

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

CORRECTIVE ACTION PLAN AND COMPLAINT FOR PENALTY  
1578.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 Merced  
                              678 W. 18<sup>th</sup> Street  
                              Merced, CA 95340

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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 Merced 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 28, 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 residential and commercial generators and/or has not included food scrap collection service in the three-container collection system provided to all residential and commercial generators.
  - 2.2.2 The Jurisdiction is and has been in violation of 14 CCR section 18984.7 in that since January 1, 2022, the Jurisdiction has not distributed new containers meeting the container color requirements.
  - 2.2.3 The Jurisdiction is and has been in violation of 14 CCR section 18984.8 in that since January 1, 2022, the Jurisdiction has not distributed new containers with proper container labeling.
  - 2.2.4 The Jurisdiction is and has been in violation of 14 CCR section 18985.1 in that since February 1, 2022, the Jurisdiction has not provided education and outreach to organic waste generators that are provided an organic waste collection service, including self-haulers, or the information provided did not comply with the requirements.
  - 2.2.5 The Jurisdiction is and has been in violation of 14 CCR section 18985.1 in that since February 1, 2022, the Jurisdiction has not translated educational materials into any non-English language spoken by a substantial number of the public provided organic waste collection services by the Jurisdiction.
  - 2.2.6 The Jurisdiction is and has been in violation of 14 CCR section 18985.2 in that since February 1, 2022, the Jurisdiction has not developed a list of food recovery organizations and food recovery services operating within the Jurisdiction or maintained the list on the Jurisdiction's website.
  - 2.2.7 The Jurisdiction is and has been in violation of 14 CCR section 18985.2 in that since February 1, 2022, the Jurisdiction has not provided education and outreach to commercial edible food generators, or the information provided did not comply with the requirements.
  - 2.2.8 The Jurisdiction is and has been in violation of 14 CCR, section 18985.3 in that since January 1, 2022, the Jurisdiction has not included all relevant documents supporting compliance with Article 4 (Education and Outreach) of the Regulations in the Implementation Record as required by section 18995.2.
  - 2.2.9 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.
- 2.2.10 The Jurisdiction is and has been in violation of 14 CCR section 18991.2 in that since January 1, 2022, the Jurisdiction has not included all documents supporting compliance with section 18991.1 in the Implementation Record required by section 18995.2.
- 2.2.11 The Jurisdiction is and has been in violation of Title 14, CCR, section 18992.1 in that since January 1, 2022, the Jurisdiction or regional agency has been contacted by the county pursuant to this section and has not responded to the county's request for the information necessary to comply with the requirements of this section within 120 days of receiving the request from the county.
- 2.2.12 The Jurisdiction is and has been in violation of 14 CCR section 18992.1 in that since January 1, 2022, the Jurisdiction has not consulted with the Enforcement Agency and the local task force created pursuant to PRC section 40950 on the status of locations for new or expanded solid waste facilities including the potential capacity increase each facility may provide if approved.
- 2.2.13 The Jurisdiction is and has been in violation of Title 14, CCR, section 18992.1 in that since January 1, 2022, the Jurisdiction has not consulted with haulers and owners of facilities, operations, and activities that recover organic waste including, but not limited to, compost facilities, in-vessel digestion facilities, and Publicly Owned Treatment Works to gather information on the existing capacity and potential new or expanded capacity at those facilities, operations, and activities.
- 2.2.14 The Jurisdiction is and has been in violation of 14 CCR section 18992.1 in that since January 1, 2022, the Jurisdiction has not conducted community outreach regarding locations being considered for new or expanded facilities, operations, or activities to seek feedback on the benefits and impacts that may be associated with new or expanded facilities, operations, or activities in compliance with that section.
- 2.2.15 The Jurisdiction is and has been in violation of 14 CCR section 18992.1 in that since January 1, 2022, the Jurisdiction has not consulted with community composting operators to estimate the amount of organic waste the county, and the Jurisdictions and regional agencies located within the county, anticipate will be handled at community composting activities.
- 2.2.16 The Jurisdiction is and has been in violation of 14 CCR section 18993.2 in that since January 1, 2022, the Jurisdiction has not included all documents supporting its compliance with Article 12 of the Regulations in the implementation record required by section 18995.2.

- 2.2.17 The Jurisdiction is and has been in violation of 14 CCR section 18993.3 in that since January 1, 2022, the Jurisdiction has not procured paper products, and printing and writing paper, consistent with the requirements of sections 22150-22154 of the Public Contract Code.
- 2.2.18 The Jurisdiction is and has been in violation of 14 CCR section 18993.3 in that since January 1, 2022, the Jurisdiction has not required all businesses from whom it purchases paper products and printing and writing paper to comply with the requirements of that section.
- 2.2.19 The Jurisdiction is and has been in violation of 14 CCR section 18993.4 in that since January 1, 2022, the Jurisdiction has not included all documents supporting its compliance with Article 12 of the Regulations in the implementation record required by section 18995.2.
- 2.3 CalRecycle accepted the Jurisdiction's self-reported Notification and characterization of its violations therein. CalRecycle has not undertaken a compliance review of Jurisdiction, and thus CalRecycle's approval of the Notification or this CAP should not be taken as an indication that Jurisdiction is in full compliance with Regulations in other respects. CalRecycle will be undertaking a compliance review of all jurisdictions in the future.

### SCHEDULE FOR COMPLIANCE

3. Based on the foregoing DETERMINATION OF VIOLATIONS, CalRecycle finds that:
- a. The Jurisdiction worked with CalRecycle to develop this CAP, which includes schedule of actions necessary for the Jurisdiction to achieve address the violations disclosed in the Notification and described in Section 2 (Determination of Violations) above.
  - b. CalRecycle hereby approves and issues this CAP pursuant to PRC section 42652.5(c)-(e) and Title 14 CCR section 18996.2.
  - c. The Jurisdiction will fully implement the programs identified in this CAP by the dates provided in the Section 3.2 below.
  - d. CalRecycle will monitor the Jurisdiction's continued implementation of the programs identified in the CAP from March 6, 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 provide three-container collection service to all residences.

<b>Task #</b>	<b>Description</b>	<b>Target Completion Date</b>
<b>TASK 1</b>	The Jurisdiction will pass a resolution that establishes waste service with Merced County Regional Waste Authority (MCRWA) and secures capacity at a planned organics facility.	3/31/2023
<b>TASK 2</b>	The Jurisdiction will purchase kitchen pails for in-house use by residential generators.	5/1/2023
<b>TASK 3</b>	The Jurisdiction will commence food waste and green waste collection for residential generators. <ul style="list-style-type: none"> <li>Initially residential generators will bag food waste and place bags in green waste container.</li> <li>Once MCRWA infrastructure plan is fully completed, the residents will be allowed to place combined food waste and green waste, unbagged, in three-container collection program.</li> </ul>	7/1/2023
<b>TASK 4</b>	The Jurisdiction will collaborate with MCRWA to implement an existing plan to expand infrastructure at the Highway 59 Landfill to accept combined organic waste material for processing.	3/1/2024

<b>TASK 5</b>	Once MCRWA accepts mixed organics, the Jurisdiction will roll-out a compliant three container organic waste program to residential generators.	3/1/2024
<b>TASK 6</b>	The Jurisdiction will provide three-container waste collection service to all residential customers that are not subject to an exemption or waiver from such service under 14 CCR sections 18984.11, 18984.12, or other provision of the Regulations, or are not an authorized self-hauler subject to the Jurisdiction's ordinance requiring compliance with the requirements of section 18988.3. In implementing this container system, the Jurisdiction will ensure materials are sorted into the containers properly by generators.	3/1/2024

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

<b>Task #</b>	<b>Description</b>	<b>Target Completion Date</b>
<b>TASK 7</b>	The Jurisdiction will pass a resolution that establishes waste service with Merced County Regional Waste Authority (MCRWA) and secures capacity at a planned organics facility.	3/31/2023
<b>TASK 8</b>	The Jurisdiction commence with providing food waste collection service to commercial customers. <ul style="list-style-type: none"> <li>Food waste would not be allowed to be commingled with green waste initially.</li> </ul>	7/1/2023
<b>TASK 9</b>	The Jurisdiction will purchase additional compliant food waste collection containers.	8/31/2023
<b>TASK 10</b>	The Jurisdiction will collaborate with MCRWA to implement an existing plan to expand infrastructure at the Highway 59 Landfill to accept combined organic waste material for processing.	3/1/2024
<b>TASK 11</b>	The Jurisdiction will distribute remaining organics recycling collection containers to all commercial customers.	3/1/2024



<b>TASK 12</b>	The Jurisdiction will provide three-container waste collection service to all commercial customers that are not subject to an exemption or waiver from such service under 14 CCR sections 18984.11, 18984.12, or other provision of the Regulations, or are not an authorized self-hauler subject to the Jurisdiction's ordinance requiring compliance with the requirements of section 18988.3.	3/1/2024
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### 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.

Task #	Description	Target Completion Date
<b>TASK 13</b>	If purchasing new containers, the Jurisdiction will provide containers for collection services to generators that comply with the container color requirements specified in Article 3 of the Regulations.	6/1/2022 (Task completion to be verified)

### Section 18984.8 Container Labeling Requirements

The Jurisdiction will distribute new containers with proper container labeling.

Task #	Description	Target Completion Date
<b>TASK 14</b>	The Jurisdiction will develop labeling for use on containers or use model labeling provided by CalRecycle for use on containers. <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>	6/1/2022 (Task completion to be verified)
<b>TASK 15</b>	The Jurisdiction will label each new container or lid provided to generators.	12/31/2022 (Task completion to be verified)

	<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>	
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**Section 18985.1 Organic Waste Recovery Education and Outreach**

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

<b>Task #</b>	<b>Description</b>	<b>Target Completion Date</b>
<b>TASK 16</b>	<p>The Jurisdiction will provide organic waste recovery education and outreach to residential and commercial generators.</p> <ul style="list-style-type: none"> <li>Information on the organic waste generator’s requirements to properly separate materials in appropriate containers pursuant to Chapter 12 of the Regulations.</li> <li>Information on methods for: the prevention of organic waste generation, recycling organic waste on-site, sending organic waste to community composting, and any other local requirements regarding organic waste.</li> <li>Information regarding the methane reduction benefits of reducing the landfill disposal of organic waste, and the methods of organic waste recovery the organic waste collection service uses.</li> <li>Information regarding how to recover organic waste and a list of approved haulers.</li> <li>Information related to the public health and safety and environmental impacts associated with the landfill disposal of organic waste.</li> <li>Information regarding programs for the donation of edible food.</li> <li>If a jurisdiction allows generators subject to its authority to self-haul organic waste pursuant to Section 18988.1, information regarding self-hauling requirements will be included in education and outreach material.</li> </ul>	3/1/2024
<b>TASK 17</b>	<p>The Jurisdiction will post the education information on its website and update as needed. The information will be specific to the Jurisdiction's residential and commercial program, provide compliance options, contact information for the municipal hauler, edible food recovery programs.</p>	3/31/2023

<b>TASK 18</b>	The Jurisdiction will send postcard to covered residential and commercial generators providing organic waste recovery information.	4/30/2023
<b>TASK 19</b>	The Jurisdiction will mail a program flyer/brochure/letter to all residential and commercial generators to provide education on organics and explain the Jurisdiction's program including types of organic materials accepted.	4/30/2023
<b>TASK 20</b>	The Jurisdiction will provide outreach and education to organic waste generators that are provided organic waste collection services or self-haul within the Jurisdiction, that are not subject to an exemption or waiver from such service under 14 CCR sections 18984.11 and 18984.12 (a) and (c). (Note: A jurisdiction may still have a separate obligation under the Mandatory Commercial Recycling (MCR) and Mandatory Organics Recycling (MORE) laws—Public Resources Code (PRC) Sections 42649.3 (d) and 42649.82 (d)(1)(C)—that is separate and independent of SB 1383, the SB 1383 Regulations, and this plan.)	3/1/2024

The Jurisdiction will translate educational materials into any non-English language spoken by a substantial number of the public with organic waste collection services provided by the Jurisdiction.

<b>Task #</b>	<b>Description</b>	<b>Target Completion Date</b>
<b>TASK 21</b>	The Jurisdiction will translate the following educational materials: postcard, brochure.	4/30/2023
<b>TASK 22</b>	The Jurisdiction will post the translated educational materials.	4/30/2023

### **Section 18985.2 Edible Food Recovery Education and Outreach**

The Jurisdiction will provide education and outreach to all residential and commercial generators and update it annually.

<b>Task #</b>	<b>Description</b>	<b>Target Completion Date</b>
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<b>TASK 23</b>	<p>The Jurisdiction will develop and maintain a list of food recovery organizations and food recovery services operating within the Jurisdiction on the Jurisdiction’s website. The list will include the following information about each food recovery organization and each food recovery service:</p> <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>	3/31/2023
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The Jurisdiction will provide education and outreach to commercial edible food generators at least annually.

<b>Task #</b>	<b>Description</b>	<b>Target Completion Date</b>
<b>TASK 24</b>	<p>The Jurisdiction will create outreach and education material for edible food recovery programs offered in the Jurisdiction, to include print and electronic media.</p>	3/31/2023
<b>TASK 25</b>	<p>The Jurisdiction will send flyer/brochure/letter annually to all commercial edible food generators with the following:</p> <ul style="list-style-type: none"> <li>(A) Information about the Jurisdiction’s edible food recovery program established pursuant to Section 18991.1.</li> <li>(B) Information about the commercial edible food generator requirements specified in Article 10 of Chapter 12 of the Regulations.</li> <li>(C) Information about food recovery organizations and food recovery services operating within the Jurisdiction, and where a list of those food recovery organizations and food recovery services can be found.</li> <li>(D) Information about actions that commercial edible food generators can take to prevent the creation of food waste.</li> </ul>	5/31/2023
<b>TASK 26</b>	<p>The Jurisdiction will include edible food recovery information in various organic waste recovery education and outreach utilized by the Jurisdiction:</p> <ul style="list-style-type: none"> <li>• Electronic (such as email, e-newsletter).</li> <li>• Print (such as flyer/brochure/letter).</li> </ul>	5/31/2023

### Section 18985.3 Recordkeeping Requirements for a Jurisdiction’s Compliance with Education and Outreach Requirements

The Jurisdiction will establish recordkeeping for compliance with Education and Outreach requirements.

Task #	Description	Target Completion Date
<b>TASK 27</b>	The Jurisdiction will establish a system for documenting and compiling records related to education and outreach requirements for recordkeeping and reporting.	4/1/2022 (Task completion to be verified)
<b>TASK 28</b>	The Jurisdiction will transition records and reporting to a recordkeeping program.	3/31/2023
<b>TASK 29</b>	<p>The Jurisdiction will begin tracking and compiling documentation in the Implementation Record and will include at a minimum:</p> <ul style="list-style-type: none"> <li>• Copies of the information provided to comply with Article 4, including flyers, brochures, newsletters, invoice messaging, and website and social media postings.</li> <li>• The date, and to whom the information was disseminated, or direct contact made. If a jurisdiction provides mass distribution through mailings, or bill inserts, it will provide the date, a copy of the information, and the type and number of accounts receiving the information.</li> <li>• If the requirements of Article 4 were met solely through electronic media, the record will include a copy, with dates posted, of social media posts, e-mails, or other electronic messages.</li> <li>• If a jurisdiction relies on a designee to comply with this section, it will include a copy of the materials distributed by the designee.</li> </ul>	5/31/2023

### Section 18991.1 Jurisdiction Edible Food Recovery Program

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

Task #	Description	Target Completion Date
<b>TASK 30</b>	The Jurisdiction will compile all edible food recovery programs in the Jurisdiction.	6/1/2022 (Task completion to be verified)

<p><b>TASK 31</b></p>	<p>The Jurisdiction will educate commercial edible food generators. (see Edible Food Recovery Education and Outreach above)</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>	<p>6/1/2022 (Task completion to be verified)</p>
<p><b>TASK 32</b></p>	<p>The Jurisdiction will monitor commercial edible food generator compliance and enforce the commercial edible food generator requirements.</p>	<p>12/31/2023</p>

**Section 18991.2 Recordkeeping Requirements for Jurisdiction Edible Food Recovery Program**

The Jurisdiction will establish recordkeeping for compliance with jurisdiction edible food recovery program.

Task #	Description	Target Completion Date
<p><b>TASK 33</b></p>	<p>The Jurisdiction will establish a system for documenting and compiling records related to the edible food recovery program for recordkeeping and reporting.</p>	<p>4/30/2023</p>
<p><b>TASK 34</b></p>	<p>The Jurisdiction will begin tracking and compiling documentation and include the following at a minimum.</p> <ul style="list-style-type: none"> <li>• A list of commercial edible food generators in the Jurisdiction that have a contract or written agreement with food recovery organizations or services pursuant to section 18991.3.</li> <li>• A list of food recovery organizations and food recovery services in the Jurisdiction and their edible food recovery capacity.</li> <li>• Documentation of the actions taken to increase edible food recovery capacity.</li> </ul>	<p>5/31/2023</p>

### Section 18992.1 Organic Waste Recycling Capacity Planning

The Jurisdiction will conduct Organic Waste Recycling Capacity Planning.

Task #	Description	Target Completion Date
<p><b>TASK 35</b></p>	<p>The Jurisdiction will conduct the following and provide the information necessary to comply with the Requirements to CalRecycle and the County:</p> <ul style="list-style-type: none"> <li>a. Estimate the amount of all organic waste in tons that will be disposed by the county and jurisdictions within the county.</li> <li>b. Identify the amount in tons of existing, new, or expanded organic waste recycling infrastructure capacity, located both in the county and outside of the county that is verifiably available to the county and jurisdictions located within the county.</li> <li>c. Estimate the amount of new or expanded organic waste recycling facility capacity that will be needed to process the organic waste identified pursuant to subdivision (a)(1) in addition to the existing capacity identified in Subdivision (a)(3).</li> </ul>	<p>6/1/2022 (Task completion to be verified)</p>
<p><b>TASK 36</b></p>	<p>If organic waste capacity is determined to be lacking, the Jurisdiction will:</p> <ul style="list-style-type: none"> <li>a. Submit an implementation schedule to CalRecycle that demonstrates how it will ensure there is enough available capacity to recover the organic waste currently disposed by generators within their jurisdiction by the end of the report period.</li> <li>b. Identify proposed new or expanded organic waste recycling facilities that will be used to process the organic waste identified pursuant to Subdivision (a)(3).</li> </ul>	<p>4/30/2023</p>

### Section 18993.2 Recordkeeping Requirements for Recovered Organic Waste Procurement Target

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

Task #	Description	Target Completion Date
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<p><b>TASK 37</b></p>	<p>Create a tracking database or spreadsheet to log information and create reports.</p> <p>The Jurisdiction will include all documents supporting compliance with Article 12 in the implementation record including, but not limited to, the following:</p> <ul style="list-style-type: none"> <li>• A description of how the Jurisdiction will comply with the requirements of Article 12 of the Regulations.</li> <li>• 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.</li> <li>• All invoices or similar records evidencing all procurement.</li> <li>• 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.</li> <li>• 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"> <li>• (A) That the POTW was in compliance with the exclusion in Section 17896.6(a)(1);</li> <li>• (B) The total tons of organic waste received from the types of solid waste facilities listed in Section 18993.1(h)(1); and</li> <li>• (C) The percentage of biosolids that the POTW produced and transported to activities that constitute landfill disposal.</li> </ul> </li> <li>• 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</li> </ul>	<p>4/1/2022 (Task completion to be verified)</p>
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	<p>facility identified in 18993.1(i) will be provided to the Jurisdiction. The certification will be furnished under penalty of perjury in a form and manner determined by the Jurisdiction.</p> <ul style="list-style-type: none"> <li>• 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.</li> <li>• 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.</li> </ul>	
<b>TASK 38</b>	Educate other departments and divisions regarding tracking requirements and begin logging required information.	9/30/2023

### Section 18993.3 Recycled Content Paper Procurement Requirements

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

<b>Task #</b>	<b>Description</b>	<b>Target Completion Date</b>
<b>TASK 39</b>	The Jurisdiction's Purchasing Department will research and identify vendors with paper products meeting the requirements of sections 22150-22154 of the Public Contract Code and ensure paper products and printing and writing paper is eligible to be labeled with an unqualified recyclable label as defined in Code of Federal Regulations (CFR) Section 260.12.	6/1/2022 (Task completion to be verified)
<b>TASK 40</b>	The Jurisdiction will require all businesses from whom the Jurisdiction purchases paper products and printing and writing paper to certify in writing: <ul style="list-style-type: none"> <li>• The minimum percentage, if not the exact percentage, of postconsumer material in the paper products and printing and writing paper offered or sold to the Jurisdiction.</li> </ul>	6/1/2022 (Task completion to be verified)

	<ul style="list-style-type: none"> <li>○ The Jurisdiction may waive the certification requirement if the percentage of postconsumer material in the paper products, printing and writing paper, or both can be verified by a product label, catalog, invoice, or a manufacturer or vendor Internet website.</li> <li>• That the paper products and printing and writing paper offered or sold to the Jurisdiction is eligible to be labeled with an unqualified recyclable label as defined in 16 CFR Section 260.12.</li> </ul>	
<b>TASK 41</b>	The Jurisdiction's Purchasing Department will procure paper products, and printing and writing paper meeting the Requirements.	9/30/2023

**Section 18993.4 Recordkeeping Requirements for Recycled Content Paper Procurement**

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

<b>Task #</b>	<b>Description</b>	<b>Target Completion Date</b>
<b>TASK 42</b>	The Jurisdiction's Purchasing Department will establish a system for tracking purchases for recordkeeping and reporting.	7/1/2022 (Task completion to be verified)
<b>TASK 43</b>	The Jurisdiction will begin tracking and compiling documentation, including but not limited to the following: <ul style="list-style-type: none"> <li>1. Copies of invoices, receipts or other proof of purchase that describe the procurement of paper products by volume and type for all paper purchases.</li> <li>2. Copies of all certifications or other verification required.</li> </ul>	7/1/2022 (Task completion to be verified)

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:

Nicole Macatrao  
nicole.macatrao@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 6, 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. 1578.SLCP.CAP.2023.3**

City of Merced Amendment of Tasks and Timelines in Corrective Action Plan No. 1578.SLCP.CAP.2023.3

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On June 7, 2023, the City of Merced requested an amendment to part of their tasks and timelines for Corrective Action Plan No. 1578.SLCP.CAP.2023.3. The justifications provided for the timelines amendments and task requirements are included in the attached request.

**Requested Changes to Tasks and Timelines:**

<b>Task #</b>	<b>Original Task Language</b>	<b>Proposed Task Language</b>	<b>Original Date</b>	<b>Amended Date</b>
8 – Turning this into Task 8B as Task 8A needed to be added.	The Jurisdiction commence with providing food waste collection service to commercial customers. • Food waste would not be allowed to be commingled with green waste initially.	The Jurisdiction will collect and divert the commercial organic waste.	7/1/2023	3/1/2024
8A – Added task for violation of Section 18984.1.	This task is new, so there is no original task language.	The Jurisdiction will collaborate with the MCRWA to finalize a contract with Agromin to divert organics.	N/A	6/26/2023
17	For this task, there is no change to original language.	N/A	3/31/2023	11/1/2023

18	For this task, there is no change to original language.	N/A	4/30/2023	11/1/2023
19	For this task, there is no change to original language.	N/A	4/30/2023	11/1/2023
21	For this task, there is no change to original language.	N/A	4/30/2023	11/1/2023
22	For this task, there is no change to original language.	N/A	4/30/2023	11/1/2023
24	For this task, there is no change to original language.	N/A	3/31/2023	1/1/2024
25	For this task, there is no change to original language.	N/A	5/31/2023	1/1/2024
26	For this task, there is no change to original language.	N/A	5/31/2023	1/1/2024
29	For this task, there is no change to original language.	N/A	5/31/2023	12/31/2023
34	For this task, there is no change to original language.	N/A	5/31/2023	12/31/2023

36	For this task, there is no change to original language.	N/A	4/30/2023	11/1/2023
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The City of Merced’s request for task and timeline amendments show good cause and provides reasonable alternate tasks 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 6, 2023 Corrective Action Plan No. 1578.SLCP.CAP.2023.3.

**Dated:** July 18, 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 Merced’s Tasks and Timelines Amendment Request



**SECOND ADDENDUM TO CORRECTIVE ACTION PLAN NO. 1578.SLCP.CAP. 2023.3**

City of Merced Amendment of Timeline in Corrective Action Plan No. 1578.SLCP.CAP.2023.3

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On July 31, 2023, the City of Merced requested an amendment to part of its timeline for Corrective Action Plan No. 1578.SLCP.CAP.2023.3. The City of Merced only requested a change in the timeline, not a change in the task requirements. The justification provided for the timeline amendment is included in the attached request.

**Requested Change to Timeline:**

<b>Task #</b>	<b>Original Date</b>	<b>Amended Date</b>
3	7/1/2023	1/31/2024

The City of Merced's request for timeline amendment shows good cause and provides a reasonable alternate timeline 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 a second addendum to the March 6, 2023 Corrective Action Plan No. 1578.SLCP.CAP.2023.3.

**Dated:** September 28, 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 Merced's Timeline Amendment Request (Second Addendum)