



**San Francisco Environment Department Regulation #SFE-19-02-RSO
Regulation Implementing Refuse Separation Compliance Ordinance (Ord. No. 300-18, codified
in San Francisco Environment Code Sections 1902, 1906, 1908, 1909, and 1910)**

Effective Date: Upon Director's Signature (Page 4)

A. Authorization

The Refuse Separation Compliance Ordinance (RSO) was signed by Mayor London Breed on December 21, 2018, and was operative on July 1, 2019. The RSO amends Environment Code Chapter 19 (initially enacted as the Mandatory Recycling and Composting Ordinance in Ord. No. 100-09). The Director of the Department of the Environment promulgates this regulation pursuant to the Director's authority to adopt forms, regulations, and guidelines under the Environment Code Section 1909(a) to implement that Chapter. Any section numbers in this regulation refer to Environment Code Chapter 19.

B. Scope

The purpose of this regulation is to address how the Director may enforce the notices of noncompliance and orders to comply in Section 1906(h) of the RSO. As defined in Section 1902, Large Refuse Generator (LRG) is a refuse account holder, or City-owned and operated facility, with either a roll-off compactor or greater than 40 cubic yards per week of refuse service. This regulation will apply to any LRG found to be out of compliance with RSO because of an Audit finding. This regulation does not duplicate the RSO and must be read together with Sections 1902, 1906, 1908, 1909, and 1910 of Environment Code Chapter 19, and with San Francisco Environment Department #SFE-19-01-RSO Regulation Implementing Refuse Separation Compliance Ordinance.

C. Process

The Director provided a ten-day public comment period and conducted a publicly noticed hearing open to all members of the public on 06/14/2023 to allow public input into this regulation.

D. Definitions

The terms used in this regulation have the same meaning as in the Environment Code Chapter 19. Additional definitions for the purpose of this regulation are as follows:

1. "Notice of Noncompliance and Order to Comply" (NONC) has the same meaning "notice and order" as the term "notice and order" in Section 1906(e) and consists of information outlined in Section 1906(e).
2. "Order Imposing Administrative Penalties" (Order) is the communication to an LRG following the NONC outlining the penalties and procedures outlined in Section 1908.
3. "Cure period" is defined as the number of days given to an LRG to correct the violation(s) using the mechanisms prescribed by the Director.

4. "Refuse Separation Compliance Ordinance Plan (RSCOP)" means a form for the Large Refuse Generator to complete and submit to the Director to describe the capacity, which includes the staffing level and function, that a Zero Waste Facilitator will perform, and any other actions needed to comply with Chapter 19. The RSCOP is to be approved by the Director.

E. Enforcement Process

1. Issuing Order Imposing Administrative Penalties (Order)
 - a. If the LRG has not submitted a RSCOP complete with documentation of a written agreement with a Zero Waste Facilitator (ZWF) engaged for a minimum of 24 months nor been issued an extension per Section 1906(f) after the cure period outlined in the NONC, the Director may issue an Order. The Director will send the LRG the Order via certified mail with the NONC and audit results included and will also notify the LRG of the Order using at least one other method (phone, email, or site visit).
2. Extension
 - a. An LRG may submit a written request for up to a 60-day extension based on the limited availability of Zero Waste Facilitators. If the Director approves the extension, the extension will go into effect after the 60-day cure period thus granting a maximum of 120 days from the date of the NONC for the LRG to enter a written agreement with a ZWF. The Director will grant an extension request only if the LRG demonstrates diligent efforts made to contact and finalize a scope with a Zero Waste Facilitator.
 - b. At the conclusion of the term of the extension the Director may initiate penalties per Section F if the LRG has not entered into a written agreement with a ZWF.
3. Timeline for 100% Affordable Housing Project, a Non-Profit Food Provider, a non-profit wholesale food provider, or a business whose primary source of revenue is the sale of fresh cut flowers
 - a. 6-month re-audit
 - i. An LRG that is either a 100% Affordable Housing Project, a Non-Profit Food Provider, a non-profit wholesale food provider, or a business whose primary source of revenue is the sale of fresh cut flowers may receive six months to remedy the notice violations in preparation for a six-month re-audit as outlined in Section 1906(c).
 - ii. If an LRG fails the six-month re-audit, then it must comply within 60 days of receiving the NONC and re-audit results. If the property does not comply, then it may be subject to the penalties and process outlined in Section F.
 - b. 365-day extension
 - i. An LRG that is either a 100% Affordable Housing Project, a Non-Profit Food Provider, a non-profit wholesale food provider, or a business whose primary source of revenue is the sale of fresh cut flowers may request an additional 365 days to comply after the LRG's very first audit(s) administered per Section 1906(f). The request for extension must be submitted within 30 days following the receipt of the NONC.

- c. Hardship Waiver
 - i. An LRG that is either a 100% Affordable Housing Project, a Non-Profit Food Provider, a non-profit wholesale food provider, or a business whose primary source of revenue is the sale of fresh cut flowers may seek a waiver of an order to engage Zero Waste Facilitator(s) based on its demonstrated lack of ability to afford associated costs without incurring significant hardship per Section 1906(e).
 - ii. The request for Hardship Waiver must be submitted within 45 days following the NONC.

F. Penalties

1. RSO Administrative Penalties

- a. These regulations provide further detail on the imposition of administrative penalties only, and do not alter civil, criminal, or other administrative penalties found in Chapter 19. The full scope of penalties can be found in Section 1908 of Chapter 19.

2. Penalty Schedule

- a. The Director will determine the administrative penalty amount at the time the Order is issued. Penalties are based on number of days elapsed since NONC issuance as outlined in Section 1906(h).

b. Financial Penalties

Penalty	Amount	Term
Initial Penalty	\$500/day	First 60 days of noncompliance
Escalation	\$1,000/day	Day 61 onward of noncompliance

- c. If an LRG fails to comply with the terms outlined in the NONC, the initial penalty may be assessed at the rate of \$500 per day for the first 60 days of noncompliance.
- d. The escalated penalty may be assessed based on \$1,000 per day for each continued day of noncompliance.

3. Cure Period

- a. The Director will exercise discretion to hold penalties in abeyance and not collect until 45 days from the date the of the Order as outlined in Section 1906(h). If the LRG does not comply with the Order within 45 days, then the Director may issue an invoice to collect the penalties. If the LRG complies with the Order within the 45-day period, then the Director will not issue an invoice.

E. Forms

- 1. The Director may revise any forms and tools used to administer administering enforcement and penalties.

The Director hereby adopts this regulation as of the date specified below.

A handwritten signature in black ink, appearing to read "Tyrone Jue", with a long horizontal flourish extending to the right.

Tyrone Jue
Director

Approved:
Date: 07/11/2023