



SB 1383 Rulemaking

**Short-Lived Climate Pollutants (SLCP):
Organic Waste Methane Emissions
Reductions**

**August 2017 Workshop
Draft Regulatory Concepts
Re: Reporting, Compliance & Enforcement**

Organic Waste Reduction Targets & Edible Food Recovery Goals

HSC 39730.6(a)

- *50% reduction* in the level of the statewide disposal of organic waste from the *2014 level by 2020*.
- *75% reduction* in the level of the statewide disposal of organic waste from the *2014 level by 2025*.

SEC. 3. Section 39730.6 is added to the Health and Safety Code, to read:
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.

PRC 42652.5(a)(2)

- *20 percent improvement in edible food recovery by 2025*.

(2) Shall include requirements intended to meet the goal that not less than 20 percent of edible food that is currently disposed of is recovered for human consumption by 2025.

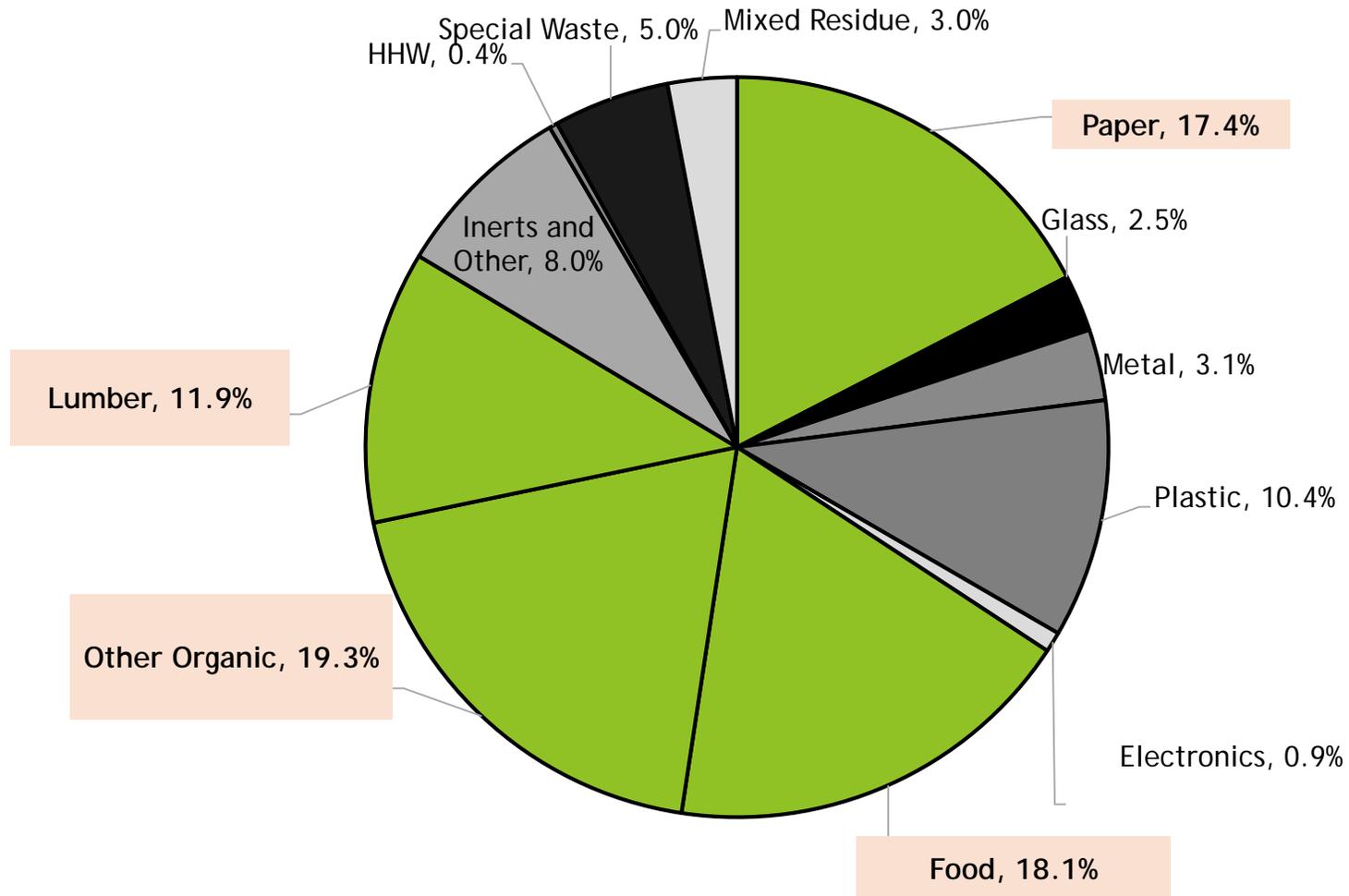
Draft Definitions

Organic Waste:

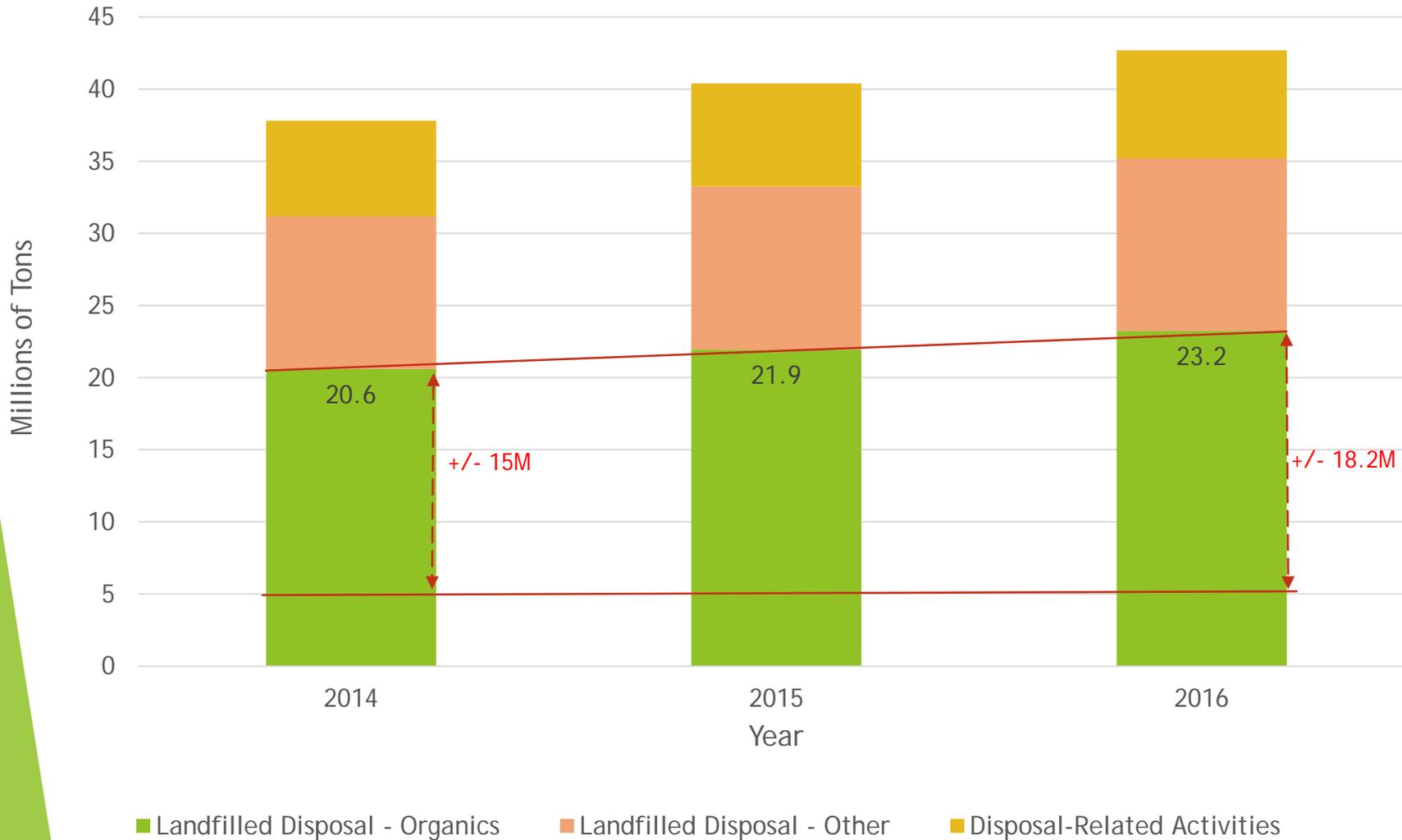
"Organic Waste" means solid wastes containing material originated from living organisms and their metabolic waste products, including but not limited to food, green waste, landscape and pruning waste, applicable textiles and carpets, wood, lumber, fiber, manure, biosolids, digestate and sludges.

► Disposal Stream - 2014

- Organic Waste
- +/- 20 Million tons
- +/- 66% of the of 2014 disposal



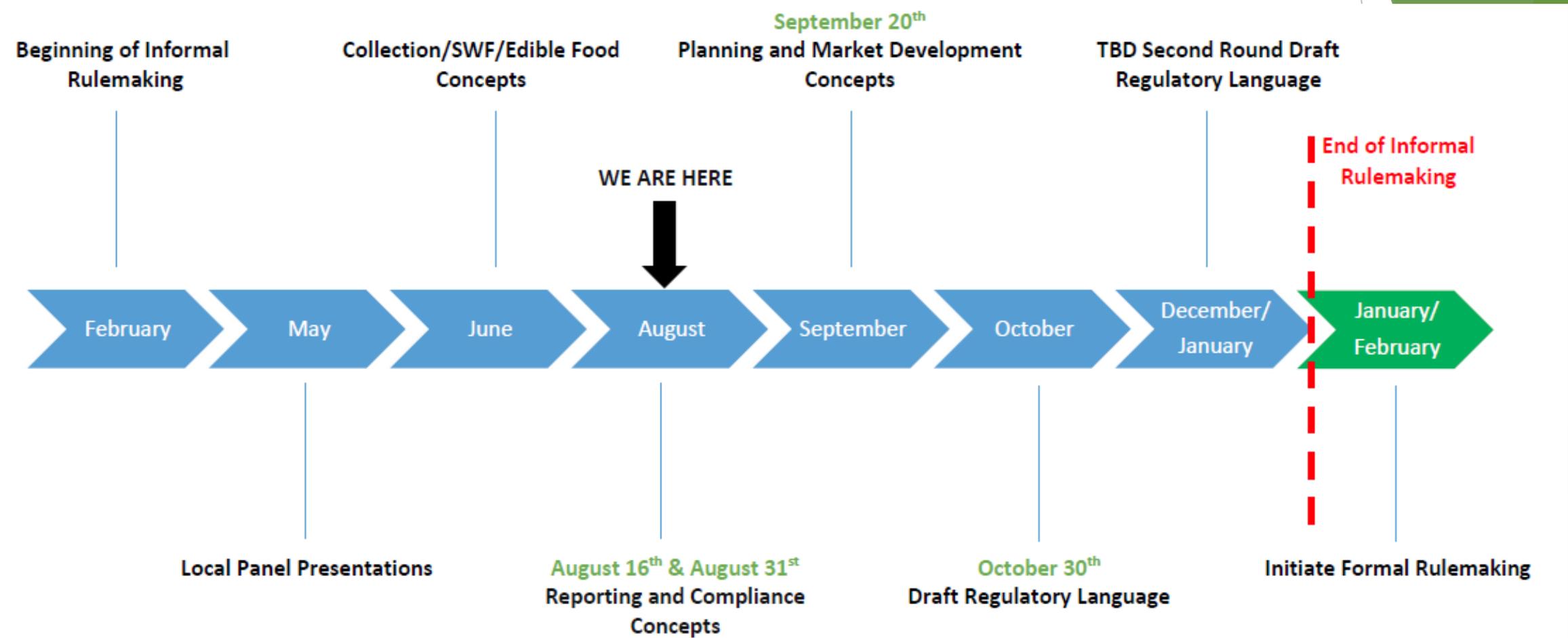
Statewide Disposal*



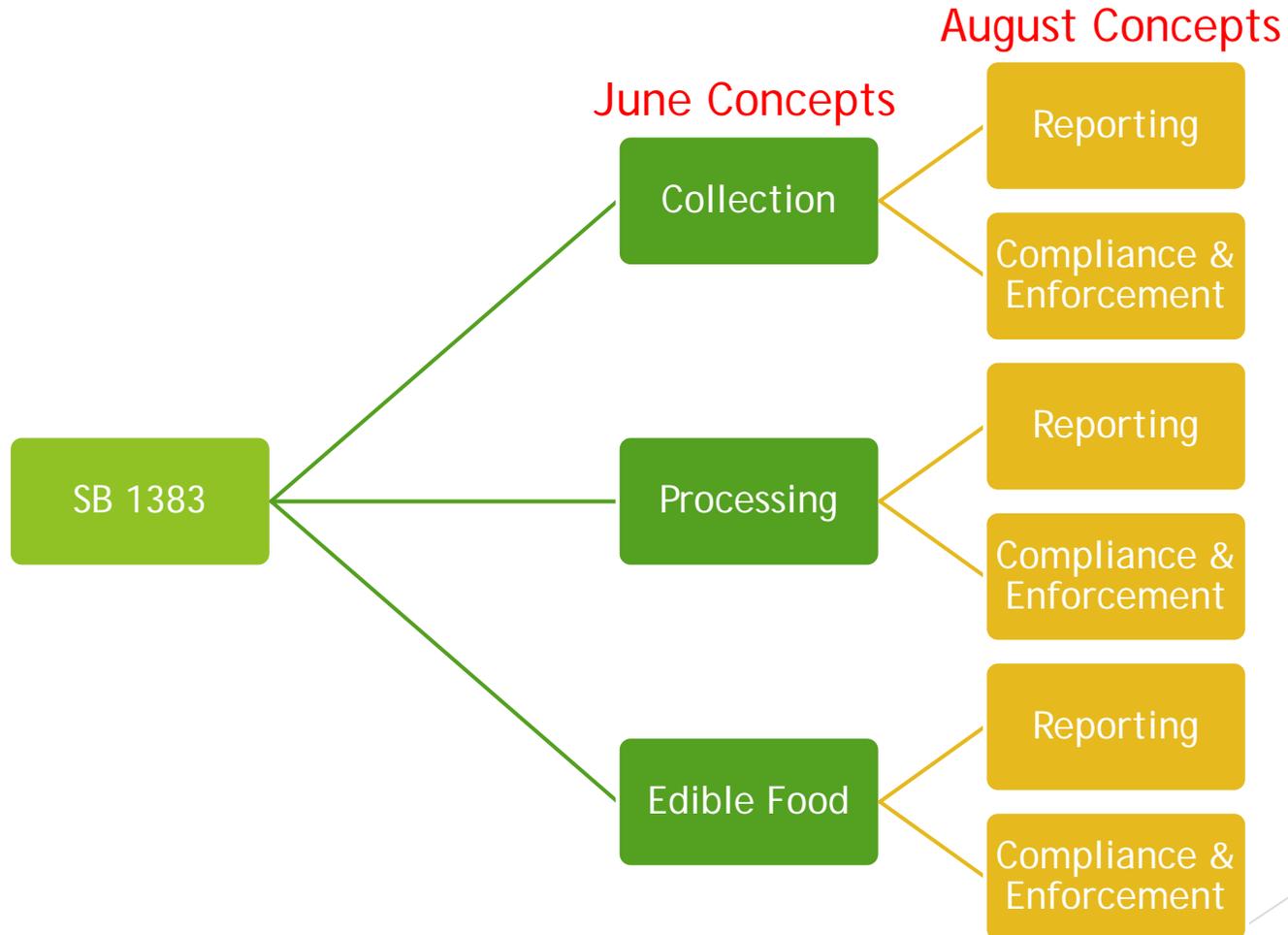
*CalRecycle and ARB are currently in the process of determining activities that count as disposal for the purposes of SB 1383. Please see for the draft shared in May. :

<http://www.calrecycle.ca.gov/Actions/Document.ashx?id=7896>

Informal Rulemaking Schedule



Reporting and Compliance



Questions?

Contact

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Draft Reporting Concepts



Outline: Reporting Concepts

- ▶ Sectioned by potential reporting entities (Facilities, Haulers, Jurisdictions, Select Generators), plus section specific to Edible Food Recovery Program
- ▶ Reporting entities report directly to CalRecycle or local jurisdiction
- ▶ Proposing use of current CalRecycle databases as reporting mechanisms
- ▶ Duplicative reporting data points noted in jurisdiction and hauler sections



Reporting Data Points: Facilities

- a. Processing facilities (MRFs and Transfer Stations):
 - i. Tons of organics received by type (i.e. mixed waste, comingled recyclables, source separated), origin (jurisdiction), sector/generator type (i.e. residential, commercial, self-haul, agricultural, industrial)
 - ii. Tons of organics sent to another recycling facility or end-use
 - iii. Tons of organics sent to disposal
 - iv. Information on contamination of source separated loads received and the number of loads rejected



Reporting Data Points: Facilities

b. Landfills:

- i. Pre-process program information, *if applicable*
- ii. Tons of pre-processed organics composted on site or sent off site, including destined end-use
- iii. Tons of source-separated organics received for disposal by origin (jurisdiction), sector/generator type (i.e. residential, commercial, self-haul, agricultural, industrial)



Reporting Data Points: Facilities

- c. Facilities that Recycle Organic Waste
 - i. Data on contaminated loads
 - ii. Tons of organics rejected
 - iii. Tons of organics received by origin (jurisdiction), source sector/generator type (i.e. residential, commercial, self-haul, agricultural, industrial), or facility if applicable (i.e. transfer station or MRF) that material is coming from
 - iv. Destination of collected organics:
 - 1. Tons of specified final product to another recycling facility/end-use
 - 2. Tons of residual to disposal



Stakeholder Input

- ▶ Regarding facilities, are there other data points that should be reported to CalRecycle?



Reporting Data Points: Haulers

- a. *Total number of generators served, and any information on generators exempted
- b. *Data on contamination
- c. Tons of organics collected by origin (jurisdiction or facility), source sector/generator type (i.e. residential, commercial, industrial, agricultural, etc.)
- d. Destination of collected organics
 - a. Tons to recycling facility/end-use
 - b. Tons to disposal



Reporting Data Points: Haulers

- e. *Identify number of generators not in compliance and report to jurisdictions (i.e. participations rates, contamination rates)
- f. Data related to edible food collection, *if applicable*
- g. Procurement [*will be discussed in a future workshop*]



Stakeholder Input

- ▶ Regarding haulers, are there other data points that should be reported?
- ▶ For asterisked bullets, which reporting entity is best suited to report the specified data points?
- ▶ Should both entities report the data points as an accountability method for determining the accuracy of reported data points?
- ▶ Which items require confidentiality/trade secret protection built into the regulations?



Reporting Data Points: Jurisdictions

1. Programmatic data points relative to organics recycling collection programs:
 - a. Collection types: Source separated organics recycling, commingled recycling (that includes organics (i.e. paper/cardboard)), mixed waste (if mixed waste bin includes organics - information on the facility recycling the organic waste)
 - b. Collection frequency
 - c. *Data on contamination
 - d. Information on generator exemptions/opt-out
 - e. Education and outreach efforts



Reporting Data Points: Jurisdictions

- f. Mechanism for licensing, registering, or permitting haulers (including self-haulers of a certain size)
- g. Local rate information
- h. Data related to CalGreen standards for residential and non-residential construction (i.e. adopted ordinance or permit requirements)
- i. Program development/participation for other organic materials (e.g., textiles)



Reporting Data Points: Jurisdictions

- j. Local ordinances, permits or franchises adopted relative to SB 1383
- k. Use of small scale activities, such as community composting, for program implementation/organics diversion
- 2. Information related to enforcement procedures (see *August 11, 2017 compliance Concept paper*)
- 3. Procurement policies [*will be discussed in a future workshop*]
- 4. Data relative to organics recycling capacity planning [*will be discussed in a future workshop*]



Stakeholder Input

- ▶ Regarding jurisdictions, are there other data points that should be reported to CalRecycle?
- ▶ Would a jurisdiction consider tiered reporting, whereby a jurisdiction that implements early on reports less information less often, as an incentive for early implementation?



Reporting Data Points: Select Generators

i.e. public entities (state agencies, federal agencies and schools/universities (*entities outside the oversight of a jurisdiction*))

1. State agencies, federal facilities, and schools (i.e. public schools, colleges, and universities)
 - a. Type of collection (e.g., on-site management, mixed waste, comingled recycling, source separated), and level of service subscribed to
 - b. Type of organics being collected for recycling (e.g., paper, cardboard, green waste, food waste)
 - c. If not subscribing to a service, on-site or other organics recycling program participation
 - d. Edible food recovery plan, *if applicable*



Stakeholder Input

- ▶ Regarding generators, are there other data points that should be reported?
- ▶ Are these data points feasible for the specified generators?
- ▶ Are there any suggestions for working with and collecting data from school districts?
- ▶ Are there other generators that are potentially outside the scope of a jurisdiction's oversight authority?



Reporting Data Points: Edible Food Recovery Program

1. Jurisdictions

- a. Identify locally adopted ordinance and/or program provisions to increase edible food recovery
- b. Edible food recovery plans for city/county owned facilities
- c. Targeted education and outreach efforts
 - i. Information regarding the incorporation of Food Assistance/Service into region- and/or county-wide database such as CA 211 with a map of recovery organizations
 - ii. List of approved edible food recovery organizations²⁵



Reporting Data Points: Edible Food Recovery Program

- iv. Information regarding edible food recovery services at venues and events
- v. Number of edible food generators required to participate and not in compliance
- vi. Enforcement efforts, *if applicable*



Reporting Data Points: Edible Food Recovery Program

1. Edible Food Generators

- a. State agencies, federal facilities, and schools (i.e., public schools, colleges, and universities)
 - i. Edible food donation plans
 - ii. Agreement or arrangement with a food recovery organization, *if applicable*
 - iii. Estimated amount of unsold edible food generated
 - iv. Destination of unsold edible food
 - v. Education and outreach efforts



Reporting Data Points: Edible Food Recovery Program

2. Large scale generators of edible food
 - a. Agreement or arrangement with a food recovery organization
 - b. Estimated amount of unsold edible food generated
 - c. Destination(s) of unsold edible food
3. Edible Food Recovery Organizations
 - a. Amount of recovered edible food served, rejected, and disposed
4. Haulers, if applicable
 - a. Education and outreach efforts



Stakeholder Input

- ▶ Regarding edible food rescue, are there any other data points that should be reported?
- ▶ Are these data points feasible for the specified entities? If not, what are alternatives?
- ▶ Do the concepts provide enough flexibility for edible food recovery organizations?
- ▶ Is there a specific reporting method, such as a tracking system, that should be considered for tracking the rescue of edible food and delivery of that food to a consumer?
- ▶ How should large scale generators be defined or determined?

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Compliance and Enforcement Concepts



Compliance and Enforcement Concepts

- ▶ **Entities with Potential Implementation Obligations**
- ▶ *Overview of June 2017 workshops*
 - ▶ *Concepts related to organic waste collection, state minimum standards for organic waste processing at solid waste facilities, and edible food recovery.*
 - ▶ *Detailed a series of regulatory activities and the entities that could implement those activities.*
 - ▶ *Each of these requirements will have a compliance and enforcement component to them.*
 - ▶ **Entities With a Potential Implementation Role(s)** *details discussed in June workshops*
 - ▶ Jurisdictions
 - ▶ Haulers
 - ▶ Solid waste facility (SWF) owners/operators
 - ▶ Local enforcement agencies
 - ▶ Edible food recovery organizations
 - ▶ Generators (organic waste generators and edible food generators)



Compliance and Oversight Roles

CalRecycle

Direct Oversight

- ▶ LEAs
- ▶ Jurisdictions
- ▶ Generators outside the jurisdiction of a city and county (or a city/county, or Joint Powers Authority (JPA))

Secondary Oversight

- ▶ Solid waste facility owners/operators
- ▶ Generators
- ▶ Haulers
- ▶ Food recovery organizations



Compliance and Oversight Roles

Jurisdiction

Direct Oversight

- ▶ Generators
- ▶ Haulers
- ▶ Food recovery organizations

Local Enforcement Agencies

Direct Oversight

- ▶ Solid waste facility owners/operators



Duties of Entities with Direct Oversight

CalRecycle's Oversight

Jurisdictions

- ▶ Monitoring reporting and implementation of regulations
- ▶ Monitoring of enforcement procedures

Local Enforcement Agencies

- ▶ Inspection and enforcement of state solid waste laws and regulations (*existing*)

Generators outside Jurisdiction authority (e.g. State Agencies)

- Monitoring reporting and implementation of regulations



Duties of Entities with Direct Oversight Jurisdictions Oversight

- ▶ Oversight of generators and haulers, and edible food recovery organization
 - ▶ Regular monitoring for compliance for entities within the jurisdictions' oversight authority
 - ▶ Initiate compliance actions outlined in regulations
 - ▶ As violations are discovered, or
 - ▶ CalRecycle notices the jurisdiction of violation

Duties of Entities with Direct Oversight

LEA Oversight

- ▶ Existing oversight of solid waste facilities
- ▶ Implement LEA Enforcement Program Plan (EPP)
 - ▶ LEA's plan on how it will carry out permitting, inspections, and enforcement activities required by the law and regulations
- ▶ New facility state minimum standards, as part of SB 1383, included in inspection and permitting duties



Entities Subject to Oversight

- ▶ Solid Waste Facilities (LEA & CalRecycle)
 - ▶ LEA monthly, quarterly, yearly inspections (*existing practice*)
 - ▶ CalRecycle and LEA joint inspection of solid waste facilities by (*existing practice*)
 - ▶ Potential for CalRecycle direct enforcement when no LEA Action (*existing practice*)



Entities Subject to Oversight

Generators of Organic Waste (by Jurisdictions and CalRecycle)

- ▶ Minimum random and complaint based monitoring by jurisdictions
- ▶ Potential referral to CalRecycle for large generators that span multiple jurisdictions
- ▶ Potential for CalRecycle to initiate direct oversight and action when there is a failure to properly monitor or act by the jurisdiction
(Similar to existing practices with LEAs and SWFs)

Haulers of Organic Waste (by Jurisdictions and CalRecycle)

- ▶ Jurisdiction monitoring for compliance with regulatory standards
- ▶ Potential for CalRecycle direct oversight and action when there is a failure to properly monitor or act by the jurisdiction.
(Similar to existing process with LEAs and SWFs)



Potential Compliance & Enforcement Procedures

Potential State Procedures

▶ Progressive Compliance

- ▶ Notice to Comply (compliance schedule i.e. 30 days to comply)
- ▶ Submit second Notice of Noncompliance (if violation still exists)
- ▶ Submit Accusation to Office of Administrative Law for penalties

▶ Inventory of Non-compliant Entities

- ▶ Applied when an entity is documented with repeated violations
- ▶ Existing practice for SWFs (see existing [Title 14 regulations related to SWFs](#))

Potential Compliance & Enforcement Procedures

Potential Local Procedures

- ▶ Local Enforcement Agency ---- *Existing Procedures*
 - ▶ Notice of Violation, Compliance Schedule
 - ▶ Cease and Desist, Notice and Order
 - ▶ Issue Penalties
- ▶ Jurisdiction --- *Potential Procedures*
 - ▶ A jurisdiction has a variety of tools within its enforcement purview.

What are appropriate tools that can be identified in regulations?

Notices of violation, Penalties,
Revoking of a license, Certification or Permit,
Referral to state for compliance



Indicators of Compliance

What mechanisms and indicators of compliance should be built into the regulatory structure?

- ▶ Potential Methods for Monitoring/Determining Compliance
 - ▶ Review of reports submitted by entities (*see Reporting Concept*)
 - ▶ Complaints and investigations
 - ▶ Inspections by state or local oversight body (LEA/jurisdiction)
 - ▶ Evaluation if enforcement procedures are being implemented
 - ▶ Independent and random audits

Factors Relevant to Enforcement Decisions

What should be the relevant factors to be considered in determining compliance actions?

- ▶ Potential Factors Relevant to Compliance and Enforcement Decisions *utilized in many existing compliance systems.*
 - ▶ Efforts to correct violations by a noncompliant entity
 - ▶ Efforts by the agency tasked with oversight to correct violations by a noncompliant entity
 - ▶ Whether local enforcement procedures have been exhausted.
 - ▶ Factors outside the control of a noncompliant entity (i.e. a facility is temporarily shut down)
 - ▶ Severity and length of violations



Exemptions and Alternative Compliance Models

▶ Factors to Consider

- ▶ Very low population density? Existing and established thresholds?
- ▶ Can a jurisdiction demonstrate a reduction of organics going to the landfill through an alternative model?

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