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AB-2346 Organic waste reduction regulations: procurement of recovered organic waste products. (2023-2024)

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Assembly Bill No. 2346

CHAPTER 712

An act to amend Section 42652.5 of the Public Resources Code, relating to solid waste.

[Approved by Governor September 27, 2024. Filed with Secretary of State September 27, 2024.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2346, Lee. Organic waste reduction regulations: procurement of recovered organic waste products.

Existing law requires the State Air Resources Board to complete, approve, and implement a comprehensive strategy to reduce emissions of short-lived climate pollutants in the state to reduce the statewide methane emissions by 40% below 2013 levels by 2030. Existing law requires the Department of Resources Recycling and Recovery, in consultation with the state board, to adopt regulations that achieve specified targets for reducing organic waste in landfills, as provided. The department's organic waste regulations require local jurisdictions to annually procure a quantity of recovered organic waste products and to comply with their procurement targets by directly procuring recovered organic waste products for use or giveaway or by requiring, through a written agreement, that a direct service provider to the jurisdiction procure recovered organic waste products, or both. Those regulations specify the types of recovered organic waste products that a jurisdiction may procure, including compost that is produced at a compostable material handling operation or facility, or a specified digestion facility that composts onsite. Other regulations of the department require all compostable materials handling activities to obtain a facility permit from the department prior to commencing operations and meet other specified requirements, but exclude from those requirements certain activities that the regulations state do not constitute a compostable material handling operation or facility, including the composting of green material, agricultural material, food material, and vegetative food material, and the handling of compostable materials under certain conditions, as provided.

This bill would authorize local jurisdictions to count towards their procurement targets compost produced and procured from specified compost operations and specified investments and expenditures related to meeting its procurement target, as provided. The bill would authorize a local jurisdiction to determine a local per capita procurement target using information from a local waste characterization study, as specified. The bill would authorize a local jurisdiction to satisfy its annual procurement obligations by procuring a quantity of recovered organic waste products that meets or exceeds a 5-year procurement target, as specified. The bill would authorize the department, in adopting and revising regulations, to consider other pathways to prioritize local use of compost, as specified.

This bill would incorporate additional changes to Section 42652.5 of the Public Resources Code proposed by AB 2514 and AB 2902 to be operative only if this bill and any or all of the other bills are enacted and this bill is enacted last.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 42652.5 of the Public Resources Code is amended to read:

42652.5. (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:

(1) May require local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and may authorize local jurisdictions to impose penalties on generators for noncompliance.

(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.

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

(4) May include different levels of requirements for local jurisdictions and phased timelines based upon their progress in meeting the organic waste reduction goals for 2020 and 2025 established in Section 39730.6 of the Health and Safety Code. The department shall base its determination of progress on relevant factors, including, but not limited to, reviews conducted pursuant to Section 41825, the amount of organic waste disposed compared to the 2014 level, per capita disposal rates, the review required by Section 42653, and other relevant information provided by a local jurisdiction.

(5) (A) May include penalties to be imposed by the department for noncompliance. If penalties are included, they shall not exceed the amount authorized pursuant to Section 41850.

(B) Notwithstanding any other law, administrative civil penalties for a local jurisdiction that fails to procure a quantity of recovered organic waste products that meets or exceeds its recovered organic waste product procurement target established by the department pursuant to Section 18993.1 of Title 14 of the California Code of Regulations shall be imposed pursuant to the following schedule:

(i) On or after January 1, 2023, each jurisdiction shall procure a quantity of recovered organic waste products that meets or exceeds 30 percent of its recovered organic waste product procurement target.

(ii) On or after January 1, 2024, each jurisdiction shall procure a quantity of recovered organic waste products that meets or exceeds 65 percent of its recovered organic waste product procurement target.

(iii) On or after January 1, 2025, each jurisdiction shall procure a quantity of recovered organic waste products that meets or exceeds 100 percent of its recovered organic waste product procurement target.

(6) Shall take effect on or after January 1, 2022, except the imposition of penalties pursuant to paragraph (1) shall not take effect until two years after the effective date of the regulations.

(7) Jurisdictions in possession of a rural exemption pursuant to subdivision (c) of Section 18984.12 of Title 14 of the California Code of Regulations, as that section read on January 1, 2022, are exempt from the procurement requirement of this subdivision until December 31, 2026. Beginning January 1, 2027, the department may, in its discretion, provide rural counties and jurisdictions located within rural counties that are exempt from organic waste collection requirements an extended recovered organic waste product procurement target schedule similar to the schedule set forth in this subdivision, which shall be exempt from the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(8) The department may, in its discretion, create an adjusted recovered organic waste product procurement target schedule, not to exceed the requirements of the schedule set forth in this subdivision, which shall be exempt from the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(b) A local jurisdiction may charge and collect fees to recover the local jurisdiction's costs incurred in complying with the regulations adopted pursuant to this section.

(c) A local jurisdiction facing continuing violations of the regulations adopted pursuant to subdivision (a) that commence during the 2022 calendar year may submit to the department a notification of intent to comply, as described in this section. Upon approval by the department, and implementation by the local jurisdiction, of a notification of intent to comply that meets the requirements of subdivision (e), a local jurisdiction may be eligible for both of the following:

(1) Administrative civil penalty relief for the 2022 calendar year pursuant to subdivision (d).

(2) A corrective action plan pursuant to Section 18996.2 of Title 14 of the California Code of Regulations.

(d) (1) For violations of the regulations that are disclosed in a notification of intent to comply that is approved by the department as meeting the requirements of subdivision (e), the department shall waive administrative civil penalties under paragraph (5) of subdivision (a) during the 2022 calendar year if, and administrative civil penalties shall not accrue under paragraph (5) of subdivision (a) during the 2022 calendar year if, the local jurisdiction implements the proposed actions according to the schedule proposed pursuant to paragraph (4) of subdivision (e).

(2) For violations that commence during the 2022 calendar year and continue into the 2023 calendar year, administrative civil penalties may begin accruing as of January 1, 2023. Those administrative civil penalties accruing on and after January 1, 2023, shall be waived upon complete compliance with the terms of a corrective action plan pursuant to Section 18996.2 of Title 14 of the California Code of Regulations.

(3) If a local jurisdiction fails to adhere to the proposed actions and schedule described in a notification of intent to comply pursuant to paragraph (4) of subdivision (e), the department may revoke its approval of the notification of intent to comply and impose administrative civil penalties for violations occurring during the 2022 calendar year retroactive to the date of violation.

(4) Notwithstanding any proposed actions and schedule provided by a local jurisdiction in an approved notification of intent to comply pursuant to paragraph (4) of subdivision (e), the department may instead address through a corrective action plan any violations disclosed in that notification that may take more than 180 days to correct. Under those circumstances, the proposed actions and schedule provided pursuant to an approved notification of intent to comply pursuant to paragraph (4) of subdivision (e) shall control until a corrective action plan is finalized.

(e) The department shall approve a notification of intent to comply if the department determines the notification meets the requirements of this subdivision. A notification of intent to comply shall be in writing, adopted by formal resolution by the governing body of the local jurisdiction, and filed with the department no later than March 1, 2022. The notification of intent to comply shall include, at a minimum, all of the following:

(1) A description, with specificity, of the continuing violations.

(2) A detailed explanation of the reasons, supported by documentation, why the local jurisdiction is unable to comply.

(3) A description of the impacts of the COVID-19 pandemic on compliance.

(4) A description of the proposed actions the local jurisdiction will take to remedy the violations within the timelines established in Section 18996.2 of Title 14 of the California Code of Regulations with a proposed schedule for doing so. The proposed actions shall be tailored to remedy the violations in a timely manner.

(f) The department shall respond in writing to a local jurisdiction within 45 business days of receiving a notification of intent to comply with an approval, disapproval, request for additional information, or timeline for a decision on approval or disapproval. If the department disapproves the notification of intent to comply due to the notification not meeting the requirements of subdivision (e), the department shall include in the response a justification for the disapproval.

(g) Notwithstanding Section 18996.2 of Title 14 of the California Code of Regulations, the department may establish any maximum compliance deadline in a corrective action plan that it determines to be necessary and appropriate under the circumstances for the correction of a violation of the regulations adopted pursuant to subdivision (a).

(h) A local jurisdiction may be credited for the procurement of recovered organic waste products without executing a direct service provider agreement with end users of recovered organic waste products if all of the following conditions are met:

(1) The use of the recovered organic waste product by any entity is a result of the jurisdiction's adoption or enforcement of ordinances, regulations, resolutions, or policies.

(2) The jurisdiction complied with all other recordkeeping and reporting requirements related to procurement targets, including verification, as determined by the department, that an entity is procuring on behalf of the jurisdiction.

(3) The recovered organic waste product is not applied to the recovered organic waste product procurement target of another jurisdiction.

(i) (1) A local jurisdiction may count compost produced and procured from the following compost operations, as described in Section 17852 of Title 14 of the California Code of Regulations, as it read on January 1, 2024, towards its recovered organic waste procurement target:

(A) Vermicomposting operations.

(B) Operations composting green material, agricultural material, food material, and vegetative food material, if the total amount of feedstock and compost onsite at any one time does not exceed 100 cubic yards and 750 square feet.

(C) Mushroom compost. "Mushroom compost" means the composted growing substrate that remains after a crop has been harvested to completion.

(2) Paragraph (1) applies if a local jurisdiction adopts an ordinance or other enforceable mechanism requiring compost and vermicompost procured by the jurisdiction to comply with this subdivision and to be used in a manner that meets the definition of "land application" in subparagraph (A) of paragraph (24.5) of subdivision (a) of Section 17852 of Title 14 of the California Code of Regulations and that meets the pathogen, metals, and physical contamination limits that apply to existing composting facilities.

(j) A local jurisdiction may count up to 10 percent of its recovered organic waste product procurement target with both of the following recovered organic waste products:

(1) Mulch produced from tree trimming operations conducted by the jurisdiction or a service provider operating under contract to the jurisdiction when applied to landscape areas owned or managed by the jurisdiction or given away to residents, if the local jurisdiction does both of the following:

(A) The local jurisdiction provides documentation of the amount of mulch used and distributed, and where it was applied.

(B) The local jurisdiction adopts an ordinance or other enforceable mechanism requiring that mulch be used in a manner that meets the definition of "land application" in subparagraph (A) of paragraph (24.5) of subdivision (a) of Section 17852 of Title 14 of the California Code of Regulations and that meets the pathogen, metals, and physical contamination limits that apply to existing composting facilities.

(2) Edible food recovered in compliance with Section 18991.1 of Title 14 of the California Code of Regulations generated from a commercial food generator located within the jurisdiction. The conversion factor to be used to convert tonnage in the annual recovered organic waste product procurement target for each jurisdiction to equivalent amounts of recovered organic waste product shall be one ton of edible food for each ton of organic waste in a recovered organic waste product procurement target.

(3) Nothing in this paragraph shall be construed to limit the proportion of recovered organic waste products described in subdivision (f) of Section 18993.1 of Title 14 of the California Code of Regulations, as it read on January 1, 2024, that a jurisdiction can count toward its recovered organic waste procurement target.

(k) To count recovered organic waste products listed in subdivisions (i) and (j) toward its recovered organic waste product procurement target, a local jurisdiction shall comply with applicable regulations.

(l) (1) Subject to paragraph (2), and until December 31, 2035, the following direct expenditures by a local jurisdiction may count towards its recovered organic waste product procurement target:

(A) Investments for community composting operations serving the jurisdiction, including, but not limited to, an investment made to establish or expand a compostable materials handling operation or community composting operation.

(B) Equipment that is used only to apply compost or mulch, including, and limited to, compost spreaders, drag harrows, chippers, stump grinders, and blowers, if the jurisdiction uses the equipment to spread compost or mulch in compliance with procurement requirements during the same year that the purchase expense is applied toward its recovered organic waste product procurement target.

(C) Development of compost or mulch distribution sites to make free compost and mulch accessible and available to residents.

(2) (A) The department may determine, in regulations, the appropriate conversion factors for the direct expenditures in paragraph (1). The expenditures may count for up to 10 percent of a jurisdiction's total procurement target.

(B) Prior to the department's adoption of regulations to implement this section, the conversion factor shall be twenty-one dollars and thirty-eight cents (\$21.38) for each ton of organic waste in a product procurement target.

(m) (1) One or more local jurisdictions within the same county may determine a local per capita procurement target using information from a local waste characterization study for a period not to exceed five years after the completion of the study. A waste characterization study shall be performed by the local jurisdiction or jurisdictions, which shall apply the results of a study to the total amount of landfill disposal attributed to the local jurisdiction or jurisdictions by the department's Recycling and Disposal Reporting System.

(2) A waste characterization study may be used if it meets all of the following criteria:

(A) It was performed within the prior five years. This subparagraph does not require a jurisdiction to conduct a local waste characterization study within a specified five-year cycle or to wait for a recalculation of the annual recovered organic waste

product procurement target pursuant to subdivision (b) of Section 18993.1 of Title 14 of the California Code of Regulations.

(B) It includes all categories of organic waste used in the department's most recent waste characterization study that was available at the time the waste characterization local study was performed.

(C) It includes a statistically significant sampling of solid waste disposed by the local jurisdiction or jurisdictions for which the local per capita procurement target will be determined.

(D) The geographic boundaries within which the study is conducted shall match the geographic boundaries of the jurisdiction or jurisdictions the local per capita procurement target will be applied to.

(E) It uses the most recent formula for the per capita procurement target developed by the department.

(F) The results of the study are submitted to the department in a form and manner determined by the department.

(3) The department may establish in regulations criteria for approving the methodology of a local waste characterization study.

(n) Commencing January 1, 2027, a local jurisdiction may procure a quantity of recovered organic waste products that meets or exceeds a five-year recovered organic waste product procurement target if the following conditions are met:

(1) On or before January 1, 2027, and on or before January 1 every five years thereafter, the jurisdiction's five-year recovered organic waste procurement requirement target is calculated by multiplying the annual procurement target by five. The department may grant a jurisdiction approval to begin the five-year period on any January 1 after January 1, 2027.

(2) On or before January 1, 2027, the jurisdiction has notified the department that it intends to comply using a five-year target.

(o) In adopting and revising regulations to implement this section, the department may consider both of the following:

(1) The development and adoption of a conversion factor for one ton of organic waste and one ton of compost applied locally to count towards a local jurisdiction's organic waste procurement target.

(2) Other pathways to prioritize local use of compost.

(p) (1) The department may adopt regulations it determines to be necessary to implement and enforce the changes made to this section by Chapter 508 of the Statutes of 2021 as emergency regulations.

(2) Emergency regulations adopted pursuant to paragraph (1) shall be adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and for purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, safety, and general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, emergency regulations adopted by the department pursuant to paragraph (1) shall be filed with, but not be repealed by, the Office of Administrative Law and shall remain in effect until January 1, 2024.

SEC. 1.1. Section 42652.5 of the Public Resources Code is amended to read:

42652.5. (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:

(1) May require local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and may authorize local jurisdictions to impose penalties on generators for noncompliance.

(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.

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

(4) May include different levels of requirements for local jurisdictions and phased timelines based upon their progress in meeting the organic waste reduction goals for 2020 and 2025 established in Section 39730.6 of the Health and Safety Code. The department shall base its determination of progress on relevant factors, including, but not limited to, reviews conducted pursuant to Section 41825, the amount of organic waste disposed of compared to the 2014 level, per capita disposal rates, the review required by Section 42653, and other relevant information provided by a local jurisdiction.

(5) (A) May include penalties to be imposed by the department for noncompliance. If penalties are included, they shall not exceed the amount authorized pursuant to Section 41850.

(B) Notwithstanding any other law, administrative civil penalties for a local jurisdiction that fails to procure a quantity of recovered organic waste products that meets or exceeds its recovered organic waste product procurement target established by the department pursuant to Section 18993.1 of Title 14 of the California Code of Regulations shall be imposed pursuant to the following schedule:

(i) On or after January 1, 2023, each jurisdiction shall procure a quantity of recovered organic waste products that meets or exceeds 30 percent of its recovered organic waste product procurement target.

(ii) On or after January 1, 2024, each jurisdiction shall procure a quantity of recovered organic waste products that meets or exceeds 65 percent of its recovered organic waste product procurement target.

(iii) On or after January 1, 2025, each jurisdiction shall procure a quantity of recovered organic waste products that meets or exceeds 100 percent of its recovered organic waste product procurement target.

(6) Shall take effect on or after January 1, 2022, except the imposition of penalties pursuant to paragraph (1) shall not take effect until two years after the effective date of the regulations.

(7) Jurisdictions in possession of a rural exemption pursuant to subdivision (c) of Section 18984.12 of Title 14 of the California Code of Regulations, as that section read on January 1, 2022, are exempt from the procurement requirement of this subdivision until December 31, 2026. Beginning January 1, 2027, the department may, in its discretion, provide rural counties and jurisdictions located within rural counties that are exempt from organic waste collection requirements an extended recovered organic waste product procurement target schedule similar to the schedule set forth in this subdivision, which shall be exempt from the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(8) The department may, in its discretion, create an adjusted recovered organic waste product procurement target schedule, not to exceed the requirements of the schedule set forth in this subdivision, which shall be exempt from the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(9) No later than January 1, 2026, the department shall amend subdivision (f) of Section 18993.1 of Title 14 of the California Code of Regulations to include in the recovered organic waste products that a jurisdiction may procure to comply with Article 12 (commencing with Section 18993.1) of Chapter 12 of Division 7 of Title 14 of the California Code of Regulations pipeline biomethane converted exclusively from organic waste, as defined and described in Article 10 (commencing with Section 650) of Chapter 3 of Part 1 of Division 1 of the Public Utilities Code.

(b) A local jurisdiction may charge and collect fees to recover the local jurisdiction's costs incurred in complying with the regulations adopted pursuant to this section.

(c) A local jurisdiction facing continuing violations of the regulations adopted pursuant to subdivision (a) that commence during the 2022 calendar year may submit to the department a notification of intent to comply, as described in this section. Upon approval by the department, and implementation by the local jurisdiction, of a notification of intent to comply that meets the requirements of subdivision (e), a local jurisdiction may be eligible for both of the following:

(1) Administrative civil penalty relief for the 2022 calendar year pursuant to subdivision (d).

(2) A corrective action plan pursuant to Section 18996.2 of Title 14 of the California Code of Regulations.

(d) (1) For violations of the regulations that are disclosed in a notification of intent to comply that is approved by the department as meeting the requirements of subdivision (e), the department shall waive administrative civil penalties under paragraph (5) of subdivision (a) during the 2022 calendar year if, and administrative civil penalties shall not accrue under paragraph (5) of subdivision (a) during the 2022 calendar year if, the local jurisdiction implements the proposed actions according to the schedule proposed pursuant to paragraph (4) of subdivision (e).

(2) For violations that commence during the 2022 calendar year and continue into the 2023 calendar year, administrative civil penalties may begin accruing as of January 1, 2023. Those administrative civil penalties accruing on and after January 1, 2023, shall be waived upon complete compliance with the terms of a corrective action plan pursuant to Section 18996.2 of Title 14 of the California Code of Regulations.

(3) If a local jurisdiction fails to adhere to the proposed actions and schedule described in a notification of intent to comply pursuant to paragraph (4) of subdivision (e), the department may revoke its approval of the notification of intent to comply and impose administrative civil penalties for violations occurring during the 2022 calendar year retroactive to the date of violation.

(4) Notwithstanding any proposed actions and schedule provided by a local jurisdiction in an approved notification of intent to comply pursuant to paragraph (4) of subdivision (e), the department may instead address through a corrective action plan any

violations disclosed in that notification that may take more than 180 days to correct. Under those circumstances, the proposed actions and schedule provided pursuant to an approved notification of intent to comply pursuant to paragraph (4) of subdivision (e) shall control until a corrective action plan is finalized.

(e) The department shall approve a notification of intent to comply if the department determines the notification meets the requirements of this subdivision. A notification of intent to comply shall be in writing, adopted by formal resolution by the governing body of the local jurisdiction, and filed with the department no later than March 1, 2022. The notification of intent to comply shall include, at a minimum, all of the following:

(1) A description, with specificity, of the continuing violations.

(2) A detailed explanation of the reasons, supported by documentation, why the local jurisdiction is unable to comply.

(3) A description of the impacts of the COVID-19 pandemic on compliance.

(4) A description of the proposed actions the local jurisdiction will take to remedy the violations within the timelines established in Section 18996.2 of Title 14 of the California Code of Regulations with a proposed schedule for doing so. The proposed actions shall be tailored to remedy the violations in a timely manner.

(f) The department shall respond in writing to a local jurisdiction within 45 business days of receiving a notification of intent to comply with an approval, disapproval, request for additional information, or timeline for a decision on approval or disapproval. If the department disapproves the notification of intent to comply due to the notification not meeting the requirements of subdivision (e), the department shall include in the response a justification for the disapproval.

(g) Notwithstanding Section 18996.2 of Title 14 of the California Code of Regulations, the department may establish any maximum compliance deadline in a corrective action plan that it determines to be necessary and appropriate under the circumstances for the correction of a violation of the regulations adopted pursuant to subdivision (a).

(h) A local jurisdiction may be credited for the procurement of recovered organic waste products without executing a direct service provider agreement with end users of recovered organic waste products if all of the following conditions are met:

(1) The use of the recovered organic waste product by any entity is a result of the jurisdiction's adoption or enforcement of ordinances, regulations, resolutions, or policies.

(2) The jurisdiction complied with all other recordkeeping and reporting requirements related to procurement targets, including verification, as determined by the department, that an entity is procuring on behalf of the jurisdiction.

(3) The recovered organic waste product is not applied to the recovered organic waste product procurement target of another jurisdiction.

(i) (1) A local jurisdiction may count compost produced and procured from the following compost operations, as described in Section 17852 of Title 14 of the California Code of Regulations, as it read on January 1, 2024, towards its recovered organic waste procurement target:

(A) Vermicomposting operations.

(B) Operations composting green material, agricultural material, food material, and vegetative food material, if the total amount of feedstock and compost onsite at any one time does not exceed 100 cubic yards and 750 square feet.

(C) Mushroom compost. "Mushroom compost" means the composted growing substrate that remains after a crop has been harvested to completion.

(2) Paragraph (1) applies if a local jurisdiction adopts an ordinance or other enforceable mechanism requiring compost and vermicompost procured by the jurisdiction to comply with this subdivision and to be used in a manner that meets the definition of "land application" in subparagraph (A) of paragraph (24.5) of subdivision (a) of Section 17852 of Title 14 of the California Code of Regulations and that meets the pathogen, metals, and physical contamination limits that apply to existing composting facilities.

(j) A local jurisdiction may count up to 10 percent of its recovered organic waste product procurement target with both of the following recovered organic waste products:

(1) Mulch produced from tree trimming operations conducted by the jurisdiction or a service provider operating under contract to the jurisdiction when applied to landscape areas owned or managed by the jurisdiction or given away to residents, if the local jurisdiction does both of the following:

(A) The local jurisdiction provides documentation of the amount of mulch used and distributed, and where it was applied.

(B) The local jurisdiction adopts an ordinance or other enforceable mechanism requiring that mulch be used in a manner that meets the definition of "land application" in subparagraph (A) of paragraph (24.5) of subdivision (a) of Section 17852 of Title 14 of the California Code of Regulations and that meets the pathogen, metals, and physical contamination limits that apply to existing composting facilities.

(2) Edible food recovered in compliance with Section 18991.1 of Title 14 of the California Code of Regulations generated from a commercial food generator located within the jurisdiction. The conversion factor to be used to convert tonnage in the annual recovered organic waste product procurement target for each jurisdiction to equivalent amounts of recovered organic waste product shall be one ton of edible food for each ton of organic waste in a recovered organic waste product procurement target.

(3) Nothing in this paragraph shall be construed to limit the proportion of recovered organic waste products described in subdivision (f) of Section 18993.1 of Title 14 of the California Code of Regulations, as it read on January 1, 2024, that a jurisdiction can count toward its recovered organic waste procurement target.

(k) To count recovered organic waste products listed in subdivisions (i) and (j) toward its recovered organic waste product procurement target, a local jurisdiction shall comply with applicable regulations.

(l) (1) Subject to paragraph (2), and until December 31, 2035, the following direct expenditures by a local jurisdiction may count towards its recovered organic waste product procurement target:

(A) Investments for community composting operations serving the jurisdiction, including, but not limited to, an investment made to establish or expand a compostable materials handling operation or community composting operation.

(B) Equipment that is used only to apply compost or mulch, including, and limited to, compost spreaders, drag harrows, chippers, stump grinders, and blowers, if the jurisdiction uses the equipment to spread compost or mulch in compliance with procurement requirements during the same year that the purchase expense is applied toward its recovered organic waste product procurement target.

(C) Development of compost or mulch distribution sites to make free compost and mulch accessible and available to residents.

(2) (A) The department may determine, in regulations, the appropriate conversion factors for the direct expenditures in paragraph (1). The expenditures may count for up to 10 percent of a jurisdiction's total procurement target.

(B) Prior to the department's adoption of regulations to implement this section, the conversion factor shall be twenty-one dollars and thirty-eight cents (\$21.38) for each ton of organic waste in a product procurement target.

(m) (1) One or more local jurisdictions within the same county may determine a local per capita procurement target using information from a local waste characterization study for a period not to exceed five years after the completion of the study. A waste characterization study shall be performed by the local jurisdiction or jurisdictions, which shall apply the results of a study to the total amount of landfill disposal attributed to the local jurisdiction or jurisdictions by the department's Recycling and Disposal Reporting System.

(2) A waste characterization study may be used if it meets all of the following criteria:

(A) It was performed within the prior five years. This subparagraph does not require a jurisdiction to conduct a local waste characterization study within a specified five-year cycle or to wait for a recalculation of the annual recovered organic waste product procurement target pursuant to subdivision (b) of Section 18993.1 of Title 14 of the California Code of Regulations.

(B) It includes all categories of organic waste used in the department's most recent waste characterization study that was available at the time the waste characterization local study was performed.

(C) It includes a statistically significant sampling of solid waste disposed by the local jurisdiction or jurisdictions for which the local per capita procurement target will be determined.

(D) The geographic boundaries within which the study is conducted shall match the geographic boundaries of the jurisdiction or jurisdictions the local per capita procurement target will be applied to.

(E) It uses the most recent formula for the per capita procurement target developed by the department.

(F) The results of the study are submitted to the department in a form and manner determined by the department.

(3) The department may establish in regulations criteria for approving the methodology of a local waste characterization study.

(n) Commencing January 1, 2027, a local jurisdiction may procure a quantity of recovered organic waste products that meets or exceeds a five-year recovered organic waste product procurement target if the following conditions are met:

(1) On or before January 1, 2027, and on or before January 1 every five years thereafter, the jurisdiction's five-year recovered organic waste procurement requirement target is calculated by multiplying the annual procurement target by five. The department may grant a jurisdiction approval to begin the five-year period on any January 1 after January 1, 2027.

(2) On or before January 1, 2027, the jurisdiction has notified the department that it intends to comply using a five-year target.

(o) In adopting and revising regulations to implement this section, the department may consider both of the following:

(1) The development and adoption of a conversion factor for one ton of organic waste and one ton of compost applied locally to count towards a local jurisdiction's organic waste procurement target.

(2) Other pathways to prioritize local use of compost.

(p) (1) The department may adopt regulations it determines to be necessary to implement and enforce the changes made to this section by Chapter 508 of the Statutes of 2021 as emergency regulations.

(2) Emergency regulations adopted pursuant to paragraph (1) shall be adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and for purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, safety, and general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, emergency regulations adopted by the department pursuant to paragraph (1) shall be filed with, but not be repealed by, the Office of Administrative Law and shall remain in effect until January 1, 2024.

SEC. 1.2. Section 42652.5 of the Public Resources Code is amended to read:

42652.5. (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:

(1) May require local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and may authorize local jurisdictions to impose penalties on generators for noncompliance.

(2) (A) 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.

(B) The department shall evaluate ways to maximize the local benefits of edible food recovery programs, and explore circumstances in which recovered food may be more suitable for use in local animal feed operations.

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

(4) Shall evaluate ways to incentivize carbon farming that advances healthy soils.

(5) May include different levels of requirements for local jurisdictions and phased timelines based upon their progress in meeting the organic waste reduction goals for 2020 and 2025 established in Section 39730.6 of the Health and Safety Code. The department shall base its determination of progress on relevant factors, including, but not limited to, reviews conducted pursuant to Section 41825, the amount of organic waste disposed compared to the 2014 level, per capita disposal rates, the review required by Section 42653, and other relevant information provided by a local jurisdiction.

(6) (A) May include penalties to be imposed by the department for noncompliance. If penalties are included, they shall not exceed the amount authorized pursuant to Section 41850.

(B) Notwithstanding any other law, administrative civil penalties for a local jurisdiction that fails to procure a quantity of recovered organic waste products that meets or exceeds its recovered organic waste product procurement target established by the department pursuant to Section 18993.1 of Title 14 of the California Code of Regulations shall be imposed pursuant to the following schedule:

(i) On or after January 1, 2023, each jurisdiction shall procure a quantity of recovered organic waste products that meets or exceeds 30 percent of its recovered organic waste product procurement target.

(ii) On or after January 1, 2024, each jurisdiction shall procure a quantity of recovered organic waste products that meets or exceeds 65 percent of its recovered organic waste product procurement target.

(iii) On or after January 1, 2025, each jurisdiction shall procure a quantity of recovered organic waste products that meets or exceeds 100 percent of its recovered organic waste product procurement target.

(7) Shall take effect on or after January 1, 2022, except the imposition of penalties pursuant to paragraph (1) shall not take effect until two years after the effective date of the regulations.

(8) For purposes of determining a jurisdiction's recovered organic waste procurement target pursuant to Section 18993.1 of Title 14 of the California Code of Regulations, the jurisdiction's population shall not include the number of residents included in low population or elevation waivers granted by the department pursuant to Section 18984.12 of Title 14 of the California Code of Regulations.

(9) Recognizing the continued economic and logistical challenges of organic waste recycling and procurement in rural jurisdictions, a jurisdiction in possession of a rural exemption pursuant to subdivision (c) of Section 18984.12 of Title 14 of the California Code of Regulations, as that section read on January 1, 2024, shall remain exempt from complying with the organic waste collection services requirements specified in Article 3 (commencing with Section 18984) of, and the procurement requirements specified in Article 12 (commencing with Section 18993.1) of, Chapter 12 of Division 7 of Title 14 of the California Code of Regulations until January 1, 2037. The department shall adopt regulations to establish a process to renew the exemptions after that date for periods of up to five years.

(10) Specify that bear bins are not required to comply with the lid color requirements established by Chapter 12 (commencing with Section 18981.1) of Division 7 of Title 14 of the California Code of Regulations.

(11) The department may, in its discretion, create an adjusted recovered organic waste product procurement target schedule, not to exceed the requirements of the schedule set forth in this subdivision, which shall be exempt from the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(b) A local jurisdiction may charge and collect fees to recover the local jurisdiction's costs incurred in complying with the regulations adopted pursuant to this section.

(c) A local jurisdiction facing continuing violations of the regulations adopted pursuant to subdivision (a) that commence during the 2022 calendar year may submit to the department a notification of intent to comply, as described in this section. Upon approval by the department, and implementation by the local jurisdiction, of a notification of intent to comply that meets the requirements of subdivision (e), a local jurisdiction may be eligible for both of the following:

(1) Administrative civil penalty relief for the 2022 calendar year pursuant to subdivision (d).

(2) A corrective action plan pursuant to Section 18996.2 of Title 14 of the California Code of Regulations.

(d) (1) For violations of the regulations that are disclosed in a notification of intent to comply that is approved by the department as meeting the requirements of subdivision (e), the department shall waive administrative civil penalties under paragraph (6) of subdivision (a) during the 2022 calendar year if, and administrative civil penalties shall not accrue under paragraph (6) of subdivision (a) during the 2022 calendar year if, the local jurisdiction implements the proposed actions according to the schedule proposed pursuant to paragraph (4) of subdivision (e).

(2) For violations that commence during the 2022 calendar year and continue into the 2023 calendar year, administrative civil penalties may begin accruing as of January 1, 2023. Those administrative civil penalties accruing on and after January 1, 2023, shall be waived upon complete compliance with the terms of a corrective action plan pursuant to Section 18996.2 of Title 14 of the California Code of Regulations.

(3) If a local jurisdiction fails to adhere to the proposed actions and schedule described in a notification of intent to comply pursuant to paragraph (4) of subdivision (e), the department may revoke its approval of the notification of intent to comply and impose administrative civil penalties for violations occurring during the 2022 calendar year retroactive to the date of violation.

(4) Notwithstanding any proposed actions and schedule provided by a local jurisdiction in an approved notification of intent to comply pursuant to paragraph (4) of subdivision (e), the department may instead address through a corrective action plan any violations disclosed in that notification that may take more than 180 days to correct. Under those circumstances, the proposed actions and schedule provided pursuant to an approved notification of intent to comply pursuant to paragraph (4) of subdivision (e) shall control until a corrective action plan is finalized.

(e) The department shall approve a notification of intent to comply if the department determines the notification meets the requirements of this subdivision. A notification of intent to comply shall be in writing, adopted by formal resolution by the governing body of the local jurisdiction, and filed with the department no later than March 1, 2022. The notification of intent to comply shall include, at a minimum, all of the following:

(1) A description, with specificity, of the continuing violations.

(2) A detailed explanation of the reasons, supported by documentation, why the local jurisdiction is unable to comply.

(3) A description of the impacts of the COVID-19 pandemic on compliance.

(4) A description of the proposed actions the local jurisdiction will take to remedy the violations within the timelines established in Section 18996.2 of Title 14 of the California Code of Regulations with a proposed schedule for doing so. The proposed actions shall be tailored to remedy the violations in a timely manner.

(f) The department shall respond in writing to a local jurisdiction within 45 business days of receiving a notification of intent to comply with an approval, disapproval, request for additional information, or timeline for a decision on approval or disapproval. If the department disapproves the notification of intent to comply due to the notification not meeting the requirements of subdivision (e), the department shall include in the response a justification for the disapproval.

(g) Notwithstanding Section 18996.2 of Title 14 of the California Code of Regulations, the department may establish any maximum compliance deadline in a corrective action plan that it determines to be necessary and appropriate under the circumstances for the correction of a violation of the regulations adopted pursuant to subdivision (a).

(h) A local jurisdiction may be credited for the procurement of recovered organic waste products without executing a direct service provider agreement with end users of recovered organic waste products if all of the following conditions are met:

(1) The use of the recovered organic waste product by any entity is a result of the jurisdiction's adoption or enforcement of ordinances, regulations, resolutions, or policies.

(2) The jurisdiction complied with all other recordkeeping and reporting requirements related to procurement targets, including verification, as determined by the department, that an entity is procuring on behalf of the jurisdiction.

(3) The recovered organic waste product is not applied to the recovered organic waste product procurement target of another jurisdiction.

(i) (1) A local jurisdiction may count compost produced and procured from the following compost operations, as described in Section 17852 of Title 14 of the California Code of Regulations, as it read on January 1, 2024, towards its recovered organic waste procurement target:

(A) Vermicomposting operations.

(B) Operations composting green material, agricultural material, food material, and vegetative food material, if the total amount of feedstock and compost onsite at any one time does not exceed 100 cubic yards and 750 square feet.

(C) Mushroom compost. "Mushroom compost" means the composted growing substrate that remains after a crop has been harvested to completion.

(2) Paragraph (1) applies if a local jurisdiction adopts an ordinance or other enforceable mechanism requiring compost and vermicompost procured by the jurisdiction to comply with this subdivision and to be used in a manner that meets the definition of "land application" in subparagraph (A) of paragraph (24.5) of subdivision (a) of Section 17852 of Title 14 of the California Code of Regulations and that meets the pathogen, metals, and physical contamination limits that apply to existing composting facilities.

(j) A local jurisdiction may count up to 10 percent of its recovered organic waste product procurement target with both of the following recovered organic waste products:

(1) Mulch produced from tree trimming operations conducted by the jurisdiction or a service provider operating under contract to the jurisdiction when applied to landscape areas owned or managed by the jurisdiction or given away to residents, if the local jurisdiction does both of the following:

(A) The local jurisdiction provides documentation of the amount of mulch used and distributed, and where it was applied.

(B) The local jurisdiction adopts an ordinance or other enforceable mechanism requiring that mulch be used in a manner that meets the definition of "land application" in subparagraph (A) of paragraph (24.5) of subdivision (a) of Section 17852 of Title 14 of the California Code of Regulations and that meets the pathogen, metals, and physical contamination limits that apply to existing composting facilities.

(2) Edible food recovered in compliance with Section 18991.1 of Title 14 of the California Code of Regulations generated from a commercial food generator located within the jurisdiction. The conversion factor to be used to convert tonnage in the annual

recovered organic waste product procurement target for each jurisdiction to equivalent amounts of recovered organic waste product shall be one ton of edible food for each ton of organic waste in a recovered organic waste product procurement target.

(3) Nothing in this paragraph shall be construed to limit the proportion of recovered organic waste products described in subdivision (f) of Section 18993.1 of Title 14 of the California Code of Regulations, as it read on January 1, 2024, that a jurisdiction can count toward its recovered organic waste procurement target.

(k) To count recovered organic waste products listed in subdivisions (i) and (j) toward its recovered organic waste product procurement target, a local jurisdiction shall comply with applicable regulations.

(l) (1) Subject to paragraph (2), and until December 31, 2035, the following direct expenditures by a local jurisdiction may count towards its recovered organic waste product procurement target:

(A) Investments for community composting operations serving the jurisdiction, including, but not limited to, an investment made to establish or expand a compostable materials handling operation or community composting operation.

(B) Equipment that is used only to apply compost or mulch, including, and limited to, compost spreaders, drag harrows, chippers, stump grinders, and blowers, if the jurisdiction uses the equipment to spread compost or mulch in compliance with procurement requirements during the same year that the purchase expense is applied toward its recovered organic waste product procurement target.

(C) Development of compost or mulch distribution sites to make free compost and mulch accessible and available to residents.

(2) (A) The department may determine, in regulations, the appropriate conversion factors for the direct expenditures in paragraph (1). The expenditures may count for up to 10 percent of a jurisdiction's total procurement target.

(B) Prior to the department's adoption of regulations to implement this section, the conversion factor shall be twenty-one dollars and thirty-eight cents (\$21.38) for each ton of organic waste in a product procurement target.

(m) (1) One or more local jurisdictions within the same county may determine a local per capita procurement target using information from a local waste characterization study for a period not to exceed five years after the completion of the study. A waste characterization study shall be performed by the local jurisdiction or jurisdictions, which shall apply the results of a study to the total amount of landfill disposal attributed to the local jurisdiction or jurisdictions by the department's Recycling and Disposal Reporting System.

(2) A waste characterization study may be used if it meets all of the following criteria:

(A) It was performed within the prior five years. This subparagraph does not require a jurisdiction to conduct a local waste characterization study within a specified five-year cycle or to wait for a recalculation of the annual recovered organic waste product procurement target pursuant to subdivision (b) of Section 18993.1 of Title 14 of the California Code of Regulations.

(B) It includes all categories of organic waste used in the department's most recent waste characterization study that was available at the time the waste characterization local study was performed.

(C) It includes a statistically significant sampling of solid waste disposed by the local jurisdiction or jurisdictions for which the local per capita procurement target will be determined.

(D) The geographic boundaries within which the study is conducted shall match the geographic boundaries of the jurisdiction or jurisdictions the local per capita procurement target will be applied to.

(E) It uses the most recent formula for the per capita procurement target developed by the department.

(F) The results of the study are submitted to the department in a form and manner determined by the department.

(3) The department may establish in regulations criteria for approving the methodology of a local waste characterization study.

(n) Commencing January 1, 2027, a local jurisdiction may procure a quantity of recovered organic waste products that meets or exceeds a five-year recovered organic waste product procurement target if the following conditions are met:

(1) On or before January 1, 2027, and on or before January 1 every five years thereafter, the jurisdiction's five-year recovered organic waste procurement requirement target is calculated by multiplying the annual procurement target by five. The department may grant a jurisdiction approval to begin the five-year period on any January 1 after January 1, 2027.

(2) On or before January 1, 2027, the jurisdiction has notified the department that it intends to comply using a five-year target.

(o) In adopting and revising regulations to implement this section, the department may consider both of the following:

(1) The development and adoption of a conversion factor for one ton of organic waste and one ton of compost applied locally to count towards a local jurisdiction's organic waste procurement target.

(2) Other pathways to prioritize local use of compost.

(p) (1) The department may adopt regulations it determines to be necessary to implement and enforce the changes made to this section by Chapter 508 of the Statutes of 2021 as emergency regulations.

(2) Emergency regulations adopted pursuant to paragraph (1) shall be adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and for purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, safety, and general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, emergency regulations adopted by the department pursuant to paragraph (1) shall be filed with, but not be repealed by, the Office of Administrative Law and shall remain in effect until January 1, 2024.

(q) In order to reduce emissions from solid waste facilities that may be a potential source of methane emissions, the department, in conjunction with the California Pollution Control Financing Authority and the California Infrastructure and Economic Development Bank, may provide information to the owners and operators of those facilities about financing that may be available to fund facility improvements to increase the capture, or reduce the escape, of methane emissions.

(r) Consistent with the decisions in *Scott v. Bd. of Equalization* (1996) 50 Cal.App.4th 1597 and *Schettler v. County of Santa Clara* (1977) 74 Cal.App.3d 990, the free provision, or granting of incentive payments for use, of compost or mulch by a jurisdiction constitutes a public purpose resulting in the public benefits of reducing greenhouse gas emissions, increasing soil productivity and water retention, and facilitating diversion of organic waste and so shall not be construed to be gifts of public funds in violation of Section 6 of Article XVI of the California Constitution. This subdivision does not constitute a change in, but is declaratory of, existing law.

SEC. 1.3. Section 42652.5 of the Public Resources Code is amended to read:

42652.5. (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:

(1) May require local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and may authorize local jurisdictions to impose penalties on generators for noncompliance.

(2) (A) 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.

(B) The department shall evaluate ways to maximize the local benefits of edible food recovery programs, and explore circumstances in which recovered food may be more suitable for use in local animal feed operations.

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

(4) Shall evaluate ways to incentivize carbon farming that advances healthy soils.

(5) May include different levels of requirements for local jurisdictions and phased timelines based upon their progress in meeting the organic waste reduction goals for 2020 and 2025 established in Section 39730.6 of the Health and Safety Code. The department shall base its determination of progress on relevant factors, including, but not limited to, reviews conducted pursuant to Section 41825, the amount of organic waste disposed of compared to the 2014 level, per capita disposal rates, the review required by Section 42653, and other relevant information provided by a local jurisdiction.

(6) (A) May include penalties to be imposed by the department for noncompliance. If penalties are included, they shall not exceed the amount authorized pursuant to Section 41850.

(B) Notwithstanding any other law, administrative civil penalties for a local jurisdiction that fails to procure a quantity of recovered organic waste products that meets or exceeds its recovered organic waste product procurement target established by the department pursuant to Section 18993.1 of Title 14 of the California Code of Regulations shall be imposed pursuant to the following schedule:

(i) On or after January 1, 2023, each jurisdiction shall procure a quantity of recovered organic waste products that meets or exceeds 30 percent of its recovered organic waste product procurement target.

(ii) On or after January 1, 2024, each jurisdiction shall procure a quantity of recovered organic waste products that meets or exceeds 65 percent of its recovered organic waste product procurement target.

(iii) On or after January 1, 2025, each jurisdiction shall procure a quantity of recovered organic waste products that meets or exceeds 100 percent of its recovered organic waste product procurement target.

(7) Shall take effect on or after January 1, 2022, except the imposition of penalties pursuant to paragraph (1) shall not take effect until two years after the effective date of the regulations.

(8) For purposes of determining a jurisdiction's recovered organic waste procurement target pursuant to Section 18993.1 of Title 14 of the California Code of Regulations, the jurisdiction's population shall not include the number of residents included in low population or elevation waivers granted by the department pursuant to Section 18984.12 of Title 14 of the California Code of Regulations.

(9) Recognizing the continued economic and logistical challenges of organic waste recycling and procurement in rural jurisdictions, a jurisdiction in possession of a rural exemption pursuant to subdivision (c) of Section 18984.12 of Title 14 of the California Code of Regulations, as that section read on January 1, 2024, shall remain exempt from complying with the organic waste collection services requirements specified in Article 3 (commencing with Section 18984) of, and the procurement requirements specified in Article 12 (commencing with Section 18993.1) of, Chapter 12 of Division 7 of Title 14 of the California Code of Regulations until January 1, 2037. The department shall adopt regulations to establish a process to renew the exemptions after that date for periods of up to five years.

(10) Specify that bear bins are not required to comply with the lid color requirements established by Chapter 12 (commencing with Section 18981.1) of Division 7 of Title 14 of the California Code of Regulations.

(11) The department may, in its discretion, create an adjusted recovered organic waste product procurement target schedule, not to exceed the requirements of the schedule set forth in this subdivision, which shall be exempt from the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(12) No later than January 1, 2026, the department shall amend subdivision (f) of Section 18993.1 of Title 14 of the California Code of Regulations to include in the recovered organic waste products that a jurisdiction may procure to comply with Article 12 (commencing with Section 18993.1) of Chapter 12 of Division 7 of Title 14 of the California Code of Regulations pipeline biomethane converted exclusively from organic waste, as defined and described in Article 10 (commencing with Section 650) of Chapter 3 of Part 1 of Division 1 of the Public Utilities Code.

(b) A local jurisdiction may charge and collect fees to recover the local jurisdiction's costs incurred in complying with the regulations adopted pursuant to this section.

(c) A local jurisdiction facing continuing violations of the regulations adopted pursuant to subdivision (a) that commence during the 2022 calendar year may submit to the department a notification of intent to comply, as described in this section. Upon approval by the department, and implementation by the local jurisdiction, of a notification of intent to comply that meets the requirements of subdivision (e), a local jurisdiction may be eligible for both of the following:

(1) Administrative civil penalty relief for the 2022 calendar year pursuant to subdivision (d).

(2) A corrective action plan pursuant to Section 18996.2 of Title 14 of the California Code of Regulations.

(d) (1) For violations of the regulations that are disclosed in a notification of intent to comply that is approved by the department as meeting the requirements of subdivision (e), the department shall waive administrative civil penalties under paragraph (6) of subdivision (a) during the 2022 calendar year if, and administrative civil penalties shall not accrue under paragraph (6) of subdivision (a) during the 2022 calendar year if, the local jurisdiction implements the proposed actions according to the schedule proposed pursuant to paragraph (4) of subdivision (e).

(2) For violations that commence during the 2022 calendar year and continue into the 2023 calendar year, administrative civil penalties may begin accruing as of January 1, 2023. Those administrative civil penalties accruing on and after January 1, 2023, shall be waived upon complete compliance with the terms of a corrective action plan pursuant to Section 18996.2 of Title 14 of the California Code of Regulations.

(3) If a local jurisdiction fails to adhere to the proposed actions and schedule described in a notification of intent to comply pursuant to paragraph (4) of subdivision (e), the department may revoke its approval of the notification of intent to comply and impose administrative civil penalties for violations occurring during the 2022 calendar year retroactive to the date of violation.

(4) Notwithstanding any proposed actions and schedule provided by a local jurisdiction in an approved notification of intent to comply pursuant to paragraph (4) of subdivision (e), the department may instead address through a corrective action plan any

violations disclosed in that notification that may take more than 180 days to correct. Under those circumstances, the proposed actions and schedule provided pursuant to an approved notification of intent to comply pursuant to paragraph (4) of subdivision (e) shall control until a corrective action plan is finalized.

(e) The department shall approve a notification of intent to comply if the department determines the notification meets the requirements of this subdivision. A notification of intent to comply shall be in writing, adopted by formal resolution by the governing body of the local jurisdiction, and filed with the department no later than March 1, 2022. The notification of intent to comply shall include, at a minimum, all of the following:

(1) A description, with specificity, of the continuing violations.

(2) A detailed explanation of the reasons, supported by documentation, why the local jurisdiction is unable to comply.

(3) A description of the impacts of the COVID-19 pandemic on compliance.

(4) A description of the proposed actions the local jurisdiction will take to remedy the violations within the timelines established in Section 18996.2 of Title 14 of the California Code of Regulations with a proposed schedule for doing so. The proposed actions shall be tailored to remedy the violations in a timely manner.

(f) The department shall respond in writing to a local jurisdiction within 45 business days of receiving a notification of intent to comply with an approval, disapproval, request for additional information, or timeline for a decision on approval or disapproval. If the department disapproves the notification of intent to comply due to the notification not meeting the requirements of subdivision (e), the department shall include in the response a justification for the disapproval.

(g) Notwithstanding Section 18996.2 of Title 14 of the California Code of Regulations, the department may establish any maximum compliance deadline in a corrective action plan that it determines to be necessary and appropriate under the circumstances for the correction of a violation of the regulations adopted pursuant to subdivision (a).

(h) A local jurisdiction may be credited for the procurement of recovered organic waste products without executing a direct service provider agreement with end users of recovered organic waste products if all of the following conditions are met:

(1) The use of the recovered organic waste product by any entity is a result of the jurisdiction's adoption or enforcement of ordinances, regulations, resolutions, or policies.

(2) The jurisdiction complied with all other recordkeeping and reporting requirements related to procurement targets, including verification, as determined by the department, that an entity is procuring on behalf of the jurisdiction.

(3) The recovered organic waste product is not applied to the recovered organic waste product procurement target of another jurisdiction.

(i) (1) A local jurisdiction may count compost produced and procured from the following compost operations, as described in Section 17852 of Title 14 of the California Code of Regulations, as it read on January 1, 2024, towards its recovered organic waste procurement target:

(A) Vermicomposting operations.

(B) Operations composting green material, agricultural material, food material, and vegetative food material, if the total amount of feedstock and compost onsite at any one time does not exceed 100 cubic yards and 750 square feet.

(C) Mushroom compost. "Mushroom compost" means the composted growing substrate that remains after a crop has been harvested to completion.

(2) Paragraph (1) applies if a local jurisdiction adopts an ordinance or other enforceable mechanism requiring compost and vermicompost procured by the jurisdiction to comply with this subdivision and to be used in a manner that meets the definition of "land application" in subparagraph (A) of paragraph (24.5) of subdivision (a) of Section 17852 of Title 14 of the California Code of Regulations and that meets the pathogen, metals, and physical contamination limits that apply to existing composting facilities.

(j) A local jurisdiction may count up to 10 percent of its recovered organic waste product procurement target with both of the following recovered organic waste products:

(1) Mulch produced from tree trimming operations conducted by the jurisdiction or a service provider operating under contract to the jurisdiction when applied to landscape areas owned or managed by the jurisdiction or given away to residents, if the local jurisdiction does both of the following:

(A) The local jurisdiction provides documentation of the amount of mulch used and distributed, and where it was applied.

(B) The local jurisdiction adopts an ordinance or other enforceable mechanism requiring that mulch be used in a manner that meets the definition of "land application" in subparagraph (A) of paragraph (24.5) of subdivision (a) of Section 17852 of Title 14 of the California Code of Regulations and that meets the pathogen, metals, and physical contamination limits that apply to existing composting facilities.

(2) Edible food recovered in compliance with Section 18991.1 of Title 14 of the California Code of Regulations generated from a commercial food generator located within the jurisdiction. The conversion factor to be used to convert tonnage in the annual recovered organic waste product procurement target for each jurisdiction to equivalent amounts of recovered organic waste product shall be one ton of edible food for each ton of organic waste in a recovered organic waste product procurement target.

(3) Nothing in this paragraph shall be construed to limit the proportion of recovered organic waste products described in subdivision (f) of Section 18993.1 of Title 14 of the California Code of Regulations, as it read on January 1, 2024, that a jurisdiction can count toward its recovered organic waste procurement target.

(k) To count recovered organic waste products listed in subdivisions (i) and (j) toward its recovered organic waste product procurement target, a local jurisdiction shall comply with applicable regulations.

(l) (1) Subject to paragraph (2), and until December 31, 2035, the following direct expenditures by a local jurisdiction may count towards its recovered organic waste product procurement target:

(A) Investments for community composting operations serving the jurisdiction, including, but not limited to, an investment made to establish or expand a compostable materials handling operation or community composting operation.

(B) Equipment that is used only to apply compost or mulch, including, and limited to, compost spreaders, drag harrows, chippers, stump grinders, and blowers, if the jurisdiction uses the equipment to spread compost or mulch in compliance with procurement requirements during the same year that the purchase expense is applied toward its recovered organic waste product procurement target.

(C) Development of compost or mulch distribution sites to make free compost and mulch accessible and available to residents.

(2) (A) The department may determine, in regulations, the appropriate conversion factors for the direct expenditures in paragraph (1). The expenditures may count for up to 10 percent of a jurisdiction's total procurement target.

(B) Prior to the department's adoption of regulations to implement this section, the conversion factor shall be twenty-one dollars and thirty-eight cents (\$21.38) for each ton of organic waste in a product procurement target.

(m) (1) One or more local jurisdictions within the same county may determine a local per capita procurement target using information from a local waste characterization study for a period not to exceed five years after the completion of the study. A waste characterization study shall be performed by the local jurisdiction or jurisdictions, which shall apply the results of a study to the total amount of landfill disposal attributed to the local jurisdiction or jurisdictions by the department's Recycling and Disposal Reporting System.

(2) A waste characterization study may be used if it meets all of the following criteria:

(A) It was performed within the prior five years. This subparagraph does not require a jurisdiction to conduct a local waste characterization study within a specified five-year cycle or to wait for a recalculation of the annual recovered organic waste product procurement target pursuant to subdivision (b) of Section 18993.1 of Title 14 of the California Code of Regulations.

(B) It includes all categories of organic waste used in the department's most recent waste characterization study that was available at the time the waste characterization local study was performed.

(C) It includes a statistically significant sampling of solid waste disposed by the local jurisdiction or jurisdictions for which the local per capita procurement target will be determined.

(D) The geographic boundaries within which the study is conducted shall match the geographic boundaries of the jurisdiction or jurisdictions the local per capita procurement target will be applied to.

(E) It uses the most recent formula for the per capita procurement target developed by the department.

(F) The results of the study are submitted to the department in a form and manner determined by the department.

(3) The department may establish in regulations criteria for approving the methodology of a local waste characterization study.

(n) Commencing January 1, 2027, a local jurisdiction may procure a quantity of recovered organic waste products that meets or exceeds a five-year recovered organic waste product procurement target if the following conditions are met:

(1) On or before January 1, 2027, and on or before January 1 every five years thereafter, the jurisdiction's five-year recovered organic waste procurement requirement target is calculated by multiplying the annual procurement target by five. The department may grant a jurisdiction approval to begin the five-year period on any January 1 after January 1, 2027.

(2) On or before January 1, 2027, the jurisdiction has notified the department that it intends to comply using a five-year target.

(o) In adopting and revising regulations to implement this section, the department may consider both of the following:

(1) The development and adoption of a conversion factor for one ton of organic waste and one ton of compost applied locally to count towards a local jurisdiction's organic waste procurement target.

(2) Other pathways to prioritize local use of compost.

(p) (1) The department may adopt regulations it determines to be necessary to implement and enforce the changes made to this section by Chapter 508 of the Statutes of 2021 as emergency regulations.

(2) Emergency regulations adopted pursuant to paragraph (1) shall be adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and for purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, safety, and general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, emergency regulations adopted by the department pursuant to paragraph (1) shall be filed with, but not be repealed by, the Office of Administrative Law and shall remain in effect until January 1, 2024.

(q) In order to reduce emissions from solid waste facilities that may be a potential source of methane emissions, the department, in conjunction with the California Pollution Control Financing Authority and the California Infrastructure and Economic Development Bank, may provide information to the owners and operators of those facilities about financing that may be available to fund facility improvements to increase the capture, or reduce the escape, of methane emissions.

(r) Consistent with the decisions in *Scott v. Bd. of Equalization* (1996) 50 Cal.App.4th 1597 and *Schettler v. County of Santa Clara* (1977) 74 Cal.App.3d 990, the free provision, or granting of incentive payments for use, of compost or mulch by a jurisdiction constitutes a public purpose resulting in the public benefits of reducing greenhouse gas emissions, increasing soil productivity and water retention, and facilitating diversion of organic waste and so shall not be construed to be gifts of public funds in violation of Section 6 of Article XVI of the California Constitution. This subdivision does not constitute a change in, but is declaratory of, existing law.

SEC. 2. (a) Section 1.1 of this bill incorporates amendments to Section 42652.5 of the Public Resources Code proposed by both this bill and Assembly Bill 2514. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2025, (2) each bill amends Section 42652.5 of the Public Resources Code, (3) Assembly Bill 2902 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after Assembly Bill 2514, in which case Sections 1, 1.2, and 1.3 of this bill shall not become operative.

(b) Section 1.2 of this bill incorporates amendments to Section 42652.5 of the Public Resources Code proposed by both this bill and Assembly Bill 2902. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2025, (2) each bill amends Section 42652.5 of the Public Resources Code, (3) Assembly Bill 2514 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after Assembly Bill 2902 in which case Sections 1, 1.1, and 1.3 of this bill shall not become operative.

(c) Section 1.3 of this bill incorporates amendments to Section 42652.5 of the Public Resources Code proposed by this bill, Assembly Bill 2514, and Assembly Bill 2902. That section of this bill shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 2025, (2) all three bills amend Section 42652.5 of the Public Resources Code, and (3) this bill is enacted after Assembly Bill 2514 and Assembly Bill 2902, in which case Sections 1, 1.1, and 1.2 of this bill shall not become operative.