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AB-2902 Solid waste: reduction and recycling. (2023-2024)

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Assembly Bill No. 2902

CHAPTER 421

An act to amend Sections 41825, 42652.5, and 42999 of the Public Resources Code, relating to solid waste.

[Approved by Governor September 22, 2024. Filed with Secretary of State September 22, 2024.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2902, Wood. Solid waste: reduction and recycling.

(1) 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 statewide methane emissions by 40% below 2013 levels by 2030. Existing law requires methane emissions reduction goals to include specified targets to reduce the landfill disposal of organics. Existing law requires the Department of Resources Recycling and Recovery, in consultation with the state board, to adopt regulations that achieve those targets for reducing organic waste in landfills, as provided. The department's organic waste regulations provide different organic waste procurement targets for local jurisdictions based on population and provide waivers and exemptions from collection and procurement requirements for rural, low-population, and high-elevation jurisdictions. Existing law provides that the exemption for rural jurisdictions is valid until December 31, 2026, as specified. The department's organic waste regulations establish collection bin lid color requirements for waste collection services to identify the types of waste to be placed into a collection bin.

This bill would extend the rural jurisdiction exemption until January 1, 2037, except as provided, and would require the department to adopt regulations to establish a process to renew the exemption after that date for periods of up to 5 years. The bill would require the department to exclude residents included in department-issued low population or elevation waivers from the population in determining a local jurisdiction's organic waste procurement target. The bill would exempt bear bins from the collection bin lid color requirements.

(2) Existing law requires the department, in consultation with the state board, to analyze the progress made in achieving the reduction targets for the amounts of organic waste disposed of in landfills and authorizes the department to provide incentives to facilitate progress toward the reduction targets, as provided.

This bill would require the department's organic waste regulations to evaluate ways to incentivize carbon farming, and would require the department to 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.

This bill would authorize the department, in conjunction with the California Pollution Control Financing Authority and the California Infrastructure and Economic Development Bank, to provide information to the owners and operators of landfill and composting operations that may be a potential source of methane emissions about financing that may fund facility improvements to increase the capture, or reduce the escape, of methane emissions.

(3) Existing law requires at least once every 2 years, the department to review each jurisdiction's source reduction and recycling element and household hazardous waste element for compliance with requirements for the diversion of solid waste from landfills by source reduction, recycling, and composting.

This bill would instead require that review at least once every 4 years.

(4) Existing law requires the department, upon appropriation, to administer a grant program to provide financial assistance to promote the in-state development of infrastructure, food waste prevention, or other projects to reduce organic waste, sort and aggregate or process organic and other recyclable materials into new, value-added products, or divert items from disposal through enhanced reuse opportunities. Existing law identifies the types of projects that are eligible infrastructure projects for purposes of the program.

This bill would make the deployment of bear bins to minimize adverse human-and-bear interactions related to the collection and management of solid and organic waste an eligible infrastructure project.

(5) This bill would incorporate additional changes to Section 42652.5 of the Public Resources Code proposed by AB 2346 and AB 2514 to be operative only if this bill and any or all of the other bills are enacted and this bill is enacted last.

(6) This bill would incorporate additional changes to Section 42999 of the Public Resources Code proposed by AB 2311 to be operative only if this bill and AB 2311 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 41825 of the Public Resources Code is amended to read:

41825. (a) At least once every four years, the department shall review each jurisdiction's source reduction and recycling element and household hazardous waste element for compliance with Section 41780.

(b) In addition to the requirements of subdivision (a), the department may review whether a jurisdiction is in compliance with Section 41780 in accordance with the requirements of this section at any time that the department receives information that indicates the jurisdiction may not be making a good faith effort to implement its source reduction and recycling element and household hazardous waste element.

(c) (1) Before issuing a compliance order pursuant to subdivision (d), the department shall confer with the jurisdiction regarding conditions relating to the proposed order of compliance, with a first meeting occurring not less than 60 days before issuing a notice of intent to issue an order of compliance.

(2) The department shall issue a notice of intent to issue an order of compliance not less than 30 days before the department holds a hearing to issue the notice of compliance. The notice of intent shall specify all of the following:

(A) The proposed basis for issuing an order of compliance.

(B) The proposed actions the department recommends are necessary for the jurisdiction to complete the implementation of its source reduction and recycling element or household hazardous waste element.

(C) The proposed recommendations to the department.

(3) The department shall consider any information provided pursuant to subdivision (c) of Section 41821, if the proposed issuance of an order of compliance involves changes to a jurisdiction's calculation of annual disposal.

(d) (1) If, after holding a public hearing, which, to the extent possible, shall be held in the local or regional agency's jurisdiction, the department finds that a jurisdiction has failed to make a good faith effort to implement its source reduction and recycling element or its household hazardous waste element, the department shall issue an order of compliance with a specific schedule for achieving compliance.

(2) The compliance order shall include those conditions that the department determines to be necessary for the jurisdiction to implement its diversion programs.

(3) In addition to considering the good faith efforts of a jurisdiction, as specified in subdivision (e), to implement a diversion program, the department shall consider all of the following factors in determining whether or not to issue a compliance order:

(A) Whether an exceptional growth rate may have affected compliance.

(B) Other information that the jurisdiction may provide that indicates the effectiveness of the jurisdiction's programs, such as disposal characterization studies or other jurisdiction specific information.

(e) For purposes of making a determination pursuant to this section as to whether a jurisdiction has failed to make a good faith effort to implement its source reduction and recycling element or its household hazardous waste element, the department shall consider all of the following criteria:

(1) For the purposes of this section, "good faith effort" means all reasonable and feasible efforts by a jurisdiction to implement those programs or activities identified in its source reduction and recycling element or household hazardous waste element, or alternative programs or activities that achieve the same or similar results.

(2) For purposes of this section, "good faith effort" may also include the evaluation by a jurisdiction of improved technology for the handling and management of solid waste that would reduce costs, improve efficiency in the collection, processing, or marketing of recyclable materials or yard waste, and enhance the ability of the jurisdiction to adequately address all sources of significant disposal, the submission by the jurisdiction of a compliance schedule, and the undertaking of all other reasonable and feasible efforts to implement the programs identified in the jurisdiction's source reduction and recycling element or household hazardous waste element.

(3) In determining whether a jurisdiction has made a good faith effort, the department shall also consider the enforcement criteria included in its enforcement policy, as adopted on April 25, 1995, or as subsequently amended.

(4) The department shall consider all of the following when considering whether a jurisdiction has made a good faith effort to implement its source reduction and recycling element or its household hazardous waste element:

(A) Natural disasters.

(B) Budgetary conditions within a jurisdiction that could not be remedied by the imposition or adjustment of solid waste fees.

(C) Work stoppages that directly prevent a jurisdiction from implementing its source reduction and recycling element or household hazardous waste element.

(D) The impact of the failure of federal, state, and other local agencies located within the jurisdiction to implement source reduction and recycling programs in the jurisdiction.

(E) The extent to which the jurisdiction has implemented additional source reduction, recycling, and composting activities.

(F) The extent to which the jurisdiction has made program implementation choices driven by considerations related to other environmental issues, including climate change.

(G) Whether the jurisdiction has provided information to the department concerning whether construction and demolition waste material is at least a moderately significant portion of the waste stream, and, if so, whether the local jurisdiction has adopted an ordinance for diversion of construction and demolition waste materials from solid waste disposal facilities, has adopted a model ordinance pursuant to subdivision (a) of Section 42912 for diversion of construction and demolition waste materials from solid waste disposal facilities, or has implemented another program to encourage or require diversion of construction and demolition waste materials from solid waste disposal facilities.

(H) The extent to which the jurisdiction has implemented programs to comply with Section 41780 and to maintain its per capita disposal rate.

(I) Whether the jurisdiction has implemented a dual stream recycling program. For this purpose, "dual stream recycling program" means a program in which fiber materials to be collected for recycling is required to be separated from containers or from glass. A dual stream recycling program includes, but is not limited to, split cart collection, separate collection containers for fiber and containers, or alternating collection weeks for single collection containers containing only fiber or only containers.

(5) In making a determination whether a jurisdiction has made a good faith effort, pursuant to this section, the department may consider a jurisdiction's per capita disposal rate as a factor in determining whether the jurisdiction adequately implemented its diversion programs. The department shall not consider a jurisdiction's per capita disposal rate to be determinative as to whether the jurisdiction has made a good faith effort to implement its source reduction and recycling element or its household hazardous waste element.

SEC. 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) (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.

(i) 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.

(j) 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. 2.1. 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) (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. 2.2. 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 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) (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.

(i) 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.

(j) 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. 2.3. 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. 3. Section 42999 of the Public Resources Code is amended to read:

42999. (a) The department shall, upon appropriation by the Legislature, administer a grant program to provide financial assistance to promote in-state development of infrastructure, food waste prevention, or other projects to reduce organic waste, sort and aggregate or process organic and other recyclable materials into new, value-added products, or divert items from disposal through enhanced reuse opportunities. Moneys appropriated by the Legislature from the Greenhouse Gas Reduction Fund, created pursuant to Section 16428.8 of the Government Code, to the department shall be expended consistent with the requirements of Article 9.7 (commencing with Section 16428.8) of Chapter 2 of Part 2 of Division 4 of Title 2 of the Government Code and Chapter 4.1 (commencing with Section 39710) of Part 2 of Division 26 of the Health and Safety Code.

(b) Eligible financial assistance shall be provided for any of the following:

(1) Organics composting.

(2) Organics in-vessel digestion.

(3) Recyclable material manufacturing.

(4) Activities that expand and improve organic waste diversion and recycling, including, but not limited to, the recovery of food for human consumption and food waste prevention.

(5) Preprocessing organic materials for composting or organics in-vessel digestion.

(6) Codigestion at existing wastewater treatment plants.

(7) Increasing opportunities for reuse of materials diverted from landfill disposal.

(8) Recyclable material recovery, sorting, or baling equipment for use at publicly owned facilities. Eligibility for funding under this paragraph is limited to local jurisdictions.

(c) For purposes of this section, eligible infrastructure projects include, but are not limited to, any of the following:

(1) Capital investments in new facilities and increased throughput at existing facilities for activities, such as converting windrow composting to aerated-static-pile composting to use food waste as feedstock.

(2) Designing and constructing organics in-vessel digestion facilities to produce products, such as biofuels to be used or distributed onsite, bioenergy, and soil amendments.

(3) Designing and constructing or expanding facilities for processing recyclable materials.

(4) Projects to improve the quality of recycled materials.

(5) Projects undertaken by a local government at publicly owned facilities to improve the recovery, sorting, or baling of recyclable materials to get those materials into the marketplace, including related equipment purchasing and installation costs.

(6) Purchase of equipment and construction of facilities to help develop, implement, or expand edible food waste recovery operations.

(7) Establishment of reuse programs to divert items from landfill disposal for reuse by members of the public.

(8) Deployment of bear bins to minimize adverse human-and-bear interactions related to the collection and management of solid and organic waste. Any funding provided pursuant to this paragraph shall be limited to those areas where there are significant public safety issues associated with food waste collection as a result of local bear populations, as corroborated by information from local, state, or federal public safety or wildlife officials, and shall be limited to the primary residence for those residents earning below the area median household income limit established by the Department of Housing and Community Development pursuant to Section 50093 of the Health and Safety Code.

(d) In awarding a grant for organics composting or organics in-vessel digestion pursuant to this section, the department shall consider all of the following:

(1) The amount of reductions of emissions of greenhouse gases that may result from the project.

(2) The amount of organic material that may be diverted from landfills as a result of the project.

(3) If and how the project may benefit disadvantaged or low-income communities, as defined in Section 39713 of the Health and Safety Code.

(4) For a grant awarded for an organics in-vessel digestion project, if and how the project maximizes resource recovery, including the production of clean energy or low-carbon or carbon negative transportation fuels.

(5) Project readiness and permitting that the project may require.

(6) Air and water quality benefits that the project may provide.

(e) To the degree that funds are available, the department may provide larger grant awards for large-scale regional integrated projects that provide cost-effective organic waste diversion and maximize environmental benefits.

SEC. 3.1. Section 42999 of the Public Resources Code is amended to read:

42999. (a) The department shall, upon appropriation by the Legislature, administer a grant program to provide financial assistance to promote in-state development of infrastructure, food waste prevention, or other projects to reduce organic waste, sort and aggregate or process organic and other recyclable materials into new, value-added products, or divert items from disposal through enhanced reuse opportunities. Moneys appropriated by the Legislature from the Greenhouse Gas Reduction

Fund, created pursuant to Section 16428.8 of the Government Code, to the department shall be expended consistent with the requirements of Article 9.7 (commencing with Section 16428.8) of Chapter 2 of Part 2 of Division 4 of Title 2 of the Government Code and Chapter 4.1 (commencing with Section 39710) of Part 2 of Division 26 of the Health and Safety Code.

(b) Eligible financial assistance shall be provided for any of the following:

- (1) Organics composting.
- (2) Organics in-vessel digestion.
- (3) Recyclable material manufacturing.
- (4) Activities that expand and improve organic waste diversion and recycling, including, but not limited to, the recovery of food for human consumption and food waste prevention.
- (5) Preprocessing organic materials for composting or organics in-vessel digestion.
- (6) Codigestion at existing wastewater treatment plants.
- (7) Increasing opportunities for reuse of materials diverted from landfill disposal.
- (8) Recyclable material recovery, sorting, or baling equipment for use at publicly owned facilities. Eligibility for funding under this paragraph is limited to local jurisdictions.
- (9) Recovery of edible food, including, but not limited to, the transportation of recovered edible food, and the purchase or subscription to technology or software that improves the efficiency and tracking of edible food recovery.

(c) For purposes of this section, eligible infrastructure projects include, but are not limited to, any of the following:

- (1) Capital investments in new facilities and increased throughput at existing facilities for activities, such as converting windrow composting to aerated-static-pile composting to use food waste as feedstock.
- (2) Designing and constructing organics in-vessel digestion facilities to produce products, such as biofuels to be used or distributed onsite, bioenergy, and soil amendments.
- (3) Designing and constructing or expanding facilities for processing recyclable materials.
- (4) Projects to improve the quality of recycled materials.
- (5) Projects undertaken by a local government at publicly owned facilities to improve the recovery, sorting, or baling of recyclable materials to get those materials into the marketplace, including related equipment purchasing and installation costs.
- (6) Purchase of equipment and construction or expansion of facilities to help develop, implement, or expand edible food waste recovery operations.
- (7) Establishment of reuse programs to divert items from landfill disposal for reuse by members of the public.
- (8) Deployment of bear bins to minimize adverse human-and-bear interactions related to the collection and management of solid and organic waste. Any funding provided pursuant to this paragraph shall be limited to those areas where there are significant public safety issues associated with food waste collection as a result of local bear populations, as corroborated by information from local, state, or federal public safety or wildlife officials, and shall be limited to the primary residence for those residents earning below the area median household income limit established by the Department of Housing and Community Development pursuant to Section 50093 of the Health and Safety Code.

(d) In awarding a grant for organics composting or organics in-vessel digestion pursuant to this section, the department shall consider all of the following:

- (1) The amount of reductions of emissions of greenhouse gases that may result from the project.
- (2) The amount of organic material that may be diverted from landfills as a result of the project.
- (3) If and how the project may benefit disadvantaged or low-income communities, as defined in Section 39713 of the Health and Safety Code.
- (4) For a grant awarded for an organics in-vessel digestion project, if and how the project maximizes resource recovery, including the production of clean energy or low-carbon or carbon negative transportation fuels.

(5) Project readiness and permitting that the project may require.

(6) Air and water quality benefits that the project may provide.

(e) In awarding a grant for edible food recovery pursuant to this section, the department shall consider the increased amount of edible food recovery capacity that the project will create.

(f) To the degree that funds are available, the department may provide larger grant awards for large-scale regional integrated projects that provide cost-effective organic waste diversion and maximize environmental benefits.

SEC. 4. (a) Section 2.1 of this bill incorporates amendments to Section 42652.5 of the Public Resources Code proposed by both this bill and Assembly Bill 2346. 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 2346, in which case Sections 2, 2.2, and 2.3 of this bill shall not become operative.

(b) Section 2.2 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 2346 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 2, 2.1, and 2.3 of this bill shall not become operative.

(c) Section 2.3 of this bill incorporates amendments to Section 42652.5 of the Public Resources Code proposed by this bill, Assembly Bill 2346, and Assembly Bill 2514. 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 2346 and Assembly Bill 2514, in which case Sections 2, 2.1, and 2.2 of this bill shall not become operative.

SEC. 5. Section 3.1 of this bill incorporates amendments to Section 42999 of the Public Resources Code proposed by both this bill and Assembly Bill 2311. 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 42999 of the Public Resources Code, and (3) this bill is enacted after Assembly Bill 2311, in which case Section 3 of this bill shall not become operative.