

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY
CORRECTIVE ACTION PLAN AND COMPLAINT FOR PENALTY
1315.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 Modesto
 PO Box 642
 Modesto, CA 95353

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 Modesto 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 15, 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 generators.
 - 2.2.2 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.
 - 2.2.3 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.
 - 2.2.4 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.
- 2.3 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 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 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 2: July 31, 2023, covering May 1, 2023 – June 30, 2023

Report 3: September 30, 2023, covering July 1, 2023 – August 31, 2023

Report 4: November 30, 2023, covering September 1, 2023 – October 31, 2023

Report 5: January 31, 2024, covering November 1, 2023 – December 31, 2023

Report 6: 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 18984.1 Three-Container Organic Waste Collection Services

The Jurisdiction will implement mandatory organic waste collection for all commercial businesses including multi-family complexes.

Note: Jurisdiction already provides mandatory service to all residential customers.

Task #	Description	Target Completion Date
TASK 1	The Jurisdiction will make recommendations to City Council concerning program changes to reach compliance with SB 1383.	6/14/2022 (Task completed and verified)
TASK 2	The Jurisdiction will require and verify the hauler(s) will order necessary collection containers/bins. Task 2a: Bertolotti orders containers.	Task 2a: 7/20/2022 (Task completion to be verified)
TASK 3	The Jurisdiction will require and verify hauler(s) will receive the bins and trucks to distribute organics recycling collection bins to all commercial businesses. Task 3a: Gilton receives bins. Task 3b: Bertolotti receives bins. Task 3c: Bertolotti receives new trucks.	Task 3a: 11/30/2022 (Task completion to be verified) Task 3b: 11/30/2022 (Task completion to be verified) Task 3c: 7/29/2022 (Task completion to be verified)

TASK 4	The Jurisdiction will require and verify the hauler, Bertolotti, will hire new drivers.	11/1/2022 (Task completion to be verified)
TASK 5	The Jurisdiction will require and verify the hauler will distribute (approx. Gilton's 45,000 bins + Bertolotti's 5,000 bins) organics recycling collection bins to all commercial businesses. Task 5a: Begin to deliver all the bins until the end of the year. Task 5b: Deliver last bins.	Task 5a: 11/28/2022 (Task completion to be verified) Task 5b: 12/31/2023
TASK 6	The Jurisdiction will approve and implement rate changes for collection methods to take effect. Task 6a: First rate change. Task 6b: Second rate change.	Task 6a: 7/1/2022 (Task completion to be verified) Task 6b: 1/1/2023 (Task completion to be verified)
TASK 7	The Jurisdiction will provide three container waste collection service to all commercial customers and multi-family properties that are not subject to an exemption or waiver from such service under 14 CCR sections 18984.12, 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. In implementing this container system, the Jurisdiction will ensure materials are sorted into the containers properly by generators.	12/31/2023

Section 18984.8 Container Labeling Requirements

The Jurisdiction will be distributing new containers with proper container labeling.

Task #	Description	Target Completion Date
TASK 8	The Jurisdiction will make recommendations to City Council concerning program changes to reach compliance with SB 1383.	4/30/2022 (Task completed and verified)
TASK 9	The Jurisdiction will require and verify that residential blue container labels are created and distributed. Task 9a: Design the new labels. Task 9b: Order containers with imprinted labels. Task 9c: Distribute containers.	Task 9a: 7/31/2022 (Task completion to be verified) Task 9b: 8/23/2022 (Task completion to be verified)

		Task 9c: 12/31/2022 (Task completion to be verified)
TASK 10	<p>The Jurisdiction will require and verify that commercial labels created and applied.</p> <p>Task 10a: Design the new commercial labels.</p> <p>Task 10b: Order commercial labels.</p> <p>Task 10c: Receive commercial labels.</p> <p>Task 10d: Work with haulers to apply to roughly 2,200 commercial bins (approximately 150-200 per month).</p> <p>Task 10e: All commercial bins labeled.</p>	<p>Task 10a: 8/20/2022 (Task completion to be verified)</p> <p>Task 10b: 8/22/2022 (Task completion to be verified)</p> <p>Task 10c: 9/30/2022 (Task completion to be verified)</p> <p>Task 10d: 1/31/2023 (Task completion to be verified)</p> <p>Task 10e: 12/31/2023</p>

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 11	The Jurisdiction's Public Works Director will present improvement plan to City Council for consideration.	6/30/2022 (Task completion to be verified)
TASK 12	<p>The Jurisdiction will expand donation and sales opportunities to meet quantity requirements for procurement through donation, Jurisdiction land application, and direct service providers.</p> <p>The Jurisdiction will begin exploring options including:</p> <p>Task 12a: Work with Jurisdiction departments, namely Parks, Utilities, and Public Works, to determine additional opportunities for compost and mulch use.</p> <p>Task 12b: Work with private haulers/facilities to secure opportunities to purchase mulch and compost.</p> <p>Task 12c: Investigate additional opportunities for direct service provider agreements.</p>	<p>Task 12a: 9/31/2022 (Task completion to be verified)</p> <p>Task 12b: 10/31/2022 (Task completion to be verified)</p> <p>Task 12c: 12/31/2022 (Task completion to be verified)</p> <p>Task 12d: 3/31/2023</p>

	Task 12d: Identify sources of SB 1383-compliant RNG and purchase when available.	
TASK 13	The Jurisdiction will require, 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.	7/1/2023
TASK 14	The Jurisdiction will meet procurement targets through compost donations, Jurisdiction land application, and direct service provider sales.	3/1/2024
TASK 15	<p>If additional compost needed (not available on the market), then the Jurisdiction will ensure an adequate compost availability by expanding the current compost facility. This includes developing a plan for the current facility improvements that allow the facility to meet procurement targets and begin site improvements.</p> <p>Task 15a: Request for Quote for feasibility study. Task 15b: Close and award feasibility study. Task 15c: Conduct feasibility study, wherein consultant recommends facility and equipment improvements. Task 15d: Take recommendations to City Council for adoption. Task 15e: Begin necessary site improvements. Task 15f: Begin purchasing necessary equipment improvements. Task 15g: Given six months processing for clean material to yield clean compost, give away will begin. Task 15h: Complete major improvements determined to impact quality of compost.</p>	<p>Task 15a: 11/30/2022 (Task completion to be verified)</p> <p>Task 15b: 3/31/2023</p> <p>Task 15c: 4/30/2023</p> <p>Task 15d: 4/30/2023</p> <p>Task 15e: 5/31/2023</p> <p>Task 15f: 5/31/2023</p> <p>Task 15g: 11/30/2023</p> <p>Task 15h: 3/1/2024</p>
TASK 16	The Jurisdiction will provide an update to CalRecycle regarding the additional steps needed to come into compliance with this violation, including the need to modify and/or extend the CAP.	12/31/2023
TASK 17	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).	3/1/2024

Sections 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 17	The Jurisdiction will create a record keeping process.	6/30/2022 (Task completion to be verified)
TASK 18	<p>The Jurisdiction will include all documents supporting compliance with this article 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. 	7/31/2022 (Task completion to be verified)

	<ul style="list-style-type: none"> • If a jurisdiction will include electricity procured from a biomass conversion facility to comply with the procurement mandate of 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. • 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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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:

Pinar Kose
pinar.kose@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

Sent via Certified Mail

FIRST ADDENDUM TO CORRECTIVE ACTION PLAN NO. 1315.SLCP.CAP.2023.3

City of Modesto Amendment of Amendment of Tasks and Timelines in Corrective Action Plan No. 1315.SLCP.CAP.2023.3

On October 6, 2023, the City of Modesto requested an amendment to part of their tasks and timeline for Corrective Action Plan No. 1315.SLCP.CAP.2023.3. The justifications provided for the timeline amendments and task requirements are included in the attached request.

Requested Changes to Tasks and Timelines:

Task #	Original Task Language	Proposed Task Language	Original Date	Amended Date
7	For this task, there is no change to original language.	N/A	12/31/2023	3/1/2024
10d	Work with haulers to apply to roughly 2,200 commercial bins (approximately 150-200 per month)	City and haulers begin to apply commercial labels, approximately 100 per month.	1/31/2023	3/1/2024
10e	For this task, there is no change to original language.	N/A	12/31/2023	3/1/2024

The City of Modesto's request for task and timeline amendment shows good cause and provides reasonable alternate task and timelines 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 March 29, 2023 Corrective Action Plan No. 1315.SLCP.CAP.2023.3.

Dated: January 24, 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 Modesto's Task and Timeline Amendment Request

SECOND ADDENDUM TO CORRECTIVE ACTION PLAN NO. 1315.SLCP.CAP. 2023.3

City of Modesto Amendment of Tasks and Timelines in Corrective Action Plan No. 1315.SLCP.CAP.2023.3

On March 31, 2024, the City of Modesto (Jurisdiction) requested an amendment to part of its tasks and timeline for Corrective Action Plan No. 1315.SLCP.CAP.2023.3. 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
5	<p>The Jurisdiction will require and verify the hauler will distribute (approx. Gilton’s 45,000 bins + Bertolotti’s 5,000 bins) organics recycling collection bins to all commercial businesses.</p> <p>Task 5a: Begin to deliver all the bins until the end of the year.</p> <p>Task 5b: Deliver last bins.</p>	N/A	<p>Task 5a: 11/28/2022 (Task completion to be verified)</p> <p>Task 5b: 12/31/2023</p>	<p>Task 5a: N/A</p> <p>Task 5b: N/A</p>	<p>Task 5a: N/A</p> <p>Task 5b: 12/31/2025</p>
7	<p>The Jurisdiction will provide three container waste collection services to all commercial customers and multi-family properties that are not subject to an exemption or waiver from such service under Title 14 of the California Code of Regulations (CCR)</p>	<p>Task 7a: The Jurisdiction will provide three container waste collection services to all commercial customers and multi-family properties that are not subject to an exemption or waiver from such service</p>	12/31/2023	3/1/2023	<p>Task 7a: 12/31/2025</p> <p>Task 7b: 3/31/2024</p> <p>Task 7c: 9/30/2024</p> <p>Task 7d:</p>

Task #	Original Task Language	Proposed Task Language	Original Date	First Amended Date	Second Amended Date
	<p>sections 18984.12, 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 14 CCR Section 18988.3. In implementing this container system, the Jurisdiction will ensure materials are sorted into the containers properly by generators.</p>	<p>under Title 14 of the California Code of Regulations (CCR) sections 18984.12, 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 14 CCR Section 18988.3. In implementing this container system, the Jurisdiction will ensure materials are sorted into the containers properly by generators.</p> <p>Task 7b: The Jurisdiction will bring 654 businesses into compliance.</p> <p>Task 7c: The Jurisdiction will bring 1250 businesses into compliance.</p> <p>Task 7d: The Jurisdiction will bring 1550 businesses into compliance.</p> <p>Task 7e: The Jurisdiction will bring 1850 businesses into</p>			<p>12/31/2024</p> <p>Task 7e: 3/31/2025</p> <p>Task 7f: 6/30/2025</p> <p>Task 7g: 8/30/2025</p>

Task #	Original Task Language	Proposed Task Language	Original Date	First Amended Date	Second Amended Date
		<p>compliance.</p> <p>Task 7f: The Jurisdiction will bring 2150 businesses into compliance.</p> <p>Task 7g: The Jurisdiction will bring 2345 businesses into compliance.</p>			
10	<p>The Jurisdiction will require and verify that commercial labels are created and applied.</p> <p>Task 10a: Design the new commercial labels.</p> <p>Task 10b: Order commercial labels.</p> <p>Task 10c: Receive commercial labels.</p> <p>Task 10d: Work with haulers to apply to roughly 2,200 commercial bins (approximately 150-200 per month).</p> <p>Task 10e: All commercial bins labeled.</p>	N/A	<p>Task 10a: 8/20/2022 (Task completion to be verified)</p> <p>Task 10b: 8/22/2022 (Task completion to be verified)</p> <p>Task 10c: 9/30/2022 (Task completion to be verified)</p> <p>Task 10d: 1/31/2023 (Task completion to be verified)</p> <p>Task 10e: 12/31/2023</p>	<p>Task 10a: N/A</p> <p>Task 10b: N/A</p> <p>Task 10c: N/A</p> <p>Task 10d: 3/1/2024 (Task completion to be verified)</p> <p>Task 10e: 3/1/2024</p>	<p>Task 10a: N/A</p> <p>Task 10b: N/A</p> <p>Task 10c: N/A</p> <p>Task 10d: N/A</p> <p>Task 10e: 12/31/2025</p>

Task #	Original Task Language	Proposed Task Language	Original Date	First Amended Date	Second Amended Date
15	<p>If additional compost needed (not available on the market), then the Jurisdiction will ensure an adequate compost availability by expanding the current compost facility. This includes developing a plan for the current facility improvements that allow the facility to meet procurement targets and begin site improvements.</p> <p>Task 15a: Request for Quote for feasibility study.</p> <p>Task 15b: Close and award feasibility study.</p> <p>Task 15c: Conduct a feasibility study, wherein consultant recommends facility and equipment improvements.</p> <p>Task 15d: Take recommendations to City Council for adoption.</p> <p>Task 15e: Begin necessary site improvements.</p> <p>Task 15f: Begin purchasing necessary equipment improvements.</p> <p>Task 15g: Given six months processing for</p>	<p>Task 15a: N/A</p> <p>Task 15b: N/A</p> <p>Task 15c: N/A</p> <p>Task 15d: N/A</p> <p>Task 15e: N/A</p> <p>Task 15f: Task Removed</p> <p>Task 15g: Task Removed</p> <p>Task 15h: Task Removed</p>	<p>Task 15a: 11/30/2022 (Task completion to be verified)</p> <p>Task 15b: 3/31/2023</p> <p>Task 15c: 4/30/2023</p> <p>Task 15d: 4/30/2023</p> <p>Task 15e: 5/31/2023</p> <p>Task 15f: 5/31/2023</p> <p>Task 15g: 11/30/2023</p> <p>Task 15h: 3/1/2024</p>	<p>Task 15a: N/A</p> <p>Task 15b: N/A</p> <p>Task 15c: N/A</p> <p>Task 15d: N/A</p> <p>Task 15e: N/A</p> <p>Task 15f: N/A</p> <p>Task 15g: N/A</p> <p>Task 15h: N/A</p>	<p>Task 15a: N/A</p> <p>Task 15b: N/A</p> <p>Task 15c: 9/30/2023</p> <p>Task 15d: 10/1/2023</p>

Task #	Original Task Language	Proposed Task Language	Original Date	First Amended Date	Second Amended Date
	<p>clean material to yield clean compost, give away will begin.</p> <p>Task 15h: Complete major improvements determined to impact quality of compost.</p>				

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 a 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 March 29, 2023 through January 31, 2026 (“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 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 to address the violations described.
 - 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 2: July 31, 2023, covering May 1, 2023 – June 30, 2023

Report 3: September 30, 2023, covering July 1, 2023 – August 31, 2023

Report 4: November 30, 2023, covering September 1, 2023 – October 31, 2023

Report 5: January 31, 2024, covering November 1, 2023 – December 31, 2023

Report 6: March 31, 2024, covering January 1, 2024 – March 1, 2024

Report 7: May 31, 2024, covering March 1, 2024 – April 30, 2024

Report 8: July 31, 2024, covering May 1, 2024 – June 30, 2024

Report 9: September 30, 2024, covering July 1, 2024 – August 31, 2024

Report 10: November 30, 2024, covering September 1, 2024 – October 31, 2024

Report 11: January 31, 2025, covering November 1, 2024 – December 31, 2024

Report 12: March 31, 2025, covering January 1, 2025 – March 1, 2025

Report 13: May 31, 2025, covering March 1, 2025 – April 30, 2025

Report 14: July 31, 2025, covering May 1, 2025 – June 30, 2025

Report 15: September 30, 2025, covering July 1, 2025 – August 31, 2025

Report 16: November 30, 2025, covering September 1, 2025 – October 31, 2025

Report 17: January 31, 2026, covering November 1, 2025 – December 31, 2025

- 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
Meeting 7: During April 2024
Meeting 8: During June 2024
Meeting 9: During August 2024
Meeting 10: During October 2024
Meeting 11: During December 2024
Meeting 12: During February 2025
Meeting 13: During April 2025
Meeting 14: During June 2025
Meeting 15: During August 2025
Meeting 16: During October 2025
Meeting 17: During December 2025

- 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. 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 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 second addendum to the March 29, 2023 Corrective Action Plan No. 1315.SLCP.CAP.2023.3.

Dated: January 21, 2025

Signature on file

Mark de Bie, Deputy Director
Waste Permitting, Compliance and Mitigation Division

Department of Resources Recycling and Recovery

Attachment: City of Modesto's Task and Timeline Amendment Request (Second Addendum)