

Enforcement Questions and Answers

Designees

1. Which responsibilities can a jurisdiction designate to a public or private entity to comply with SB 1383 regulations? (see Title 14, CCR, General Provisions section 18981.2)

A jurisdiction can designate responsibilities through:

- Contracts with haulers or other private entities, or
- Agreements with other jurisdictions, entities, regional agencies (as defined in Public Resource Code section 40181), or other government agencies, including environmental health departments.

For example, a jurisdiction may enter into an agreement with a hauler to perform route reviews for container contamination or an agreement with the environmental health department to inspect edible food generators.

A jurisdiction cannot delegate:

- The authority to issue a waiver to a private entity [see Article 3 Section 18984.11(c)] or
- The authority to impose civil penalties, or to maintain an action to impose civil penalties, to a private entity.

If a jurisdiction delegates responsibilities to a public or private entity, except responsibilities delegated to a Joint Powers Authority, it is still ultimately responsible for compliance with the requirements.

2. If multiple jurisdictions are members of a Joint Powers Authority (JPA), does the primary contact need to be a person from each individual jurisdiction or one single employee from the JPA?

If a jurisdiction is utilizing a JPA to comply, a single JPA employee can be the primary contact responsible for receiving communications regarding compliance with the regulations.

Can a designee maintain a portion of the Implementation Record? (see Title 14, CCR Article 14 section 18995.2)

The Implementation Record requirements are intended to ensure records are kept in one location and that a “jurisdiction shall provide access” to those records. The intent is for the records to be kept within the direct control of the

jurisdiction and not spread over multiple locations under the control of various entities.

Records and information shall be included in the Implementation Record within 60 calendar days of the creation of the records or information and is available within ten business days upon request by the Department.

Ordinances

- 1. If CalRecycle finds deficiencies in a jurisdiction's ordinance or enforceable mechanism, how much time does a jurisdiction have to correct those deficiencies? (see Title 14, CCR, General Provisions Sections 18981.2, Title 14, CCR, Article 15, section 18996.1)**

If CalRecycle determines that an ordinance adopted by a jurisdiction is inconsistent or does not meet the requirements of the regulations, per Section 18996.1, CalRecycle will notify the jurisdiction and provide an explanation of the deficiencies. The jurisdiction has 180 calendar days from the date of the notice to correct the deficiencies.

For further assistance on developing enforcement ordinances or franchise agreements, jurisdictions can visit CalRecycle's [SB 1383 Education and Outreach Resources webpage](#).

Recordkeeping & Reporting

- 1. When is the Initial Jurisdiction Compliance Report due to CalRecycle and what is required? (see Title 14, CCR, Article 13 Section 18994.1)**

By April 1, 2022, a jurisdiction must report and provide the following items to CalRecycle:

- A copy of ordinances or other enforceable mechanisms adopted to support the jurisdiction's implementation and compliance with the SB 1383 requirements.
- The following reporting items:
 - Type of organic waste collection service(s) provided by the jurisdiction to its generators.
 - Total number of generators that receive each type of organic waste collection service provided by the jurisdiction.
 - If the jurisdiction is implementing an organic waste collection service that requires transport of the contents of containers to a high diversion organic waste processing facility, the jurisdiction shall identify the Recycling and Disposal Reporting System number of each facility that receives organic waste from the jurisdiction.

- If applicable, a list of facilities accepting and recovering compostable plastics in the containers.
- If applicable, a list of facilities accepting and removing plastic bags that were used to collect organic waste.
- Contact information, including:
 - The name, address, phone number, and email address of the employee receiving communications regarding compliance.
 - The name and address of the agent designated by the jurisdiction for the receipt of service of process for enforcement.

2. What is the timeline for Jurisdiction Annual Reporting and is reporting achievable through the existing Electronic Annual Report? (Title 14, CCR, Article 13 section 18994.2)

CalRecycle plans to incorporate all reporting into the Electronic Annual Report.

The annual reporting schedule is as follows:

- April 1, 2022: the initial jurisdiction compliance report
- October 1, 2022: jurisdictions are to report information for January 1, 2022 through June 30, 2022.
- August 1, 2023: the jurisdiction is required to report for the previous calendar year.
- August 1: Each subsequent report shall cover the entire previous calendar year and is due on August 1.

The capacity planning reporting schedule for counties reporting on organic waste recycling capacity and edible food recovery capacity is as follows:

- August 1, 2022: for the period of January 1, 2022 through December 31, 2024.
- August 1, 2024: for the period of January 1, 2025 through December 31, 2034.
- August 1, 2029: for the period of January 1, 2030 through December 31, 2039.
- August 1, 2034: for the period of January 1, 2035 through December 31, 2044.

3. The regulations state that all records and information that are required in the Implementation Record must be included within 60 calendar days.

When is the 60-day timeline triggered? (see Title 14, CCR, Article 14 section 18995.2)

The jurisdiction is required to update the Implementation Record within 60 calendar days of the creation of a record or information due to an event. For example, jurisdictions are required to keep all records of enforcement actions in the Implementation Record. An enforcement action may include an issuance of a fine or penalty to a generator that failed to comply with a specific regulatory requirement. If a jurisdiction issues an enforcement action to a regulated entity on July 1, a record of the enforcement action should be included in the Implementation Record no later than August 30.

When a representative of CalRecycle requests access to the Implementation Record, the jurisdiction must provide access within 10 business days.

A jurisdiction is required to maintain all records and information in the Implementation Record for five years.

Although not a regulatory requirement, it is good practice for jurisdictions to update their Implementation Record every one to two months to ensure they comply with the requirements.

4. Some proprietary information is required in the Implementation Record, including inspections, route reviews, and contamination monitoring. Will this information remain confidential? (see Title 14, CCR, Article 14 section 18995.2)

The information in the Implementation Record is not required to be reported publicly. The jurisdiction maintains ownership of the Implementation Record and CalRecycle will review the Implementation Record during an evaluation. There are existing protections built in the Public Records Act (Govt. Code Sections 6250 et seq.) to allow public agencies to withhold legitimate confidential, proprietary, or trade secret information from public disclosure.

5. Does a jurisdiction need to annually report to CalRecycle the pounds of food recovered per year? (see Title 14, CCR, Article 13 section 18994.2)

Yes. Food recovery organizations and services located within the jurisdiction, that contract with or have written agreements with commercial edible food generators for food recovery, are required to report to the jurisdiction the amount of edible food in pounds recovered in the previous year. The jurisdiction is also required to report the amount of edible food in pounds recovered by these food recovery organization or services in its annual report.

Jurisdiction Enforcement Requirements

- 1. How can a jurisdiction verify that all commercial businesses are subscribing to a solid waste collection service? (see Title 14, CCR, Article 14 section 18995.1)**

Beginning on January 1, 2022, a jurisdiction is required to conduct an annual compliance review of all solid waste collection accounts for commercial businesses that generate two cubic yards or more per week of total solid waste, including trash, recyclables, and organic waste. A compliance review can be a “desk audit.” A jurisdiction needs to determine if all commercial business accounts meeting the criteria are subscribing to solid waste collection services, complying with the requirements of the organic waste collection service, and /or self-hauling organic waste to a facility that processes source separated organic waste or a high diversion organic waste processing facility. For example, a jurisdiction may include measures in its local requirements that mandate all new businesses applying for a business license to subscribe to organic waste collection service. A jurisdiction can also verify if commercial businesses are subscribing to service when conducting route reviews.

- 2. Does CalRecycle have further guidance on how many are a “sufficient amount” of route reviews? (see Title 14, CCR, Article 14 section 18995.1)**

Beginning on January 1, 2022, a jurisdiction is required to conduct annual route reviews and inspections of regulated entities to determine overall compliance. The regulations do not include a specific number of route reviews and inspections. Therefore, a jurisdiction shall determine an adequate amount based on the characteristics of their jurisdiction, such as prioritizing inspections on larger organic waste generators and generators that the jurisdiction may suspect to be out of compliance.

A jurisdiction is required to conduct enough route reviews and inspections to adequately determine the overall compliance of the generators under its authority and to ensure its own compliance.

- 3. The regulations define an organic waste generator as a person or entity that is responsible for the initial creation of organic waste. (see Title 14, CCR, Article 1 section 18982) Can a resident receive a penalty?**

Yes, a jurisdiction, in its discretion, may decide to impose penalties for contamination found in residential curbside containers. However, the SB 1383 regulations do not require jurisdictions to penalize generators for contaminating their curbside containers.

Organic waste generators, which includes residential generators, must comply with the applicable local requirements for the collection and recovery of organic waste by subscribing to collection service. If organic waste generators cannot subscribe to service, they must self-haul their organic waste, if self-hauling is allowed by the jurisdiction. If an organic waste generator is not subscribing to service or self-hauling their organic waste, they will be subject to penalties (see Title 14, CCR, Article 3 section 18984)

A jurisdiction has discretion, through its enforceable ordinance(s), on how to enforce non-compliant residential organic waste generators in a manner more stringent than what is required in the regulations.

4. Is it the jurisdiction's responsibility to inspect edible food generators and food recovery services and organizations?

Yes, but for food recovery services and organizations, the inspections are only to ensure recordkeeping requirements are met. Beginning on January 1, 2022, the jurisdiction is required to inspect Tier One edible food generators for overall compliance with regulatory standards. For, food recovery services and organizations, inspections are to verify they are maintaining the following records:

- Food Recovery Services
 - The names, addresses and contact information of commercial edible food generators that the service collects edible food from The quantity (in pounds) of the edible food collected from each commercial edible food generators The quantity the quantity of edible food transported to each food recovery organization each month
 - The quantity of edible food transported to each food recovery organization each month
 - The name, address and contact information for each food recovery organization that the service transports edible food to for food recovery
- Food Recovery Organization
 - The name, address and contact information for each commercial edible food generator that the organization receives edible food from,
 - The quantity in pounds of edible food received from each commercial edible food generator each month
 - The name, address and contact information for each food recovery service that the organization received edible food from for food recovery

- A jurisdiction may enter into an agreement with a designee, such as the environmental health department, to inspect food recovery organizations on their behalf.

5. How often does a jurisdiction have to inspect commercial edible food generators? (see Title 14, CCR, Article 14 section 18995.1)

Beginning on January 1, 2022, jurisdictions are required to inspect Tier One commercial edible food generators and verify they are recovering the maximum amount of edible food possible and are not intentionally spoiling edible food that is recoverable. Inspections should be at a level/rate to adequately determine compliance with the requirements. Tier One commercial edible food generators include:

- Supermarkets
- Grocery stores with a total facility size equal to or greater than 10,000 square feet
- Food service providers
- Food distributors
- Wholesale food vendors

On or before January 1, 2024, a jurisdiction is required to inspect Tier One and Tier Two commercial edible food generators for the same requirements. Tier Two commercial edible food generators include:

- Restaurants with 250 or more seats or a total facility size equal to or greater than 5,000 square feet
- Hotels with an on-site food facility and 200 or more rooms
- Health facilities with an on-site food facility and 100 or more beds
- Large venues
- Large events
- State agencies with a cafeteria with 250 or more seats or a total cafeteria facility size equal to or greater than 5,000 square feet
- Local education agencies with an on-site food facility

6. If a regulated entity is in violation, how long does the entity have to correct the violation before receiving a penalty from the jurisdiction? (see Title 14, CCR, Article 14 section 18995.4)

For violations occurring after January 1, 2024, the jurisdiction shall issue a Notice of Violation requiring compliance within 60 days. If after 60 days, the entity is still not in compliance, the jurisdiction shall impose penalties.

A jurisdiction may extend the deadline in the Notice of Violation if the jurisdiction finds that compliance is impracticable because there are extenuating circumstances that are beyond the control of the entity. Examples of extenuating circumstances include:

- Acts of God, such as earthquakes, wildfires, flooding, and other emergencies or natural disasters
- Delays in obtaining discretionary permits or other government agency approvals
- Deficiencies in organic waste recycling capacity infrastructure or edible food recovery capacity, and the relevant jurisdiction is under a Corrective Action Plan due to those deficiencies

7. What is the penalty if an organic waste generator, hauler, or regulated entity cannot achieve compliance within the deadline specified in the Notice of Violation? (see Article 1 Section 18997.2)

The penalties imposed by a jurisdiction are based on Government Code Sections 53069.4, 25132 and 36900, and are as follows:

- First violation: \$50-\$100 per violation,
- Second violation: \$100-\$200 per violation
- Third or subsequent violation: \$250-\$500 per violation.

Penalties increase when an entity violates the same requirement within a one year period.

Waivers

1. Can jurisdictions grant waivers to certain generators, property owners, and commercial businesses exempting them from some or all of the organic waste collection service requirements if they have special circumstances? (see Title 14, CCR, Article 3 Section 18984.11)

A jurisdiction may grant waivers to commercial businesses or property owners if they meet certain criteria specified in Section 18984.11. The waivers are listed below:

- De minimis waiver for commercial businesses: issued when organic waste generation is below the organic waste thresholds required in Section 1894.11
- Physical space waiver: issued when there is a lack of adequate space for the organic waste containers required

Collection frequency waiver: issued when there is a need for less frequent collection service

The authority to issue a waiver authorized cannot be delegated to a private entity.

2. How often is a jurisdiction required to verify if a commercial business is still eligible for a de minimus or physical space waiver? (see Title 14, CCR, Article 14 section 18995.1)

A jurisdiction is required to inspect commercial businesses every five years from the date a waiver is issued to ensure circumstances have not changed and they still qualify for the waiver.

3. Can CalRecycle grant waivers that exempt jurisdictions from some or all of the organic waste collection service requirements if they have special circumstances?

CalRecycle can grant waivers to jurisdictions with a low population or that are located in a rural or high-elevation area and meet the criteria in Title 14, CCR, Article 3 section 18984.12.

Enforcement Oversight by CalRecycle

1. How will CalRecycle evaluate a jurisdiction's compliance? (see Title 14, CCR, Article 14 section 18996.1)

CalRecycle will conduct a compliance evaluation that may include, but is not limited to:

- Review of the jurisdiction's annual reported information (see Title 14, CCR, Article 13 section 18994.1 and 18994.2)
- Review of the Implementation Record (see Title 14, CCR, Article 14 section 18995.2)
- Conducting inspections, compliance reviews, route reviews
- Review of a jurisdiction's enforceable ordinance(s)

CalRecycle will notify the jurisdiction prior to conducting a compliance evaluation and provide the jurisdiction its findings in writing. CalRecycle focuses on providing guidance, early identification, and communication of issues while evaluating a jurisdiction's compliance with the SLCP requirements before taking enforcement action.

2. If a jurisdiction is in violation, how long will it have to correct the violation before receiving a penalty? (see Title 14, CCR, Article 15 section 18996.2)

If CalRecycle finds a jurisdiction in violation of one or more of the requirements, CalRecycle may issue a Notice of Violation (NOV). A jurisdiction shall comply within 90 days from the date of issuance of the NOV. CalRecycle may grant an extension for up to a total of 180 days from the date of the issuance of the NOV, if CalRecycle determines that additional time is necessary to correct the violation. If a jurisdiction needs additional time, CalRecycle can issue a Corrective Action Plan if it finds that a jurisdiction has made a substantial effort towards compliance but there are extenuating circumstance that make compliance impracticable.

CalRecycle prioritizes compliance assistance and will consider the totality of circumstances surrounding a jurisdiction's compliance prior to issuing NOVs.

3. If a jurisdiction cannot comply by the compliance deadline stated in the Notice of Violation, can CalRecycle issue the jurisdiction a Corrective Action Plan (CAP)? (see Title 14, CCR, Article 15 section 18996.2(a))

If CalRecycle determines that additional time is necessary for the jurisdiction to comply with the compliance deadline stated in the Notice of Violation, CalRecycle can issue the jurisdiction a CAP. The jurisdiction must have made substantial effort to meet the compliance deadline but there are extenuating circumstances that make compliance impracticable and are beyond the control of the jurisdiction.

If a jurisdiction meets the criteria for substantial effort and extenuating circumstances, CalRecycle may issue a CAP. The compliance deadline for a CAP is no more than 24 months (36 months for organic waste recycling infrastructure capacity deficiencies) from the date of the original Notice of Violation (NOV).

A CAP issued by CalRecycle includes:

- A description of each action the jurisdiction shall take to remedy the violation(s)
- Applicable compliance deadline(s) for each action, and a description of the penalties that may be imposed if a jurisdiction fails to comply

4. What constitutes “substantial effort” and what are “extenuating circumstances”? (see Title 14, CCR, Article 15 section 18996.2)

“Substantial effort” means a jurisdiction has taken all the practicable actions to comply. It does not include circumstances where a decision-making body of a jurisdiction has not taken the necessary steps to comply. For example, it does not include:

- Failure to provide adequate staff resources to meet its obligations
- Failure to provide sufficient funding to ensure compliance
- Failure to adopt an ordinance(s) or similarly enforceable mechanisms required to mandate that organic waste generators, haulers, and regulated entities comply

“Extenuating circumstances” include:

- Acts of God, such as earthquakes, wildfires, mudslides, flooding, and other emergencies or natural disasters
- Delays in obtaining discretionary permits or other government agency approvals
- Organic waste recycling infrastructure capacity deficiency requiring more than 180 days to remedy

5. Will CalRecycle consider the COVID-19 pandemic as an extenuating circumstance when determining a jurisdiction’s eligibility for a Corrective Action Plan?

It may, depending on the circumstances. The regulations do allow for flexibility and deadline extensions for instances when there are extenuating circumstances, such as emergencies, that may cause compliance issues despite a jurisdiction’s substantial efforts. CalRecycle may consider a Corrective Action Plan with a longer compliance deadline if the facts demonstrate that the jurisdiction has made a substantial effort to comply and that the COVID-19 pandemic has a direct causal link to lack of compliance. However, CalRecycle will consider the totality of circumstances surrounding a jurisdiction’s compliance.

6. Can CalRecycle extend the compliance deadline in the CAP beyond 24 months? (see Title 14, CCR, Article 15 section 18996.2)

A CAP issued due to inadequate organic waste recycling infrastructure capacity may have the compliance deadline extended for an additional 12 months, resulting in an allowance of 3 years from the issuance of the Notice of Violation to comply. To receive a 12-month extension, the jurisdiction must meet the following findings:

- Additional time is necessary for the jurisdiction to comply
- Organic waste collection service is provided to all hauler routes where it is practicable and the inability to comply is limited to only those hauler routes where organic waste recycling capacity infrastructure deficiencies have caused the organic waste collection service to be impracticable

7. Can a jurisdiction refer a chain restaurant (with multiple locations across the state) that is in violation of SB 1383 to CalRecycle to pursue enforcement action on multiple restaurants? (see Title 14, CCR, Article 15 section 18996.5)

Multiple jurisdictions can file a joint enforcement referral to CalRecycle. The joint referral can be filed with the director of CalRecycle and include a statement of facts, including the following:

- Relevant locations of the noncompliant organic waste generators
- Alleged violations, locations of the violations, and the relevant regulatory sections
- All evidence known to the jurisdictions that supports the allegations
- An analysis of why the enforcement matter is of substantial statewide concern, including the reason the jurisdictions believe that CalRecycle enforcement will be more effective
- A signature from a person in each jurisdiction responsible for compliance with the 1383 regulations and reported to the department certifying the referral is true and correct

CalRecycle will pursue enforcement for the jurisdiction, if the it determines that:

- The referral meets the requirements of Section 18996.5 and includes credible evidence of all allegations
- The enforcement matter is of substantial regional or statewide concern
- CalRecycle enforcement action is more effective than enforcement by separate jurisdictions

If CalRecycle agrees to take enforcement action, it will issue a written order to the jurisdictions suspending their enforcement actions against the organic waste generator(s). If CalRecycle fails to respond to the joint referral within 90 days of receipt, the joint referral is denied.

8. If a jurisdiction fails to take enforcement action against a regulated entity found to be in violation, does CalRecycle have the authority to take enforcement? (see Title 14, CCR, Article 15 section 18996.2)

If CalRecycle finds that a jurisdiction has failed to enforce a regulated entity in violation, CalRecycle will issue a Notice of Violation to the jurisdiction. If the jurisdiction fails to enforce upon the regulated entity by the deadline of the Notice of Violation or the extension thereof, CalRecycle will take enforcement against the regulated entity. CalRecycle will notify the jurisdiction in writing prior to taking enforcement on the entity and may continue to pursue the enforcement action against the jurisdiction.

Enforcement of Non-Local Entities

1. Will CalRecycle or the jurisdiction be responsible for enforcement action against state agencies? (see Title 14, CCR, Article 15 section 18996.6)

CalRecycle will take responsibility for enforcement action against a noncompliant state agency. CalRecycle will issue a Notice of Violation requiring compliance within 90 days of the issuance date of that notice. CalRecycle shall grant a 90-day extension (for a total of 180 days), if CalRecycle finds additional time is necessary for the state agency to comply.

If the state agency fails to comply by the final compliance deadline, CalRecycle shall take the following actions:

- List the state agency on the Organic Waste Recovery Noncompliance Inventory on the CalRecycle website until CalRecycle finds that they are no longer in violation,
- Notify the Governor, and
- Notify the Legislature.

2. Will CalRecycle or the jurisdiction be responsible for enforcement action against local education agencies and federal facilities? (see Title 14, CCR, Article 15 section 18996.7)

CalRecycle will take enforcement action against a noncompliant local education agency or federal facility. CalRecycle will issue a Notice of Violation requiring compliance within 90 days of the issuance date of that notice. CalRecycle can grant a 90-day extension (for a total of 180 days), if CalRecycle finds additional time is necessary for the state agency to comply.

If the local education agency or federal facility fails to comply by the final compliance deadline, CalRecycle shall list the local education agency or federal facility on the Organic Waste Recovery Noncompliance Inventory on the CalRecycle website until CalRecycle finds that they are no longer in violation.

3. Will CalRecycle staff be conducting SB 1383 compliance evaluations for non-local entities and local education agencies?

Yes, CalRecycle staff will be conducting compliance evaluations for non-local entities and local education agencies. A CalRecycle team will be developing tools, procedures, and processes for CalRecycle staff to conduct these compliance evaluations.

4. If an elementary school does not have a food recovery program, can they be fined?

No. The enforcement structure for local education agencies does not include fines. The enforcement structure is as follows:

- CalRecycle will conduct a compliance evaluation by first verifying the school has an on-site food facility.
- Next, CalRecycle staff will provide technical compliance assistance to the school and school district to educate them about the requirements and provide applicable resources.
- Finally, CalRecycle will determine if and when a Notice of Violation will be issued, if an extension is needed, and if and when the school will be posted on the Noncompliance Inventory list on the website.

5. For state agencies that may not be complying with SB 1383, will CalRecycle be proactive on enforcement, or will CalRecycle be waiting for jurisdictions to report them?

Both. CalRecycle will monitor state agencies but may also utilize information reported by jurisdictions.

Complaints

6. Can I file a complaint with CalRecycle if I find a regulated entity allegedly in violation of the regulations? (see Title 14, CCR, Article 15 section 18996.8)

Yes. CalRecycle will receive and investigate written complaints of alleged violations of the regulations. Complaints submitted are required to be in writing, can be submitted anonymously, and shall include the following information:

- If the complaint is not anonymous, the name and contact information of the complainant
- Identity of the alleged violator
- Description of the alleged violation including location(s) and all other relevant facts known to the complainant
- Any relevant photographs or documents supporting the allegations, and
- Identity of any witnesses, if known

Within 90 days of receiving the complaint, CalRecycle shall begin an investigation. If the allegations are true, the complainant shall be subject to the enforcement authority of CalRecycle. CalRecycle may decline to investigate a complaint if, in its judgement, the investigation is found to be unnecessary. If CalRecycle knows the identity and contact information of the complainant, it will communicate the results of the investigation. If CalRecycle receives a complaint about a violation and believes it is within the authority of the jurisdiction, it will refer the complaint to the jurisdiction for investigation.

Penalties by CalRecycle

1. If CalRecycle finds a jurisdiction in violation of the regulations, how much is the penalty amount? (see Title 14, CCR, Article 16 section 18997.3)

CalRecycle shall impose penalties administratively in accordance with Section 18997.3. Penalties, except for violations of the recovered organic waste product procurement requirements in Section 18993.1, are as follows.

Minor violation	\$500 to \$4,000 per violation per day
Moderate violation	\$4,000 to \$7,500 per violation per day
Major violation	\$7,500 to \$10,000 per violation per day

Major violations include the following offenses:

- A jurisdiction fails to have any ordinance or similarly enforceable mechanism for organic waste disposal reduction and edible food recovery
- A jurisdiction fails to have a provision in a contract, agreement, or other authorization that requires a hauler to comply with the requirements of this chapter
- A jurisdiction fails to have an edible food recovery program
- A jurisdiction fails to have any Implementation Record
- A jurisdiction implements or enforces an ordinance, policy, procedure, condition, or initiative that is prohibited under Sections 18990.1 or 18990.2
- A jurisdiction fails to submit the reports required in Sections 18994.1 and 18994.2

The following factors will be used to determine the amount of the penalty for each violation within that range:

- The nature, circumstances, and severity of the violation(s)
- The violator's ability to pay
- The willfulness of the violator's misconduct
- Whether the violator took measures to avoid or mitigate violations of this chapter
- Evidence of any economic benefit resulting from the violation(s)
- The deterrent effect of the penalty on the violator
- Whether the violation(s) were due to conditions outside the control of the violator

The penalty amounts for multiple violations combined cannot exceed \$10,000 per day. (PRC Section 42652.5)

2. What are the penalties for a violation of the recovered organic waste product procurement requirements? (see Title 14, CCR, Article 16 section 18997.3)

If a jurisdiction fails to procure a quantity of recovered organic waste products that meets or exceeds its recovered organic waste product procurement target, CalRecycle will do the following to determine penalties:

- 1) Calculate the jurisdiction's daily procurement target equivalent by dividing the procurement target by 365 days
- 2) Determine the number of days a jurisdiction complied by dividing the total amount of recovered organic waste products procured by the daily procurement target equivalent
- 3) Determine the number of days a jurisdiction was out of compliance with the procurement target by subtracting the number of days calculated in number 2 from 365 days
- 4) The penalty amount shall be calculated by determining a penalty based on the following factors:
 - The nature, circumstances, and severity of the violation(s)
 - The violator's ability to pay
 - The willfulness of the violator's misconduct
 - Whether the violator took measures to avoid or mitigate violations of this chapter
 - Evidence of any economic benefit resulting from the violation(s)
 - The deterrent effect of the penalty on the violator

- Whether the violation(s) were due to conditions outside the control of the violator
- 5) Multiply that number by the number of days determined in number 3. The penalty amount shall not exceed \$10,000 per day.

Good Faith Effort

1. Does CalRecycle apply the “Good Faith Effort” when determining compliance with the SB 1383 requirements as it does with AB 939?

No, SB 1383 mandates organic waste diversion targets on a relatively short timeline. The 75 percent organic waste diversion target will not be achieved by 2025 with using the more lengthy compliance process under the Good Faith Effort standard.

CalRecycle does exercise its enforcement discretion in determining whether to commence the enforcement process as well as allowing consideration of "substantial efforts" made by the jurisdiction and "extenuating circumstances" that would allow the use of extended compliance deadlines in a "Corrective Action Plan" (CAP).

CalRecycle to focus on compliance first and dedicate enforcement efforts to egregious offenders.