

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

CORRECTIVE ACTION PLAN AND COMPLAINT FOR PENALTY  
1624.SLCP.CAP.2023.1

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

In the Matter of: City of Menifee  
29995 Evans Road  
Menifee, CA 92586

---

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 Menifee 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 22, 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 18984.6 in that since January 1, 2022, the Jurisdiction has not met recordkeeping requirements for compliance with container contamination minimization.
  - 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 Title 14 CCR section 18991.1 in that since January 1, 2022, the Jurisdiction has not implemented an edible food recovery program that includes action to accomplish the following:
    - a. Educate commercial edible food generators as set forth in section 18985.2.
    - b. Increase commercial edible food generator access to food recovery organizations and food recovery services.
    - c. Monitor commercial edible food generator compliance as required in Article 14 of the Regulations.
    - d. Increase edible food recovery capacity if the analysis required by section 18992.2 indicates that the jurisdiction does not have sufficient capacity to meet its edible food recovery needs.
  - 2.2.5 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.
- 2.3 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 Section 3.2 below.
- d. CalRecycle will monitor the Jurisdiction’s continued implementation of the programs identified in the CAP from January 27, 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: March 31, 2023, covering January 1, 2023 – February 28, 2023
- Report 2: 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 February 2023

- Meeting 2: During April 2023
- Meeting 3: During June 2023
- Meeting 4: During August 2023
- Meeting 5: During October 2023
- Meeting 6: During December 2023
- Meeting 7: 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: 18984.6 Recordkeeping Requirements for Container Contamination Minimization**

The Jurisdiction will keep records of the number of residential or commercial violations identified and number of notices issued.

TASK #	Description	Target Completion Date
TASK 1	The Jurisdiction will document the methods used to monitor container contaminants.	6/1/2022 (Task completion to be verified)

<p><b>TASK 2</b></p>	<p>The Jurisdiction will establish a system for documenting route reviews and/or waste evaluations conducted and tracking the violations for recordkeeping and reporting, which will include use of waste hauler smart truck monitoring technology.</p> <p>The Jurisdiction will include the following information and documents in the Implementation Record</p> <ol style="list-style-type: none"> <li>1. A description of the jurisdiction’s process for determining the level of container contamination.</li> <li>2. Documentation of route reviews conducted, if applicable.</li> <li>3. If applicable, documentation of waste evaluations performed, including information on targeted route reviews conducted as a result of the studies. The documentation shall at a minimum include dates of the studies, the location of the solid waste facility where the study was performed, routes, source sector (e.g. commercial or residential), number of samples, weights and ratio of prohibited container contaminants and total sample size.</li> <li>4. Copies of all notices issued to generators with prohibited container contaminants.</li> <li>5. Documentation of the number of containers where the contents were disposed due to observation of prohibited container contaminants.</li> </ol>	<p>7/1/2023</p>
<p><b>TASK 3</b></p>	<p>The Jurisdiction will begin documenting contamination minimization efforts and tracking number of violations.</p>	<p>7/1/2023</p>

**Section 18984.7 Container Color Requirements**

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

NOTE: A jurisdiction is not required to replace functional containers, including containers purchased prior to January 1, 2022, that do not comply with the color requirements prior to the end of the useful life of those containers, or prior to January 1, 2036, whichever comes first.

<p><b>TASK #</b></p>	<p><b>Description</b></p>	<p><b>Target Completion Date</b></p>
<p><b>TASK 4</b></p>	<p>If purchasing new containers, the Jurisdiction will require and verify that the hauler provides containers for collection services to generators that comply with the container color requirements specified in Article 3 of the Regulations.</p>	<p>12/31/2022 (Task completion to be verified)</p>

### Section 18984.8 Container Labeling Requirements

The Jurisdiction will distribute new containers with proper container labeling.

<b>TASK #</b>	<b>Description</b>	<b>Target Completion Date</b>
<b>TASK 5</b>	<p>The Jurisdiction will require and verify that the hauler will purchase and apply labeling for use on containers. The hauler may use model labeling provided by CalRecycle.</p> <ol style="list-style-type: none"><li>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</li><li>2. Containers must include imprinted text or graphic images indicating the primary materials accepted and the primary materials prohibited in that container.</li></ol>	12/30/2023
<b>TASK 6</b>	<p>The Jurisdiction will require and verify that the hauler labels each new container or lid provided to generators.</p> <ul style="list-style-type: none"><li>• Labels will be consistent with the applicable container collection requirements specifying what materials are allowed to be placed in each container.</li></ul>	12/30/2023

### Section 18991.1 Jurisdiction Edible Food Recovery Program

The Jurisdiction will implement all aspects of its Edible Food Recovery Program.

<b>TASK #</b>	<b>Description</b>	<b>Target Completion Date</b>
<b>TASK 7</b>	<p>The Jurisdiction will educate commercial edible food generators.</p> <ul style="list-style-type: none"><li>• Develop a list of food recovery and food recovery services operating within the jurisdiction and maintain the list on the jurisdiction's website. The list will be updated annually and include, at a minimum, the following information about each food recovery organization and each food recovery service:<ul style="list-style-type: none"><li>○ Name and physical address.</li><li>○ Contact information.</li><li>○ Collection service area.</li><li>○ An indication of types of food the food recovery service or organization can accept for food recovery.</li></ul></li></ul>	12/31/2022 (Task completion to be verified)
<b>TASK 8</b>	<p>The Jurisdiction will increase commercial edible food generator access to food recovery organizations and food recovery services.</p>	7/1/2023

<b>TASK 9</b>	The Jurisdiction will monitor commercial edible food generator compliance by having County Health Department complete inspections of commercial edible food generators as part of their regular inspections. County Health Department will verify program and edible food recovery agreement.	12/30/2023
<b>TASK 10</b>	The Jurisdiction completed an analysis for edible food recovery capacity planning and discovered a gap in capacity. The Jurisdiction will increase edible food recovery capacity through the following examples which may include, but not be limited to: <ul style="list-style-type: none"> <li>• purchasing refrigeration equipment and vehicles</li> <li>• purchasing new kitchen equipment</li> <li>• using food donation matching software</li> <li>• leveraging partnerships with other food recovery organizations</li> <li>• hiring staff, hiring drivers,</li> <li>• training more volunteers, and</li> <li>• using education and outreach to recruit new volunteers.</li> </ul>	12/30/2023

### Section 18993.1 Recovered Organic Waste Product Procurement Target

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

<b>TASK #</b>	<b>Description</b>	<b>Target Completion Date</b>
<b>TASK 11</b>	The Jurisdiction will modify existing franchise agreement to include procurement requirements for the hauler, ensuring Direct Service Provider requirements are specified.	7/1/2023
<b>TASK 12</b>	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: <ul style="list-style-type: none"> <li>• Directly procuring recovered organic waste products for use in the public right of ways.</li> <li>• 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.</li> </ul>	3/1/2024
<b>TASK 13</b>	The Jurisdiction will identify additional procurement opportunities within its departments and divisions for expanding the use of recovered organic waste products.	3/1/2024



<b>TASK 14</b>	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
--------------------	---	----------

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:
 

Mallory Burden  
Mallory.burden@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: January 27, 2023

#### **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 NO. 1624.SLCP.CAP.2023.1**

City of Menifee Amendment of Task in Corrective Action Plan No.  
1624.SLCP.CAP.2023.1

---

On June 7, 2023, the City of Menifee requested an amendment to a task for Corrective Action Plan No. 1624.SLCP.CAP.2023.1. The City of Menifee only requested a change in the task, not a change in the timeline requirement. The justification provided for the task amendment is included in the attached request.

**Requested Change to Task:**

<b>Task #</b>	<b>Original Task Language</b>	<b>Proposed Task Language</b>
9	The Jurisdiction will monitor commercial edible food generator compliance by having County Health Department complete inspections of commercial edible food generators as part of their regular inspections. County Health Department will verify program and edible food recovery agreement.	The Jurisdiction will monitor commercial edible food generator compliance by having Jurisdiction staff complete inspections of commercial edible food generators. The Jurisdiction will verify edible food recovery programs and edible food recovery agreements.

The City of Menifee’s request for task amendment shows good cause and provides a reasonable alternate task for completion. The impacted task does 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 January 27, 2023 Corrective Action Plan No. 1624.SLCP.CAP.2023.1.

**Dated:** June 29, 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 Menifee's Task Amendment Request