

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

CORRECTIVE ACTION PLAN AND COMPLAINT FOR PENALTY
1501.SLCP.CAP.2022.12

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

In the Matter of: City of Tustin
 300 Centennial Way
 Tustin, CA 92780

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 Tustin 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 February 17, 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 18984.1 in that since January 1, 2022, the Jurisdiction has not provided three-container organic waste collection service to all commercial and multi-family generators and has not included food scrap collection service in the three-container collection system provided to all commercial and multi-family generators.

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:
- 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.
 - CalRecycle hereby approves and issues this CAP pursuant to PRC section 42652.5(c)-(e) and Title 14 CCR section 18996.2.
 - The Jurisdiction will fully implement the programs identified in this CAP by the dates provided in the Section 3.2 below.
 - CalRecycle will monitor the Jurisdiction's continued implementation of the programs identified in the CAP from December 30, 2022 through December 31, 2023 ("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.
 - 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.
 - During the oversight period, the Jurisdiction will provide bimonthly status reports to CalRecycle:

Report Cycle

Report 1: February 28, 2023, covering December 1, 2022 – January 31, 2023

Report 2: April 30, 2023, covering February 1, 2023 – March 31, 2023

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

Report 4: August 31, 2023, covering June 1, 2023 – July 31, 2023

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

Report 6: December 31, 2023, covering October 1, 2023 – November 30, 2023

Report 7: February 29, 2024, covering December 1, 2023 – January 31, 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 January 2023

Meeting 2: During March 2023

Meeting 3: During May 2023

Meeting 4: During July 2023

Meeting 5: During September 2023

Meeting 6: During November 2023

Meeting 7: During January 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 18984.1 Three-Container Organic Waste Collection Services

The Jurisdiction will provide three-container collection service to all commercial and multi-family generators.

Task #	Description	Target Completion Date
TASK 1	<p>Green Bin Collection Service for Businesses</p> <p>Task 1a: The Jurisdiction will work with the consultant to send letters explaining SB 1383 requirements to non-compliant businesses needing organics collection services.</p> <p>Task 1b: The Jurisdiction will require and verify its consultant conducts site visits to estimate amount of divertible material, determine waiver eligibility, and provide a service plan to businesses.</p> <ul style="list-style-type: none"> The consultant will conduct 20 site visits each month <p>Task 1c: The Jurisdiction will update the municipal code to be effective no later than 7/1/2023 to include the enforcement ordinance, giving the Jurisdiction authority to issue citations to non-compliant generators.</p> <p>Task 1d: The Jurisdiction will evaluate waiver recommendations and make final determination for individual businesses.</p> <p>Task 1e: The Jurisdiction will require and verify its hauler distributes a maximum of 41 organics recycling collection bins (final number based on the results of the waiver evaluation process) to all responsive business generators and begin service.</p> <ul style="list-style-type: none"> The Jurisdiction will require and verify its hauler will distribute 5 organics collection bins each month. 	<p>Task 1a: 8/31/2022 (Task completion to be verified)</p> <p>Task 1b: 10/31/2022 (Task completion to be verified)</p> <p>Task 1c: 11/15/2022 (Task completion to be verified)</p> <p>Task 1d: 12/31/2022</p> <p>Task 1e: 12/31/2022</p> <p>Task 1f: 1/31/2023</p> <p>Task 1g: 1/31/2023</p>

	<p>Task 1f: The Jurisdiction will send Notice of Violations (NOV) to remaining non-compliant properties no later than 15 days prior to the enforcement ordinance going into effect.</p> <ul style="list-style-type: none"> Properties will have 15 days to sign up for service after delivery of NOV before a citation is issued. <p>Task 1g: The Jurisdiction will issue citations for non-compliant properties beginning once the enforcement ordinance goes into effect, no later than 7/1/2023.</p>	
TASK 2	<p style="text-align: center;">Blue Bin Collection Service for Businesses</p> <p>Task 2a: The Jurisdiction will update the municipal code to be effective no later than 7/1/2023 to include the enforcement ordinance, giving the Jurisdiction authority to issue citations to non-compliant generators.</p> <p>Task 2b: The Jurisdiction will work with its consultant to send letters explaining SB 1383 requirements to non-compliant businesses requiring a recycling bin for the collection of paper and cardboard.</p> <p>Task 2c: The Jurisdiction will require and verify its consultant conducts site visits to estimate amount of divertible material, determine waiver eligibility, and provide a service plan to businesses, beginning no later than 30 days after the SB 1383 letters are sent.</p> <ul style="list-style-type: none"> The Jurisdiction will require and verify its consultant conducts 20 site visits each month. <p>Task 2d: The Jurisdiction will evaluate waiver recommendations and make final determination for individual businesses.</p> <p>Task 2e: The Jurisdiction will send NOV to remaining non-compliant properties no later than 15 days prior to the enforcement ordinance going into effect.</p> <ul style="list-style-type: none"> Properties will have 15 days to sign up for service after delivery of NOV before a citation is issued. <p>Task 2f: The Jurisdiction will require and verify its hauler distributes approximately 188 recycling collection bins (final number based on the results of the waiver evaluation process) to all responsive business generators and begin service.</p> <ul style="list-style-type: none"> The Jurisdiction will require and verify its hauler distributes 16 recycling collection bins each month. <p>Task 2g: The Jurisdiction will issue citations for non-compliant properties beginning once the enforcement ordinance goes into effect, no later than 7/1/2023.</p>	<p>Task 2a: 11/15/2022 (Task completion to be verified)</p> <p>Task 2b: 12/31/2022</p> <p>Task 2c: 1/31/2023</p> <p>Task 2d: 3/31/2023</p> <p>Task 2e: 4/30/2023</p> <p>Task 2f: 12/31/2023</p> <p>Task 2g: 12/31/2023</p>

<p>TASK 3</p>	<p style="text-align: center;">Green Bin Collection Service for Multi-Family</p> <p>Task 3a: The Jurisdiction will begin sending NOVs to on-compliant properties that have failed to subscribe to service after being notified of their obligations under SB 1383 no later than 15 days prior to the enforcement ordinance going into effect.</p> <ul style="list-style-type: none"> • Properties will have 15 days to sign up for service after delivery of NOV before a citation is issued. <p>Task 3b: The Jurisdiction will work with its hauler and consultant to send letters explaining SB 1383 requirements to non-compliant multi-family generators.</p> <p>Task 3c: The Jurisdiction will require and verify its hauler conducts site visits to estimate amount of divertible material and determine waiver eligibility and provide a service plan to customer.</p> <ul style="list-style-type: none"> • The Jurisdiction will require and verify its hauler will conduct 25 site visits each month. <p>Task 3d: The Jurisdiction will begin evaluating waiver recommendations and make final determination for individual properties.</p> <p>Task 3e: The Jurisdiction will update the municipal code to be effective no later than 7/1/2023 to include the enforcement ordinance, giving the Jurisdiction authority to issue citations to non-compliant generators.</p> <p>Task 3f: The Jurisdiction will begin issuing citations for non-compliant properties beginning once the enforcement ordinance goes into effect, no later than 7/1/2023.</p> <p>Task 3g: The Jurisdiction will require and verify its hauler moves 271 accounts (25 per month) to compliance by either distributing organics recycling collection bins and kitchen pails to all responsive multi-family generators and begin service or by providing information to the City supporting a waiver.</p> <ul style="list-style-type: none"> • Notice of violations and citations will be on a rolling basis beginning no later than 15 days prior to the enforcement ordinance going into effect. 	<p>Task 3a: 11/15/2022 (Task completion to be verified)</p> <p>Task 3b: 12/31/2022</p> <p>Task 3c: 1/31/2023</p> <p>Task 3d: 3/1/2023</p> <p>Task 3e: 4/30/2023</p> <p>Task 3f: 4/30/2023</p> <p>Task 3g: 12/31/2023</p>
--------------------------	--	--

TASK 4	<p>Three Bin Collection Service for All Generators</p> <p>The Jurisdiction will monitor and ensure compliance through its enforcement process. After receiving a NOV, non-compliant generators have 15 days to sign up for service before citations are issued. Citations will be an effective mechanism as the price of citations is significantly greater than the monthly rate of \$71.57 for a three-yard recycle bin or \$16.64 for a 65-gallon organics cart, each serviced one day per week. Citations are daily, starting at \$100 day one, \$200 day two, and \$500 every day after that the generator does not sign up for service.</p>	1/31/2023
TASK 5	<p>Three Bin Collection Service for All Generators</p> <p>The Jurisdiction will provide three-container waste collection service to all commercial and multi-family customers that are not subject to an exemption or waiver from such service under 14 CCR sections 18984.12, 18986.3, 18984.11, 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 18988.3.</p>	12/31/2023

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:

Haley Aumiller
Haley.Aumiller@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 December 30, 2022

Signature on file

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

FIRST ADDENDUM TO CORRECTIVE ACTION PLAN 1501.SLCP.CAP.2022.12

City of Tustin Amendment of Timelines in Corrective Action Plan No.
1501.SLCP.CAP.2022.12

On January 27, 2023, The City of Tustin requested an amendment to part of their timeline for Corrective Action Plan No. 1501.SLCP.CAP.2022.12. The justification provided for extension is included in the attached request.

Requested Changes to Timeline:

Task #	Original task language	Proposed language	Original Dates	Amended Dates
2b			12/31/2022	3/15/2023
2c			1/31/2023	4/15/2023
2d			3/31/2023	5/31/2023
2e			4/30/2023	6/31/2023

The City of Tustin's request for amendment shows good cause, and provides a reasonable alternate timeline for completion. The impacted tasks do not affect the final completion date of the Corrective Action Plan. Therefore, the request is approved. The amendment will be included as an addendum to the (12/30/2022) Corrective Action Plan No. 1501.SLCP.CAP.2022.12

Dated: March 13, 2023

Signature on file

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

Attachment 1: City of Tustin 1/27/2023 Time Amendment Request

SECOND ADDENDUM TO CORRECTIVE ACTION PLAN NO. 1501.SLCP.CAP. 2022.12

City of Tustin Amendment of Timelines in Corrective Action Plan No.
1501.SLCP.CAP.2022.12

On September 27, 2023, the City of Tustin requested an amendment to part of their timelines for Corrective Action Plan No. 1501.SLCP.CAP.2022.12. The City of Tustin only requested a change in the timelines, not a change in the task requirements. The justifications provided for the timeline amendments are included in the attached request.

Requested Changes to Timelines:

Task #	Original Date	Amended Date
3g	12/31/2023	3/1/2024
5	12/31/2023	3/1/2024

The City of Tustin's request for timeline amendments shows good cause and provides reasonable alternate timelines for completion. The impacted tasks affect the final completion date of the Corrective Action Plan. Therefore, Sections 3.d, 3.f, and 3.i will need to be changed to reflect the new final completion date of the Corrective Action Plan.

See below for the changes made to Sections 3.d, 3.f, and 3.i.

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 December 30, 2022 through April 30, 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: February 28, 2023, covering December 1, 2022 – January 31, 2023

Report 2: April 30, 2023, covering February 1, 2023 – March 31, 2023

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

Report 4: August 31, 2023, covering June 1, 2023 – July 31, 2023

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

Report 6: December 31, 2023, covering October 1, 2023 – November 30, 2023

Report 7: February 29, 2024, covering December 1, 2023 – January 31, 2024

Report 8: April 30, 2024, covering February 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 January 2023

Meeting 2: During March 2023

Meeting 3: During May 2023

Meeting 4: During July 2023

Meeting 5: During September 2023

Meeting 6: During November 2023

Meeting 7: During January 2024
Meeting 8: During March 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.

The request is approved. The amendment will be included as a second addendum to the December 30, 2022 Corrective Action Plan No. 1501.SLCP.CAP.2022.12.

Dated: January 29, 2024

Signature on file

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

Attachment 1: City of Tustin's Timeline Amendment Request (Second Addendum)

THIRD ADDENDUM TO CORRECTIVE ACTION PLAN NO. 1501.SLCP.CAP. 2022.12

City of Tustin Amendment of Tasks and Timelines in Corrective Action Plan No. 1501.SLCP.CAP.2022.12

On February 29, 2024, the City of Tustin (Jurisdiction) requested an amendment to part of its tasks and timeline for Corrective Action Plan No. 1501.SLCP.CAP.2022.12. The justification provided for the timeline amendments and task requirements is included in the attached request.

Requested Changes to Tasks and Timelines:

Task #	Original Task Language	Proposed Task Language	Original Date	First Amended Date	Second Amended Date	Third Amended Date
2	Task 2f: The Jurisdiction will require and verify its hauler distributes approximately 188 recycling collection bins (final number based on the results of the waiver evaluation process) to all responsive business generators and begin service. <ul style="list-style-type: none"> The Jurisdiction will require and verify its hauler distributes 16 recycling collection bins each month. Task 2g: The	N/A	Task 2f: 12/31/2023 Task 2g: 12/31/2023	Task 2f: N/A Task 2g: N/A	Task 2f: N/A Task 2g: N/A	Task 2f: 3/15/2024 Task 2g: 3/15/2024

Task #	Original Task Language	Proposed Task Language	Original Date	First Amended Date	Second Amended Date	Third Amended Date
	Jurisdiction will issue citations for non-compliant properties beginning once the enforcement ordinance goes into effect.					
3	<p>Task 3f: The Jurisdiction will begin issuing citations for noncompliant properties beginning once the enforcement ordinance goes into effect.</p> <p>Task 3g: The Jurisdiction will require and verify its hauler moves 271 accounts (25 per month) to compliance by either distributing organics recycling collection bins and kitchen pails to all responsive multi-family generators and begin service or by providing information to the Jurisdiction supporting a waiver.</p> <ul style="list-style-type: none"> • Notice of violations and citations will be on a rolling 	<p>Task 3f: N/A</p> <p>Task 3g: The Jurisdiction will require and verify its hauler moves 271 accounts (25 per month) to compliance by either distributing organics recycling collection bins and kitchen pails to all responsive multi-family generators and begin service or by providing information to the Jurisdiction supporting a waiver. If the non-compliant properties do not arrange for service by 4/30/2024, the Jurisdiction will update the municipal code to be effective</p>	<p>Task 3f: 4/30/2023</p> <p>Task 3g: 12/31/2023</p>	<p>Task 3f: N/A</p> <p>Task 3g: N/A</p>	<p>Task 3f: N/A</p> <p>Task 3g: 3/1/2024</p>	<p>Task 3f: 6/30/2024</p> <p>Task 3g: 8/31/2024</p>

Task #	Original Task Language	Proposed Task Language	Original Date	First Amended Date	Second Amended Date	Third Amended Date
	basis beginning no later than 15 days prior to the enforcement ordinance going into effect.	no later than 7/5/2024 to include mandatory container distribution, giving the Jurisdiction authority to distribute bins to non-compliant properties. <ul style="list-style-type: none"> • Notice of violations and citations will be on a rolling basis beginning no later than 15 days prior to the enforcement ordinance going into effect. 				
4	The Jurisdiction will monitor and ensure compliance through its enforcement process. After receiving a NOV, non-compliant generators have 15 days to sign up for service before citations are issued. Citations will be an effective mechanism as the price of citations	N/A	1/31/2023	N/A	N/A	8/31/2024

Task #	Original Task Language	Proposed Task Language	Original Date	First Amended Date	Second Amended Date	Third Amended Date
	is significantly greater than the monthly rate of \$71.57 for a three-yard recycle bin or \$16.64 for a 65-gallon organics cart, each serviced one day per week. Citations are daily, starting at \$100 day one, \$200 day two, and \$500 every day after that the generator does not sign up for service.					
5	The Jurisdiction will provide three-container waste collection service to all commercial and multi-family customers that are not subject to an exemption or waiver from such service under Title 14 of the California Code of Regulations (CCR) sections 18984.12, 18986.3, 18984.11, or other provision of the Regulations, or are not an authorized self-hauler subject to the Jurisdiction's	N/A	12/31/2023	N/A	3/1/2024	8/31/2024

Task #	Original Task Language	Proposed Task Language	Original Date	First Amended Date	Second Amended Date	Third Amended Date
	ordinance requiring compliance with the requirements of 14 CCR Section 18988.3.					

The Jurisdiction's request for task and timeline amendments shows good cause and provides reasonable alternate tasks and timelines for completion. The impacted tasks affect the final completion date of the Corrective Action Plan (CAP). Therefore, Sections 3.d, 3.f, and 3.i will need to be changed to reflect the new final completion date of the CAP.

See below for the changes made to Sections 3.d, 3.f, and 3.i.

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 address the violations disclosed in the Notification and described in Section 2 (Determination of Violations).
 - b. CalRecycle hereby approves and issues this CAP pursuant to Public Resources Code (PRC) Section 42652.5(c)-(e) and 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.
 - d. CalRecycle will monitor the Jurisdiction's continued implementation of the programs identified in the CAP from December 30, 2022 through October 31, 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 addressing the violations described above.
 - f. During the oversight period, the Jurisdiction will provide bimonthly status reports to CalRecycle:

Report Cycle

Report 1: February 28, 2023, covering December 1, 2022 – January 31, 2023

Report 2: April 30, 2023, covering February 1, 2023 – March 31, 2023

Report 3: June 30, 2023, covering April 1, 2023 – May 31, 2023
Report 4: August 31, 2023, covering June 1, 2023 – July 31, 2023
Report 5: October 31, 2023, covering August 1, 2023 – September 30, 2023
Report 6: December 31, 2023, covering October 1, 2023 – November 30, 2023
Report 7: February 29, 2024, covering December 1, 2023 – January 31, 2024
Report 8: April 30, 2024, covering February 1, 2024 – March 31, 2024
Report 9: June 30, 2024, covering April 1, 2024 – May 31, 2024
Report 10: August 31, 2024, covering June 1, 2024 – July 31, 2024
Report 11: October 31, 2024, covering August 1, 2024 – September 30, 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 January 2023
Meeting 2: During March 2023
Meeting 3: During May 2023
Meeting 4: During July 2023
Meeting 5: During September 2023
Meeting 6: During November 2023
Meeting 7: During January 2024
Meeting 8: During March 2024
Meeting 9: During May 2024
Meeting 10: During July 2024
Meeting 11: During September 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 (4) 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., 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 in accordance with the compliance deadlines contained in the schedule of actions to address violations as set forth in Section 3.2.

The request is approved. The amendment will be included as a third addendum to the December 30, 2022 Corrective Action Plan No. 1501.SLCP.CAP.2022.12.

Dated: January 9, 2025

Signature on file

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

Attachment: City of Tustin's Task and Timeline Amendment Request (Third Addendum)