate state agencies and provide potential mitigating measures to address these issues.

CalRecycle Response:

The commenter states that the Draft EIR should analyze and address public safety issues associated with the potential to attract bears. See the responses to comments 9-3 and 16-3.

Comment Number: 13-30

Furthermore, this section needs to also analyze the global VMT impacts resulting from transporting materials such as paper, carpets, and textiles to foreign markets for recycling due to the significant lack of domestic recycling and/or thermal conversion technology facilities to process these materials. The Draft EIR must also identify potential mitigation measure to address the negative impacts.

CalRecycle Response:

The commenter states that the Draft EIR should analyze global VMT impacts. The comment does not cite any substantial evidence supporting a conclusion that the proposed regulation would cause global VMT impacts and, as a result, CalRecycle lacks any meaningful information upon which to base such an analysis. Regardless, the proposed regulation involves collection of organic waste within the State and transport of such waste to in-state solid waste facilities. Compost and other products are expected to be distributed throughout California. The regulations do not include specific requirements for the collection, recycling, transport, or end use of discarded carpets and textiles. Regarding paper, the proposed regulation includes a myriad of recovery options, but does not dictate how the finished product resulting from the recovery of that material is used, marketed or sold (e.g., is a finished cardboard box shipped overseas). Therefore, impacts regarding end-use of the enumerated materials are beyond the scope of the project and an analysis of those impacts is not required. Even if requirements regarding end-use of such materials were included, foreign VMT impacts are too speculative to meaningfully analyze.

Comment Number: 13-31

- **Section 3.14. Utilities and Service Systems – Impact 3.14-1: Increased Demand for Water Supplies**, beginning on page 3.14.6 - - Composting, digestion, and other organic waste management processes require large amounts of water. Considering the on-going drought condition in California, the implementation of the proposed regulations would result in the development of many types of organics management facilities with higher water demand, as compared to waste management under existing conditions. As a result, demand for water would be increasing. This may result in a potentially “significant impact” on water demand which is contrary to the Draft EIR claim of “less than significant” (emphasis added).

CalRecycle Response:

The commenter states that the Draft EIR should address the potential for increased water demand related to composting, digestion, and other organic waste management processes. See response to comment 12-4.

Comment Number: 13-32

- **Section 5.2. Consideration for Selection of Alternatives**, beginning on page 5-2 - - This section needs to be expanded to explain how the alternatives were selected and justify whether the selection of the alternatives aligns with California Environmental Quality Act (CEQA) guidelines. Further, one alternative to be considered is to have an alternative set of regulations which are not as excessive, prescriptive, restrictive, and costly as the proposed regulations currently under consideration.

CalRecycle Response:

The commenter requests that the list of alternatives evaluated in the Draft EIR be expanded to include a less prescriptive alternative. See Master Response 3, “Adequacy of the Alternatives Analysis.”

Comment Number: 13-33

- **Section 5.2.1. Attainment of Project Objectives**, beginning on page 5-2 - - It has been indicated that one of the two major implementation objectives of the proposed regulation is to “reduce the level of statewide disposal of organic waste to 50 percent of the 2014 levels by 2020 and 75 percent by 2025”. This statement is incorrect and it is contrary to Section 39730.6 of the Health and Safety Code, which specifically calls for reduction in the level of statewide landfill disposal of organic waste to 50 percent of the 2014 levels by 2014 and 75 percent by 2025 (emphasis added). This is a significant error by the proposed regulations and the subject Draft EIR resulting to overestimate the quantities of organic waste “disposal” in 2014 since not all organic waste generated in 2014 was disposed of in landfills. Therefore, the subject documents and related analysis must be revised to address this deficiency.

CalRecycle Response:

The commenter asserts that CalRecycle's calculations substantiating the Draft EIR are inaccurate because disposal activities are considered to be broader than the statutory mandate of landfill disposal in preparing the Draft EIR. This is based on the commenter's interpretation of the fact that the project description states that the objective of the project is to reduce disposal of organic waste, when it should say the object of the project is to reduce the *landfill* disposal of organic waste to be consistent with Section 39730.6 of the Health and Safety Code. The term disposal and landfill disposal are frequently used interchangeably. In fact, the section of the Health and Safety Code cited by the commenter does just that:

Health and Safety Code Section 39730.6.

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

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

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

(b) Except as provided in this section and Section 42652.5 of the Public Resources Code, the state board shall not adopt, prior to January 1, 2025, requirements to control methane emissions associated with the disposal of organic waste in landfills other than through landfill methane emissions control regulations." (emphasis added).

As noted in the Initial Statement of Reasons, there is no existing definition of landfill disposal, or organic waste disposal in the Health and Safety code. As a result, Article Two of the regulations specifically identifies activities that constitute landfill disposal of organic waste for the purposes of the regulations. The regulations also identify activities that constitute a reduction of landfill disposal of organic waste. Activities that constitute landfill disposal were identified in the regulations in consultation with CARB, as required by statute (CalRecycle 2019a: 19-24). All calculations relied upon for the Draft EIR are consistent with the definitions developed for the regulations, and the regulations are consistent with the statutory requirements (CalRecycle 2019b). No change to the Draft EIR is necessary.

Comment Number: 13-34

- **Section 5.3. Alternatives Considered but not Evaluated Further - Subsection 5.3.2. Landfill Gas Collection Efficiency Alternative**, beginning on page 5-5 - - The analysis without providing any data and technical documentation substantiating the claim, has eliminated this alternative from consideration. However, the analysis based on existing and publically available technical documents needs to be reconsidered for inclusion of this alternative in the Draft EIR. Currently, the Draft EIR states that the goal would be to require landfill gas collection systems to have nearly 100-percent collection efficiency, which may not be feasible, and because installing

highly efficient landfill gas collection systems would be expensive and possibly financially unfeasible for landfill operators. However, the acceptable landfill diversion activities, processes, and technologies will not reduce GHG emissions 100 percent, so the landfill gas collection alternative should not have a goal to reduce landfill gas emissions by 100 percent. For example, composting does not recover any energy from organic waste and surely does not reduce GHG emissions 100 percent compared to landfilling. In addition, the reasonable compliance measures will be extremely costly for local jurisdictions, waste haulers, solid waste facilities, and organics recycling facilities, so the Draft EIR should also consider these costs when considering the impacts of complying with the regulations.

CalRecycle Response:

The comment pertains to the consideration of the Landfill Gas Collection Efficiency Alternative. See Master Response 3, "Adequacy of the Alternatives Analysis."

Comment Number: 13-35

- **Section 5.5. Environmentally Superior Alternative**, beginning on page 5-10 -- The Draft EIR states that, "Because the No Project Alternative would avoid all adverse impacts resulting from the construction and operation of the foreseeable compliance responses associated with the proposed regulation, it would be the environmentally superior alternative, although it would not achieve the objectives of the proposed regulation." Therefore, the Task Force recommends that CalRecycle revise the proposed regulations to achieve the state-mandated landfill disposal reduction and edible food recovery targets without mandating excessively prescriptive, restrictive, punitive and costly requirements.

CalRecycle Response:

The commenter recommends that CalRecycle revise the proposed regulations to achieve the targets in a less prescriptive way. This comment does not raise environmental issues or concerns regarding the adequacy, accuracy, or completeness of the EIR. The comment is noted for consideration by decision makers.

Comment Number: 13-36

- **Section 6. Other CEQA Considerations**, beginning on page 6-1 -- This section needs to be expanded to include the economic impacts and legal ramifications of CalRecycle requiring local jurisdictions such as counties and cities to impose civil (monetary) penalties on residential or commercial organic waste generators for non compliance.

This requirement as stipulated by CalRecycle exceeds the authority granted to CalRecycle by state law. While SB 1383 grants CalRecycle the authority to "require local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction," this authority does not extend to the imposition of penalties (emphasis added). SB 1383 only states that CalRecycle "**may** authorize local jurisdictions to impose penalties on generators for noncompliance" {see Section

42652.5. (a) (1) of the Public Resources Code (PRC)} (emphasis added). However, the proposed regulations specify that jurisdictions “shall adopt ordinance(s) or enforceable mechanisms to **impose penalties that are equivalent or stricter** than those amounts in Section 18997.2.” (emphasis added).

In requiring counties and cities to impose steep civil penalties of up to \$500 per offense on residents and businesses for non-compliance with each requirement of the proposed regulations, CalRecycle would exceed its authority under the law. Therefore, the Task Force strongly recommends the Draft EIR be expanded to analyze the economic impacts to local jurisdictions, residents, and businesses and provide appropriate mitigation measures to render the impact as non-significant. Further, the analysis needs to consider the legal implications of changing existing state law, including Section 42652.5. (a) (1) of the PRC, to be consistent with the proposed regulations.

In addition, this section of the Draft EIR must be expanded to consider the economic impacts of developing the needed organics recycling infrastructure capacity. In the Statement of Regulatory Impact Analysis (SRIA), CalRecycle previously estimated that achieving SB 1383 mandates would require a capital investment of over \$3 billion with a substantial financial impact on California’s jurisdictions. This impact must be addressed in the Draft EIR along with potential mitigation measures. Furthermore, the Draft EIR must consider the availability of markets to handle recovered organic products and mitigation measures to address potential impacts from policies such as the “China National Sword.”

Lastly, this section of the Draft EIR needs to be expanded to address all probable effects of the project, including but not limited to identifying all potential options for organic waste collection processing, recycling, and disposal technologies, along with their potential beneficial and adverse impacts on human and natural resources as well as the necessary mitigation measures to achieve the SB 1383 mandates.

CalRecycle Response:

The comment does not raise a significant environmental question and is instead directed at economic impacts from regulatory concepts in the underlying rulemaking. Comments on the substance of the regulations, including any economic impacts, should be made during the appropriate comment periods during the formal rulemaking process under the APA. See responses to comments 8-9 and 13-8 regarding the treatment of economic impacts under CEQA.

The last comment states that the EIR must be expanded to address “all probable effects of the project,” but does not specifically state the particular environmental effects of the project that are missing from the analysis. The Draft EIR included a discussion of the reasonably foreseeable compliance responses (Section 2.5 of the Draft EIR) and an analysis of the potential environmental effects, consistent with CEQA Statutes and the State CEQA Guidelines. Because the commenter does not indicate the perceived

significant environmental impacts that were not disclosed in the Draft EIR, no further response can be provided.

Comment Number: 13-37

- **Section 6, Other CEQA Consideration - Subsection 6.2. Growth Inducement**, beginning on page 6-3 -- The Draft EIR partially addresses the economic impacts of the regulations regarding increases in employment. However, this section needs to be expanded to fully address the potential impacts of growth as a result of implementing the regulations, including the impacts of increased demand on community and public services and infrastructure such as water, electricity, natural gas, wastewater treatment plants, etc., increased traffic and noise, and degradation of air and water quality. This section also needs to include all potential significant economic impacts resulting from implementing the regulations, which this section acknowledges “would apply to approximately 540 jurisdictions in California; millions of households; thousands of businesses; hundreds of haulers and food recovery organizations; hundreds of material recovery facilities, processors, recyclers, and landfills; dozens of local government environmental enforcement agencies; and all schools, federal agencies, and state agencies.”

Existing state law and regulations restrict any increase in the amount of solid waste generation by cities and counties beyond the **2006 average tonnages** (emphasis added). However, the population and economy of California continues to grow, along with solid waste generation and disposal. This impacts the state’s ability to achieve the SB 1383 mandates, which impose a fixed cap of no more than 5.7 million tons per year of organic waste disposed in landfills statewide that will not be adjusted for population and/or economic growth. The economic and environmental challenges that will be caused by attempting to comply with the SB 1383 regulations and develop the necessary organic waste collection and processing infrastructure and end use markets in the face of a growing population and economy was not but needs to be analyzed and discussed in this section of the Draft EIR along with potential mitigation measures.

CalRecycle Response:

The commenter states that the discussion of growth-inducing impacts should be expanded to include potential growth related to increased demand on community and public services and infrastructure such as water, electricity, natural gas, wastewater treatment plants, increased traffic and noise, and degradation of air and water quality. The commenter also states that this section should address the potentially significant economic impacts resulting from implementing the regulations that would apply to approximately 540 jurisdictions in California.

As discussed in Section 6.2, “Growth Inducement,” of the Draft EIR, direct growth inducement would result if a project involved construction of new housing. Indirect growth inducement would result, for instance, if implementing a project resulted in:

- substantial new permanent employment opportunities (e.g., commercial, industrial, or governmental enterprises);

- substantial short-term employment opportunities (e.g., construction employment) that indirectly stimulates the need for additional housing and services to support the new temporary employment demand; or
- removal of an obstacle to additional growth and development, such as removing a constraint on a required public utility or service (e.g., construction of a major sewer line with excess capacity through an undeveloped area).

The analysis contains a discussion of these issues and provides several conclusions. In terms of increases to employment, the analysis refers to the Standardized Regulatory Impact Assessment prepared for the proposed regulation, which indicates that statewide employment would increase by approximately 17,000 jobs during peak construction (in 2024) and then decrease to an additional 11,700 permanent jobs by 2030. Revised economic projections presented by CalRecycle in November 2019 modestly increase the projected number of permanent jobs, but those revisions do not alter the conclusions in the Draft EIR. As discussed in the Draft EIR (fourth paragraph on page 6-4), “because this increase in employment levels in the state would be slight, implementing the proposed regulation would not increase employment opportunities so substantially that it could foster economic or population growth.” The discussion also describes the proposed regulation’s potential to remove obstacles to growth, concluding that, although new or expanded organic waste recovery facilities would be necessary to meet requirements under the proposed regulation, the expansion would not be considered the removal of an obstacle to growth (first paragraph on page 6-5 of the Draft EIR).

The Draft EIR contains impact discussions related to public utilities and service systems (Section 3.14, “Utilities and Service Systems”), traffic (Section 3.13, “Transportation”), air quality (Section 3.3, “Air Quality”), and water quality (Section 3.10, “Hydrology and Water Quality”). Compliance with the proposed regulation would not be expected to increase employment or remove an obstacle to additional growth and development, related to these resource areas. The commenter does not indicate how impacts on these resources would increase employment or remove an obstacle to additional growth and development. No changes to the document are necessary.

Comment Number: 13-38

Based on the foregoing General and Specific Comments enlisted above, the Task Force finds the subject Draft EIR deficient in the areas listed.

Pursuant to Chapter 3.67 of the Los Angeles County Code and the California Integrated Waste Management Act of 1989 (Assembly Bill 939 [AB 939], as amended), the Task Force is responsible for coordinating the development of all major solid waste planning documents prepared for the County of Los Angeles and the 88 cities in Los Angeles County with a combined population in excess of ten million. Consistent with these responsibilities and to ensure a coordinated, cost effective, and environmentally sound solid waste management system in Los Angeles County, the Task Force also addresses issues impacting the system on a countywide basis. The Task Force

membership includes representatives of the League of California Cities-Los Angeles County Division, County of Los Angeles Board of Supervisors, City of Los Angeles, the waste management industry, environmental groups, the public, and a number of other governmental agencies.

CalRecycle Response:

The commenter provides an overview of the Los Angeles County Solid Waste Management Committee/Integrated Waste Management Task Force. This comment does not pertain to the contents of the EIR. No further response is required.

**Comment Author: Placer County Air Pollution Control District,
September 13, 2019**

Comment Number: 14-1

This comment contains tables that do not meet accessibility requirements. For fully accessible versions of the tables presented in this comment, please see Appendix D.

The Placer County Air Pollution Control District (District) thanks you for the opportunity to review and comment on the Draft Environmental Impact Report (DEIR) prepared for the Statewide Adoption of Regulations for Short-Lived Climate Pollutants (SLCP): Organic Waste Methane Emission Reduction. The District has the following comments on the Program’s DEIR for your consideration.

1. In Appendix A: Criteria Air Pollutant Thresholds of Significance and Attainment Designations, the CEQA Threshold of Significance for operational PM₁₀ in the Placer County APCD is listed as 55 lb/day. The District’s CEQA Threshold for operational PM₁₀ should be listed as 82 lb/day, as is described in the District’s CEQA Handbook and listed below:

Criteria Pollutant Thresholds

Construction Phase		
ROG	NOx	PM10
(lbs/day)	(lbs/day)	(lbs/day)
82	82	82
Operational Phase Project Level		
ROG	NOx	PM10
(lbs/day)	(lbs/day)	(lbs/day)
55	55	82
Operational Phase Cumulative Level		
ROG	NOx	PM10
(lbs/day)	(lbs/day)	(lbs/day)
55	55	82

2. In Appendix A: Criteria Air Pollutant Thresholds of Significance and Attainment Designations, the reference link provided for the District (<http://www.placerair.org/landuseandceqa/ceqathresholdsandreviewprinciples>) is incorrect. The correct link for the District's referenced webpage is: <https://placerair.org/1804/CEQA-Thresholds>.

CalRecycle Response:

The commenter states that the CEQA threshold of significance for operational PM₁₀ for the Placer County Air Pollution Control District (APCD) that is included in Appendix A of the Draft EIR should be corrected to 82 pounds per day (lb/day), not 55 lb/day. The commenter also suggests replacing the website link referenced (<http://www.placerair.org/landuseandceqa/ceqathresholdsandreviewprinciples>) be replaced with the correct link (<https://placerair.org/1804/CEQA-Thresholds>).

The commenter is correct and the text has been revised in this final environmental document to update the threshold of significance for operational PM₁₀ and to update the reference for the Placer County APCD website. These changes are presented below and in Chapter 3, "Corrections and Revisions to the Draft EIR," of this Final EIR. The correction does not alter the conclusions with respect to the significance of any environmental impact.

In response to this comment, the cell in the 24th row and 7th column of the "CEQA Thresholds of Significance (Criteria Air Pollutants)" table in Appendix A of the Draft EIR has been revised as follows:

5582 lb/day

Also, in response to this comment, the following change was made to the references listed on the fifth page of Appendix A:

PCAPCD. 2016. Placer County Air Pollution Control District Policy Review of Land Use Projects Under CEQA. Available: <https://placerair.org/1804/CEQA-Thresholds><http://www.placerair.org/landuseandceqa/ceqathresholdsandreviewprinciples>. Accessed January 2019.

Comment Author: Recology, Inc., September 13, 2019

Comment Number: 15-1

Recology, Inc. would like to thank you for the opportunity to provide comments on the SB 1383 Short Lived Climate Pollutants Draft Environmental Impact Report (DEIR) published July 30, 2019. As a 100% employee-owned company, Recology manages recycling, organic waste and solid waste collection, processing and disposal services for nearly 100 urban, suburban, and rural communities in California. Recology supports the Department's efforts to implement the collection and recycling of organic material state-wide to meet the increased diversion goals in SB 1383.

CalRecycle has noted, in the DEIR and other documents supporting the proposed regulation, that new or revised entitlements for almost 200 compost and anaerobic digestion facilities will be needed to meet the State's SLCP goals. In our experience, compost facility design and operation is prescribed less by operational requirements than by permit conditions, particularly those from the LEA/CalRecycle, the local land use authority, the local air district, and the SWRCB. The cost of compliance with each of these permits is a significant portion of the capital needed to start up a facility as well as the ongoing operational costs for the facility (e.g., maintaining equipment, recordkeeping, and reporting). As such, it is critical that the program-level environmental document accurately describe and justify the mitigation measures it recommends for implementation at the local level.

Our comments focus on the Air Quality section of the DEIR.

CalRecycle Response:

The commenter provides introductory remarks and expresses general support for CalRecycle's efforts to implement collection and recycling for organic material on a statewide basis. See responses to comments 15-2 through 15-3.

Comment Number: 15-2

Operational Emissions

- Is CalRecycle going to publish standardized emission factors for different organics management processes?
- There is language in the DEIR that suggests that VOC emissions will decrease in well managed compost facilities relative to landfills. If "the amount of VOC emissions generated at a well-managed composting process is between 60 and 92 percent less than that generated when organic material degrades on its own," (p. 3.3-10), is it possible to develop a VOC offset strategy to address the transfer and reduction of emissions from landfills to compost facilities? Why are ROG emissions not listed in Table 3.3-3?
- Page 3.3-17 states that "operation of organic waste recovery facilities under the proposed regulation would result in reductions of ROG, NO_x, PM₁₀, and PM_{2.5} associated with the diversion of organic materials from landfills to facilities with the capacity to implement strategies to reduce such emissions." It is not clear to which strategies this statement refers, particularly because the mitigation measures in this section are either compliance-based (compliance with NSR) or refer to anaerobic digestion facilities only.
- Mitigation Measure 3.3-4 is overly prescriptive and not relevant to all facility types. Clarify that project-level permitting authorities may require these or other measures. For example, use of electric equipment should only be required where there are project-level impacts associated with use of combustion engines. The final bullet point should be revised to read "Project proponents of anaerobic digestion facilities

shall utilize renewable natural gas to power their on-road vehicles accessing the proposed project site.”

CalRecycle Response:

The commenter asks if CalRecycle is going to publish standard emissions factors for organic waste management facilities. CalRecycle will not be publishing emission factors for organic waste recovery facilities. This is outside of the scope of the proposed regulation and does not need to be included in the EIR.

The commenter also requests inclusion of ROG emissions data in Table 3.3-3.

With respect to a VOC offset strategy, CalRecycle does not have the rule-making authority to create offset strategies. Development of a VOC offset strategy would be under the jurisdiction of CARB and/or the local air districts. The commenter also asks why existing and future ROG was not estimated or summarized in Table 3.3-3. Unlike NO_x and PM_{2.5}, ROG estimates, particularly at this programmatic level, would be difficult to predict with a high level of accuracy due to inherent uncertainties surrounding the methodology, assumptions, and emissions factors for ROG. ROG encompasses a wide range of molecules with differing degrees of reactivity, unlike NO_x which is composed of nitrogen oxide and nitrogen dioxide only. On Page 3.3-10 of the Draft EIR, the second paragraph under the heading, “Ozone,” CalRecycle cites a 2007 study that indicates “that the amount of VOC emissions generated at a well-managed composting process is between 60 and 92 percent less than that generated when organic material degrades on its own” (Buyuksonmez and Evans 2007:191–199). This study constitutes substantial evidence pursuant to State CEQA Guidelines Section 15384(a) and is used to qualitatively conclude that ROG emissions, including VOCs, would be reduced through implementation of the proposed regulation. The absence of ROG estimates in Table 3.3-3 does not affect the validity of the analysis or significance conclusion and no changes to the Draft EIR are required in response to this comment.

The commenter notes that the Draft EIR is unclear about what strategies would be used to reduce emissions of ROG, NO_x, and PM under the proposed regulation. These strategies are in reference to the operational activities of organic waste recovery facilities. For example, a component of a well-managed compost facility includes periodic turnover of compost to aerate materials, which reduces emissions of criteria air pollutants and methane, as discussed in the first paragraph on page 3.8-17 of the Draft EIR. Another example of a strategy that would reduce emissions would be the collection of biogas at an AD facility, which would result in reduction of VOCs from the capture of methane. In response to this comment, and to provide clarity, the last paragraph on page 3.3-17 of the Draft EIR is revised as follows:

Operation of organic waste recovery facilities under the proposed regulation would result in reductions of ROG, NO_x, PM₁₀, and PM_{2.5} associated with the diversion of organic materials from landfills to facilities, ~~with the capacity to implement strategies to reduce such emissions~~ the operations of which would reduce such emissions such as the aeration of compost at composting facilities

and the collection of biogas at AD facilities. However, AD and composting facilities, and other organic waste recovery facilities, would also generate air pollution from the on- and off-road mobile sector. On-road vehicles (e.g., refuse and other collection trucks, commute-related automobiles) accessing organic waste recovery facilities would generate emissions of criteria air pollutants and precursors. New emissions could occur at AD and composting facilities either from diesel engine grinders, flaring of biogas, or both, which could contribute to an exceedance of an air quality standard. These emissions could surpass the applicable thresholds of significance of a local air district and lead to adverse health impacts related to exposure of criteria air pollutants. Therefore, operation-related air quality impacts would be **potentially significant**.

This change is also presented in Chapter 3, “Corrections and Revisions to the Draft EIR,” of this Final EIR. The change does not alter the conclusions with respect to the significance of any environmental impact.

Finally, the commenter asserts that Mitigation Measure 3.3-4 is overly prescriptive and not relevant to all facility types and recommends text edits to the measure are added to indicate that project-level permitting may be required for these measures. The first paragraph of Mitigation Measure 3.3-4 (page 3.3-27 of the Draft EIR) states:

As described in Section 1.2, “Purpose of this EIR,” the authority of CalRecycle and LEAs is statutorily limited. They do not have authority to include permit conditions regulating air quality. Lead agencies would evaluate a project’s operational emissions against the applicable threshold of significance developed by a lead agency and/or air district. In cases where these thresholds are exceeded, mitigation measures to reduce operation-related air pollutants can and should be implemented by local jurisdiction with permitting authority. Site-specific, project impacts and mitigation measures would be identified during a project’s local review process. A proposed project would be approved by a local government and/or the applicable air district as conditions of approval.

In addition, the post-significance conclusion discussion in the second paragraph on page 3.3-28 of the Draft EIR states that, “[t]he authority to review site-specific, project-level impacts and require project-level mitigation lies primarily with local land use and/or permitting agencies for individual projects.”

Thus, Mitigation Measure 3.3-4 indicates that site-specific project impacts would be identified by local jurisdictions, and mitigation measures would be developed during site-specific reviews. No changes to the document are necessary.

Comment Number: 15-3

Odors

- This impact discussion should recognize that CalRecycle, through the LEA, has significant authority over odor reduction at organics handling and processing facilities. While local land use agencies and air districts may have jurisdiction over

odors from organic material, Title 14 CCR Division 7 sets clear criteria for CalRecycle to oversee and enforce odor issues.

- To clarify that the bullet points listed in Mitigation Measure 3.3-5b are only “possible strategies” (p. 3.3-30), the mitigation measure should be revised to make clear that not all of the odor control strategies listed would be appropriate for all facilities. In particular, complete enclosure with negative pressure systems should only be implemented in high-volume facilities with especially odiferous material (like biosolids) or where climatological conditions create extreme odor issues.

The following revisions are suggested:

- “...shall develop an Odor Management plan that includes odor control strategies similar to those that would be included in an OIMP.

For all facilities, the following strategies shall be implemented:

- o Prepare a list of potential odor sources.
- o Identify and describe the most likely sources of odor.
- o Identify the potential for, probable intensity of, and frequency of odor from likely sources.
- o Identify a protocol for monitoring and recording odor releases.
- o Identify a protocol for reporting and responding to odor releases.

Where required, the following possible strategies may be implemented:

- o Prepare a list of odor control technologies and management practices that could be implemented to minimize odor releases. These management practices ~~shall~~ **may** entail the establishment of, but ~~shall~~ **should** not be limited to, the following criteria:
- o Require that substrate hauled to facilities is within sealed containers.
- ~~o Provide enclosed, negative pressure buildings for indoor receiving and preprocessing.~~
- o **Where necessary**, treat collected odiferous air in a biofilter or air scrubbing system.
- o Establish a time limit for on-site retention of undigested substrates (~~e.g., substrates must be digested within 24 hours of reaching a site~~) **that is consistent with the timelines established in Title 14 CCR Division 7.**
- o Combine organic feedstocks with coarse, dry building amendments to aerate feedstock.
- o Blend fresh organic feedstocks with finished compost, or apply a compost blanket of finished compost to fresh piles.

- o Manage the delivery schedule to facilitate the prompt handling of odorous substrates.
- o Handle digestate within enclosed buildings and/or directly pump it to sealed containers for transportation.
- ~~o Identify a protocol for monitoring and recording odor releases.~~
- ~~o Identify a protocol for reporting and responding to odor releases.~~

CalRecycle Response:

The commenter states that the impact discussion should recognize that CalRecycle, through the LEA, has authority over odor reduction at organics handling and processing facilities. This is discussed under Impact 3.3-5, “Exposure of Sensitive Receptors to Odors.” As described in this impact (second paragraph on page 3.3-29 of the Draft EIR):

As discussed above in the “Regulatory Setting” section, an Odor Impact Minimization Plan (OIMP) serves to minimize odor impacts from stationary sources and is required for all compostable materials handling operations and facilities. OIMPs would apply to composting facilities expanded or constructed under the proposed regulation. An OIMP must identify nearby sensitive receptors; characterize meteorological conditions; evaluate the efficacy of on-site, odor-reducing management practices; identify compliance protocol; and provide detailed discussion of the type and amount of feedstock materials treated at the composting facility. The management and certification of OIMPs are overseen by CalRecycle-delegated LEAs, which typically are a city or county environmental health office.

This discussion adequately addresses CalRecycle’s odor reduction authority.

The commenter requests that Mitigation Measure 3.3-5b be revised to clarify that not all of the odor control strategies listed would be appropriate for all facilities. The commenter also suggests edits to Mitigation Measure 3.3-5b, consisting of deleted text and changing some wording. Mitigation Measure 3.3-5b provides a series of, “odor control strategies similar to those that would be included in an [Odor Impact Minimization Plan],” then lists “possible strategies,” for inclusion (first paragraph under Mitigation Measure 3.3-5b on page 3.3-30 of the Draft EIR). This indicates that the mitigation measures provided are recommendations and local agencies would not be required to include each topic listed. This is further indicated through statements in the post-mitigation significance discussion for Impact 3.3-5 (second paragraph under subheading, “Significance after Mitigation,” on page 3.3-31 of the Draft EIR), as follows:

[t]he authority to review site-specific, project-level impacts and require project-level mitigation at other organic waste recovery facilities besides compost and AD lies primarily with local land use and/or permitting agencies for individual projects. Consequently, although it is reasonable to expect that impacts would be reduced to a less-than-significant level by land use and/or permitting agency

conditions of approval, the degree to which another agency would require mitigation is uncertain.

Thus, Mitigation Measure 3.3-5b appropriately provides recommendations for actions that would reduce odor at compost and AD facilities, without providing directives that cannot be enforced by CalRecycle and should be related to the conditions of individual facilities. No changes to the document are necessary.

**Comment Author: Rural County Representatives of California,
September 13, 2019**

Comment Number: 16-1

On behalf of the Rural County Representatives of California (RCRC), I am writing to provide comments on the Draft Programmatic Environmental Impact Report (PEIR) for the SB 1383 Regulations Short-Lived Climate Pollutants (SLCP): Organic Waste Methane Emission Reduction.

RCRC is an association of thirty-seven rural California counties, and the RCRC Board of Directors is comprised of an elected supervisor from each of those member counties. In addition, twenty-four member counties have formed the Rural Counties' Environmental Services Joint Powers Authority (ESJPA) to provide assistance to solid waste managers in rural counties. These solid waste managers have been charged with ensuring that their respective counties meet state-imposed requirements to reduce waste being disposed in landfills and increase recycling/re-use efforts for certain products. Our counties' solid waste managers are dedicated to providing meaningful, environmentally conscious, and cost-effective solid waste services to their residents and businesses.

RCRC understands there are many environmental issues that cannot be addressed in this PEIR since the authority to review site-specific, project-level impacts and require project-level mitigation lies primarily with local land use and/or permitting agencies for individual projects. However, there are several impacts resulting from the proposed regulations that were not addressed adequately in the draft PEIR. The key issues of concern are listed below with more detailed explanations and include Biological resources, air quality, traffic, and alternatives.

CalRecycle Response:

The commenter provides introductory remarks, background information on RCRC, and identifies key issues of concern as those related to biological resources, air quality, traffic, and alternatives. See responses to comments 16-2 through 16-6.

Comment Number: 16-2

Potential New and/or Expanded Composting and Anaerobic Digester Facilities

The Project Description is inaccurate. There are currently more than 160 permitted compost facilities and over a dozen anaerobic digesters throughout the state. Under the Project Description, the draft PEIR anticipates 108 new and/or expanded compost

facilities and 61 new and/or expanded anaerobic digesters, with all but six anticipated to be built by 2025. This is not a realistic expectation. The draft PEIR should include a review of what can reasonably be expected to be built in the next five years and a timeframe for buildout, given permitting and economic challenges.

Additionally, Table 2.3 estimates the potential new and/or expanded composting and anaerobic digester facilities by air basin, with over half allotted to the South Coast and San Francisco Bay air basins. That number jumps to 83 percent of the compost facilities when adding in the San Joaquin, San Diego and Sacramento Valley air basins. With so few expected new facilities in the remainder of the state in the low-density areas, how viable and feasible would implementation of the proposed regulation be for those areas? Considering the distances to access these few facilities serving vast territories and the amount of organic waste generated in these low-density areas, it warrants evaluation of alternative feasible programs.

CalRecycle Response:

The commenter states that the number of assumed new or expanded facilities is incorrect. The EIR analyzes the environmental impacts associated with the development of a reasonable number of facilities that could be foreseen and needed to achieve the regulation's objective of meeting the statutory organic waste reduction targets in the timeline required by law. The figure is presented as a reasonably foreseeable compliance response to assess and disclose the potential environmental impacts associated with the project. Per statute, the proposed regulations (i.e., the project) must be designed to achieve specific reduction targets (e.g., disposal of no more than 5.7 million tons of organic waste by 2025). Therefore, the scenario presented in the environmental analysis of the project reflects a scenario where compliance with the statutory requirements is achieved. Facility development and growth slows after 2025 under CalRecycle's projections, as the only new facilities that are required to be developed after 2025 are those necessary to maintain disposal levels under 5.7 million tons annually.

The second comment is directed at regulatory concepts in the underlying rulemaking. Comments on the substance of the regulations should be made during the appropriate comment periods during the formal rulemaking process under the APA.

Comment Number: 16-3

Biological Resources Analysis

Implementation of the proposed regulation has the potential to create a significant negative impact on wildlife, particularly the black bear. The draft PEIR fails to address the potential disruption of normal black bear behavior patterns by the residential collection of food waste. While the proposed regulation includes an exemption for residential food waste collection at elevations above 4,500 feet, there are bear populations well below 4,500 feet and there is not a provision to allow a jurisdiction to request an exemption for those areas. In one foothill county, the USDA trapper indicated that the primary cause of human-bear conflicts is improper storage of human food and garbage. By separating and concentrating food waste and food soiled paper, a

potential bear feeding station is being created in the middle of populated areas. Habituated and food conditioned bears can do a considerable amount of property damage and tend to spread garbage while feeding. This can also lead to habituation of other animals, such as coyotes, raccoons, and skunks. Bears have the potential to become threats to public safety, which can lead to the destruction of the bear.

CalRecycle Response:

CalRecycle disagrees with the suggestion that the regulation has the potential to create a significant negative impact on wildlife as articulated in the comment. The commenter incorrectly assumes that the regulations require separating and concentrating food waste and food soiled paper in the middle of populated areas. This appears to be based on an interpretation that the collection aspects of the regulations require source separation of food waste and food soiled paper. This interpretation of the regulations is incorrect. In addition to a source-separated three-container collection service, the regulations allow a jurisdiction to implement a single container service or a two container service. In the single and two container service options, food waste and food soiled-paper can be commingled with other garbage and “separating and concentrating food waste and food soiled paper” is not required, as the commenter suggests. If a jurisdiction elects to implement a single or two-container service, the collection service must meet subsequent organic content recovery standards. This allows jurisdictions to continue the use of single and two container collection services if they believe circumstances, such as bear populations, warrant such an approach.

Further, CalRecycle understands that waste collection services provided in areas prone to human bear encounters typically deploy, and in some cases require the use of, bear boxes in waste collection areas (such as in Title 8, Chapter 8.76, “Bear-Proof Garbage Can Requirements,” of the El Dorado County Ordinance Code). Bear boxes are bear-resistant waste containers and/or bear-resistant enclosures that waste containers are placed in. This is a measure these communities employ to eliminate or minimize the risk of contact between humans and bears. The use of bear boxes in bear-populated areas for waste containers (which, it is inferred from the comment do not currently “concentrate and separate food waste”), is evidence that food waste already attracts bears in these communities under their current collection process, contradicting the suggestion that “concentrating and separating” food would create a new environmental impact. CalRecycle again reiterates that source-separated collection of food waste is not a requirement of the project. However, even if it were, it is unclear why existing bear boxes used in the jurisdictions represented by the commenter could not be used for a source-separated collection service. The cubic yard capacity of two containers that currently fit in a bear box could conceivably be divided into three containers that fit in an existing bear box, or a bear box enclosure could be expanded to include an additional container. Finally, with respect to organic waste collection, the regulations specifically allow a jurisdiction to authorize a generator to self-haul organic waste that they generate, which could obviate the need for collection services in area populated with bears.

Finally, the commenter notes that the food waste collection waivers are limited to elevations above 4,500 feet. While that is true, the commenter ignores the fact that the low-population density waivers provided in the proposed regulation allow jurisdictions with low populations and low waste generation, as well as census tracts with less than 75 people per square mile, to be exempt from the entirety of the collection requirements (including the food waste collection requirements). The waivers allowed in the regulations virtually allow the entirety of the “American Black Bear Range” in California, as currently identified by the California Department of Fish and Wildlife (CDFW 2019), to be exempt from the organic waste collection requirements.

See also response to comment 9-3.

Comment Number: 16-4

Air Quality Analysis

While landfills account for one-fifth of statewide methane emissions, according to the 2017 Climate Change Scoping Plan the waste management sector emitted 8.85 MMTCO_{2e} in 2014, comprising approximately 2 percent of the State’s GHG emissions. Since landfill emissions account for 94 percent of the emissions in this sector, landfills emitted approximately 8.32 MMTCO_{2e} in 2014, comprising approximately 1.88 percent of the State’s GHG emissions. The draft PEIR does not analyze the air quality impacts in context with statewide emissions, especially as it pertains to rural areas.

The draft PEIR states that because of the uncertainty surrounding operation-related emissions, the levels of mobile-source criteria air pollutants and precursor emissions associated with activities covered under the proposed regulation are not quantified in the draft PEIR. Yet, the traffic analysis concludes that the proposed regulation would have an increase in vehicle miles traveled (VMT). It lacks any modeling for GHG emissions and does not include an Air Quality Appendix with data to support the conclusion that there is an air quality net benefit.

RCRC believes a life-cycle analysis detailing the modeling and data needs to be included to substantiate the statement. Subsequently, the net benefit needs to be viewed in context of statewide emissions and goals.

CalRecycle Response:

The commenter states that the GHG analysis was not performed in a statewide context and does not consider statewide goals. Impact 3.8-1 in the Draft EIR discusses the proposed regulation’s consistency with applicable statewide plans to reduce GHGs, including California’s 2017 Climate Change Scoping Plan (2017 Scoping Plan), the SLCP Reduction Strategy, and the 2030 Draft Natural and Working Land Climate Change Implementation Plan. In this discussion, the proposed regulation is shown to be consistent with statewide GHG reduction goals as mandated by Assembly Bill 32 and Senate Bill 32 (discussed on Page 3.8-2 of the Draft EIR).

The commenter also states that no modeling of GHG emissions were conducted for the proposed regulation. As explained under the “Methodology” heading of Section 3.8, “Greenhouse Gas Emissions and Climate Change,” on Page 3.8-9, the Draft EIR does

not attempt to quantify the GHG emission increase from increased VMT nor does it quantify reductions achieved from the proposed regulation. See Master Response 1, “Adequacy of the GHG Analysis,” for additional information regarding the methodology surrounding the GHG analysis prepared for the proposed regulation.

See response to comment 18-1 regarding life-cycle analysis.

No changes to the Draft EIR are required in response to this comment.

Comment Number: 16-5

Traffic Analysis

RCRC agrees with the statement in the draft PEIR that the post-recovery activities would be reasonably expected to increase vehicle trips within the state and, therefore, vehicle miles traveled (VMT). However, we disagree that collection modifications and delivery to recovery facilities would not substantially change the amount of travel needed. Under the proposed regulation, there will be increased VMT as a result of collection modifications and increased monitoring requirements both from the increased volume of vehicles needed to haul organics away, route audits, and additional staff needed for the gray cart characterizations at transfer/processing and landfills. In addition, while the amount of organic waste delivered to landfills would be reduced, the materials would instead be transported to a compost facility, AD facility, a recycling center, a biomass conversion facility, or a food recovery center, thus also increasing VMT. The draft Programmatic EIR lacks any modeling of the reasonably anticipated changes in traffic patterns and VMT as a result of the proposed regulation.

The draft PEIR states that “the influence of the proposed regulation on changes to transportation would vary across the state, depending on the nature of new and existing disposal reduction programs and the location of new or expanded organic waste recovery facilities relative to their current route of travel.” But there is no evaluation or comparison of the impacts of implementing the regulation uniformly throughout the state relative to urban versus rural areas of the state. The draft PEIR could evaluate reasonably expected ranges or examples in the different areas of the state.

While recognizing the expectation of increased travel, the traffic analysis in the draft PEIR does not attempt to quantify the VMT increase due to the uncertainty of the location of new and expanded organic waste recovery facilities and the locations of where rescued food and finished compost and renewable fuels would be distributed. However, the report then dismisses the associated increase in mobile source emissions associated with the projected VMT increases compared to emissions reduction benefits associated with the reduction in disposal of organic waste. It further states the “anticipated reductions reasonably expected from the proposed regulation would be much greater than the increment of increased emissions from local travel increases.” Yet, there is no data to substantiate this conclusion.

CalRecycle Response:

The commenter requests additional information related to the VMT analysis. See Master Response 2, “Adequacy of the VMT Analysis.”

Comment Number: 16-6

Adequacy of Alternatives

RCRC believes that the alternatives analysis in the draft PEIR is inadequate. First, it rejected certain alternatives from further evaluation that could be considered as part of an alternative proposal without adequate justification. Second, we believe that a viable alternative not considered or discussed in this document could be a more flexible program allowing jurisdictions the ability to select programs suitable to their area that recognize the economic and logistical challenges of organic waste recycling. As stated in the draft PEIR, "State CEQA Guidelines Section 15126.6(c) states that the range of potential alternatives for the project shall include those that could feasibly accomplish most of the basic objectives of the project and could avoid or substantially lessen one or more of the significant effects."

Two of the rejected alternatives could be considered as part of a new alternative: the use of undersink disposers and more efficient landfill gas collection systems. However, instead of being requirements, these could be added to a suite of programs a jurisdiction could choose from to achieve the state's GHG emission reduction goals.

The undersink disposer was rejected as an alternative for several reasons, including that not all wastewater treatment systems have capacity for handling additional undersink disposers and that although food waste makes up a substantial portion of the organic waste stream, reducing food waste disposal is not the sole objective of the statute. However, the SB 1383 Infrastructure and Market Analysis indicates there is excess capacity in WWTPs, and this is included in part of the four million tons of current excess capacity available for use. The draft PEIR points out that the use of undersink disposers takes advantage of existing wastewater infrastructure and treatment capabilities to transport and treat food waste, could reduce transportation costs and related statewide vehicle miles traveled (VMT) associated with the proposed regulation, would reduce the number of new or expanded organic waste recovery facilities that would be needed and the associated impacts on the state's natural landscape, and would also be expected to reduce the potential for additional people to be exposed to odors related to new facility development. This alternative does not have to be a stand-alone option and should be considered in combination with other programs; each jurisdiction should be able to review feasible options that fit their needs and existing infrastructure.

Similarly, the more efficient landfill gas collection system is not appropriate as a stand-alone alternative. Not all jurisdictions have a landfill, and those that do may already have landfill gas collection systems in place. But that is not to say that there could be landfill gas collection system improvements that some jurisdictions could employ that would effectively reduce the GHG emissions from the landfills. A jurisdiction should be able to review feasible options that fit their needs and existing infrastructure.

RCRC recommends a new alternative be considered that provides flexibility with a suite of options of various programs a jurisdiction could select from that are tailored to the needs and infrastructure available to the jurisdiction. The intent of the new alternative is

to provide jurisdictions the incentive to engage communities to implement robust organic waste programs to minimize organic waste being landfilled.

CalRecycle Response:

The comment pertains to the alternatives evaluated in the Draft EIR. See Master Response 3, “Adequacy of the Alternatives Analysis.”

**Comment Author: San Joaquin Valley Air Pollution Control District,
September 13, 2019**

Comment Number: 17-1

The San Joaquin Valley Unified Air Pollution Control District (District) has reviewed the Draft Program Environmental Impact Report (DPEIR) referenced above consisting of implementation of SB 1383 (Lara, Chapter 395, Statutes of 2016) and the Short-Lived Climate Pollutant (SLCP) Reduction Strategy (Project). The SLCP Reduction Strategy requires immediate reductions of the most potent GHGs, and is expected to provide 35 percent of the GHG emission reductions needed to meet the State’s 2030 targets (as established in SB 32, Pavley, Chapter 249, Statutes of 2016). As it pertains to CalRecycle, SB 1383 establishes targets to achieve 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 law requires CalRecycle to adopt regulations designed to achieve the organic waste disposal reduction targets. The law also directs CalRecycle to include provisions in the regulations designed to achieve a target that at least 20 percent of the amount of edible food currently disposed of is recovered for human consumption by 2025. The Project applies to all new or expanding organic waste facilities within California.

The District provides the following comments:

1. Operational Mobile Emissions – Transportation of Organic Waste Materials

The DPEIR identifies significant and unavoidable air quality impacts associated with implementation of SB 1383, and the future new or expanding organic waste facilities within the scope of the Project would also have a significant and unavoidable impact on air quality.

The District faces unique challenges due to the features of the San Joaquin Valley Air Basin. There are two major arteries within the San Joaquin Valley, Highway 5 and Highway 99, which include a high volume of Heavy Duty Truck travel through the San Joaquin Valley. Motor vehicles are the largest source of air pollution in the San Joaquin Valley Air Basin and make up over 85% of the Valley’s NOx emissions, the primary driver in the formation of ozone and PM2.5 emissions. The District is currently designated as extreme nonattainment for the federal 8-hour ozone standards; nonattainment for the PM2.5 standards, and designated as nonattainment for the state 8-hour ozone, PM10, and PM2.5 standards.

Due to these challenges, the District recommends that all efforts be made to not bring additional organic waste material and associated transportation-related emissions into the San Joaquin Valley.

- a. For future new or expanding organic waste facilities that involve transport of organic waste materials into the San Joaquin Valley from locations outside of the San Joaquin Valley, future projects shall demonstrate the necessity to transport organic waste into the San Joaquin Valley through a detailed explanation and analysis. This demonstration should be part of the lead agency's CEQA environmental review process for each future, new or expanded organic waste facility. As such, the DPEIR should be revised to include a requirement for a demonstration of necessity.
- b. In the event organic waste material being transported from outside the San Joaquin Valley to new or expanded organic waste facilities within the San Joaquin Valley, the analysis for each project should include quantification of mobile source criteria pollutant emissions, and assess emissions increases such as those from additional Vehicle Miles Traveled (VMT). All new transport into the San Joaquin Valley is considered an increase in emissions.

For organic waste material generated within the San Joaquin Valley and transported to new or expanded facilities in the San Joaquin Valley, the analysis for such project should include quantification of pre- and post-project mobile source criteria pollutant emissions to determine if there is an increase in VMT and mobile source-related emissions.

In both cases, for all increases in mobile source emissions, such as those resulting from an increase in VMT, the facility owners and/or operators shall be required to use of zero-emissions or near-zero-emissions heavy duty trucks. Therefore, the DPEIR should be revised to include a requirement that project-specific criteria pollutant emissions be quantified, and that owners and/or operators be required to use zero-emissions or near-zero-emissions heavy duty trucks for all transport related increases in emissions resulting from new or expanded facilities.

- c. In case the EIR concludes that the Project will result in increased in criteria pollutant emissions related to transportation (mobile sources), such emission increases should be fully mitigated to net zero via implementation of a Voluntary Emission Reduction Agreement (VERA) with the District. VERAs are designed to provide developers with an enforceable and legally defensible means to mitigate significant emission increases. A VERA is a mitigation measure by which the project proponent provides pound-for-pound mitigation of air emissions increases through a process that funds and implements emission reduction projects, which are administered through the District's emission reduction incentive grant programs. A VERA can be implemented to address air quality impacts from both construction and operational phases of a project. The emission reductions secured through VERAs are "surplus" of existing regulations, achieving reductions contemporaneously with the emissions increases caused by a project.

Funding provided by the project proponent is reinvested in the Valley to reduce emissions. Utilizing the District's highly successful emission reduction incentive grant administration program, the funds generated under VERAs are awarded to Valley businesses, residents, and municipalities to generate real quantifiable reductions in emissions.

Because the District quantifies and enforces the emission reductions generated by the VERA program, the District will certify that the project proponent has mitigated a specific target of emissions increases caused by the construction and operation of a development project, adding a level of defensibility to the use of VERAs as California Environmental Quality Act (CEQA) mitigation.

VERAs have been found to be a feasible mitigation measure under CEQA. As such, the District is requiring VERA mitigation be implemented by all future new or expanding organic waste facilities within the scope of this DPEIR. To assist the Lead Agency and project proponent(s) with CEQA compliance, the District recommends the DPEIR be amended to require a VERA as a measure to mitigate all mobile source emissions associated with these projects.

In conclusion, the DPEIR should be revised to include a requirement that any increase in the project-specific criteria pollutant emissions from mobile sources be fully mitigated to net zero via implementation of a VERA with the District.

CalRecycle Response:

The commenter offers a summary of the proposed regulation and characterizes the unique air quality challenges of the San Joaquin Air Basin (SJAB). The commenter recommends that the Draft EIR be revised to include a "necessity" requirement to minimize the potential for the introduction of new transportation emissions to the SJAB. The commenter indicates that in cases where new VMT is introduced to the SJAB, this level of VMT needs to be quantified in addition to the level of criteria pollutants and ozone precursors associated with this VMT. The commenter recommends changes to Mitigation Measure 3.3-2, which are reflected below.

In response to this comment, the following text changes have been made to Mitigation Measure 3.3-2 on Page 3.3-23 of the Draft EIR:

The following mitigation measures can and should be required by agencies with project approval authority to avoid or minimize impacts on operation-related air pollutants.

- Project proponents shall comply with the [Clean Air Act] and [Clean Air Act Amendments of 1990] (e.g., New Source Review and Best Available Control Technology criteria, if applicable).
- Project proponents shall comply with local plans, policies, ordinances, rules, and regulations regarding air quality–related emissions and associated exposure (e.g., indirect source review, vehicle idling limitations, and payment into off-site mitigation funds).

- Project applicants shall establish a requirement pertaining to the use of biogas for electricity and facility-related vehicles.
- Project applicants shall establish a maximum rate at which flaring may occur at a facility.
- Project applicants whose projects would generate criteria pollutants and ozone precursors in exceedance of an applicable threshold shall conduct air dispersion modeling if feasible.
- Project applicants whose projects would introduce substantial transportation emissions to an air basin or county in nonattainment for any of the NAAQS or CAAQS shall:
 - quantify mobile-source emissions of criteria air pollutants and ozone precursors,
 - prepare a report demonstrating the necessity of such transportation activity,
 - require the use of zero or near-zero on-road heavy-duty trucks that access future facilities, and
 - prepare a Voluntary Emissions Reduction Target (VERA) with the applicable district.

This change is also presented in Chapter 3, “Corrections and Revisions to the Draft EIR,” of this Final EIR. The change does not alter the conclusions with respect to the significance of any environmental impact.

The additional mitigation measures would ensure that lead agencies overseeing project-level environmental review of future projects constructed and operated under the proposed regulation would reduce emissions to less-than-significant levels. The added mitigation provides more specific methods to reduce emissions and facilitates project proponent coordination with local air districts. The addition of these mitigation measures would not change the significance determination of Impact 3.3-2. The impact remains significant and unavoidable. No further response is required for this comment.

Comment Number: 17-2

2. Health Risk Assessments

The District recommends all proposals for new or expanding organic waste facilities include a Health Risk Assessment.

A Health Risk Assessment identifies potential Toxic Air Contaminant (TAC) impacts on surrounding sensitive receptors such as hospitals, daycare centers, schools, work-sites, and residences. TACs are air pollutants identified by the Office of Environmental Health Hazard Assessment/California Air Resources Board (OEHHA/CARB) (<https://www.arb.ca.gov/toxics/healthval/healthval.htm>) that pose a

present or potential hazard to human health. A common source of TACs can be attributed to diesel exhaust emitted from both mobile and stationary sources. TACs generated from proposed projects must be identified and quantified.

The District recommends that future proposals for new or expanding organic waste facilities, including mobile sources increases, be evaluated for potential health impacts to surrounding receptors (on-site and off-site) resulting from ongoing operational and multi-year construction TAC emissions.

- i) The District recommends conducting a screening analysis that includes all sources of emissions. A screening health risk analysis is used to identify projects which may have a significant health impact. A “prioritization,” using CAPCOA’s updated methodology, is the recommended screening method. A prioritization score of 10 or greater is considered to be significant and a refined Health Risk Assessment (HRA) should be performed. The District’s prioritization calculator can be found at:
http://www.valleyair.org/busind/pto/emission_factors/Criteria/Toxics/Utilities/PRIORITIZATION%20RMR%202016.XLS.

Please contact the District for assistance with the prioritization analysis.

- ii) The District recommends a refined HRA for proposed new or expanding organic waste facilities that result in a prioritization score of 10 or greater. It is recommended that the project proponent contact the District to review the proposed modeling protocol. Future projects would be considered to have a significant health risk if the HRA demonstrates that the project related health impacts would exceed any of the following District significance thresholds: 20 in a million for carcinogenic risk, 1.0 for the Acute Hazard Index, or 1.0 for the Chronic Hazard Index. The District recommends that future new or expanding facilities that result in a significant health risk not be approved.

More information on toxic emission factors, prioritizations and HRAs can be obtained by:

- E-Mailing inquiries to: hramodeler@valleyair.org, or
- Calling the District at: (559) 230-6000, or
- Visiting the District’s website at:

http://www.valleyair.org/busind/pto/Tox_Resources/AirQualityMonitoring.htm

CalRecycle Response:

The commenter states that all new facilities should be required to prepare a Health Risk Assessment (HRA) for an evaluation of TAC impacts to sensitive receptors including schools, hospitals, day care facilities, and residences. The Draft EIR includes Mitigation Measure 3.3-4, which requires facilities, where appropriate, to conduct an HRA to evaluate the degree of health impacts associated with TAC exposure. CalRecycle recognizes that TAC impacts related to new organic waste recovery facilities would vary

depending on size, type, and location; therefore, CalRecycle does not recommend that all new facilities be required to conduct an HRA if a lead agency or air district finds it unnecessary. At this programmatic level of analysis, CalRecycle cannot determine where conducting an HRA would be appropriate.

The decision to conduct an HRA would be at the discretion of a local lead agency overseeing environmental review of a new or expanding organic waste diversion facility. CalRecycle cannot ensure that an HRA be conducted and takes the conservative approach of concluding a significant and unavoidable impact for Impact 3.3-4. Mitigation measures related to TAC exposure could be implemented by a local lead agency to reduce impacts to less-than-significant levels; however, implementation of project-level mitigation is beyond the purview of CalRecycle.

No changes to the Draft EIR are required in response to this comment.

Comment Number: 17-3

3. Ambient Air Quality Analysis

The District recommends future new or expanding organic waste projects include an Ambient Air Quality Assessment (AAQA).

An ambient air quality analysis (AAQA) uses air dispersion modeling to determine if emissions increases from a project will cause or contribute to a violation of the ambient air quality standards. The District recommends that an AAQA be performed for future new or expanding organic waste facilities if emissions exceed 100 pounds per day of any pollutant.

If an AAQA is performed, the analysis should include emissions from both project specific permitted and non-permitted equipment and activities. The District recommends consultation with District staff to determine the appropriate model and input data to use in the analysis. Specific information for assessing significance, including screening tools and modeling guidance is available online at the District's website www.valleyair.org/ceqa.

CalRecycle Response:

The commenter recommends that future organic waste recovery facilities that demonstrate emissions in exceedance of San Joaquin Valley Air Pollution Control District (SJVAPCD) thresholds be required to prepare an Ambient Air Quality Assessment (AAQA). In response to comment 17-1, edits have been made to Mitigation Measure 3.3-2 on Page 3.3-23 of the Draft EIR.

The additional mitigation measures would ensure that lead agencies overseeing project-level environmental review of future projects constructed and operated under the proposed regulation would consider implementing these measures to reduce emissions to less-than-significant levels. The added mitigation provides more specific methods to reduce emissions and facilitates project proponent coordination with local air districts. The addition of these mitigation measures would not change the significance

determination of Impact 3.3-2. The impact remains significant and unavoidable. No further response is required for this comment.

Comment Number: 17-4

4. District Rules and Regulations

This Project may also be subject to other District rules and regulations.

- Certain equipment operating at the individual sites may require District permits. Prior to the start of construction, the project proponent should contact the District's Small Business Assistance Office at (559) 230-5888 to determine if an Authority to Construct (ATC) is required.
- Individual facilities may also be subject to the following District rules: Regulation VIII, (Fugitive PM10 Prohibitions), Rule 4102 (Nuisance), Rule 4601 (Architectural Coatings), and Rule 4641 (Cutback, Slow Cure, and Emulsified Asphalt, Paving and Maintenance Operations). In the event an existing building will be renovated, partially demolished or removed, the project may be subject to District Rule 4002 (National Emission Standards for Hazardous Air Pollutants).
- The above list of rules is neither exhaustive nor exclusive. To identify other District rules or regulations that apply to future new or expanding organic waste facilities to obtain information about District permit requirements, the applicant is strongly encouraged to contact the District's Small Business Assistance Office at (559) 230-5888. Current District rules can be found online at: www.valleyair.org/rules/1ruleslist.htm.
- Referral documents (e.g. project proposals and related documents submitted to the District for review) for new or expanding facilities should include a project summary detailing, at a minimum, the land use designation, project size, and proximity to sensitive receptors and existing emission sources.

CalRecycle Response:

The commenter discusses and summarizes applicable rules and permitting requirements enforced by SJVAPCD including Regulation VIII, Rule 4102, Rule 4601, and Rule 4641. Future organic waste recovery facilities located within SJVAPCD's jurisdiction would be statutorily required to comply with relevant rules and permitting requirements including, but not limited to, those mentioned above.

No changes to the Draft EIR are required in response to this comment. This comment is noted for consideration by decision makers.

Comment Number: 17-5

5. Projects Impacting Disadvantaged Communities

Future new or expanding organic waste facilities may impact disadvantaged communities. Air districts and the California Air Resources Board (CARB) are

engaged in an effort to develop and implement emissions monitoring, reporting, and community emissions reduction programs to reduce air pollution exposure in disadvantaged communities. The District recommends that Lead Agencies under CEQA implement all feasible mitigation measures to avoid or minimize the environmental impact resulting from future new or expanding organic waste facilities on disadvantaged communities. The District also recommends that Lead Agencies evaluate additional opportunities to bring resources to further reduce project related emissions in those specific disadvantaged communities.

CalRecycle Response:

The commenter states that future new or expanded organic waste facilities may affect disadvantaged communities and recommends that lead agencies under CEQA implement all feasible mitigation measures to avoid or minimize air quality impacts. Section 3.3, “Air Quality,” of the Draft EIR contains a discussion of the potential construction-related and operational emissions associated with the proposed regulation. Mitigation measures are recommended; however, as discussed throughout the Draft EIR, authority to review site-specific, project-level impacts and require project-level mitigation lies primarily with local land use and/or permitting agencies for individual projects. Consequently, although it is reasonable to expect that impacts would be reduced to a less-than-significant level by land use and/or permitting agency conditions of approval, the degree to which another agency would require mitigation is uncertain. In cases where air emission thresholds are exceeded, mitigation measures to reduce construction-generated air pollutants can and should be implemented by local jurisdiction with permitting authority. Site-specific, project impacts and mitigation measures would be identified during a project’s local review process.

Comment Author: Sanitation Districts of Los Angeles County (original submittal 9/13/19; resubmitted with editorial correction on 9/16/19), September 13, 2019

Comment Number: 18-1

The Sanitation Districts of Los Angeles County (Districts) appreciate the opportunity to comment on CalRecycle’s Draft EIR for the Adoption of Regulations to Implement SB 1383 – SLCP Organic Waste Methane Emission Reduction Requirements which was released for a 45-day public comment period on July 30, 2019. We offer the following comments:

- A. General Comment – The EIR underestimates additional vehicle miles traveled (VMT), energy costs, air quality impacts, and traffic impacts that would result from diversion of organic waste from landfills. The EIR should have included a full-life cycle assessment of costs and environmental impacts as a result of potential increased transportation (more frequent waste collection and transportation of segregated waste to more remote processing facilities and end markets), energy demand from new processing facilities, and emission of greenhouse gases (GHG) and criteria pollutants due to organic waste diversion activities. The EIR neglected to provide a realistic assessment of the amount of methane that will be reduced from

diverting 75 percent of the organics from landfills. The analysis should account for the high gas collection efficiencies achieved by highly regulated California landfills (as discussed in further detail in item E below). In addition, a life cycle assessment should account for the carbon sequestration that occurs at municipal solid waste landfills. It is fully recognized that certain components of the municipal solid waste stream that contain lignin do not decompose (or fully decompose) in an anaerobic environment, thus, this carbon is sequestered. These components include yard waste, lumber, newspaper, some food waste scraps, etc. Accounting for sequestration of carbon in landfill inventories is encouraged by the International Panel on Climate Change, U.S. Environmental Protection Agency (EPA), and others. Some life cycle assessments that have been performed on landfills, when accounting for high landfill gas collection efficiencies and carbon sequestration, have shown that landfills can be carbon negative for GHGs .

CalRecycle Response:

The commenter generally states that the EIR underestimates additional VMT, energy costs, air quality impacts, and traffic impacts that would result from diversion of organic waste from landfills. The commenter continues to recommend that the EIR contain a life cycle assessment of costs and environmental impacts. As discussed in response to comment 6-2, the Draft EIR provides an environmental analysis for a broad program and evaluates the impacts at an appropriate degree of specificity. That is, the discussion of environmental impact is necessarily qualitative for VMT, energy, air quality, and traffic impacts.

With respect to air quality impacts, CalRecycle, in coordination with CARB, estimated the potential net difference between existing emissions from landfills continuing to operate under a business-as-usual or a without proposed regulation scenario and emissions from newly constructed AD, compost, and chip and grind facilities by air basin for 2030. Table 3.3-3 provides the relative change in emissions levels for NO_x and PM_{2.5}, comparing diversion to AD, compost, and chip and grind facilities to landfill disposal (third paragraph on page 3.3-18 of the Draft EIR). However, as discussed in Section 3.3, “Air Quality,” the construction and operation of organic waste recovery facilities and their associated air quality impacts would be evaluated on a project-by-project basis (see Impacts 3.3-1 and 3.3-2 in the Draft EIR).

The commenter states that the analysis should provide an assessment related to methane reductions associated with the proposed regulation, including a life cycle analysis that assesses carbon sequestrations at landfills. The objectives of the proposed regulation are to reduce the level of statewide disposal of organic waste to 50 percent of the 2014 levels by 2020 and 75 percent by 2025; and, by 2025, recover 20 percent of the amount of edible food currently disposed on so it can be used for human consumption. As discussed in Section 2.7 of the Draft EIR, “Anticipated Benefits of Proposed Regulation,” “[a]chieving these waste reductions targets would reduce an increasing amount of GHG emissions, ultimately achieving annual reductions of at least 4 million metric tons of CO₂ equivalents (MMTCO₂e) annually by 2030. In addition, as describe in the second paragraph on page 2.37 of the Draft EIR “1 year of waste

reduction avoids 14 MMTCO₂e of emissions over the lifetime of waste decomposition.” See Master Response 1, “Adequacy of the GHG Emissions Analysis,” regarding the GHG calculations included in the Draft EIR.

Comment Number: 18-2

B. General Comment – The CalRecycle Standardized Regulatory Impact Assessment for short-lived climate pollutants estimates that 60 new compost and 26 new anaerobic digestion facilities will be needed to manage the organic waste collected as a result of SB 1383. It will take years for sufficient facilities to be constructed and become operational. In instances where jurisdictions do not have access to local processing infrastructure, the material will need to be transported, potentially long distances (especially in developed urban areas), to available facilities. Therefore, when analyzing environmental issue areas, especially for Air Quality, Greenhouse Gas Emissions, and Transportation and Traffic, the Districts believe that the EIR did not properly quantify, describe, and mitigate potential impacts and account for the resulting delay in achieving short-lived climate pollutant reductions.

CalRecycle Response:

The commenter states that it will take years for sufficient facilities to be constructed and become operational. Assumptions in the Draft EIR related to construction and operation of new facilities are summarized in Table 2-2 of the Draft EIR. Table 2-2 also shows the fraction of the total organic waste stream that is projected to be handled by each type of organic waste recovery program, facility, or operation in 2025 and 2030. The analysis in the Draft EIR reflects this timeline, as appropriate. No changes to the document are necessary. See also response to comment 16-2.

Comment Number: 18-3

C. Section 3.13 Transportation – The EIR acknowledges inherent uncertainties in assessing transportation impacts and anticipates an increase in VMT from “post-recovery activities” (Impact 3.13-4). However, the EIR incorrectly assumes “the collection modifications would not substantially change the amount of travel needed.” Implementation of these regulations will result in a significant VMT increase from additional and more frequent collection routes due to source separation of organic waste, edible food collection, transportation of materials to more remote processing facilities (as opposed to nearby local landfills), route reviews and inspections, increased regulatory inspections, and handling and distribution of processed materials to end markets.

CalRecycle Response:

The commenter states that the proposed regulation would result in significant VMT increases. See Master Response 2, “Adequacy of the VMT Analysis.”

Comment Number: 18-4

D. Section 3.6 Energy – The EIR does not adequately address impacts to existing infrastructure at landfills in California and the diminished energy production that will result from the removal of unprocessed organics from the waste that will be buried in landfills. Many landfills extract methane for the purpose of generating power. The reduction in organic waste in landfills will reduce the amount of landfill gas (LFG) generated, which will result in potential facility-related impacts including reduced revenues from landfill gas to energy operations (LFGTE), inability to meet contract requirements, inability to operate existing LFG equipment, and effects on the overall gas collection system if the LFGTE facility has to increase vacuum to accommodate decreased LFG flow.

Although loss of landfill gas is acknowledged in the Energy chapter of the EIR, it is assumed that organics would be diverted to an anaerobic digestion (AD) process that would potentially be more efficient. However, there are far fewer current and projected AD facilities than compost facilities, so the majority of diverted organic waste will more likely be sent to composting sites or chip and grind facilities. The EIR should be revised to address the foreseeable operational impacts to landfills and LFGTE facilities. This analysis should also adequately estimate the potential reduction of LFGTE contributions to short-term and long-term statewide energy production and the potential impacts of replacement of this renewable energy source with other energy sources including fossil fuel.

CalRecycle Response:

The commenter expresses concerns related to a potential decrease in LFG generation resulting from implementation of the proposed regulation. The targets set by SB 1383 are to reduce statewide organic waste disposal below 2014 levels by 50 percent in 2020 and 75 percent in 2025. Meeting these targets through implementation of the proposed regulation would decrease, but not eliminate, the deposition of new organic waste in landfills. Organic waste would continue to be added to some landfills, including those with LFGTE systems, though at lesser rates than current practices.

Because the decomposition of organic wastes in landfills takes place over several decades, there would be a delay of several years between decreases in the volume of organic waste disposed in landfills and reductions in LFG available for capture. Waste decomposition in landfills occurs through a four-stage process with peak gas production occurring 7 years after disposal and continuing at progressively declining rates for an additional 20 to 50 years (ATSDR 2001). Thus, landfills with LFGTE systems could continue to capture LFG from wastes disposed prior to and/or after the adoption of the proposed regulation at the pace of decay rate modeling described in the second paragraph on page 3.6-14 of the Draft EIR, allowing operators several years to respond to changing environmental conditions.

Some landfills experiencing losses in LFG availability may consider installing AD infrastructure on site to maintain or enhance biogas production levels. Upgrading to AD technologies would shorten the conversion time of waste-to-energy to a period of

weeks rather than years, though landfill decomposition (Impact 3.6-1, second paragraph of page 3.6-14 of the Draft EIR). The biogas produced through AD may also have a higher energy content, with the U.S. Environmental Protection Agency (EPA) specifying an average heating value of 600 British thermal units per standard cubic foot (Btu/scf) of digester gas versus 400 Btu/scf for LFG (EPA 2000:3.4).

The total number of waste processing facilities anticipated to be constructed is not an indicator of a predominant technology. One large AD facility, for example, may handle more organic waste than a small composting facility, or vice-versa. Information is not available at this time on the throughput of individual AD and composting facilities anticipated to be developed in response to the proposed regulation, but Table 2-3 of the Draft EIR provides a projection of the total potential tonnage of waste that would be disposed by either composting or AD by 2030 and the number of facilities.

There are differences in the energy potential of organic wastes that determine the ideal methods of disposal, as described in the Biofuel Production section of Impact 3.6-1, second paragraph on page 3.6-14 of the Draft EIR. Food scraps, lipids, and silage are the materials with the highest potential for conversion into biogas and would likely be preferred feedstock for AD (Biogas Energy Inc. 2008). Food waste comprises the largest share of organic waste as shown in Table 2-1 of the Draft EIR. Materials with less energy potential, such as manure, may be more appropriate for use in composting. Landscaping debris, specifically woody biomass from trees, cannot be efficiently converted to energy through AD facilities due to the presence of lignin in this type of organic waste material. Landscaping debris may be sent to chip and grid facility, as suggested. Or it could be converted to an energy source through thermal decomposition and used to create electricity. A description of the processes that occur at these types of facilities is described in Section 2.5, “Reasonably Foreseeable Compliance Responses,” of the Draft EIR. Biomass conversion is consistent with the State’s renewable energy objectives mandated by State law under Senate Bill 1122 and California’s Renewable Portfolio Standard, as described in Table 3-6.2 on page 3.6-16 of the Draft EIR.

Further, with regard to the comment that LFGTE would be replaced by other energy sources including fossil fuel see response to comment 8-6.

Comment Number: 18-5

E. Section 5.2 Considerations for Selection of Alternatives – The EIR project objectives were too narrowly defined and overly prescriptive, precluding the ability to perform a true comparison of alternatives. The EIR objectives should allow for alternatives that achieve the overarching goal of reducing short-lived climate pollutants.

In particular, the Landfill Efficiency Alternative (Section 5.3.2) was improperly rejected. The EIR incorrectly stated that landfill gas collection systems may not be able to feasibly achieve efficiencies near 100 percent collection and there is little evidence to support high efficiencies. The EIR also assumed the cost of the required gas collection systems may lead to landfill closures. In fact, the highly regulated landfills in California already have significantly reduced landfill gas emissions. Studies conducted by the Districts utilizing actual flux chamber measurements and

custom modeling have demonstrated collection efficiency at Districts' landfills ranging from 91 to over 99 percent, with most typically over 95 percent . Other studies throughout the industry have also indicated that landfills achieve very high landfill gas capture rates. In fact, the EPA, in developing their GHG inventory program, allows landfills to take credit for up to 95 percent collection efficiency . Moreover, landfills that do not meet the efficiency requirements do not have to close. Those landfills could continue to operate accepting inert wastes, as is the case for landfills under the proposed SB1383 regulations, and CalRecycle could stipulate that disposal of organic waste at such landfills would not constitute approved diversion of organics.

In any case, the landfill gas recovery efficiency target should not be 100 percent. Organic waste diversion projects developed pursuant to the proposed regulations will result in significant emissions. The target for landfill recovery efficiency should be based on a life cycle analysis to develop equivalent SLCP reductions and, in the CEQA analysis, should account for other air emissions reductions (such as odors, reactive organic gases, criteria air pollutants, and toxic air contaminants) from landfills in comparison to alternatives proposed in the regulations.

CalRecycle Response:

The comment pertains to the alternatives evaluated in the Draft EIR. See Master Response 3, "Adequacy of the Alternatives Analysis."

Comment Author: Santa Barbara County Resource Recovery & Waste Management Division, September 13, 2019

Comment Number: 19-1

On January 9th, 2019 the Resource Recovery & Waste Management Division (RRWMD) of the County of Santa Barbara Public Works Department requests that the following be included in the scope of the EIR designed to assess the environmental impacts of the proposed legislation to implement SB 1383.

- ***The number of trucks required to provide organics collection to the estimated 340,000 covered businesses***
- ***The amount of miles to be covered by the additional trucks***
- ***The air emissions and other environmental impacts associated with the new truck traffic***
- ***The environmental impacts of increased road maintenance due to increased wear and tear of the roads by the new truck traffic***
- ***The number of trucks, amount of miles, and air emissions and other impacts associated with the new truck traffic for food "Re-Purposing" or "Re-Delivery" for the use of those in need***

For the record we would like to note that none of the above questions were answered in the draft EIR except in a very general and speculative way. For example, Vehicle Miles Traveled – (VMT) is, in fact, measurable if the effort was made to compare VMT in a jurisdiction before the implementation of food collection versus after. Our experience is that there are substantial additional miles traveled that are not even close to being offset by reductions in trash service. There are significant environmental costs associated with adding more trash trucks and truck miles to California’s roads, which are already taxed to the maximum as it is in many areas.

We strongly disagree with the following conclusion from the EIR and note again that it is not supported by any data: *“It would be reasonable to expect that trip lengths and frequencies related to collection of organic waste and hauling to treatment facilities would not change substantially from current travel requirements, because a robust system of waste collection and disposal is already in place and the location of organic waste treatment facilities would be influenced by the cost-control incentive to keep trip lengths short.”*

We also think that the traffic and other impacts from increasing VMT that will be caused by SB 1383 requires a more complete answer than the broad statement that *“attempting to quantify the level of VMT generated from this activity would be too speculative to be meaningful, because the specific locations of treatment facilities cannot be known at this time.”*

In general the EIR concludes that the benefits of methane reduction will outweigh the costs to achieve that reduction, but since there is no quantification of the VMT impacts this conclusion is hard to support.

Along the same lines there is no effort made to evaluate the following: *“3.3 Air Quality Impact 3.3-1: Short-Term Construction-Related Emissions of ROG, NO_x, PM₁₀, and PM_{2.5}”* and *“Impact 3.3-2: Long-Term Operational Emissions of ROG, NO_x, PM₁₀, and PM_{2.5}.”*

The general nature of the analysis is that CalRecycle does not have jurisdiction over these matters and that local authorities will need to use Best Management Practices and mitigation measures to keep these “potentially significant” impacts down to acceptable levels. That conclusion does not provide any ballpark for what the cumulative GHG impacts of building and operating new facilities throughout the state will amount to. The underlying assumption is that the benefits of AB 1383 will outweigh the costs, yet the costs are not identified.

In the absence of hard data, phrases such as “reasonable to assume,” “reasonable to expect,” “reasonably foreseeable,” and “reasonably anticipated” are used more than 200 times in the EIR. We think that the far-ranging scope and impact of SB 1383 merits a more detailed analysis.

CalRecycle Response:

The commenter expresses concern related to the level of detail provided for the VMT analysis in the Draft EIR. See Master Response 2, “Adequacy of the VMT Analysis.”

**Comment Author: Solid Waste Association of North America,
September 13, 2019**

Comment Number: 20-1

On behalf of the California Chapters of the Solid Waste Association of North America (SWANA) Legislative Task Force (LTF), thank you for the opportunity to provide comments on the draft Programmatic Environmental Impact Report (EIR) for the SB 1383 regulations (dated July 30, 2019). SWANA represents much of the publicly-owned and operated solid waste management infrastructure in the state and the local governments responsible for implementing waste diversion and recycling programs. The LTF represents the three California Chapters on legislative and regulatory issues. The SWANA LTF has reviewed the draft Programmatic EIR for the SB 1383 regulations.

The SWANA LTF appreciates CalRecycle staff's efforts to meet with stakeholders and consider comments on the draft Programmatic Environmental Impact Report for the SB 1383 regulations. However, the LTF believes, as currently written, the EIR is inadequately drafted because the goals and objectives outlined are too narrow; the law specifically states that the regulation shall not establish a numeric organic waste disposal limit. In addition, a less prescriptive alternative that provides more local control should be considered that focuses on the underlying goal of reducing Short-Lived Climate Pollutants (SLCPs).

We provide the following comments on the analysis in the document.

CalRecycle Response:

The commenter provides introductory remarks, background information on SWANA, and general comments regarding the project objectives and alternatives. See Master Response 3, "Adequacy of the Alternatives Analysis."

Comment Number: 20-2

Adequacy of Alternatives

The analysis in the draft Programmatic EIR fails to provide a reasonable range of alternatives. The EIR did identify three alternatives – No Project and two more prescriptive alternatives. The No Project was found environmentally superior by default, because the other two alternatives increased costs (less feasible to implement), were less likely to meet project objectives, and did not lessen impacts. Since alternatives analyzed should be feasible, reasonable, and lessen impacts, the alternatives analysis is inadequate.

The EIR finds that the No Project Alternative is the environmentally preferred project, but it is not selected because it does not fulfill the project objectives. If, instead, the project objectives focused on the underlying goal of reducing Short-Lived Climate Pollutants (SLCPs), a new alternative could be provided that could be as environmentally preferable as the No Project Alternative, while still complying with the goals. This new alternative would be less prescriptive, and it would allow local governments to minimize impacts based on local conditions. Additionally, local

governments could select from alternatives that were eliminated from consideration in this draft Programmatic EIR including the Under-sink Disposer Alternative and the Landfill Gas Collection Efficiency Alternative.

In addition, the Landfill Gas Collection Efficiency Alternative is rejected because it is not known if it is technically feasible. However, the analysis assumes the target would be 100% containment. This assumes that there are no emissions associated with projects that would be developed pursuant to the proposed regulations, which is not true. The goal should be determined whether enhance gas collection efficiency and other methane control methods are feasible to the extent it achieves the same level of methane reduction as does the proposed alternative. CalRecycle has failed to demonstrate that enhanced methane mitigation measures, gas collection, and monitoring will not result in equivalent methane capture and control as does the proposed alternative. Such alternatives are available could enable the capture and use of landfill methane as a viable renewable energy resource. There is extensive literature on the possibilities of enhanced landfill methane capture and control technologies at landfills. Below are a few examples:

- https://www.scsengineers.com/wp-content/uploads/2015/03/Sullivan_LFG_Collection_Efficiency-Debunking_the_Rhetoric.pdf
- https://www.scsengineers.com/wp-content/uploads/2015/03/Sullivan_CA-LF-Methane-Control-Efficiency.pdf
- https://www.researchgate.net/publication/237404017_MEASURING_LANDFILL_GAS_COLLECTION_EFFICIENCY_USING_SURFACE_METHANE_CONCENTRATIONS
- <https://www2.gov.bc.ca/assets/gov/environment/waste-management/garbage/designguidelinesfinal.pdf>

Finally, a new “Reduced Regulation, Increased Flexibility Alternative” would allow local governments to focus on the reduction of SLCP in a holistic way. This new alternative would allow local governments to develop a locally-appropriate approach, which may include a combination of methods such as increasing gas capture from existing landfills, expanding existing Climate Action Plans to specifically address these pollutants, to evaluating local vehicle miles travels (VMT) contributions and adjusting facilities and routes accordingly. One example of such flexibility is AB 939, the Integrated Waste Management Act of 1989. The Act requires jurisdictions divert 50% of waste generated in the jurisdiction but allows jurisdictions to develop Source Reduction and Recycling Elements (SRRE) in which jurisdictions select a combination of waste reduction, recycling, and composting programs that best suit their communities. Today, a majority of jurisdictions are meeting and exceeding the mandate; in fact, only seven jurisdictions have been fined for failure to comply since the enactment of AB 939 in 1989. AB 939 implementation has demonstrated that jurisdictions are best suited to identify effective programs and capable of meeting mandates when afforded flexibility.

The Local Government Flexibility Alternative would enable jurisdictions to select methods that are readily available to them and also encourage and support emerging technologies. Jurisdictions could grant low population and elevation waivers which would reduce unnecessary vehicle miles traveled (VMT) to low population areas that contribute negligibly to statewide organic waste generation. It would also allow jurisdiction to respond quickly to documented bear issues in their communities, reducing the wildlife impacts and better protecting public health and safety. Local governments would be in a better position to avoid local impacts such as wildlife impacts, vectors, VMT, and greenhouse gas (GHG) and other emissions.

CalRecycle Response:

The comment pertains to the alternatives evaluated in the Draft EIR. See Master Response 3, “Adequacy of the Alternatives Analysis.” With respect to wildlife issues see responses to comments 9-3 and 16-3.

CalRecycle further notes that while the commenter states that most jurisdictions are in compliance with their 50 percent diversion mandates, this is not a comparable metric. The SB 1383 requirement is to reduce statewide disposal of organic waste to 5.7 million tons by 2025. While it is true that many jurisdictions are in compliance with their unique 50 percent diversion target, it is also true that statewide disposal has continued to increase despite this AB 939 compliance. AB 939 requires jurisdictions to make a good faith effort to divert of 50 percent of the waste they generate annually (CalRecycle 2019g). Making a good faith effort to achieve a unique jurisdiction target that fluctuates with annual generation, is not comparable to the SB 1383 mandate to achieve a specific statewide organic waste disposal cap of 5.6 million tons on and after 2025.

Implementation of the prescriptive the regulatory requirements of the project are designed to achieve the organic waste reduction targets, which is consistent with the explicit statutory direction. The commenter proposes that regulated entities should only be required to make a good faith effort to implement the requirements of the regulation, or they should only be required to make a good faith effort to divert 75 percent of the organic waste they generate, neither of these proposed alternatives are consistent with the statute, nor would they conceivably achieve the objectives of the project.

Comment Number: 20-3

Adequacy of the Project Description

The EIR assumes the needed facilities will be fully constructed within five years. However, solid waste industry experts state that the planning, permitting, and construction of facilities will take much longer. Until then, organic material collected may have no available end destination or, more likely, agencies may choose not to collect the material until facilities are available. The EIR does not analyze the potential impacts of this. In addition, where there may be facilities to process the material, there may not always be markets available. In recent years, paper markets have severely declined. As a result, facilities would have to store material for long periods of time until markets will accept the loads, or indefinitely. The EIR should analyze facility and other impacts associated with potential long-term storage of unmarketable material.

CalRecycle Response:

The comment addresses potential impacts that may result from a failure to comply with regulatory requirements. The proposed project includes regulatory provisions requiring jurisdictions to transport waste to particular facilities to achieve the organic waste diversion goals of SB 1383. Any effects from failing to transport as required are not effects resulting from the project itself but instead from violations of the proposed regulation. Existing solid waste facility regulations contain storage limitations for onsite material. Any long-term storage of material would be a violation of such rules and are not a compliance response allowed by law. As such, CalRecycle is not required to analyze for such non-project effects or regulatory noncompliance.

Second, the comment appears to be directed at practical facility issues related to the hypothetical storage of organic material in the event that processing capacity is deficient or markets do not exist for end products. This comment does not raise environmental issues or concerns regarding the adequacy, accuracy, or completeness of the EIR. Comments regarding impacts to facility operations as a result of the regulations should be made during the appropriate comment periods during the formal rulemaking process under the APA. See also response to comment 8-5 that addresses market availability.

Comment Number: 20-4

Adequacy of the Impact Analysis

For several issue areas, potentially significant impacts associated with these regulations are overlooked.

- *Impact 3.3-3 Compliance with Air Quality Management Plans.* Except in the consideration of impact 3.5-4, only impacts to statewide plans are considered in this EIR, while impacts to local Climate Action Plans are overlooked. As explained below, the proposed regulations will have potential impacts to local GHG reduction efforts, for example plans to modify fleets to lower GHG emitting vehicles. For this analysis, Climate Action Plans are considered a mitigation measure (Impact 3.3-5a), but conflicts with local plans.
- *Impact 3.3-4 Exposure of Sensitive Receptors to TAC Emissions.* Despite an analysis that overlooks potential impacts, this issue is considered in the EIR to be Potentially Significant and Unmitigated (PSU). The inadequacy of the analysis stems from assuming facilities will be sited in suitable zones, and not within 1,000 feet of sensitive receptors. However, until specific projects are proposed this information is not known. Furthermore, as discussed below, suitable zones may not be available.

CalRecycle Response:

The commenter states that the Draft EIR's analysis of consistency with air quality plans is deficient because consistency with local and regional air quality plans were not evaluated. See response to comment 8-3 for a discussion of consistency with local air quality management plans.

The commenter notes that impacts to CAPs were omitted. See response to comment 13-14 for a discussion of consistency with CAPs.

The commenter also states that the TAC impact analysis overlooks potential impacts, which stems from the assumption that facilities would be sited in suitable locations at least 1,000 feet from existing sensitive receptors. See response to comment 13-15 regarding the siting of new facilities within the vicinity of sensitive receptors.

Comment Number: 20-5

- *Impact 3.6-1: Wasteful, Inefficient, or Unnecessary Consumption of Energy during Project Construction or Operation.* Throughout the energy discussion, including the cumulative impact analysis, the EIR does not address several energy-related impacts of the proposed regulations. This issue area addresses only impacts to statewide plans (Impact 3.6-2), but not impacts to local Climate Action Plans, energy planning done by local governments, or by federal military facilities. For example, for the City of San Diego and Marine Corps Air Station Miramar, landfill gas from the Miramar Landfill is a critical energy source that enables the City to provide essential water and sewer services, and the military base to continue defending the nation, even if the energy grid goes down. Landfill gas is a key component of energy planning for both the City and the Marine Corps. Removing organic waste from the waste stream entering the landfill will reduce the availability of this resource.

Although loss of landfill gas is acknowledged in the draft EIR, it is assumed that organics would be diverted to a process that more efficiently captures the energy. However, the biggest push, per Table 2-3, is composting, which does not recover energy. Even if a facility that generates a comparable amount of energy is developed in another location, impacts to the local and federal energy systems relying on landfill gas would still occur.

The EIR analysis does not adequately address additional VMT that would result from the increased collection trucks that would be required.

The EIR analysis does not adequately address the increased energy consumption from composting operations, MRFs, paper and other recycling facilities compared to landfilling.

The EIR analysis does not adequately address long-distance transport, for example shipping paper to foreign recycling facilities.

The analysis also assumes that statewide fuel economy requirements combined with the energy recovery of organic facilities would offset the consumption associated with new facilities and with increased VMT. No evidence of this offset is provided. Furthermore, those offsetting measures are part of the baseline and would apply equally to the other alternatives, including the no project alternative.

CalRecycle Response:

The commenter states that the energy analysis should include evaluation of the proposed regulation's consistency with local Climate Action Plans (CAPs), landfill gas generation, effects on VMT, increased energy consumption at waste processing facilities, and global transport of waste materials. The proposed regulation would support waste reduction and renewable energy goals embedded in many local CAPs. The City of San Diego's CAP, for example, contains a zero-waste strategy aligned with the city's Zero Waste Plan (City of San Diego 2015). The CAP states "As reduction of waste entering the landfill greatly reduces GHG emissions, the goal for the City is to achieve a 75 percent waste diversion rate by 2020. The City also has a goal to strive for Zero Waste disposal by 2040 (City of San Diego 2016:25)." Action 4.1 of the CAP calls for a 90 percent diversion of solid waste from landfills (of which organic waste would be a subcomponent) and then capturing 80 percent of the remaining methane emissions from landfills by 2035 (City of San Diego 2016:40). This action recognizes that landfills continue to produce LFG, regardless of efforts to reduce organic waste disposal. Consistent with the CAP, the City's renewable energy strategy also includes the use of solar photovoltaics (i.e., solar panels), as well as biogas produced from wastewater treatment for its public utility facilities, indicating that LFG is not the sole source of energy that is used or could be used to power these facilities (City of San Diego 2019).

LFG is just one of several fuel sources used for powering the Marine Corps Air Station Miramar. Solar photovoltaics, natural gas, and diesel fuel are additionally used for electricity generation at the facility. The intermittency of LFG supplies has additionally been factored into the design of the microgrid for this site (Wood 2019). Thus, reductions in disposal of organic waste at Miramar Landfill would not substantially decrease energy supplies in the near term, because methane emissions continue to occur for decades after the initial disposal of organic waste, as described in the second paragraph of page 3.6-14 in the Draft EIR (i.e., if you deposit one ton of organic waste into a landfill, it will start generating methane emissions within a few months, and will continue to do so over the next several years, peaking between 5-7 years, but continuing at a reduced rate for up to an additional 30 years). This facility has also been designed to obtain electricity generated from other renewable and fossil fuel sources.

The compliance response to the proposed regulation would involve the construction of facilities that generate alternative fuels that can be used in the transportation of organic waste, and other transportation uses. These goals of diversifying transportation energy sources to include low carbon alternative fuels are embedded into many local climate action plans throughout the State, including Strategy 2.3 of the San Diego Climate Action Plan, which calls for converting municipal waste collection trucks to low-emission fuels.

See Master Response 2, "Adequacy of VMT Analysis," for a discussion related to change in VMT. See response to comment 13-30 for a discussion related to global transport of waste material.

Comment Number: 20-6

- *Impact 3.14-1: Increased Demand for Water Supplies.* Composting, digestion, and other organic waste management processes require large amounts of water. Demand for water, under CEQA, is frequently considered a significant and unmitigable impact. In this drought-stricken state, regulations that would result in the development of dozens of facilities with higher water demand, as compared to waste management under existing conditions, would have a potentially significant impact.
- *Impact 3.14-2: Increased Demand for Wastewater Treatment.* Many jurisdictions are planning to comply with the regulations by adding organic waste materials to sewage digesters. Increased demand for digester systems could result in the need to build new digesters. On pages 2-19, it includes an estimate of 61 new AD facilities needed by 2030 in response to the proposed regulations. These digesters may have potentially significant impacts.
- *Impact 3.14-3: Expansion of Existing or Construction of New Water, Wastewater Treatment, Stormwater Drainage, Electric Power, Natural Gas, or Telecommunications Facilities.* The impacts on any of these services resulting from new facilities that are built because of these regulations could, and would likely, result in significant impacts.

CalRecycle Response:

The commenter expresses concern related to the potential increase in water demand, wastewater treatment, and the expansion of new utility infrastructure.

See response to comment 12-4 for a discussion related to water supply.

The commenter states that many jurisdictions would comply with the proposed regulation by adding organic waste materials to anaerobic digesters, which is discussed on page 2-19 of the Draft EIR. The environmental impacts of building these new facilities is discussed throughout the Draft EIR.

The commenter states that impacts of new utility infrastructure, constructed to support the proposed regulated, could result in environmental impacts. As discussed under Impact 3.14-3, in the last paragraph of Impact 3.14-3 discussion on page 3.14-8 of the Draft EIR:

It is reasonable to assume that new facilities would be placed in areas where utility infrastructure is available, such as adjacent to other developed uses and industrial areas. Connections to existing utility systems would be expected to occur within existing roadways or would consist of minimal activities, such as minor connections to pipelines or overhead wires. Thus, because utility connections would be expected to be readily available and substantial construction activities would be minimal and entail making small connections to existing infrastructure, this impact would be **less than significant**.

Thus, because this the impacts of new utility infrastructure are addressed in the Draft EIR, no changes to the document are necessary.

Comment Number: 20-7

- *Impact 3.15-2: Substantially Worsened Wildfire Risk Related to Infrastructure Development.* Piles of organic material easily combust, and temperatures must be carefully monitored. Even if monitoring is adequate for the loading and processing of the materials, combustion associated with dust in chippers and grinders can be a potential ignition source. Methane can be generated by organic materials. In a one-week period, organic materials in collection containers could become hot enough to combust, or they could pose hazards when opened. These materials pose a fire risk when being transported in a truck. If the materials in a truck ignite, common practice is to dump the load as quickly as possible, potentially along a roadway, which increases the risk of a wildfire. And of course, there are increased risks of fire at facility sites. Methane produced at organics processing facilities can migrate underground, and come up in unexpected areas, such as inside buildings, and can enter water systems. The presence of methane poses increased fire risks.
- *Impact 3.15-3: Substantial Risks Related to Postfire Flooding or Landslides.* These risks require specific site information to determine if there would be associated potential infrastructure impacts. It is necessary to know the conditions at the proposed facility site if the site may be subject to post-fire flooding or landslide hazards.

CalRecycle Response:

The commenter identifies some of the wildfire risks associated with facilities that would be developed under the proposed regulation, including combustion of organic material and generation of combustible methane gas. These risks are discussed on pages 3.15-13 through 3.15-16 in Impact 3.15-2 of the Draft EIR. The Draft EIR identifies that AD facilities pose a risk of wildfire ignition from biogas storage and transmission infrastructure or equipment malfunction (pg. 3.15-14). It also identifies the risk associated with compost and mulch operations from spontaneous combustion (pgs. 3.15-14 to 3.15-15).

The Draft EIR identifies that best management practices (BMPs) for compost operations would minimize fire risk. BMPs may include keeping compost piles small (less than 12 feet in height), monitoring moisture content and internal pile temperature, maintaining aisles between piles and on-site soil stockpiles for fire suppression, and isolating equipment from piles. The Draft EIR also identifies that operators of compostable materials handling operations and facilities must implement minimum State requirements to provide fire prevention, protection, and control measures, including, temperature monitoring of windrows and piles, adequate water supply for fire suppression, and the isolation of potential ignition sources from combustible materials (in accordance with 14 CCR Section 17867[a][9]). Fire lanes must also be provided to

allow fire control equipment access to all operation areas. Collectively, these standard operational practices and design standards minimize the risk of spread of fire. The Draft EIR also states that new facilities must adhere to the applicable chapters of the California Fire Code.

Comment Number: 20-8

Impacts on Local Planning

As indicated above, the requirements may conflict with local Climate Action Plans and other local planning efforts. For example, the proposed Placer County Sustainability Plan and Transportation Demand Management strategies include measures to reduce countywide GHG emissions through measures such as reducing VMT in the County. The added VMT and emissions from project implementation (additional collection, other VMT generating activities, facility construction, and ongoing facility operations) could conflict with these plans' goals. The EIR also assumes compliance with such plans will mitigate any impacts. But a facility could comply with local regulations, permits, and plans, including an odor impact management plan, but still have impacts. With any solid waste and organic processing facility, a certain extent of odors is inherent to these operations and may result in conflict with such plans. Also, many local air districts, including the Placer County Air Pollution Control District, have nuisance rules. The EIR inaccurately states that air districts do not have authority over odors. If odors generate sufficient complaints to be considered a nuisance, air districts have the authority to issue a violation and require management actions. Mandatory construction or expansion of organic waste recovery facilities, even those in compliance with local requirements, would inherently generate odors, potentially resulting in potential exposure of additional sensitive receptors and nuisance claims, particularly in areas of encroaching development. Therefore, in addition to the odor impacts to sensitive receptors (Impact 3.3-5a), the EIR should analyze potential odor, VMT, and emission-related conflicts with local plans, policies, and rules from the implementation of the project.

CalRecycle Response:

The commenter states that implementation of the proposed regulation could conflict with local plans, regulations, and policies including CAPs and nuisance rules. The commenter also states that the Draft EIR does not analyze these conflicts; however, the Draft EIR contains language to ensure consistency with local plans, policies, ordinances, rules, and regulations to ensure that the construction and operation of future facilities would adhere to specific, local statutory requirements. For example, on pages 3.3-6 and 3.8-6, the Draft EIR specifies that “[t]his EIR assumes that the reasonably foreseeable compliance responses associated with implementation of SB 1383 would be consistent with local plans, policies, and rules to the extent that anticipated organic waste recovery infrastructure projects are subject to them, because local land use and permit approvals are typically conditioned upon such consistency.” Because the authority of CalRecycle is statutorily limited, permit conditions and land use approval for future facilities would be within the discretion of an air district and lead agency overseeing environmental review. No changes to the Draft EIR are required in response to this comment.

Comment Number: 20-9

Many landfill operators extract methane for the purpose of generating power, and local governments rely on this power for operation of public facilities, and energy planning. In Placer County, landfill-generated electricity is sold and delivered to residential and commercial customers in the City of Roseville. In San Diego it is used to provide power to the City's Purewater (water recycling) Program, and to the nearby military base to fulfill its objectives of running on green renewable power, and to be able to operate and fulfill its mission of providing public safety and the defense of the nation even if the utility-provided power grid goes down. The reduction in organic waste in landfills as a result of the proposed regulation will reduce the amount of landfill gas (LFG) generated. This will result in various potential facility-related impacts including the inability to meet contract requirements, inability to operate existing LFG equipment, and effects on the overall gas collection system if the LFGTE facility has to increase vacuum to accommodate decreased LFG flow. Although loss of landfill gas is acknowledged in the Energy chapter of the EIR, it is assumed that organics would be diverted to an anaerobic digestion (AD) process (of which there are only 24 facilities that exist in the state) that more efficiently captures the energy. However, the vast majority of currently diverted organic waste is sent to one of the hundreds of compost or chip and grind facilities in the state. And according to Table 2-3, the majority of projected future facilities are also compost facilities, which do not recover energy. Therefore, it is reasonably foreseeable that most organic waste will not be diverted to energy production and there will be operational impacts to landfills and LFGTE facilities, and to statewide energy production, as a result of the proposed regulation and the EIR should be revised to reflect this.

CalRecycle Response:

The comment addresses issues related to LFG generation under the proposed regulation. See responses to comments 18-4 and 20-5.

Comment Number: 20-10**Impacts to Wildlife**

The EIR makes findings related to impacts on various species, but it does not analyze the impact to American Black Bears. Public safety issues associated with bears and garbage have been widely documented across the state. While the Elevation Waiver is very helpful in reducing the potential for such issues in elevations above 4,500', these problems have been experienced in much lower elevations. In fact, the range of American Black Bear habitat covers much of the state, as documented by the California Department and Fish and Wildlife (DFW). DFW regulations Section 251.1 prohibits harassment of wild animals. Harassment includes, among other activities, feeding or other activities that disrupt their normal behavior patterns. Since it is common knowledge that bears are attracted to garbage, the EIR should analyze the reasonably foreseeable impacts to bear behavior, as well as raccoons and other animals likely to be attracted to food waste, and public safety as a result of setting out consolidated food waste.

CalRecycle Response:

The commenter states that implementation of the proposed regulation would result in the setting out of consolidated food waste, which would be an attractant for bears, racoons, and other animals. See the responses to comments 9-3 and 16-3.

Comment Number: 20-11

Consideration of Traffic and VMT

Throughout the EIR, increased VMT as a result of complying with the regulations is underestimated. Not only will each facility result in its own VMT, but the collection system will also increase the number of truck miles traveled to collect organic waste. The EIR argues that it is the same amount of material, just going to slightly different places. That is not at all how it works out. San Diego serves as an example. In San Diego, City forces collect waste from residences on public streets with bins set out on curbside. (Other waste generated within the city is collected via a non-exclusive franchised hauler system.)

For the city-collected portion of the waste only, the current system includes:

- Black/gray bins collected weekly, or twice a week in some areas with heavy fly issues;
- Blue bins collected biweekly citywide, and;
- Green bins for yard waste collected biweekly in areas with sufficient yard waste to warrant the collection of yard waste.

In contrast to this existing condition, the proposed regulations will require green waste to be collected weekly, along with food waste, from all generators, more than doubling the miles traveled for green waste collection. It is likely the blue bins may continue to be collected biweekly, but the black bins will require, per city ordinance, continued weekly collection. The regulations will, therefore, require additional trucks and rerouting to accommodate the additional green bin collection. This will also impact the fleet program's ability to modify the fleet in accordance with the city's Climate Action Plan. Most significantly, the VMT traveled per waste generator will increase by approximately 25 percent.

Similarly, a third-party consultant recently analyzed the GHG emission impacts from adding an additional collection route in the more urban collection areas of Placer County. The study concluded that the average annual CO₂ emissions were projected to increase by 42 percent due to the additional routes, fuel consumption, and VMT. For most jurisdictions, the required increase in the frequency of collection will likely result in a similar 20 to 40 percent increase in VMT, just from the required collection services.

The proposed regulation does provide low population and rural waivers aimed at allowing jurisdictions to focus their collection efforts most effectively, i.e. in the denser populated areas. However, the rural waiver is temporary, and the low population waiver does not capture all low population areas (e.g. some census tracts do not meet the low population waiver but contain large low population areas that would still require

collection). This means that in order to comply with the regulation, jurisdictions will have to add organics collection routes, as well as serve more remote areas they may not have served before, further increasing VMT and GHG emissions.

All of the additional collection activities will translate to more traffic to and within organic waste processing facilities. In 2014, the SB 1383 baseline, most jurisdictions in the state were not implementing organic waste collection to all residents and businesses. While many may have been providing green waste collection to some customers, in some areas, the regulation will require collection in expanded areas, to additional customer types, and many jurisdictions will need to collect food waste separate from other organic materials. These compliance activities will result in many more collection vehicles entering facilities on a daily basis. The related impacts on existing facilities are not evaluated in the EIR.

VMT and emissions will also be generated by the mandatory route reviews and business inspections as well as from the purchase, delivery, and distribution of the mandatory compost purchases. VMT increases will also occur from the development and operation of jurisdiction-wide edible food recovery and distribution programs. The required container evaluations at facilities would likely require a separate collection run for collecting the containers to be sampled. It is reasonably foreseeable that these activities combined across the state will increase VMT and GHG emissions; none of which are analyzed in the EIR. Impact 3.13-4 makes a Potentially Significant and Unavoidable impact finding regarding VMT. However, the emissions associated with these additional activities are not included in the analysis, and there is evidence that long-term GHG emissions would NOT be offset by the reductions achieved (Impact 3.8-3). The EIR should be revised to analyze these additional impacts.

- *Impact 3.13-4: Reasonably Anticipated Increase in VMT.* In contrast to the analyses provided by local government, which suggests a 20 to 40% increase in VMT from collection route modifications alone, the PEIR says "... collection modifications would not substantially change the amount of travel needed . . ." While Impact 3.13-4 has a faulty assumption that is not supported by evidence, it does, none-the-less, identify potentially significant unmitigated impacts, although it says there is no way to mitigate them. The analysis asserts that there are no mitigation measures, but this is also in error. There are measures that, in some situations, can mitigate traffic impacts, such as pneumatic collection, or the disregarded alternative of under-sink garbage disposals.

CalRecycle Response:

The commenter states that the Draft EIR underestimates the anticipated increase in statewide and regional VMT from the proposed regulation using the City of San Diego as an example. See Master Response 2, "Adequacy of the VMT Analysis," for a discussion of the assumptions and methodology surrounding increased VMT under the proposed regulation. For a discussion of potential mitigation measures see response to comment 7-2. No changes to the Draft EIR are required in response to this comment.

Comment Number: 20-12

The increase in VMT throughout the state will have an impact on all the state's transportation infrastructure. The analysis on page 3.14-6, with no supporting evidence, says that there would be no impact on bicycle or pedestrian activities. Additionally, waste set out typically occurs within the public right-of-way, including bicycle lanes. This law will require additional waste set outs, which are impediments to vehicles and bicycles in the right of way, which also impacts pedestrians.

CalRecycle Response:

The commenter states that the additional curbside waste container set outs would adversely affect vehicle and bicycle rights of way and affect pedestrians. Implementation of the proposed regulation may result in the use of more containers, but would not necessarily increase the days of collection. Adverse effects on vehicles, bicycles, and pedestrians would not be substantially greater than under existing conditions, which includes placing containers on the street's curbside for waste collection. Further the regulations do not specifically require the use of additional containers. See response to comment 8-7 for a discussion related to container requirements.

Comment Number: 20-13

- *Impact 3.3-6: Exposure of Sensitive Receptors to Mobile-Source CO.* This analysis does consider that additional trucks will be required, yet concludes, with no evidence, that these trucks will not result in significant exposure to sensitive receptors. The routes in the San Diego example that will experience a 25% increase in waste collection truck traffic pass virtually every sensitive receptor in the city.

CalRecycle Response:

The commenter asserts that the CO analysis prepared for the proposed regulation is deficient because CO emissions from new trucks are not quantified. See response to comment 12-2 for a discussion of the proposed regulation's CO analysis. No changes to the Draft EIR are required in response to this comment.

Comment Number: 20-14

- *3.8 Greenhouse Gas Emission and Climate Change:* This analysis for this EIR assumes best-case scenarios for diversion facilities. It understates facility impacts and VMT. For Impact 3.8-1 the effects of increased traffic and lack of markets are not adequately addressed. Impacts associated with shipping waste paper to Asia, or from siting local paper plants are not addressed at all, nor are emissions from compost operations or chip and grind operations or digestors. No local plans are considered in the analysis. For Impact 3.8-3, that analysis claims, "It would be reasonable to expect that trip lengths and frequencies related to collection of organic waste . . . would not change significantly." However, the San Diego

example illustrates residential organic collection increasing from bi-weekly, and not Citywide to weekly, Citywide. This is an approximately 25% increase in VMT.

CalRecycle Response:

The commenter expresses concerns related to VMT, including global transport. See Master Response 2, “Adequacy of the VMT Analysis,” and response to comment 13-30.

Comment Number: 20-15

Lack of Appropriate Zoning

Impacts 3.1-3, 3.5-3, 3.5-4, 3.11-1, and 3.15-1 assume no potentially unmitigated significant (PSU) impacts because the anticipated facilities will either be co-located with existing facilities or in sited appropriate zones. This reasoning is faulty because many jurisdictions do not have appropriate zoning for the necessary facilities. Most zoning codes address residential, commercial, and industrial zones, but often do not make adequate provision for solid waste facilities, even in industrial zones. Even when forced to plan for needs of statewide significance, such as housing, local plans, and zoning codes are often inadequate to assure permitting for the needed infrastructure. Lack of appropriate zoning will be a major hurdle for the development of the necessary facilities. Additionally, the analysis is inadequate because even co-located facilities may result in impacts when site-specific projects are considered. For example, a co-located facility may increase traffic delays on a constricted wildfire evacuation route. For this reason, for Impact 3.9-6, while the conclusion is appropriate, the analysis fails to address increased vehicle miles traveled and the potential related impacts on evacuation routes.

CalRecycle Response:

The commenter states that jurisdictions do not have appropriating zoning for new facilities. See response to comment 6-10.

Comment Number: 20-16

Agency Requirements do not always Mitigate Impacts

For the impacts listed below, the analysis states that the project will follow local governments or regulatory agency plans, rules, regulations, and procedures and that these requirements will mitigate the impacts. The courts have determined repeatedly that following the plans, rules, and requirements does not guarantee that there will not be impacts. Evidence should be provided in the PEIR supporting these “less than significant” (LTS) conclusions, or else conclusions for which there is insufficient evidence should be modified to PSU.

- *Impact 3.4-3 and 4: Substantial Adverse Change to Tribal Cultural Resources:* The fact that subsequent CEQA analysis will follow the required notification it does not preclude the possibility of potentially significant impacts. CEQA does not provide assurances that only projects with no impacts will be approved.
- *Impacts 3.7-1 through 4; 3.10-1 and 2. Erosion, Expansive Soils, Seismic Effects, Septic, Water.* While it is true that Best Management Practices and engineering design often mitigate impacts to below a level of significance, that determination

comes after carefully consideration of the conditions at the particular site, and it cannot be assumed in advance.

- *Impact 3.7-5: Loss of Availability of a Known Valuable Mineral Resource or a Locally Important Mineral Resource Recovery Site.* The only way to know if there will be impacts to mineral resources is to know the mineral resources that are present at the project site, and that information is not known at the Programmatic EIR level.
- *Impact 3.8-1: Conflict with Applicable Plans, Policies, or Regulations of an Agency Adopted for the Purpose of Reducing Emissions of GHGs.* This analysis suggests that any facility proposed under these regulations would be consistent with state GHG planning; however, a case-by-case analysis may find that impacts associated with transport (trucking, shipping), sorting, remanufacturing/processing, facility construction, or emissions from digestors or chip and grind facilities, may conflict with state plans. Potential impacts to local plans are not addressed in the analysis.
- *Impact 3.9-1 through 6: Hazards and Hazardous Materials.* This analysis states that “numerous federal and state laws” regulate hazards, but that is not a reason to find that the impacts are less than significant. For example, dust suppression in an area with Valley Fever may exacerbate an already problematic situation by stimulating the population of these potentially lethal fungal organisms. The opportunity for the hazard to occur in the wrong place and cause an unexpected problem is not precluded with the “numerous” federal and state regulations.

Regarding vectors and pathogens, not only will facilities potentially have impacts associated with these hazards, but weekly collection of food waste will undoubtedly result in the generation of flies and rats, which are known disease vectors.

- *Impact 3.10-4: Substantial Decrease in Groundwater Supplies or Substantial Interference with Groundwater Recharge Such that the Project May Impede Sustainable Groundwater Management of the Basin.* The analysis relies on local groundwater plans to provide mitigation for potential impacts. However, not all aquifers are regulated by State Groundwater Management Act and thus do not have SGMA plans. Even for aquifers that are covered by SGMA, most Groundwater Sustainability Plans are not yet developed (due in 2020 or 2022) and there is no way to know in advance if the provisions of the plan would mitigate the impacts of a particular project.

CalRecycle Response:

The commenter states that the analysis cannot rely on local governments or regulatory agency plans, rules, regulations, and procedures to reduce potentially significant impacts. Compliance with regulatory requirements has been confirmed by the courts to be adequate as mitigation when it can be reasonably expected to reduce the significant impacts. For instance, related to another statewide resources management program proposed by a State agency, the court concluded for a program EIR prepared on a

statewide resources management program that compliance with permitting regulations is proper mitigation (see *Center for Biological Diversity v. California Department of Fish and Wildlife*, 234 Cal.App.4th 214). Regulations that place requirements on construction and operation of projects would be reasonably expected to reduce impacts when they must be followed to the satisfaction of the regulatory agency responsible for the resource or environmental condition. The impacts listed under comment 20-16 would be reduced to a less-than-significant level through the requirements described as follows.

- **Impact 3.4-3: Substantial Adverse Change to Tribal Cultural Resources:** CalRecycle sent notification for consultation to three tribes on April 17, 2019. No responses were received at the time of release of this EIR. Pursuant to PRC Sections 21080.3.1, 21080.3.2, and 21082.3, lead agencies undertaking CEQA review must, upon written request of a California Native American tribe, begin consultation before the release of an environmental impact report, negative declaration, or mitigated negative declaration. Because these regulations must be followed, this impact would be less than significant.
- **Impact 3.4-4: Disturbance to Human Remains:** Prehistoric or historic-era marked or unmarked human interments are present throughout California. Ground-disturbing activities related to construction of new or expanded organic waste recovery facilities could uncover previously unknown human remains. Section 7050.5 of the Health and Safety Code requires that construction or excavation be stopped in the vicinity of discovered human remains until the coroner can determine whether the remains are those of a Native American. If determined to be Native American, the coroner must contact Native American Heritage Commission. Section 7052 states that the disturbance of Native American cemeteries is a felony. PRC Section 5097 specifies the procedures to be followed in the event of the unexpected discovery of human remains on nonfederal land. The disposition of Native American burial falls within the jurisdiction of Native American Heritage Commission. Because these regulations must be followed, this impact would be less than significant.
- **Impact 3.7-1: Substantial Erosion or Loss of Topsoil:** Construction activities stemming from implementation of the proposed regulation could involve substantive earthwork activities that could result in soil erosion or the loss of topsoil. However, reasonably foreseeable future projects would be required to adhere to the conditions of the National Pollutant Discharge Elimination System (NPDES) General Construction Permit, including installation of best management practices (BMPs) to control erosion and sedimentation. These regulations prevent construction pollutants from contacting stormwater and keep products of erosion from moving off site into receiving waters throughout the construction and life of the project; the BMPs must address source control and, if necessary, pollutant control. Because these regulations must be followed, this impact would be less than significant.

- **Impact 3.7-2: Placement of Organic Water Recovery Facilities in Areas of Expansive or Unstable Soils, or Creation of Instability as a Result of Implementation:** Implementation of the proposed regulation would create a need for new or expanded organic waste recovery facilities and associated infrastructure. Potential new facilities could be located in a variety of geologic, soil, and slope conditions with varying soil stability risks. However, projects initiated in response to the proposed regulation would be subject to project-level environmental review and would be required to meet California Building Code (CBC) conditions related to unstable soils. Chapter 18A of the CBC regulates construction on unstable soils, such as expansive soils and areas subject to liquefaction. The CBC also contains a provision that provides for a preliminary soil report to be prepared to identify “the presence of critically expansive soils or other soil problems which, if not corrected, would lead to structural defects” (CBC Chapter 18 Section 1803.1.1.1). Because these regulations and standards must be followed, this impact would be less than significant.
- **Impact 3.7-3: Potential Substantial Adverse Effects Involving Rupture of a Known Earthquake Fault, Strong Seismic Ground Shaking, or Other Seismic Effects:** Future projects implemented in response to the proposed regulation could be located in seismically active areas where strong seismic shaking could damage project structures, cause liquefaction in susceptible soils, and create a safety risk for people in the area. However, the potential for risk to people and structures would be addressed through the seismic design and geotechnical investigation requirements of the CBC and enforced through local permit mechanisms. The CBC identifies seismic factors that must be considered in structural design. In addition, Chapter 18 of the CBC regulates the excavation of foundations and retaining walls. Because these regulations and standards must be followed, this impact would be less than significant.
- **Impact 3.7-4: Soils Incapable of Adequately Supporting the Use of Septic Tanks or Alternative Wastewater Disposal Systems:** Future projects implemented in response to the proposed regulation could be located in rural areas where municipal sewer systems are not available. Septic systems installed in soils that cannot effectively filter effluent can result in groundwater contamination or adverse human health effects. However, the Onsite Wastewater Treatment System (OWTS) Policy establishes a statewide, risk-based, tiered approach for regulation and management of OWTS installations and replacements and recognizes the effectiveness of local permitting agencies. The OWTS Policy authorizes subsurface disposal of domestic-strength, and in limited instances high-strength, wastewater and establishes minimum requirements for the permitting, monitoring, and operation of OWTS for protecting beneficial uses of waters of the State and preventing or correcting conditions of pollution and nuisance. Various soil conditions are considered during permitting of OWTS. The

Policy applies to OWTS on federal, State, and tribal lands to the extent authorized by law or agreement. Direct regulatory authority for individual OWTS has been delegated to individual counties through Memorandums of Understanding. Because this policy must be followed, this impact would be less than significant.

- **Impact 3.7-5: Loss of Availability of a Known Valuable Mineral Resource or a Locally Important Mineral Resource Recovery Site:** Mineral resources are abundant in California, and it is possible that future projects implemented in response to the proposed regulation could be located in or near areas with important mineral resources. However, projects implemented in response to the proposed regulation would be required to evaluate potential effects on mineral resources through project-level environmental review. The Surface Mining and Reclamation Act of 1975 (PRC Section 2710 et seq.) (SMARA) requires that the California State Geologist implement a mineral land classification system to identify and protect mineral resources of regional or statewide significance in areas where urban expansion or other irreversible land uses may occur, thereby potentially restricting or preventing future mineral extraction on such lands. As mandated by SMARA, aggregate mineral resources within the State are classified by the State Mining and Geology Board through application of the Mineral Resource Zone (MRZ) system. The MRZ system defines four zones based on the degree of available information characterizing the area and the presumed significance of the resource. If a jurisdiction wishes to permit a project that would limit mineral extraction in a protected area, the project may be required to prepare an evaluation of the significance of the specific mineral deposit that would be affected for submission to the State Geologist. Before a use that would threaten potential mineral extraction in an area of regional or State importance is permitted, the lead agency must prepare a statement specifying its reasons and demonstrating that the agency has balanced mineral values against alternative land uses and considered the importance of the minerals to the market region as a whole and not just their importance to the lead agency's jurisdiction.
- **Impact 3.10-1: Violation of Any Water Quality Standards or Waste Discharge Requirements or Conflict with the Implementation of a Water Management Plan through Construction of New Organic Waste Recovery Facilities:** The proposed regulation would stimulate the development of new organic waste recovery facilities. Site grading and construction of these facilities would create ground disturbance and potentially accelerate soil erosion. Soils exposed during rain events could generate sediment that could be carried in runoff into storm drains and surface waters, adversely affecting water quality. However, the existing regulatory environment includes robust protections for water quality during construction activities. The requirements of the Construction

NPDES permit for each project would include implementation of measures to control on-site stormwater and protect water quality. Please see the above discussion of the NPDES and BMP requirements, related to Impact 3.7-1.

- **Impact 3.10-2: Violation of Any Water Quality Standards or Waste Discharge Requirements or Conflict with the Implementation of a Water Management Plan through Operation of New Organic Waste Recovery Facilities:** The composting process releases water that may contain nutrients, metals, salts, pathogens, and oxygen-reducing compounds. Without proper management, these compounds can be carried into surface waters or can leach into groundwater, causing water quality degradation. However, California regulates composting and other organic waste recovery operations through the issuance of waste discharge requirements, which includes a suite of protections to ensure that stormwater and water generated by the composting process is managed in a manner that prevents degradation of surface water and groundwater. Because these regulatory protections are in place, this impact would be less than significant.
- **Impact 3.8-1: Conflict with Applicable Plans, Policies, or Regulations of an Agency Adopted for the Purpose of Reducing Emissions of GHGs:** The proposed regulation was developed to be consistent with applicable plans, policies, and regulations aimed at reducing GHG emissions, including the [AB 32] 2017 Scoping Plan, SLCP Reduction Strategy, and Draft 2030 Natural and Working Lands Climate Change Implementation Plan. The purpose of the proposed regulation is to reduce fugitive methane emissions from landfills through the redirection of organics to organic waste recovery facilities (such as compost and AD facilities), where methane emissions would be reduced through effective techniques or collected as biogas for energy generation and transportation fuel. Overall, the program would be consistent with applicable plans, policies, or regulations adopted for the purpose of reducing emissions of GHGs.

The commenter states that impacts 3.9-1 through 3.9-6 cannot be reduced to a less-than-significant level through federal and State laws. Specifically, the commenter refers to potential exposure to the fungus that causes Valley Fever and increased attraction of disease vectors. Please see response to comment 13-4 regarding the potential to increase incidents of Valley Fever and response to comment 9-3 regarding vector attraction.

Finally, the commenter states that Impact 3.10-4, Substantial Decrease in Groundwater Supplies or Substantial Interference with Groundwater Recharge Such that the Project May Impede Sustainable Groundwater Management of the Basin, cannot rely on local groundwater plans to provide mitigation for potential impacts. All the Central Valley groundwater basins have been categorized as medium or high priority basins and would therefore be regulated by groundwater sustainability plans (GSPs) by 2022. It is likely

that the majority of projects implemented in response to the proposed regulations would be located within the Central Valley. Although the specifics of each GSP cannot be known at this time, SGMA includes required elements including criteria for sustainable management, groundwater monitoring, and specific projects and enforceable management actions that move the basin toward sustainability. Additionally, new composting facilities implemented in response to the proposed regulations would be subject to project-level environmental review and local permitting requirements, which would require an assessment of groundwater effects. Furthermore, as described in Impact 3.10-2, composting facilities would be required to comply with SWRCB NPDES permit conditions including capture and reuse of rainwater, which would reduce the overall water demand of each facility. For these reasons, the Draft EIR appropriately concludes that the potential for the proposed regulations to result in overdraft of groundwater is less than significant.

Thus, these impacts have been adequately analyzed in the EIR and substantial evidence is presented to argue that potential environmental impacts would be less than significant. No changes to the document are required.

Comment Number: 20-17

Conclusion

The LTF appreciates efforts on the part of the state to reduce SLCPs. However, the EIR has several significant deficiencies. Local government representatives would like to rely on the final Programmatic EIR to tier from when taking discretionary actions to comply with the regulations. However, to be useful for this purpose, the EIR must include a robust analysis of potential impacts, and, where appropriate, specific project design features that could mitigate them. This document fails to provide that analysis, instead it glosses over key impacts. Additionally, this EIR fails to provide realistic alternatives that would assist local governments in their role of trying to implement these regulations. The goals of the SB 1383 cannot be achieved without significant involvement by local government, and yet approaches and alternatives that address local government needs, and provide them sufficient flexibility, were not considered. These deficiencies should be corrected before the regulations are adopted.

CalRecycle Response:

The commenter summarizes issued addressed in the comment letter. See responses to comments 20-1 through 20-16.

**Comment Author: South Coast Air Quality Management District,
September 13, 2019**

Comment Number: 21-1

South Coast AQMD Staff's Summary of Project Description

The Lead Agency proposes to adopt new regulations (Proposed Project) that will achieve the organic waste disposal reduction and edible food recovery targets identified in Senate Bill 1383 (SB 1383) – Short-Lived Climate Pollutant (SLCP) Reduction

Strategy, adopted by the California Air Resources Board in 2016. SB 1383, which is a part of the State's 2017 Climate Change Scoping Plan, requires achieving a 50 percent reduction in statewide disposal of organic waste from 2014 levels by 2020, and a 75 percent reduction by 2025 . Additional requirements include recovering a minimum of 20 percent of edible food currently in the organic waste stream for human consumption by 2025 . The Proposed Project will be implemented statewide and provides provisions for activities such as organic waste collection and recovery, and contamination standards at organic waste processing facilities.

Background on South Coast AQMD Rule 1118.1 – Control of Emissions from Non-Refinery Flares

On January 4, 2019, South Coast AQMD's Governing Board adopted Rule 1118.1 – Control of Emissions from Non-Refinery Flares . Rule 1118.1 is intended to reduce oxides of nitrogen (NOx) and volatile organic compounds (VOC) from non-refinery flares located at landfills, wastewater treatment plants, oil and gas production facilities, and facilities that handle organic liquids , and it encourages beneficial use alternatives to flaring, such as energy generation, transportation fuels, or pipeline injection .

As California works towards meeting the waste reduction goals identified in SB 1383, there are efforts to divert organics, including food waste, from landfills to composting facilities and anaerobic digesters, such as those at wastewater treatment plants. As composting and wastewater treatment facilities receive an increase in organic inputs, there could be an increase in the volume of biogas generated and flared at these facilities. During the rule development process for Rule 1118.1, stakeholders provided South Coast AQMD staff with information which showed that digestion and co-digestion of high protein food waste (e.g., meat) can result in generation of biogas containing fuel-borne ammonia, which, when flared, results in excess NOx emissions . As part of the adoption of Rule 1118.1, South Coast AQMD's Governing Board directed staff to conduct a Best Available Control Technology (BACT) Technical Assessment and work with California Air Pollution Control Officers Association (CAPCOA), the Lead Agency, California Association of Sanitation Agencies (CASA), and Southern California Alliance of Publically Owned Treatment Works (SCAP) in an effort to balance air quality requirements with the statewide effort of implementing SB 1383 . For more information on the BACT Technical Assessment, please visit the South Coast AQMD's website, at: <https://www.aqmd.gov/home/rules-compliance/compliance/r1118-1/tech-assessment>.

South Coast AQMD Staff's Comments

South Coast AQMD staff has included the following methods for reducing or removing fuel-borne ammonia, which the Lead Agency should consider for Air Quality Impact 3.3-2 in the Final PEIR.

- Diversion of high strength, high protein food waste to rendering facilities where this type of food waste can be processed with minimal air quality impacts. This is a feasible method that is currently used by a major supermarket chain in the South Coast AQMD jurisdiction, which repurposes and diverts scraps and cuttings from the butchering process from the landfill and ships them to a local rendering facility for processing.

- Use of digester gas treatment technology such as Wet Chemical Scrubbers to remove fuel-borne ammonia from the biogas stream that will be flared.
- Other technologies available for removing fuel-borne ammonia from a digester gas stream include water scrubber, biological scrubber, and adsorption activated static bed media .

CalRecycle Response:

The commenter summarizes the proposed regulation and the development of South Coast Air Quality Management District's (SCAQMD's) Rule 1118.1 regarding control of flares from stationary sources. The commenter recommends multiple methods of BACT that would reduce fuel-borne ammonia including diversion of high-protein food waste and use of wet chemical scrubbers, water scrubbers, biological scrubbers, and adsorption activated static bed media. Mitigation Measure 3.3-2 (page 3.3-23 of the Draft EIR) includes the following provision: "Project proponents shall comply with local plans, policies, ordinances, rules, and regulations regarding air quality related emissions and associated exposure (e.g., indirect source review, vehicle idling limitations, and payment into off-site mitigation funds)." Future new organic waste recovery facilities constructed as a result of implementation of the proposed regulation would be statutorily required to comply with the applicable rules and regulations of an air district, including SCAQMD's Rule 1118.1.

The rules and regulations enforced by air districts are developed in consideration of ambient air quality within their respective regions. Depending on attainment designation under the NAAQS and CAAQS, air districts may apply more or less stringent rules and regulations on sources of air pollution. Where appropriate, organic waste recovery facilities would apply the BACT recommended in the comment to reduce ammonia emissions.

No changes to the Draft EIR are required in response to this comment. This comment is noted for consideration by decision makers.

Comment Number: 21-2

Conclusion

Pursuant to California Public Resources Code Section 21092.5(a) and CEQA Guidelines Section 15088(b), South Coast AQMD staff requests that the Lead Agency provide South Coast AQMD staff with written responses to all comments contained herein prior to the certification of the Final PEIR. In addition, issues raised in the comments should be addressed in detail giving reasons why specific comments and suggestions are not accepted. There should be good faith, reasoned analysis in response. Conclusory statements unsupported by factual information will not suffice (CEQA Guidelines Section 15088(c)). Conclusory statements do not facilitate the purpose and goal of CEQA on public disclosure and are not meaningful, informative, or useful to decision makers and to the public who are interested in the Proposed Project. South Coast AQMD staff is available to work with the Lead Agency to address any air quality questions that may arise from this comment letter. Please contact Alina Mullins,

Assistant Air Quality Specialist, at amullins@aqmd.gov or (909) 396-2402, should you have any questions.

CalRecycle Response:

The commenter provides closing remarks for the letter, citing CEQA and the State CEQA Guidelines requirements for responses to comments. The commenter requests that all of their comments be responded to in detail with supporting details. This comment does not raise environmental issues or concerns regarding the adequacy, accuracy, or completeness of the EIR. See response to comment 21-1.

Comment Author: Waste Zero, Inc., September 13, 2019

Comment Number: 22-1

Please find WasteZero Consultant’s comments on the Draft Environmental Impact Report for the adoption of Regulations to Implement SB 1383 - Short Lived Climate Pollutants.

WasteZero is a stakeholder in the waste and recycling industry providing innovative solutions for collection programs driving greater diversion and reducing contamination.

Our comments follow:

3.13 Transportation

3.13.1 Regulatory Setting

I found the following related to the Federal Highway Administration goals for reducing vehicle miles travelled. This goal seems appropriate to include in 3.13.1 Regulatory Setting section.

<https://www.fhwa.dot.gov/policyinformation/hpms/epastat.cfm>

Reducing Vehicle Miles Traveled – Statutory Language

The goal of reducing vehicle miles traveled (VMT) is an official goal of the U.S. Government policy as it is stated in sections of the Clean Air Act (CAA), the President’s 1993 Climate Change Action Plan (CCAP), and in the Congestion Mitigation Air Quality Improvement Program (CMAQ) included in both the Intermodal Surface Transportation Efficiency Act (ISTEA) and the Transportation Equity Act for the 21st Century (TEA-21), U.S.C. 23, Section 149. The relevant sections of the CAA, CCAP, and CMAQ are reproduced below.

3.13.3. Environmental Impacts and Mitigation Measures

Thresholds of Significance

Thank you for clearly stating the thresholds of significance for transportation related environmental impacts. We agree that any net increase in VMT is significant.

CalRecycle Response:

The commenter expresses agreement with the assumption that any net increase in VMT is significant. See response to comment 7-1 regarding FHWA's goal to reduce VMT.

Comment Number: 22-2

3.13.4: Reasonable Anticipated Increase in VMT

We agree that added routes for collection of food waste from commercial generators (as stated in the following) would result in increases in VMT.

- Under the proposed regulation, commercial and residential generators would separate their food waste from other solid waste. Some commercial generators, such as supermarkets or restaurants, tend to generate high volumes of food waste that would be collected by trucks separate from those used to collect the rest of their solid waste. While many of the larger commercial generators are already subject to organic waste collection requirements under the Mandatory Commercial Organic Waste Recycling Law described in Section 3.13.1, "Regulatory Setting," the added routes for collection of food waste from commercial generators would result in localized increases in VMT.

We also agree that increased VMT will result from residential organics collection as noted in the following, and that offsets, or VMT mitigation measures, associated with alternative collection scenarios are available. We comment on the available collection scenarios in our Mitigation Measures comments below:

- Residential generators that separate green material would likely comply with the proposed regulation by comingling food waste and green material in the same container. For residential areas with weekly green material collection schemes, there would be no changes to pickup routes. However, many jurisdictions provide green material collection services on a bi-weekly basis and they would need to modify their program to provide weekly service to properly manage the putrescible materials associated with food waste. While shifting bi-weekly collection to weekly collection for green waste could increase VMT, the regulations allows jurisdictions to reduce the frequency of gray container (garbage) collection service to bi-weekly with LEA approval. This could reduce or negate potential VMT increases associated with increased green container collection.

We agree with the finding of **potentially significant** related to the environmental impacts of increased VMT.

Mitigation measures

We disagree with the finding that no feasible mitigation is available to reduce or offset the increase in VMT.

Offsetting VMT reduction is available when alternative collection systems that rely on variable colored bags, vs variable colored carts are implemented. A good example of this is found at:

<https://optibag.nu/en/lower-co2-emissions-in-waste-collection-with-the-optibag-technology-than-other-collection-systems/>

An excerpt from this link follows:

Lower CO₂ – emissions in waste collection with the Optibag technology than other collection systems

Future demands on waste collection will increase and more and more fractions are to be excluded from “normal” household waste. While this may result in a battery of garbage bin in front of every property, Optibag allows reducing this to one single bin. Having various fractions source-separated and collected in one single bin allows optimizing the collection routes and the RCV’s collection volume is used to its full capacity. Only single-compartment RCV’s are used by existing clients of Optibag, eliminating costly investments for multi-compartments trucks needed for simultaneous collection routes for two bins.

For the City of Eskilstuna in Sweden, optical sorting using the Optibag principle results in every-other week collection of MSW which is up 50% lower than comparable collection system for source-separated MSW, such as the multi-bin or multi-compartment-in-bin system. These other technologies require weekly collection of some fractions and remaining fractions being collected the following, i.e. weekly collection.

CalRecycle Response:

The commenter expresses general agreement with the VMT analysis presented in the Draft EIR, but states that mitigation measures are available to reduce significant environmental impacts through the use of a collection system that relies on bag color rather than bin color. While this collection scheme could reduce the number of bins, and thus truck trips needed to collect waste, the proposed regulation does not limit how waste is collected. Because single containers are already an acceptable collection scheme under the proposed regulation, using bag colors would not necessarily provide a reduction in the number of trips required to collect household waste. Separately bagging material should not be confused with source separating material into distinct collection systems. However, as noted above, under the proposed regulation jurisdictions could opt to provide single containers to residents and business and they could opt to employ the proposed multi-color bag scheme in those containers. Waste collected in these containers would need to be hauled to a high-diversion organic waste processing facility capable of recovering 50 percent of the organic content it received by 2022 and 75 percent of the organic content it receives by 2025. See response to comment 8-7 for a discussion related to container requirements. Regarding potential mitigation measures relative to collection services, see response to comment 7-2 regarding Mitigation Measure 3.13-4, which has been added to the Final EIR.

2.3. *Individuals*

Comment Author: Boone, Arthur, August 20, 2019

Comment Number: 23-1

I do believe that the agency's failure to spell out a "comparable to source separation" standard will seriously weaken anything you say or do on behalf of haulers who want to do centralized sorting.

Slowly we are getting to know the green attorneys and eventually we will hit paydirt.

Or so it seems to me.

CalRecycle Response

The commenter expresses an opinion but does not raise environmental issues or concerns regarding the adequacy, accuracy, or completeness of the Draft EIR.

2.4. *Public Hearing*

Oral Commenter: California Compost Coalition, Edgar, Evan

Comment Number: 24-1

Good afternoon. Evan Edgar, Engineer, for the California Compost Coalition.

I was involved with the last program EIR for anaerobic digestion facilities. It was a robust process, highly beneficial. To this very day, I still use the program EIR for anaerobic digestion to permit those facilities locally and it's a benefit to local government.

And when we started this process out, I did submit comments on the notice of preparation and we were talking about some type of stakeholder process where we had working groups to follow the program EIR did for anaerobic digestion where we can work through some of these comments. This is the first one I'm aware of. I haven't been invited by the consultant or managers to talk about some of the metrics and science and calculations that we've developed on behalf of this program EIR.

Is there another step along the way before the -- after all these comments come in from the Draft EIR and before the Final EIR goes on and that schedule? Will there be a specific stakeholder meeting to talk about the comments in the sense of the science, the math and the metrics in order to -- in order to show the net benefit analysis?

One of the comments that I provided during the Notice of Preparation, that you're supposed to find a summary of benefits. What I heard here today was a bunch of mitigation and impacts. And as a whole, this program EIR, as you know, is for the -- has a net benefit on both greenhouse gases, criteria pollutants, sequestering carbon. And I

didn't see much of that within what I saw in the draft EIR. I have metrics and math in my comment letters that weren't considered.

So, I'm looking forward to the next sit-down stakeholder meeting where we can go through the process prior to the final EIR. Will there be such a meeting for that type of stakeholder workshop?

[Hank Brady, CalRecycle, Reply at Hearing: Sure. Thanks Evan. Right now, we do not have a specific process like that set up. However, when we get your comments, we'd be happy to sit down and meet with you and walk through those.

You know, a little bit of a difference between the anaerobic digestion EIR and this process is we are fairly time limited and constrained by the timeframe for the administrative law rulemaking process and didn't feel like we had enough time available to do that process, to do a process like that prior to -- outside of the mandatory public process.

But we'd be happy to sit down with you when we get your comment letter and go through that and see where there's areas we can work on the EIR.]

That will be great because that was a commit[ment] I thought I heard during the Notice of Preparation was to do that. I was hoping it would occur by now. And we have the time to prepare the comments and we have the time to sit down with you. So, make yourself available and we'll walk through the math.

CalRecycle Response

The commenter summarizes participation in the EIR process for AD facilities. The commenter noted that they submitted comments in response to the Notice of Preparation for the EIR and asked if there would be a stakeholder working group process to discuss comments on the EIR. A representative for the lead agency responded to this comment stating that the administrative law rulemaking process will not allow for enough time to hold stakeholder work groups outside of the mandatory public review requirements. The representative indicated that they could meet with the commenter to further discuss their comments.

The commenter also noted that the proposed program would have a net benefit on GHG emissions and other air pollution effects but did not see much of those described in the Draft EIR. See responses to comments 1-3 and 1-4, which summarize the benefits of the project as described in the Draft EIR.

Comment Number: 24-2

Under the cumulative benefits analysis, you have different aspects, a no-project. They have kind of like a relative rating schedule on the chart back here. And there's so much metrics available that you guys should do like the baseline. Any CEQA process always has a baseline. So, if all these organics are baseline and put in landfill, we kind of know what the VOCs are, we know what the greenhouse gases are, that's a known. And to

have a project alternative, that should be explicit, and especially with a cumulative impact statement in the back.

CalRecycle Response

The commenter refers to a cumulative benefits analysis and alternatives analysis. The commenter notes that CEQA requires use of baseline information and that there is baseline information available about organic materials put in landfills, VOCs, and GHG emissions. This comment reiterates comments submitted in a letter by the commenter. Response to comment 2-3 discusses baseline landfill emissions.

Comment Number: 24-3

When you go through alternative analysis on Table 5-1, it talks about less than avoidable, similar and less, and all these alternatives have true metrics. I did the math. You guys have presented a scenario. I understand on a project level, within the community of a county or city, the project-level impacts, but this is a program EIR, not a project EIR. And as part of the program EIR there's aggregate numbers of net benefits above baseline.

Now on Table 5-1, that table should have what is baseline, alternative one, no-project, and other alternatives with actual metrics on the greenhouse gas benefits, the NOx reductions, the VOC reductions, under agriculture, the benefits of sequestering carbon agriculture, under the greenhouse gas, that these facilities are net-zero now according to CARB.

There's a whole series of information I provided with metrics to validate the program aspect of a scenario that you guys put together of 100 different facilities, whatever, and so many Air Districts. Each one of those scenarios have a different aspect of emissions in that air basin.

So we took your numbers, ran with it, provided the NOx emissions which you did include, the VOC emissions which we did the math for you and presented it, that type of information should be in a program-level EIR so that the net benefits can be expressed on both alternative, no alternative and two and three alternatives. I have that in writing and the NOP comments have that. I will submit it again today and probably submit it again as part of the -- in Word document so you can easily accommodate these comments in writing.

CalRecycle Response

The commenter explains their understanding of the alternatives analysis. The commenter suggests providing more specific detail related to the baseline, the alternatives, and the benefits of the project related to air pollutant emissions and GHG emissions. This comment reiterates comments submitted in a letter by the commenter. See response to comment 2-3, which discusses baseline landfill emissions. See response to comment 2-4, which describes the potential for compost operations to provide net-zero GHG facilities. See Master Response 3, "Adequacy of the Alternatives Analysis."

Comment Number: 24-4

MR. BOONE: Sorry to walk in late. We didn't know about this meeting until about a couple hours ago.

I'm basically arguing the same points that I made from before, with a little more authority maybe: I don't think the statute allows you to give people the right to set up a single-bin collection system and then expecting the waste hauler to pull out all of the goodies that are necessary. I think the statute is more restrictive than that. I think the fact that the Board has not yet figured out what comparable to source separation means is a heavy deterrent to the legal effectiveness of your position on the regulations. And I hope very much to find attorneys who will agree with me and be willing to argue this case.

As you know, we've been involved in a lawsuit in Alameda County against a mixed-waste processing facility. My lawyer friend said her favorite statement to herself when she starts a new case or ends a new case, a new area of law to her is, "I wish I knew what I know now when I started this." And we feel very much that way.

The thing that's most impressive to me in all of this is what's been going on in Europe in the past four or five years. I hope that you all are paying attention to that because I think it's very much a bellwether of what can happen or should happen in the United States, which is about a year ago, the European Union said, for the first time, effective in 2024, all organics collected in the European Union, that's 560 million people, 26 different countries, all of that material will be source separated, okay?

We are not -- we are heading off in a different direction by allowing mixed-waste processing to continue. And the Europeans have tried this for years. They have -- what they have come up with is contaminated compost, they've come up with all kinds of problems with the end-product material, compost-like -- I forgot what the CLO -- it's sort of a buzzword-type thing.

But I think if you really understand what was going in Europe, you would say, do we have to, in California, do we have to spend 20 years marching through the same steps that they did in order to recognize that organics -- you can't mix organics and other materials and expect to be able to pull them out again, it just doesn't work. Now maybe someday some bright smart guy or gal will figure that out but that hasn't happened yet.

And so, in our opinion, I think part of what you're doing is going down the wrong path, that's all.

And Toni Stein is parking her car and will be along in a minute.

But I think that's about all I have to say. Thank you.

CalRecycle Response

The commenter provides introductory remarks related to the proposed regulation and summarizes a solid waste collection process in Europe that utilizes source separated systems instead of a system that uses mixed waste processing. The comment does not

raise environmental issues or concerns regarding the adequacy, accuracy, or completeness of the Draft EIR.

Comment Number: 24-5

MR. BOONE: One of the very interesting statistics that's come up recently that I think has not been -- I didn't look at it right correctly myself, in 20 -- 2007, Alameda County did a study to determine how many of their garbage containers had materials that really belonged to the recycling bin. And what they found is that 65 percent of the bins that were -- of the garbage bins that were surveyed had recyclable materials in them.

They did the same study in 2017 and they found that only 35 percent of the bins had recyclable materials in them. And what is essential is the public catching onto the idea that these things that we were putting in the garbage don't belong in the garbage.

I've been living in a multiunit building in Alameda for the last year, helping a friend who's somewhat disabled. And I have been amazed at the 12-unit building that we live in. We are the only family in the complex that understands what organic recycling is, organic diversion. And the reason is the city doesn't do anything. Nobody's banging on us. The hauler doesn't look in the garbage can and see all these organics and says I can't pick this up. I've seen people do that but not in that situation.

So, I think we have a real -- in the cities that -- where this is supposedly important, there's a real enforcement problem. And I think that's, to me, personally, I think that's the local elected officials are basically not willing to tackle the hard parts of this.

Think about the -- think about the laws. It's really fun to read.

Just one more moment and I won't bore you by this.

If you read, the Chronicle has, on Sundays, they have a series of articles of what was in the news 20 years ago, 40 years ago, 60 years ago, if you ever see that. Recently, they printed the comments that were out when the idea of banning smoking in restaurants was first published and it was really amazing. The tourists are going to stop coming to San Francisco because they can't smoke in the restaurants, I mean, stuff like that. And, you know, this is going to kill my business, my bar will die, blah, blah, blah, you know? And, you know, it's a whole long event now; is that correct?

And I believe that the future of recycling and the future of organic -- conversion of organics to reusable materials is a similar kind of -- it's a ho-hum. It will be looked at as a ho-hum 20 years from now.

CalRecycle Response

The commenter summarizes the results of solid waste and recycling studies conducted by Alameda County and expresses concern about enforcement of organics recycling. The commenter believes that the future of recycling and conversion of organics to reusable materials will be ho-hum in 20 years. The comment does not raise environmental issues or concerns regarding the adequacy, accuracy, or completeness of the Draft EIR.

Comment Number: 24-6

MR. EDGAR: Evan Edgar, Engineer, for the California Compost Coalition.

Specifically, the section, Utilities and Service Systems, under the impact to public utilities, this is a mandated program where there would be over 100 facilities, so this is an essential public service.

As you know from the other reports from California Air Pollution Control Office Association, there are 35 different Air Districts where 21 of those have designated compost facilities as an essential public service, as well as other types of public services are essential.

So, as part of my comments in the Notice of Preparation, I asked for a discussion about the impact on compost facilities. We're an essential public service with regards to providing a service for SB 1383. And based upon an infrastructure study, we have infrastructure spread out throughout California, but all these new tons coming on the market will be an impact to essential public service.

Based upon the paper, Rod Capula (phonetic) paper out, Composting of California, there should be a discussion inside of the section here you have that talks about impacts on water supply and distribution, wastewater collection and treatment, and there's all types of discussion about that, but I think there's definitely an impact. There's a significant impact on compost facilities by not having enough of them and composting is an essential public service. Those comments and that discussion should be part of this draft Environmental Impact Report.

CalRecycle Response

The commenter refers to the Utilities and Services section of the Draft EIR and notes that compost facilities are an EPS, which is also recognized by air districts in the State. The commenter asserts that the increase in material sent to the compost facilities would impact these facilities, which should be discussed in the Draft EIR. Response to comment 2-5 adds a discussion of EPSs in the regulatory setting portion of Section 3.14, "Utilities and Service Systems."

Comment Number: 24-7

MR. EDGAR: Evan Edgar, Engineer, for the California Compost Coalition.

Under section 4.4.2, Agriculture and Forest Resources, there was a finding there that it could result in considerable contribution to a significant cumulative important on agriculture. Now, I've been working on another silo, the working lands, Natural and Working Land, whereby compost application to irrigated cropland has a significant benefit to agriculture. I've submitted vast comments over there whereby they are recognizing the greenhouse gas benefits of, I think it's 5 to 12 million metric tons per year by 2025 by increasing the use of compost on irrigated crop lands and working lands.

Now, inside of here, there's no discussion about compost use, whereas there's some emission reduction factors noticed in the greenhouse gas section. But when it comes to compost use on irrigated cropland, it looks like somehow composting is significantly impacting agriculture and the opposite is the case. There should be a discussion about the net benefits of compost use on agricultural land. You'll get those comments in writing, the same comments I provided in the past and the comments I provided to the Natural and Working Lands process that's going on over at California -- CDFA.

CalRecycle Response

The commenter notes there are GHG-related benefits for agriculture from compost application to irrigated cropland and suggests that the EIR include a discussion of the net benefits of compost use on agricultural land. Response to comment 1-3 summarizes the benefits related to composting and the use of compost on agricultural and working lands described in the Draft EIR.

Comment Number: 24-8

MR. EDGAR: Under the Air Quality section with regards to baseline conditions, even within the many studies from CAPCOA to carbon emission reduction factors, the VOCs from composting is less than just about half of landfills and, therefore, it's being treated in this document as if they are a new source, such as Air District treats compost as a new source review. Whereas, if you brought in baseline conditions, which is a requirement of CEQA to baseline, had this material gone to landfills there's more VOCs going to landfills, about 1.9 times more VOCs are emitted from landfills than composting.

So in the Air Quality section, I think that should be, once again, highlighted, discussed with metrics. And within my comments I provided under the NOP, we actually did the math on the -- using the scenario that CARB had and other scenarios with regard to 53 to 74 new facilities in all these different Air Districts, we actually submitted a white paper about the benefits, the net benefits of VOC reduction in each Air Districts.

And on top of that, with regards to local air permitting, even with these net benefits, what would be the cost of emission reduction credits if we were to bill them? And the cost to do that is vast. And I put down, in the paper I put down, it's going to be up to \$54 million in offsets to build these facilities. But if we brought in the net benefits analysis from baseline, coupled with essential public services' discussion we have at many of the Air Districts, the compost facilities would not need to pay these emission reduction factors.

I realize CEQA is not an economic conclusion, but I think that -- but you're not supposed to bring that in. But I do need to bring in net benefits of VOC reduction, as well as essential public service, in order to have compost in California.

CalRecycle Response

The commenter describes VOC emissions as part of the baseline conditions for composting facilities but states that it appears that those emissions from compost

facilities are being treated as a new source in the Draft EIR. The commenter notes that there would be a net benefit of VOC reductions in each air district and suggests that the net benefits of VOC reductions for compost facilities and their status as an EPS be recognized. Response to comment 2-4 discusses how the Draft EIR addresses baseline conditions with respect to VOCs. Response to comment 2-5 adds a discussion of EPSs in the regulatory setting portion of Section 3.14, "Utilities and Service Systems."

Comment Number: 24-9

MS. STEIN: Hi. Thank you. My name is Antoinette Stein. I come here from Alameda County. I live in Berkeley, California.

This is about -- I haven't -- I read -- what I've read is that the SSOs, source-separated organics, green bin source-separated organics, are to be kept separate, that 17 -- I can't remember the number, it's not in front of me so I really need to pull that number, but that's the text you have, is keep it separate.

My question is I'm seeing that it's ambiguous, and I wrote you that comment, and you -- it's hard to understand that you have one line saying separate SSO, source separated, in which the community separates it into the green bin which the truck comes and receives it and then processes it into organic compost.

My question is: Why would you want to then go and combine it with non-source-separated mixed waste from the black bin, from the purple bin, from some other garbage, trash? That's my reading, is that you then move into other lines of 1383 that allow it to be mixed in.

And my question is right now my -- I have a PhD in environmental engineering. I've worked my career as an engineer and I worked for three years at the Department of Public Health and for five more years for DGS in environmentally preferable purchasing.

My question is it's known, 25 percent of the California population today smokes. We did our best at the Department of Public Health to reduce the smoking. We've done well. We've improved.

But I'm sorry to say, when people smoke, they throw their butts and their ashes and all of that into the garbage can. That then gets mixed in with -- if people put organics in there. And then you're wanting to mix that mush that has -- right now we know, if you go and you look at the sewage, half of what is smoked ends up into the garbage and the other half ends up into the toilet or into the sewer through the InSinkErators.

And we know today, PFAS, PFOS, fluorinated compounds that are contaminants and disastrously make people ill is now being mixed in with what we just spent a lot of energy to source separate and to pick up and to have trucks to carry and process. And then, what, we're going to mix it with butts and the ashes that are creating the fluorinated compounds that are toxic, along with diapers, along with petroleum waste, along with the long stream of phthalates?

Green America has already published their report to say that thermal receipts, everyone receives receipts daily that are then tossed into the garbage can and then leached. They've shown that the leaching of those thermal receipts gets into the garbage in which the organics are there. And then we're going to like kind of stir this up, mix it up, shake it up, twist it, turn it, and separate out the organics.

And I'm sorry to be so terse here but it just isn't right. We're spending so much time and energy to source separate, like Europe. Europe has been through this. They already say, source separated organics are the way to go. And yet we're -- we have one line in there that says, yeah, we'll keep them separate. But then you look deeper into the hairy details of the text and you look and you find that they aren't actually being kept separate, that they're being mixed with the mixed garbage, the butts, the receipts, the diapers, the garbage, and why? What is the point?

Then let's just stop source separating if that's what you're putting in because it's a free country, it's a free world. We all have the right to throw it in the garbage and do what we want because we're free; right? But yet, then, uh-oh, what are we going to do? It's all contaminated with fluorinated flame retardants when you smoke the cigarettes.

What do you think keeps those filters from burning up in your face? Something is keeping them from burning. And those contaminants are being then leached out into the liquid goop that gets into the food waste, that stirs into the garbage can when the garbage truck comes and turns it over and dumps it into the trunk, and then shakes it out, and then twists it around, and then separates it up into -- wow, is this stuff compost? In Europe they call it compost-like output. It isn't really truly compost because true compost is made from source separated organics.

That's where we started. That's what you said this was all about. But now you're doing this whole CEQA thing without being clear. It's ambiguous. What is it that you're proving and approving? Because I can't get it.

What I see is un-source separated organics because it's a free country, it's a free world. We all have the right to not do source separation.

Thank you. I just think you need to be clearer and we need to save our children from all this contamination. And we need to keep the organics clean, like Europe. And we need to follow the science, and I'll send it in. I'll send you what comes from Europe. And the proof is when you test what is made from un-source separated organics turned into compost, unless you sieve in the solution to -- the solution to pollution is dilution. And is that why you're allowing source separated cleaning organics in there, to just dilute out the mess that you've created?

Thank you. I just think you need to do it the way you intended. And, yeah, it's a free world, but our kids are getting this. And we're growing our food. These are -- this is for using on top of our ground, or is it just for fill again? You know, it's a free world; right?

CalRecycle Response

The commenter provides introductory remarks about their background and understanding of the proposed regulation. The commenter expresses concern about contamination related to a waste collection system that utilizes a mixed-waste collection system. Response to comment 11-1 addresses the issue of contamination in organic materials. The comment pertains to the proposed regulation and does not raise environmental issues or concerns regarding the adequacy, accuracy, or completeness of the Draft EIR. The comment is noted for consideration by decision makers.

Comment Number: 24-10

MR. EDGAR: Evan Edgar, Engineer for the California Compost Coalition. And this is under section 3.82 about greenhouse gases.

As part of the NOP, I did provide comments about the scoping plan. And under regulatory setting there's a discussion about all the different policy drivers and legislation that we're at today.

As part of that, in the scoping plan, CARB has a definition for what is net-zero greenhouse gas emissions for the waste sector. And it's in their May 15th, 2014 Scoping plan. And the net-zero is defined with metrics. And the information I provided in writing and I will do again is that these facilities cover (indiscernible) compost and anaerobic digestion facilities are net-zero now with regards to the net emissions of processing. And all the energy that goes into it, the net benefit of the offsets due to carbon sequestering are greater than that. So, using the CARB definition and the Federal EPA WAR (phonetic) model and using verification from the Climate Registry as a third-party registration, we have shown that these facilities, the net-zero for some time now.

That discussion is important. I've been involved with a lot of -- recently the workshops have been about deep carbonization by 2045 and how to be carbon neutral by 2045, on how to get off the grid.

And along the way, they're trying to phase out CNG and RNG trucks. So, all these climate change policies of 2045 are getting in the way of greenhouse reduction today because right now we can take the RNG from anaerobic digestion. I wrote up the carbon metrics for that based upon your scenario in the transportation section being carbon negative and those benefits. So today, we could actually be carbon negative and we have shown to be net zero.

Those type of metrics should be part of this plan today. You've got these facilities on a project level and on a program level that are doing that. So, in the greenhouse gas section it would be nice to have that discussion. I'll give it to you in word. And that discussion is worthy because the 20 -- AB 30 scoping plan for 2014 wanted the waste sector to be net zero by 2030. And the type facilities that you're -- are in this report today is program EIR net zero now. And those metrics and math can back it up with a CARB definition. Please include them.

CalRecycle Response

The commenter provides background information about comments they previously submitted on the NOP and CARB's definition of net-zero GHG emissions for the waste sector and requests that this information be included in the EIR. Response to comment 2-4 describes the potential for compost operations to provide net-zero GHG facilities.

Comment Number: 24-11

MR. SANTILLANO: All right. This is from Anna Haller with Director Project Development Environmental Diversion Solutions. She commented, "We embrace technologies, like biochar gasification, that reduce organic waste material volumes regionally or at the point of generation while allowing us to combine organic waste with no worry of contamination, but also enhance compost and AD facilities.

"When will the qualification path for new technologies begin in order to obtain diversion compliance for under SB 1383? Closed-loop franchised waste hauler transportations are on their way."

CalRecycle Response

The commenter reiterates comments included in comment 10-1, noting their support for technologies that reduce organic waste material volumes regionally or at the point of generation and asks when the qualification path for new technologies begin to obtain diversion compliance under SB 1383. This comment is not germane to the environmental analysis in the EIR. Comments on the substance of the regulations should be made during the appropriate comment periods for the rulemaking. Also see response to comment 10-1.

Comment Number: 24-12

MS. STEIN: Okay. Thank you. Antoinette Stein once again, PhD, environmental engineering, air quality control.

I just wanted to comment about the net zero already to go. Is in that evaluation whether or not the organic digestate coming out of the anaerobic digesters, the qualifications of the trucking, where is that going? And are you including that into the equation? And is that going to be true organic compost or is that compost-like output or is it both and, and if it's both, that there's qualifications for that? That's number one.

Number two is on the side of the collected gases from the anaerobic digester, are you including the energy and metrics to clean that so that you don't have the ammonia, the nitrous, the NOx that are equally as potent as the methane, that you're including that in the route of this net zero? Is it truly net zero? Where is that going and what is that? Where is that being deposited, along with the other toxins that are coming out of the anaerobic digester, including the sludge that goes to the water sewage system? Are all of those being calculated into the processing of that sludge? And where does it go? And what does it do? And -- because I don't really believe so.

I think right now, as I pointed out, we have PFAS and PFOS that we have no source of dealing with and we're ending up with it back into landfill, so it's really not, truly. Your diversion needs to be metrically counted true diversion. Is it going to the landfill in the end, after you extracted your energy? And is that truly a positive net zero or positive number? Are we just comparing it to the -- what we -- this bad decision of putting it in landfill, making a mess, and now, let's just do better; is that where we're at? Or are we at truly net zero of what we're doing?

So that's kind of the question. Thank you.

CalRecycle Response

The commenter asks about whether the analysis for net-zero facilities includes the digestate from anaerobic digesters, trucking, and if a true organic compost or compost-like output are being considered. The commenter also asks if the analysis related to the anaerobic digesters considers the energy associated with cleaning it and transporting sludge to wastewater treatment plants. Response to comment 2-4 describes the potential for compost operations to provide net-zero GHG facilities.

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3. Corrections and Revisions to the Draft EIR

This chapter presents specific text changes made to the Draft EIR since its publication and public review. The changes are presented in the order in which they appear in the original Draft EIR and are identified by the Draft EIR page number. Text deletions are shown with a ~~strikethrough~~, and text additions are shown with an underline. [If you need assistance reading and understanding where deletions or additions are shown, please contact the Office of Public Affairs: opa@calrecycle.ca.gov.](#)

The information contained within this chapter clarifies and expands on information in the Draft EIR and does not constitute “significant new information” requiring recirculation. (See the Master Response regarding recirculation; see also Public Resources Code Section 21092.1; State CEQA Guidelines Section 15088.5.)

3.1 Revisions to the Executive Summary

The following mitigation measures have been updated in Table ES-1 to be consistent with edited text described below.

The following text changes have been made to Mitigation Measure 3.3-2 in Table ES-1:

The following mitigation measures can and should be required by agencies with project approval authority to avoid or minimize impacts on operation-related air pollutants.

- Project proponents shall comply with the CAA and CAAA (e.g., New Source Review and Best Available Control Technology criteria, if applicable).
- Project proponents shall comply with local plans, policies, ordinances, rules, and regulations regarding air quality–related emissions and associated exposure (e.g., indirect source review, vehicle idling limitations, and payment into off-site mitigation funds).
- Project applicants shall establish a requirement pertaining to the use of biogas for electricity and facility-related vehicles.
- Project applicants shall establish a maximum rate at which flaring may occur at a facility.
- Project applicants whose projects would generate criteria pollutants and ozone precursors in exceedance of an applicable threshold shall conduct air dispersion modeling if feasible.
- Project applicants whose projects would introduce substantial transportation emissions to an air basin or county in nonattainment for any of the NAAQS or CAAQS shall:

- quantify mobile-source emissions of criteria air pollutants and ozone precursors,
- prepare a report demonstrating the necessity of such transportation activity,
- require the use of zero or near-zero on-road, heavy-duty trucks that access future facilities, and
- prepare a Voluntary Emissions Reduction Target (VERA) with the applicable district.

Mitigation Measure 3.13-4 has been added to Table ES-1:

Mitigation Measure 3.13-4: Employ Remote Monitoring Technology to Measure Remaining Container Capacity and Monitor Container Contamination

As described in Section 1.2, "Purpose of this EIR," the authority of CalRecycle and LEAs is statutorily limited. They do not have authority to require implementation of mitigation measures that would reduce potentially significant increases in vehicle miles traveled. Mitigation measures to reduce VMT can and should be implemented by local jurisdictions with land use authority. Site-specific, project impacts and mitigation would be identified during a project's local review process. A proposed project would be approved by a local government and potentially another permitting agency that can apply conditions of approval.

The following mitigation measures can and should be required by agencies with project approval authority for waste collection services to avoid or minimize VMT:

- Require placement of remote monitoring technology in collection containers or on collection vehicles that are capable of identifying underused container capacity (e.g. whether a bin is partially full) and the presence of contaminants in a container, on a regular basis or when a container is tipped in into a collection vehicle.
- Establish practices to identify optimization of vehicle routes in a manner that reduces the collection of partially full containers and/or informs customers that could down size their container size.
- Identify opportunities to reduce VMT by limiting the collection of contaminated containers in a manner that commingles the container contents with clean material.
- Encourage businesses and residents to right-size their container to reduce unnecessary vehicle trips.

3.2 Revisions to Section 2.1 Overview of the Proposed Regulation

To update the projection description to reflect changes made in the final draft of regulatory text several changes to the project description were made. The changes do not impact the findings in the analysis.

Page 2-1 through page 2-2 of the Draft EIR is revised as follows:

The proposed regulation directs actions to achieve the statewide organic waste disposal reduction and edible food recovery targets. CalRecycle, in consultation with CARB, has developed a regulatory approach that requires jurisdictions and other regulated entities to implement a suite of programs to achieve the statute's statewide mandates. The proposed regulation includes provisions related to the following types of activities:

- collection, with a focus on mandatory source-separated collection of organic waste;
- edible food recovery, with a focus on commercial edible food generators, such as wholesale food vendors, supermarkets, grocery stores, and restaurants with 250 or more seats or a total facility size equal to or greater than 5,000 square feet;
- recovery standards at facilities processing organic waste and methods for reducing contamination and the presence of organic waste in disposal streams;
- infrastructure planning, with a focus on regional coordination to plan for future organic waste recovery capacity and edible food recovery operations;
- procurement at the local level of compost; renewable gas used for fuel for transportation, electricity, heating applications, which may be derived from gas delivered to those end-uses through ~~or~~ pipeline injection; electricity from biomass conversion; mulch and recyclable paper products;
- reporting requirements, which are built on existing systems for reporting to CalRecycle; and
- enforcement, with the primary requirements for mandatory enforcement being placed at the local level but with CalRecycle also having an expanded enforcement role.

The proposed regulation applies to approximately 540 jurisdictions in California; millions of households; thousands of businesses; hundreds of haulers and food recovery organizations and food recovery services; hundreds of material recovery facilities (MRFs), processors, recyclers, and landfills; dozens of local government environmental enforcement agencies; and all schools, federal agencies, and State agencies. The proposed regulation broadly defines organic waste as follows (Section 18982[a][46]):

3.3 Revisions to Section 2.3 Summary of the Proposed Regulation Changes

To provide clarification, the second to last paragraph on page 2-4 of the Draft EIR is revised as follows:

- Article 3. Organic Waste Collection Services

Article 3 specifies minimum standards for organic waste collection services provided by jurisdictions, including specific container color and labeling requirements, and record keeping, to reduce container contamination. The proposed regulation requires generators to subscribe to services and requires jurisdictions to provide services and verify compliance. The article allows jurisdictions to provide a variety of organic waste collection services including a three-container (green/blue/gray) collection service (a fourth container can be used for food waste if a jurisdiction wishes to source separate green material and food waste), two-container (green/gray or blue/gray) collection service, and an unsegregated single-container (gray) collection service. Each service is subject to State minimum standards. Container colors and labels dictate what waste is intended for collection.

To provide clarification, the second paragraph on page 2-6 of the Draft EIR is revised as follows:

Article 12. Procurement of Recovered Organic Waste Products

Article 12 requires jurisdictions to procure minimum levels of compost, mulch, renewable natural gas (RNG), or electricity derived from biomass conversion facilities that receive feedstock from solid waste facilities. Procured RNG must be used for one of the following end uses: transportation fuel, ~~pipeline injection~~, heating, and/or electricity. Additionally, jurisdictions must meet minimum recycled content and recyclability standards for paper products. Jurisdictions are also required to meet record keeping requirements to demonstrate compliance with this article.

For RNG produced at POTWs and electricity produced at biomass conversion facilities, the facility must demonstrate that it receives feedstock from solid waste facilities to be eligible. Additionally, RNG produced at a POTW that transfers more than 25 percent of its biosolids to an activity not defined as recovery in Article 2 is ineligible to count toward meeting a jurisdiction's recovered organic waste product procurement requirements. For mulch, jurisdictions must procure it from specific types of solid waste facilities.

To provide clarification, the second to last paragraph on page 2-8 of the Draft EIR is revised as follows:

Chapter 5 – Enforcement of Solid Waste Standards and Administration of Solid Waste Facilities Permits; Loan Guarantees, Article 2.2. LEA Performance Standards, Evaluation Criteria, and Duties and Responsibilities (Section 18083)

The proposed regulation requires local enforcement agencies (LEAs) to monitor solid waste facilities to determine recovery efficiency and compliance with ICM limits through record reviews and observation of samples and application sites.

To provide clarification, the second and third paragraph on page 2-9 of the Draft EIR is revised as follows:

Revisions to Title 27, Division 2.

The proposed regulation would amend Chapters 2, 3, and 4 of Title 27. Notable regulatory changes include the following:

Article 3. CalRecycle – Handling, Equipment, and Maintenance

The proposed regulation requires landfill operators that expand their facility to establish an on-site organic waste recovery activity or transport organic waste to another facility that recovers organic waste. The section exempts material received at a landfill from this requirement if it has already been processed at another facility that recovers 75 percent of the organic waste it receives.

~~Article 4. CalRecycle – Controls~~

~~The proposed regulation requires landfill operators to sample gray container collection streams to determine the amount of organic waste present in the gray containers of the jurisdictions they serve.~~

Chapter 4. Documentation and Reporting for Regulatory Tiers, Permits, Waste Discharge Requirements (WDRs), and Plans, Subchapter 3: Development of WDRs and Solid Waste Facility Permits

Article 2. CalRecycle – Applicant Requirements

The proposed regulation requires operators of proposed new or expanded solid waste facilities to submit evidence that they held a public meeting with disadvantaged communities within 180 days prior to submittal of a permit application package.

3.4 Revisions to Section 2.5 Reasonably Foreseeable Compliance Responses

To provide clarification, the second paragraph on page 2-25 of the Draft EIR is revised as follows:

The proposed regulation additionally imposes ICM limits for materials that a MRF would send to another entity for further processing or recovery. The ICM limits require the processing facility to reduce the presence of ICM to an average of no more than 20 percent by 2022 and no more than 10 percent by 2024. If a facility cannot reduce ICM in certain streams (e.g., paper) to less than 10 percent, then that material can be sent only to a secondary facility that meets ICM limits or a facility that meets minimum organic residual levels in material sent for disposal (either a recycling center or a solid waste facility that demonstrates that less than 10 percent of its ~~residual stream~~ material sent for disposal is organic content).

3.5 Revisions to Section 3.3., Air Quality, of the Draft EIR

To provide clarification, the last paragraph on page 3.3-17 of the Draft EIR is revised as follows:

Operation of organic waste recovery facilities under the proposed regulation would result in reductions of ROG, NO_x, PM₁₀, and PM_{2.5} associated with the diversion of organic materials from landfills to facilities, ~~with the capacity to implement strategies to reduce such emissions~~ the operations of which would reduce such emissions, such as the aeration of compost at composting facilities and the collection of biogas at AD facilities. However, AD and composting facilities, and other organic waste recovery facilities, would also generate air pollution from the on- and off-road mobile sector. On-road vehicles (e.g., refuse and other collection trucks, commute-related automobiles) accessing organic waste recovery facilities would generate emissions of criteria air pollutants and precursors. New emissions could occur at AD and composting facilities either from diesel engine grinders, flaring of biogas, or both, which could contribute to an exceedance of an air quality standard. These emissions could surpass the applicable thresholds of significance of a local air district and lead to adverse health impacts related to exposure of criteria air pollutants. Therefore, operation-related air quality impacts would be **potentially significant**.

To provide clarification, the following text changes have been made to Mitigation Measure 3.3-2 on page 3.3-23 of the Draft EIR:

The following mitigation measures can and should be required by agencies with project approval authority to avoid or minimize impacts on operation-related air pollutants.

- Project proponents shall comply with the CAA and CAAA (e.g., New Source Review and Best Available Control Technology criteria, if applicable).
- Project proponents shall comply with local plans, policies, ordinances, rules, and regulations regarding air quality–related emissions and associated exposure (e.g., indirect source review, vehicle idling limitations, and payment into off-site mitigation funds).
- Project applicants shall establish a requirement pertaining to the use of biogas for electricity and facility-related vehicles.
- Project applicants shall establish a maximum rate at which flaring may occur at a facility.
- Project applicants whose projects would generate criteria pollutants and ozone precursors in exceedance of an applicable threshold shall conduct air dispersion modeling if feasible.
- Project applicants whose projects would introduce substantial transportation emissions to an air basin or county in nonattainment for any of the NAAQS or CAAQS shall:
 - quantify mobile-source emissions of criteria air pollutants and ozone precursors,
 - prepare a report demonstrating the necessity of such transportation activity,
 - require the use of zero or near-zero on-road, heavy-duty trucks that access future facilities, and
 - prepare a Voluntary Emissions Reduction Target (VERA) with the applicable district.

To provide clarification, a total line has been added to Table 3.3-3: Summary of NO_x and PM_{2.5} Inventory for New Organic Waste Recovery Facilities (Tons per Year) revising the Draft EIR as follows:

Table 3.3-3 Summary of NO_x and PM_{2.5} Inventory for New Organic Waste Recovery Facilities (Tons per Year)

Air Basin	Total New Facility NO _x Emissions (AD + Compost + C&G, tpy) ³	Total New Facility PM _{2.5} Emissions (AD + Compost + C&G, tpy)	BAU Landfill NO _x Emissions (tpy) ⁴	BAU Landfill PM _{2.5} Emissions (tpy)	SB1383 NO _x Emissions (Total New Facility Emissions - Landfill Emissions; tpy)	SB1383 PM _{2.5} Emissions (Total New Facility Emissions - Landfill Emissions; tpy)
South Coast	62	5142	7737	8857	-7674	-3715
San Francisco Bay	21	1640	2451	2806	-2430	-1166
San Joaquin Valley	16	1214	1802	2062	-1786	-848
San Diego County	15	1179	1775	2032	-1760	-853
Sacramento Valley	10	731	1094	1253	-1084	-522
South Central Coast	8	625	934	1069	-926	-444
Mojave Desert	6	389	583	668	-578	-278
North Central Coast	5	301	447	511	-442	-210
Salton Sea	2	83	125	144	-124	-60
Lake County	2	20	30	34	-28	-14
Mountain Counties	2	18	27	31	-26	-13
Great Basin Valleys	2	14	20	23	-19	-10
Northeast Plateau	2	7	10	11	-8	-5
Total	153	11363	17035	19501	-16885	-8138

Notes: BAU = business as usual; NO_x = oxides of nitrogen; PM_{2.5} = fine particulate matter (particulate matter with an aerodynamic diameter of 2.5 micrometers or less)

¹ Landfill disposal data was aggregated into air basins based on location of each landfill, and tonnage received at each landfill.

² North Coast and Lake Tahoe Air Basins have no landfills, therefore no tons were allocated to these basins

³ Compost, Chip and Grind, and Anaerobic Digestion emission factors for NO_x and PM are derived from emissions data from source testing conducting for air district permits. Data is applied to future facilities projected to be constructed in response to the regulations. All new facilities are assumed to process 100,000 Tons Per Year.

⁴ Landfill Emissions factors for NO_x and PM_{2.5} are derived from EPA's LMOP database (Jaffe Study, June 2016) for total methane generated and from Table .24, USEPA's AP-42 (October 2008) guidance document for calculating NO_x emission. This estimate represents 92 percent of waste in place, and therefore represents a conservative estimate.

Source: CalRecycle 2019

To provide clarification, the following text edits have been made to page 3.3-24 in between the second and third paragraphs of the Draft EIR is revised as follows:

Future organic waste recovery facilities would undergo project-level CEQA evaluation, and consistency with applicable plans, policies, and programs related to air quality would be reviewed. However, as a statewide regulation, the plans applicable to the proposed regulation are those that are similarly implemented statewide, rather than on a local level. While it is foreseeable that a new or expanded organic waste recovery facility that undergoes environmental review could be inconsistent with the goal and policies of a local or regional air quality plan such as a SIP or attainment plan, the implementation of the proposed regulation in its entirety would be consistent with the Mobile Source Strategy and SLCP Reduction Strategy which serve to reduce air pollution across the state rather than by an individual air basin or county.

3.6 Revisions to Section 3.8, Greenhouse Gas and Climate Change

To correct a typographical error, the third paragraph on page 3.8-11 of the Draft EIR is revised as follows:

The proposed regulation would also further the goals of the Draft 2030 Natural and Working Lands Climate Change Implementation Plan, which identifies compost application as a mechanism to increase carbon sequestration within the natural and working lands sector (CalEPA et al. 2019:17). The plan sets the goal to increase fivefold the rate of State-funded soil conservation practices, which the proposed regulation would support through the generation of finished compost materials. Compost would provide the necessary soil amendments to create ~~heavy~~ healthy soils with high carbon sequestration potential. The 2017 Scoping Plan, in addition to the Draft 2030 Natural and Working Lands Climate Change Implementation Plan, indicates that carbon sequestration in the natural and working lands sector must be optimized to meet the State's long-term climate change goals.

3.7 Revisions to Section 3.13, Transportation, of the Draft EIR

In response to comment 7-1 comment, the following sentence has been added at the end of the third full paragraph on page 3.13-1 of the Draft EIR:

FHWA also has a goal to reduce VMT consistent with U.S. Government policy.

In response to comment 7-2, the following Mitigation Measure has been added to the Transportation Section of the analysis. The second to last paragraph on page 3.13-14 of Draft EIR is revised as follows.

Mitigation Measures

~~Vehicular travel associated with implementation of the proposed regulation is related to changes in the way that organic waste is processed. The distance required to accommodate new trips is related to the location of facilities that would receive and process the waste, as well as the location where processed compost, other byproducts of organic waste recovery facilities, and recovered food would be distributed. According to the SB 743 Technical Advisory, potential mitigation measure that can reduce VMT include actions such as improved alternate transportation facilities, land use planning, and disincentives to driving (e.g., roadway pricing, limited parking availability). Land use decisions, including those related to the siting of organic waste recovery facilities, are subject to local jurisdictions (PRC Section 40059). The locations where compost, other byproducts, and recovered food would be distributed is contingent on various influences outside of CalRecycle's control, including local land uses and economics. Other mitigation measures, such as providing improved alternative transportation facilities and establishing disincentives to driving, would not have sufficient nexus with the impact or offer rough proportionality to the impact to be considered feasible mitigation (*Dolan v. City of Tigard*, 512 U.S. 374 [1994]; *Nollan v. California Coastal Commission*, 483 U.S. 825 [1987]). Therefore, no feasible mitigation is available.~~

Mitigation Measure 3.13-4: Employ Remote Monitoring Technology to Measure Remaining Container Capacity and Monitor Container Contamination

As described in Section 1.2, "Purpose of this EIR," the authority of CalRecycle and LEAs is statutorily limited. They do not have authority to require implementation of mitigation measures that would reduce potentially significant increases in vehicle miles traveled. Mitigation measures to reduce VMT can and should be implemented by local jurisdictions with land use authority. Site-specific, project impacts and mitigation would be identified during a project's local review process. A proposed project would be approved by a local government and potentially another permitting agency that can apply conditions of approval.

The following mitigation measures can and should be required by agencies with project approval authority for waste collection services to avoid or minimize VMT:

- Require placement of remote monitoring technology in collection containers or on collection vehicles that are capable of identifying underused container capacity (e.g., whether a bin is partially full) and the presence of

contaminants in a container, on a regular basis or when a container is tipped into a collection vehicle.

- Establish practices to identify optimization of vehicle routes in a manner that reduces the collection of partially full containers and/or informs customers that could downsize their container size.
- Identify opportunities to reduce VMT by limiting the collection of contaminated containers in a manner that commingles the container contents with clean material.
- Encourage businesses and residents to right-size their container to reduce unnecessary vehicle trips.

Significance after Mitigation

Implementation of Mitigation Measure 3.13-4 would reduce the severity of impacts from VMT increases because the number of collection trips could be decreased. However, overall, the proposed regulation would likely result in an increase in VMT from new and/or additional transport routes primarily for the delivery of the products of waste recovery to customers for the reasons described under Impact 3.13-4. Therefore, while the severity of significant impacts from VMT increases could be decreased through implementation of Mitigation Measure 3.13-4, it would not reduce the impact to a less-than-significant level because new and/or additional transport routes to collect waste would still be required throughout the State that could result in an increase in VMT.

Furthermore, the authority to review site-specific, project-level impacts and require project-level mitigation lies primarily with local jurisdictions for individual projects. As stated above under the pre-mitigation significance determination, to meet CEQA's mandate of good-faith disclosure and to not risk understating potential future impacts in light of uncertainties related to the proposed regulation, this impact is classified as **potentially significant and unavoidable**.

3.8 Revisions to Section 3.14, Utilities and Service Systems, of the Draft EIR

In response to comment 2-5, the following the first full paragraph has been added to page 3.14-3 of the Draft EIR:

Local Essential Public Service Designation

The essential public service (EPS) designation is one option considered by CARB, the California Air Pollution Control Officers Association (CAPCOA), and CalRecycle (CARB et al. 2018) to help facilitate permitting of compost facilities. EPSs are facilities considered essential to public health and safety. Schools, fire departments, and law enforcement are recognized examples of EPSs. The EPS

designation could result in a compost facility's owner/operator not being required to offset the facility's emissions. Facilities designated as an EPS could also continue to operate and emit pollutants during smog episodes. Local air districts have the authority to determine the definition of an EPS for their district through a public rulemaking process. Of the 35 air districts throughout California, 21 have an EPS definition in their district rules.

Potential benefits of the EPS designation include:

- access to a community bank/priority reserve of emission reduction credits (ERCs) for EPS projects (such as compost facilities);
- a reduced or free cost of these credits; and/or
- a higher offset threshold for requiring ERCs.

Potential challenges with the EPS designation include:

- air districts already face extensive challenges in attaining national and State ambient air quality standards, and as such, this may restrict their ability to set aside ERCs for an EPS bank.

The point of defining these facilities as EPSs would be to ensure that essential services could be permitted in a district where volatile organic carbon (VOC) offsets may be limited.

3.9. Revisions to the Appendix A of the Draft EIR

To provide clarification, the cell in row 24, column 7 of the "CEQA Thresholds of Significance (Criteria Air Pollutants)" table in Appendix A of the Draft EIR has been revised as follows:

5582 lb/day

Also, the following change was made to the references listed on the fifth page of Appendix A:

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CARB. See California Air Resources Board.

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