

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

CORRECTIVE ACTION PLAN AND COMPLAINT FOR PENALTY
1476.SLCP.CAP.2023.3

Before: The State of California
 Department of Resources Recycling and Recovery
 1001 I Street
 Sacramento, CA 95814

In the Matter of: City of South Pasadena
 1414 Mission Street
 South Pasadena, CA 91030

BACKGROUND AND PURPOSE

1. The California Department of Resources Recycling and Recovery is hereinafter referred to as "CalRecycle."
- 1.1 CalRecycle, in consultation with the California Air Resources Board, adopted regulatory requirements, consistent with the mandate of Senate Bill 1383 (Lara, Chapter 395, Statutes of 2016), that are designed to achieve the organic waste reduction goals established in section 39730.6 of the Health and Safety Code through a 50 percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2020 and a 75 percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2025. The purpose of these reductions is to further the statewide effort to reduce emissions of short-lived climate pollutants (SLCP), including methane. These SLCP regulations are referred to hereinafter as the "Regulations" and can be found at Title 14 California Code of Regulations (CCR) sections 18981.1 through 18998.4. Cities, counties, and special districts are responsible for implementing these Regulations in their communities starting January 1, 2022.
- 1.2 The City of South Pasadena is hereinafter referred to as "Jurisdiction." Jurisdiction is required to comply with the Regulations.
- 1.3 Jurisdiction is or expects to be facing continuing violations of the Regulations commencing during the 2022 calendar year, which could result in significant administrative civil penalties under the Regulations.
- 1.4 Senate Bill 619 (Laird, Chapter 508, Statutes of 2021), through amendments to section 42652.5 of the Public Resources Code (PRC), created a mechanism called

a Notification of Intent to Comply through which a local jurisdiction may secure administrative civil penalty relief from any continuing violations of the Regulations for the 2022 calendar year and may be eligible for a broader and longer-term regulatory compliance path, including suspended administrative civil penalties, through a Corrective Action Plan.

- 1.5 Under PRC section 42652.5(e), the Notification of Intent to Comply must include a description of proposed actions to remedy the violations, as well as a proposed schedule for those actions, that the Jurisdiction commits to undertake to remedy the violations.
- 1.6 The Notification of Intent to Comply is hereinafter referred to as "Notification."
- 1.7 For violations taking more than 180 days to correct, PRC section 42652.2 allows CalRecycle to determine, in its sole discretion, that violations identified in a Notification may be addressed through a Corrective Action Plan issued pursuant to 14 CCR section 18996.2.
- 1.8 The Corrective Action Plan is hereinafter referred to as "CAP."
- 1.9 For violations disclosed in the Notification approved by CalRecycle as meeting the requirements of PRC section 42652.5(e), CalRecycle shall waive administrative civil penalties during the 2022 calendar year if the Jurisdiction implements the proposed actions according to the approved Notification's schedule of actions and, as applicable, approved CAP schedule of actions.
- 1.10 For violations disclosed in the Notification 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. SB 619 provides administrative civil penalties accruing on and after January 1, 2023, shall be waived upon complete compliance with an approved CAP schedule of action.

DETERMINATION OF VIOLATIONS

2. As authorized by PRC section 42652.5(c), the Jurisdiction notified CalRecycle of its ongoing or anticipated violations of the Regulations and the PRC through a Notification submitted March 1, 2022.
- 2.1 CalRecycle reviewed the Jurisdiction's Notification, its description of the Jurisdiction's disclosed violations of the Regulations, and proposed actions and schedule for those actions to remedy those violations for compliance with PRC section 42652.5(e). CalRecycle approved the Notification's proposed actions and schedule of actions, as modified by this CAP.

2.2 The Jurisdiction's Notification identified the following violations of the Regulations as follows:

- 2.2.1 The Jurisdiction is and has been in violation of 14 CCR section 18984.2 in that since January 1, 2022, the Jurisdiction has not provided two-container organic waste collection service to all residential and commercial generators and/or has not included food scrap collection service in the two-container collection system provided to all residential and commercial generators.
- 2.2.2 The Jurisdiction is and has been in violation of 14 CCR section 18984.7 in that since January 1, 2022, the Jurisdiction has not distributed new containers meeting the container color requirements.
- 2.2.3 The Jurisdiction is and has been in violation of 14 CCR section 18984.8 in that since January 1, 2022, the Jurisdiction has not distributed new containers with proper container labeling.
- 2.2.4 The Jurisdiction is and has been in violation of 14 CCR section 18984.11 in that since January 1, 2022, the Jurisdiction has not verified each waived generator is eligible for a waiver.
- 2.2.5 The Jurisdiction is and has been in violation of 14 CCR section 18985.1 in that since February 1, 2022, the Jurisdiction has not provided education and outreach to organic waste generators that are provided an organic waste collection service, including self-haulers, or the information provided did not comply with the requirements.
- 2.2.6 The Jurisdiction is and has been in violation of 14 CCR section 18985.1 in that since February 1, 2022, the Jurisdiction has not translated educational materials into any non-English language spoken by a substantial number of the public provided organic waste collection services by the Jurisdiction.
- 2.2.7 The Jurisdiction is and has been in violation of 14 CCR section 18993.1 in that since January 1, 2022, the Jurisdiction has not procured recovered organic waste products to meet or exceed its current annual recovered organic waste product procurement target.
- 2.2.8 The Jurisdiction is and has been in violation of 14 CCR section 18993.2 in that since January 1, 2022, the Jurisdiction has not included all documents supporting its compliance with Article 12 of the Regulations in the implementation record required by section 18995.2.
- 2.2.9 The Jurisdiction is and has been in violation of 14 CCR section 18993.3 in that since January 1, 2022, the Jurisdiction has not procured paper products, and printing and writing paper, consistent with the requirements of sections 22150-22154 of the Public Contract Code.
- 2.2.10 The Jurisdiction is and has been in violation of 14 CCR section 18993.3 in that since January 1, 2022, the Jurisdiction has not required all businesses from whom it purchases paper products and printing and writing paper to comply with the requirements of that section.

2.2.11 The Jurisdiction is and has been in violation of 14 CCR section 18993.4 in that since January 1, 2022, the Jurisdiction has not included all documents supporting its compliance with Article 12 of the Regulations in the implementation record required by section 18995.2.

2.3 CalRecycle accepted the Jurisdiction's self-reported Notification and characterization of its violations therein. CalRecycle has not undertaken a compliance review of Jurisdiction, and thus CalRecycle's approval of the Notification or this CAP should not be taken as an indication that Jurisdiction is in full compliance with Regulations in other respects. CalRecycle will be undertaking a compliance review of all jurisdictions in the future.

SCHEDULE FOR COMPLIANCE

3. Based on the foregoing DETERMINATION OF VIOLATIONS, CalRecycle finds that:
- a. The Jurisdiction worked with CalRecycle to develop this CAP, which includes schedule of actions necessary for the Jurisdiction to achieve address the violations disclosed in the Notification and described in Section 2 (Determination of Violations) above.
 - b. CalRecycle hereby approves and issues this CAP pursuant to PRC section 42652.5(c)-(e) and Title 14 CCR section 18996.2.
 - c. The Jurisdiction will fully implement the programs identified in this CAP by the dates provided in the Section 3.2 below.
 - d. CalRecycle will monitor the Jurisdiction's continued implementation of the programs identified in the CAP from March 29, 2023 through March 1, 2024 ("the oversight period") to assure implementation is complete and timely. The oversight period may be extended at the discretion of CalRecycle if any extensions to the Schedule are granted as described below in Sections 4.4 and 4.5.
 - e. During the oversight period, the Jurisdiction will submit status reports to CalRecycle and attend status meetings with CalRecycle to demonstrate the ongoing progress the Jurisdiction is making on remedying the violations described above.
 - f. During the oversight period, the Jurisdiction will provide bimonthly status reports to CalRecycle:

Report Cycle

Report 1: May 31, 2023, covering March 1, 2023 – April 30, 2023

Report 3: July 31, 2023, covering May 1, 2023 – June 30, 2023

Report 4: September 30, 2023, covering July 1, 2023 – August 31, 2023

Report 5: November 30, 2023, covering September 1, 2023 – October 31, 2023

Report 6: January 31, 2024, covering November 1, 2023 – December 31, 2023

Report 7: March 31, 2024, covering January 1, 2024 – March 1, 2024

- g. The status reports are to be used to document the status and work completed for each of the identified tasks in the CAP. For each task in the CAP, the Jurisdiction will explain the status of the task, specifying what actions have been taken to complete the task.
- h. If the work has been delayed or has not been completed, the Jurisdiction will explain the reason(s) for the delay/incompletion. The Jurisdiction will also attach any previously submitted extension requests made pursuant to section 4.4 of this CAP and any extensions granted pursuant to section 4.5 of this CAP, using additional sheets as necessary for the report. CalRecycle may consider the explanation in deciding whether to allow the Jurisdiction to continue to operate under the Notification and CAP or to revoke approval of the Notification and CAP pursuant to PRC section 42652.5(d).
- i. During the oversight period, the Jurisdiction will meet with CalRecycle telephonically or via other remote electronic means (such as Teams or Zoom) bimonthly to provide interim progress updates on the following schedule:

Meeting Cycle

Meeting 1: During April 2023

Meeting 2: During June 2023

Meeting 3: During August 2023

Meeting 4: During October 2023

Meeting 5: During December 2023

Meeting 6: During February 2024

- j. The status meetings are to be used to discuss the most recent status report and to discuss interim progress made by the Jurisdiction on each of the identified tasks in the CAP.
 - k. Prior to the close of the oversight period, CalRecycle may undertake a compliance review or field visit to supplement other status reporting.
 - l. At any time prior to the conclusion of the oversight period, if CalRecycle determines the Jurisdiction has failed to implement the programs identified in the Notification and CAP, has failed to participate in status reporting during the oversight period, has substantially misrepresented its progress in status reporting, or has substantially failed to make interim progress on Tasks set out in Section 3.2 for four consecutive reporting periods, CalRecycle may immediately issue a notice revoking its approval of the Notification and CAP and indicating its intent to impose penalties as provided in PRC section 42652.5. Title 14 CCR sections 18997.3, 18997.5, and 18997.6 and PRC section 42652.5 governs the process and considerations CalRecycle will utilize in calculating and assessing administrative civil penalties against the Jurisdiction, which may be up to \$10,000 per day per violation.
- 3.1 Based on the foregoing DETERMINATION OF VIOLATIONS, it is hereby ordered that the Jurisdiction will implement the actions described below in accordance with

the compliance deadlines contained in the schedule of actions to remedy violations as set forth in Section 3.2 below.

3.2 Schedule and Program of Actions

Section 18984.2 Two-Container Organic Waste Collection Services

The Jurisdiction will provide two-container collection service to all residential and commercial generators.

Task #	Description	Target Completion Date
TASK 1	The Jurisdiction will amend its franchise agreement with its organic waste collection service provider.	3/1/2024
TASK 2	The Jurisdiction will provide two-container waste collection service to all residential and commercial customers that are not subject to an exemption or waiver from such service under 14 CCR sections 18984.11, 18984.12, or other provision of the Regulations, or are not an authorized self-hauler subject to the Jurisdiction's ordinance requiring compliance with the requirements of section 18988.3. In implementing this container system, the Jurisdiction will ensure materials are sorted into the containers properly by generators.	3/1/2024

Section 18984.7 Container Color Requirements

The Jurisdiction will distribute new containers meeting the container color requirements.

Task #	Description	Target Completion Date
TASK 3	The Jurisdiction will identify compliant containers and funding to purchase the containers.	3/1/2024
TASK 4	Since new containers need to be purchased, the Jurisdiction will require and verify the hauler will provide containers for collection services to generators that comply with the container color requirements specified in Article 3 of the Regulations.	3/1/2024
Task 5	The Jurisdiction will deploy containers to all residential and commercial generators.	3/1/2024

Section 18984.8 Container Labeling Requirements

The Jurisdiction will distribute new containers with proper container labeling.

Task #	Description	Target Completion Date
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TASK 6	The Jurisdiction will develop labeling or use model labeling provided by CalRecycle for use on containers. <ol style="list-style-type: none"> 1. Labels on containers must include language or graphic images or both indicating the primary materials accepted and the primary materials prohibited in that container, OR 2. Containers must include imprinted text or graphic images indicating the primary materials accepted and the primary materials prohibited in that container. 	3/1/2024
TASK 7	The Jurisdiction will require and verify the hauler will label each new container or lid provided to generators. <ul style="list-style-type: none"> • Labels will be consistent with the applicable container collection requirements specifying what materials are allowed to be placed in each container. 	3/1/2024

Section 18984.11 Waivers

The Jurisdiction will verify each waived generator is eligible for a waiver.

Task #	Description	Target Completion Date
TASK 8	The Jurisdiction will update requirements for waiver eligibility.	9/1/2023
TASK 9	The Jurisdiction will establish a procedure for verifying eligibility for waivers and granting waivers.	1/1/2024
TASK 10	The Jurisdiction will grant waivers and begin recordkeeping.	3/1/2024

Section 18985.1 Organic Waste Recovery Education and Outreach

The Jurisdiction will provide organic waste recovery education and outreach to residential and commercial generators.

Task #	Description	Target Completion Date
TASK 11	The Jurisdiction will contract with a designee to implement education and outreach requirements.	3/1/2024
TASK 12	The Jurisdiction will provide organic waste recovery education and outreach to residential and commercial generators. <ul style="list-style-type: none"> • Information on the organic waste generator's requirements to properly separate materials in appropriate containers pursuant to Chapter 12 of the Regulations. 	3/1/2024

	<ul style="list-style-type: none"> • Information on methods for: the prevention of organic waste generation, recycling organic waste on-site, sending organic waste to community composting, and any other local requirements regarding organic waste. • Information regarding the methane reduction benefits of reducing the landfill disposal of organic waste, and the methods of organic waste recovery the organic waste collection service uses. • Information regarding how to recover organic waste and a list of approved haulers. • Information related to the public health and safety and environmental impacts associated with the landfill disposal of organic waste. • Information regarding programs for the donation of edible food. • If a jurisdiction allows generators subject to its authority to self-haul organic waste pursuant to Section 18988.1, information regarding self-hauling requirements will be included in education and outreach material. 	
TASK 13	The Jurisdiction will post the education information on its website and update as needed. The information will be specific to the Jurisdiction's residential and commercial programs, provide compliance options, contact information for the franchise hauler, edible food recovery programs.	3/1/2024
TASK 14	The Jurisdiction will require and verify the hauler will post and maintain organic waste recovery information and edible food donation program information on its website.	3/1/2024
TASK 15	The Jurisdiction will send letters to covered residential and commercial generators providing organic waste recovery information.	3/1/2024
TASK 16	The Jurisdiction will mail a program flyer/brochure/letter to all residential and commercial generators to provide education on organics and explain the Jurisdiction's program including types of organic materials accepted and the franchise hauler's contact information.	3/1/2024
TASK 17	The Jurisdiction will conduct community meetings with residential generators.	3/1/2024
TASK 18	The Jurisdiction will host workshops with commercial generators, targeting the following organizations: Homeowner Associations and Chamber of Commerce.	3/1/2024

TASK 19	The Jurisdiction will provide outreach and education to organic waste generators that are provided organic waste collection services or self-haul within the Jurisdiction, that are not subject to an exemption or waiver from such service under 14 CCR sections 18984.11 and 18984.12 (a) and (c). (Note: A jurisdiction may still have a separate obligation under the Mandatory Commercial Recycling (MCR) and Mandatory Organics Recycling (MORe) laws—Public Resources Code (PRC) Sections 42649.3 (d) and 42649.82 (d)(1)(C)—that is separate and independent of SB 1383, the SB 1383 Regulations, and this plan.)	3/1/2024
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The Jurisdiction will translate educational materials into any non-English language spoken by a substantial number of the public with organic waste collection services provided by the Jurisdiction.

Task #	Description	Target Completion Date
TASK 20	The Jurisdiction will identify the non-English languages spoken by a substantial number of the public.	3/1/2024
TASK 21	The Jurisdiction/its designee will translate the following educational materials: website, flyers, and letters.	3/1/2024
TASK 22	The Jurisdiction will post the translated educational materials.	3/1/2024

Section 18993.1 Recovered Organic Waste Product Procurement Target

The Jurisdiction will procure organic waste products to meet its procurement target.

Task #	Description	Target Completion Date
TASK 23	<p>The Jurisdiction will annually procure a quantity of recovered organic waste products that meets or exceeds its current annual recovered organic waste product procurement target by one or both of the following:</p> <ul style="list-style-type: none"> • Directly procuring recovered organic waste products for use or giveaway. • Requiring, through a written contract or agreement, that a direct service provider to the Jurisdiction procure recovered organic waste products and provide written documentation of such procurement to the Jurisdiction. 	12/31/2023
TASK 24	The Jurisdiction will identify additional procurement opportunities within its departments and divisions for expanding the use of recovered organic waste products.	12/31/2023

TASK 25	The Jurisdiction will meet regulatory procurement targets established by CalRecycle pursuant to 14 CCR section 18993.1; enforcement of this provision by CalRecycle will be consistent with the legislative directives in PRC section 42652.5 (a)(5)(B) and 42652.6, as amended in AB 1985 (R. Rivas, Chapter 344, Statutes of 2022).	12/31/2023
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Section 18993.2 Recordkeeping Requirements for Recovered Organic Waste Procurement Target

The Jurisdiction will establish recordkeeping related to recovered organic waste procurement.

Task #	Description	Target Completion Date
TASK 26	<p>The Jurisdiction will include all documents supporting compliance with Article 12 of the Regulations in the implementation record including, but not limited to, the following:</p> <ul style="list-style-type: none"> • A description of how the Jurisdiction will comply with the requirements of Article 12 of the Regulations. • The name, physical location, and contact information of each entity, operation, or facility from whom the recovered organic waste products were procured, and a general description of how the product was used, and if applicable, where the product was applied. • All invoices or similar records evidencing all procurement. • If including procurement of recovered organic waste products made by a direct service provider to comply with the procurement requirements of section 18993.1(a), the Jurisdiction will include all records of procurement of recovered organic waste products made by the direct service provider on behalf of the Jurisdiction including invoices or similar records evidencing procurement. • If a jurisdiction will include renewable gas procured from a POTW for any of the uses identified in section 18993.1(f)(2) to comply with the procurement mandate of Section 18993.1(a), a written certification by an authorized representative of the POTW, under penalty of perjury in a form and manner determined by the Jurisdiction, attesting to the following for the applicable procurement compliance year: <ul style="list-style-type: none"> • (A) That the POTW was in compliance with the exclusion in Section 17896.6(a)(1); • (B) The total tons of organic waste received from the types of solid waste facilities listed in Section 18993.1(h)(1); and • (C) The percentage of biosolids that the POTW produced and transported to activities that constitute landfill disposal. • If a jurisdiction will include electricity procured from a biomass conversion facility to comply with the procurement mandate of 	3/1/2024

	<p>Section 18993.1(a), a written certification by an authorized representative of the biomass conversion facility certifying that biomass feedstock was received from a permitted solid waste facility identified in 18993.1(i) will be provided to the Jurisdiction. The certification will be furnished under penalty of perjury in a form and manner determined by the Jurisdiction.</p> <ul style="list-style-type: none"> • If the Jurisdiction is implementing the procurement requirements of Section 18993.1 through an adjusted recovered organic waste product procurement target pursuant to Section 18993.1(j), the Jurisdiction will include records evidencing the 6 total amount of transportation fuel, electricity, and gas for heating applications procured during the calendar year prior to the applicable reporting period. • For jurisdictions complying with the requirements of Section 18993.1, through the procurement of mulch, a copy of the ordinance or similarly enforceable mechanism the Jurisdiction has adopted requiring that mulch procured by the Jurisdiction, or a direct service provider meets the land application standards specified in Section 18993.1. 	
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Section 18993.3 Recycled Content Paper Procurement Requirements

The Jurisdiction will procure paper products, and printing and writing paper, consistent with the Requirements.

Task #	Description	Target Completion Date
TASK 27	The Jurisdiction will research and identify vendors with paper products meeting the requirements of sections 22150-22154 of the Public Contract Code and ensure paper products and printing and writing paper is eligible to be labeled with an unqualified recyclable label as defined in Code of Federal Regulations (CFR) Section 260.12.	3/1/2024
TASK 28	The Jurisdiction will procure paper products and printing and writing paper meeting the Requirements.	3/1/2024
TASK 29	<p>The Jurisdiction will require all businesses from whom the Jurisdiction purchases paper products and printing and writing paper to certify in writing:</p> <ul style="list-style-type: none"> • The minimum percentage, if not the exact percentage, of postconsumer material in the paper products and printing and writing paper offered or sold to the Jurisdiction. <ul style="list-style-type: none"> ○ The Jurisdiction may waive the certification requirement if the percentage of postconsumer material in the paper products, printing and writing paper, or both can be 	3/1/2024

	<p>verified by a product label, catalog, invoice, or a manufacturer or vendor Internet website.</p> <p>That the paper products and printing and writing paper offered or sold to the Jurisdiction is eligible to be labeled with an unqualified recyclable label as defined in 16 CFR Section 260.12.</p>	
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Section 18993.4 Recordkeeping Requirements for Recycled Content Paper Procurement

The Jurisdiction will establish recordkeeping related to recycled content paper procurement.

Task #	Description	Target Completion Date
TASK 30	The Jurisdiction will establish a system for tracking purchases for recordkeeping and reporting.	3/1/2024
TASK 31	<p>The Jurisdiction will begin tracking and compiling documentation, including but not limited to the following:</p> <ol style="list-style-type: none"> 1. Copies of invoices, receipts or other proof of purchase that describe the procurement of paper products by volume and type for all paper purchases. 2. Copies of all certifications or other verification required. 	3/1/2024

COMPLIANCE REVIEW, ENFORCEMENT, AND RELEASE

4. Communications. All approvals and decisions of CalRecycle regarding notifications will be communicated to the Jurisdiction in writing by the Branch Chief, Jurisdiction and Agency Compliance and Enforcement Branch, Waste Permitting, Compliance and Mitigation Division, or the Branch Chief’s designee. No formal advice, guidance, suggestions, or comments by CalRecycle regarding reports, plans, specifications, schedules, or any other writings by Jurisdiction shall be construed to relieve the Jurisdiction of the obligation to obtain such formal approvals as may be required.
- 4.1 Submittal. All reporting from the Jurisdiction described in section 3 (Schedule for Compliance), paragraph 3.f, shall be submitted through an online portal or compliance module developed by CalRecycle with instructions provided to Jurisdiction. All other communications from the Jurisdiction according to this CAP shall be sent in writing electronically to:

Apollo Fraidany
 apollo.fraidany@calrecycle.ca.gov

- 4.2 Compliance Review. At the end of the oversight period or at any time deemed appropriate by CalRecycle, CalRecycle will meet with the Jurisdiction to assess the Jurisdiction's CAP implementation efforts and to determine whether or not the Jurisdiction has timely complied with all commitments in all sections of this CAP. If requested by the Jurisdiction, CalRecycle has discretion to issue notice of a hearing at any time upon its staff's recommendation that the Jurisdiction has completed the conditions of the CAP. In accordance with PRC section 42652.5, failure to implement programs and or comply with all sections of the CAP at any time may result in CalRecycle's revocation of its approval of the Notification and CAP and imposition of administrative civil penalties retroactively to the date of violation in 2022, for administrative civil penalties accruing in 2023, and for administrative civil penalties accruing during any other additional time covered by the Notification and CAP. These potentially applicable penalties are described in Section 5.0 of this CAP.
- 4.3 CalRecycle Review and Approval: If CalRecycle determines that any report, plan, schedule, or other document submitted for approval pursuant to this CAP fails to comply with the Notification as amended by this CAP or fails to achieve successful implementation of the Regulations, CalRecycle may:
- a. Amend the CAP as appropriate to remedy the violations of the Regulations expeditiously, and/or
 - b. Serve a notice that CalRecycle will revoke approval of the Notification and consider the imposition of penalties in accordance with Title 14 CCR sections 18997.3, 18997.5, and 18997.6.
- 4.4 Extension Request and Other Task Modification Requests: If the Jurisdiction determines that it will be unable to perform any activity or submit any document within the time required under this CAP, the Jurisdiction may, as far in advance of the due date as possible, request an extension of time in writing. The extension request shall include a justification for the delay. If the Jurisdiction finds that a task required by this CAP in Section 3.1 is not feasible, despite the Jurisdiction's best and substantial efforts, the Jurisdiction may propose an alternative task that is substantially similar or equally effective to the original task, subject to the approval of CalRecycle. The modification request shall include an explanation of the infeasibility, an explanation of how the alternative task is substantially similar or equally effective, and a justification for any extension of time associated with the change.
- 4.5 Extension and Other Task Modification Approvals: If CalRecycle determines that good cause exists for an extension, considering the factors set out in Title 14 CCR section 18996.2(a)(2), it will grant an extension as appropriate and specify in writing a new compliance schedule. If CalRecycle determines that good cause exists for the change in task because the original task is infeasible and the alternative task is substantially similar or equally effective, it will grant an approval

and extension as appropriate and specify in writing the new task; additionally, if CalRecycle determines that good cause exists for any extension associated with the change in task, considering the factors set out in Title 14 CCR section 18996.2(a)(2), it will grant an extension as appropriate and specify in writing a new compliance schedule.

- 4.6 Compliance with Applicable Laws: The Jurisdiction shall carry out this CAP in compliance with all Local, State, and Federal requirements, including but not limited to requirements to obtain necessary permits.
- 4.7 Liability: Nothing in this CAP shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of the Jurisdiction, including for violations of the Regulations that were not disclosed in the Notification and any violations of the Regulations that the Jurisdiction fails to remedy notwithstanding commitments in the Notification and this CAP.
- 4.8 Government Liabilities: The State of California and CalRecycle shall not be liable for injuries or damages to persons or property resulting from acts or omissions in carrying out activities pursuant to this CAP, nor shall the State of California be held as a party to any contract entered into by the Jurisdiction or its agents in carrying out activities pursuant to the CAP. The Jurisdiction shall indemnify, defend, and save harmless the State, its officers, agents, and employees from any and all claims and losses accruing or resulting in connection with the performance of this CAP.
- 4.9 Parties Bound: This CAP shall apply to and be binding upon the Jurisdiction and upon CalRecycle and any successor agency (regional agency, etc.) that may have responsibility for, and the authority over, the subject matter of this CAP.

PENALTY

5. Penalties, if any, shall be assessed and calculated in accordance with the provisions of PRC 42652.5 and Title 14 CCR sections 18997.3, 18997.5, and 18997.6. Penalties shall be calculated based on the factors set out in section 18997.3 and may be as much as \$10,000 per day per violation for the duration of the violation(s).
- 5.1 Penalty Procedures. Penalty, if any, shall be imposed in accordance with the procedures and methodology set out in PRC section 42652.5 and Title 14 CCR sections 18997.3, 18997.5, and 18997.6. Regulatory violations that are considered “minor,” meaning they involve violations constituting minimal deviation from regulations, shall be subject to penalties of no less than five hundred dollars (\$500) per violation and no more than four thousand dollars (\$4,000) per violation per day; “moderate” violations are subject to no less than four thousand dollars (\$4,000) per

violation and shall be no more than seven thousand five hundred dollars (\$7,500) per violation per day; and “major” violations, are subject to penalties no less than seven thousand five hundred dollars (\$7,500) per violation per day and no more than ten thousand dollars (\$10,000) per violation per day. The following types of deviations are deemed to be “major” under the regulations for the purposes of assessing penalties:

- a. Failure to have any ordinance or similarly enforceable mechanism for organic waste disposal reduction and edible food recovery.
- b. Failure to have a provision in a contract, agreement, or other authorization that requires a hauler to comply with the requirements the Regulations.
- c. Failure to have an edible food recovery program.
- d. Failure to have any Implementation Record.
- e. Implementation or enforcement of an ordinance, policy, procedure, condition, or initiative that is prohibited under Title 14 CCR sections 18990.1 or 18990.2.
- f. Failure to submit the reports required in Title 14 CCR sections 18994.1 and 18994.2.

EFFECTIVE DATE

6. Issuance. This Corrective Action Plan is final and effective from the date of issuance.

6.1 Date of Issuance March 29, 2023

Signature on file

Mark de Bie, Deputy Director
Waste Permitting, Compliance and Mitigation Division
Department of Resources Recycling and Recovery