

## 14 CCR 18997.2

This document is current through Register 2020, No. 48, November 27, 2020

**CA - Barclays Official California Code of Regulations > TITLE 14. NATURAL RESOURCES > DIVISION 7. DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY > CHAPTER 12. SHORT-LIVED CLIMATE POLLUTANTS > ARTICLE 16. ADMINISTRATIVE CIVIL PENALTIES**

### **§ 18997.2. Penalty Amounts**

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(a) A jurisdiction shall impose penalties for violations of the requirements of this chapter consistent with the applicable requirements prescribed in Government Code Sections 53069.4, 25132 and 36900. The penalty levels shall be as follows:

- (1) For a first violation, the amount of the base penalty shall be \$ 50-\$ 100 per violation.
- (2) For a second violation, the amount of the base penalty shall be \$ 100-\$ 200 per violation.
- (3) For a third or subsequent violation, the amount of the base penalty shall be \$ 250-\$ 500 per violation.

(b) Nothing in this section shall be construed as preventing a jurisdiction from revoking, suspending, or denying a permit, registration, license, or other authorization consistent with local requirements outside the scope of this chapter in addition to the imposition of penalties authorized under this section.

### **Statutory Authority**

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#### **AUTHORITY:**

Note: Authority cited: Sections [40502](#), [43020](#), [43021](#) and [42652.5, Public Resources Code](#). Reference: [Section 42652.5, Public Resources Code](#); [Section 39730.6, Health and Safety Code](#); and Sections [25132](#), [36900](#) and [53069.4, Government Code](#).

### **History**

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#### **HISTORY:**

- 1. New section filed 11-3-2020; operative 1-1-2022 pursuant to Public Resources Code section 42652.2(a)(6) (Register 2020, No. 45).

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## **14 CCR 18997.3**

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### **§ 18997.3. Department Penalty Amounts**

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(a) Penalties shall be imposed administratively in accordance with the requirements set forth in this section.

(b) Penalties, except for violations specified in subdivision (d), shall be assessed as follows:

(1) A “Minor” violation means a violation involving minimal deviation from the standards in this chapter, where the entity failed to implement some aspects of a requirement but has otherwise not deviated from the requirement. The penalties for this type of violation shall be no less than five hundred dollars (\$500) per violation and no more than four thousand dollars (\$4,000) per violation per day.

(2) A “Moderate” violation means a violation involving moderate deviation from the standards in this chapter. A violation which is not a minor violation or a major violation shall be a moderate violation. The penalties for this type of violation shall be 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.

(3) A “Major” violation means a violation that is a substantial deviation from the standards in this chapter that may also be knowing, willful or intentional or a chronic violation by a recalcitrant violator as evidenced by a pattern or practice of noncompliance. The penalties for this type of violation shall be 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. For purposes of this subsection, a major violation shall always be deemed to include the following types of violations:

(A) A jurisdiction fails to have any ordinance or similarly enforceable mechanism for organic waste disposal reduction and edible food recovery.

(B) A jurisdiction fails to have a provision in a contract, agreement, or other authorization that requires a hauler to comply with the requirements of this chapter.

(C) A jurisdiction fails to have an edible food recovery program.

(D) A jurisdiction fails to have any Implementation Record.

(E) A jurisdiction implements or enforces an ordinance, policy, procedure, condition, or initiative that is prohibited under Sections 18990.1 or 18990.2.

(F) A jurisdiction fails to submit the reports required in Sections 18994.1 and 18994.2.

(c) Once the penalty range has been determined pursuant to Subdivision (b), the following factors shall be used to determine the amount of the penalty for each violation within that range:

(1) The nature, circumstances, and severity of the violation(s).

(2) The violator's ability to pay.

(3) The willfulness of the violator's misconduct.

(4) Whether the violator took measures to avoid or mitigate violations of this chapter.

(5) Evidence of any economic benefit resulting from the violation(s).

- (6) The deterrent effect of the penalty on the violator.
- (7) Whether the violation(s) were due to conditions outside the control of the violator.
- (d) For violations of the Recovered Organic Waste Product Procurement requirements in Section 18993.1, where a jurisdiction fails to procure a quantity of recovered organic waste products that meets or exceeds its recovered organic waste product procurement target, the Department shall determine penalties under this Subdivision (d) based on the following:
- (1) The Department shall calculate the jurisdiction's daily procurement target equivalent by dividing the procurement target by 365 days.
  - (2) The Department shall determine the number of days a jurisdiction was in compliance by dividing the total amount of recovered organic waste products procured by the daily procurement target equivalent.
  - (3) The Department shall determine the number of days a jurisdiction was out of compliance with the procurement target by subtracting the number of days calculated in Subdivision (d)(2) from 365 days.
  - (4) The penalty amount shall be calculated by determining a penalty based on the factors in Subdivision (c) above, and multiplying that number by the number of days determined according to Subdivision (d)(3). The penalty amount shall not exceed \$10,000 per day.
- (e) Notwithstanding Subdivisions (a)-(d) if the Department sets a penalty amount for multiple violations of this chapter, the aggregated penalty amount for all violations shall not exceed the amount authorized in [Section 42652.5 of the Public Resources Code](#).
- (f) Nothing in this section shall be construed as authorizing the Department to impose penalties on residential organic waste generators.

## Statutory Authority

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### AUTHORITY:

Note: Authority cited: Sections [40502](#), [43020](#), [43021](#) and [42652.5, Public Resources Code](#). Reference: [Sections 41850 and 42652.5, Public Resources Code](#); and [Section 39730.6, Health and Safety Code](#)..

## History

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### HISTORY:

1. New section filed 11-3-2020; operative 1-1-2022 pursuant to Public Resources Code section 42652.2(a)(6) (Register 2020, No. 45).