

ALLEN COUNTY CODE TITLE 20 ENVIRONMENTAL MANAGEMENT

ARTICLE 2 DIVERSION CREDIT PROGRAM

20-2-1 Chapter 1: ACRONYMS AND DEFINITIONS

For the purposes of this ordinance, the following definitions apply:

20-2-1-1

ALUMINUM UBC:

Beverage containers made entirely of aluminum.

20-2-1-2

AUTOMOBILE BATTERIES:

Lead-acid batteries. A battery that (1) contains lead and sulfuric acid; and (2) has a nominal voltage of at least (6) volts.

20-2-1-3

BI-METAL UBC:

Beverage containers which have steel sides and bottoms and aluminum tops.

20-2-1-4

BOARD:

The Board of Commissioners of the County of Allen.

20-2-1-5

BOND PAPER:

High grade papers used for letters and high quality printed work. For Diversion Credit purposes, bond paper will refer to white paper only.

20-2-1-6

CARDBOARD:

Corrugated cardboard and paperboard.

20-2-1-7

COLLECTOR:

Any person that collects recyclable materials from the residential, commercial and/or industrial sectors. Processors may also be collectors.

20-2-1-8

COMMERCIAL RECYCLABLES:

Recyclables originating in wholesale, retail, institutional, or service establishments such as office buildings, stores, markets, theaters, hotels, and warehouses. Does not include any material generated from a manufacturing process.

20-2-1-9

COUNTY:

The County of Allen, Indiana.

20-2-1-10

COMMINGLED RECYCLABLES:

An aggregate of residential post-consumer recyclables which is recovered from the waste stream for separation and processing.

20-2-1-11

DCP:

Abbreviation for Diversion Credit Program.

20-2-1-12

DEPARTMENT: ACDEM

Abbreviation for Allen County Department of Environmental Management; the ACDEM shall assume the responsibilities of the Allen County Solid Waste Management District as of the effective date of this ordinance.

20-2-1-13

DESK REVIEW REPORT:

Department staff audit of diversion credit claims presented by registered applicants to the District.

20-2-1-14

DISCREPANCY:

An instance of difference, inconsistency or inaccuracy.

20-2-1-15

ELIGIBLE MATERIALS:

Materials eligible to receive diversion credits as established by the Department shall be magazines, newspaper, mixed paper, plastic, glass containers, and steel containers.

20-2-1-16

END-USER:

Market in which recyclable materials are made into new products or made into feedstock for manufacturing new products.

20-2-1-17

FERROUS METALS:

All metals which contain iron or steel.

20-2-1-18

GLASS:

All glass bottles and jars used for food or beverages.

20-2-1-19

HAULER:

Any individual/organization/business that operates a vehicle(s) which transports recyclable material to a transfer station or a processing facility.

20-2-1-20

I/D:

In-District, meaning within Allen County.

20-2-1-21

INDUSTRIAL RECYCLABLES:

Any recyclable material generated from a manufacturing process.

20-2-1-22

MARKET:

The enterprise which purchases recyclable material for an end-use.

20-2-1-23

MUNICIPAL SOLID WASTE:

Garbage or refuse that is generated by households, commercial establishments, industrial offices, or other entities that does not include separated recyclables

20-2-1-24

MIXED PAPER:

Low grade, recyclable paper (colored bond paper, file stock, window envelopes, other recyclable office paper that is not considered white bond paper).

20-2-1-25

NEWSPAPER:

All post-consumer newsprint or other paper resembling newspaper in appearance.

20-2-1-26

NON- FERROUS METALS:

All metals which do not contain steel or iron such as aluminum, copper, brass, and lead.

20-2-1-27

O/D:

Out-of-District. Outside of Allen County.

20-2-1-28

PLASTICS:

This includes plastic containers such as PET soda bottles; HDPE milk, water or detergent bottles; PVC bottles; rigid and expanded PS; and other plastics, such as LDPE plastic bags and expanded polystyrene packaging.

20-2-1-29

POST-CONSUMER RECYCLABLE MATERIAL:

A product which has gone through its useful life and served the purpose for which it was intended. This does not include material that results from a manufacturing process.

20-2-1-30

PROCESSOR:

Any person that recovers post-consumer recyclable materials and provides a value-added service.

20-2-1-31

RECYCLABLES:

Materials that still have useful physical or chemical properties after serving their original purpose and that can, therefore, be reused or remanufactured into additional products.

20-2-1-32

REGISTERED APPLICANT:

Processor who has completed the registration process and has been approved by the Department as eligible to apply for diversion credits and is submitting an application.

20-2-1-33

RESIDENTIAL RECYCLABLES:

Recyclables originating in single-family and multiple-family dwellings. Does not include materials generated from the day-to-day business of the commercial or industrial sector.

20-2-1-34

REUSE:

The use of a product more than once in its same form for the same purposes; e.g., a soft drink bottle is reused when it is returned to the bottling company for refilling.

20-2-1-35

STEEL CANS:

Ferrous containers which contained food, also includes paint cans and aerosol containers made of steel.

20-2-1-36

VALUE-ADDED SERVICE:

The processing of post-consumer recyclable material by sorting, cleaning, densifying, shredding, or grinding to prepare said material for reuse or resale to an end-user.

20-2-2 Chapter 2: APPLICATION AND QUALIFICATION REQUIREMENTS TO BECOME A REGISTERED APPLICANT

20-2-2-1

A processor must become a Registered Applicant in order to be eligible to participate in the DCP. A processor which files an application under the oath establishing the following and pays the fee set forth hereinafter shall be eligible to participate in the Diversion Credit Program, so long as:

- a) The processor has a facility located in the County and processes post-consumer recyclables from residents and businesses in the County.
- b) The application reflects that the processor is providing a value-added service.
- c) The processor is processing a minimum of four (4) eligible materials.
- d) The processor provides the Department a copy of certification of all scales being used to weigh materials for reports.
- e) The processor has the capacity to process not less than fifty (50) tons of post-consumer recyclables per Diversion Credit eligible material per month.
- f) The processor delivers a performance bond and/or an unlimited letter of credit to the Department in an amount equal to the estimated cost of disposing of the average projected amount of materials handled by the Registered Applicant for a three-month period. Said bond shall be in the amount which would reflect the land filling cost of said material in accordance with a schedule adopted by the Department. The bond shall be payable to the Department should the Registered Applicant cease to be registered and be financially unable to dispose of material collected for the purposes of recycling.
- g) The processor does not receive recyclables directly or indirectly from any entity that transfers Municipal Solid Waste O/D for final disposal nor itself transfer Municipal Solid Waste O/D for final disposal.

20-2-2-2

To remain eligible as a Registered Applicant, a processor shall on and after making application, as set forth above, do the following:

- a) Process not less than an average of fifty (50) tons of post-consumer recyclables per month;
- b) Immediately commence keeping records and reporting as required by the record keeping and auditing requirements of this ordinance;

c) Provide the Department with a copy of its certification of scales within 15 days after receipt and in no case more than 30 days after the expiration of its prior certificate;

d) Continue to comply with all requirements of the application process.

20-2-2-3

Failure to comply with these requirements will cause a Registered Applicant's approval to be revoked.

Any denial of an initial application or subsequent revocation of a Registered Applicant's designation as such shall be subject to an appeal to the Board as set forth in Chapter 6.

20-2-3 **Chapter 3: FUNDING LEVEL AND ALLOCATION PROCEDURES**

20-2-3-1

The Department will approve a maximum annual budget for the DCP and will establish an annual allocation schedule for Diversion Credit payments. A per ton fee for each collection category will be established. The Department may vary the rate based on the method of collection or such other matters as deemed appropriate by the Board. The Board reserves the right to amend or eliminate the price per ton on any and all collection categories by resolution. Said resolution shall become effective 60 days after receipt by said applicant of written notice of the amendment. Nothing contained herein shall require the Department to exceed its maximum annual budget for the DCP.

20-2-3-2

Diversion Credit payments to Registered Applicants will not exceed the budget for said year. Excess Diversion Credit funds may be carried forward to the following year or applied to other Department programs in accordance with the resolution of the Board. Rates for said collection categories may change with approval of the Board.

20-2-4 **Chapter 4: APPLICATIONS FOR AN AMOUNT OF PAYMENT**

20-2-4-1

The first full month after the processor becomes a Registered Applicant, it shall submit the Diversion Credit Report Form DC-2, Incoming Material Report Form DC-IM, and Sales Report Form DC-SR. Said forms shall be due on the 15th of the month subsequent to the month for which the report covers.

20-2-4-2

The applicant shall be verbally notified of discrepancies discovered in said reports. Discrepancies must be corrected or explained within ten (10) days of verbal notice. Said ten (10) day correction period shall be granted for each discrepancy resubmission. Failure to correct or explain discrepancies will cause reports to be considered as having not been filed. Discrepancy resubmission and correction procedures will be as follows:

A) **First discrepancy.** The District will verbally notify the Registered Applicant of the discrepancy. It is the duty of the Registered Applicant to review the Diversion Credit report in question for additional discrepancies. No penalty will result with the first resubmission; however, the Department shall keep track of the time its employees incur in the review and notification process.

B) **Subsequent discrepancy.** The Department will send a written notice of subsequent discrepancies to the Registered Applicant if such discrepancies are found in any resubmission of the Diversion Credit report. The Registered Applicant shall be assessed a penalty for a discrepancy in the first resubmission equal to Fifty Dollars (\$50.00) per hour for all time spent by Department staff each subsequent resubmission. Said charges shall be withheld from the Diversion Credit payment otherwise due.

C) **Review of penalty.** The penalty set forth will be appealable under 2-1-6-2 to the Board.

20-2-4-3

Commencing with the third month's reports and for every month thereafter so long as the Registered Applicant does not fail to file said report, the applicant shall be eligible to receive Diversion Credit payments.

20-2-4-4

Payment shall be made based on seventy-five percent (75 %) of each eligible material reported subject to the funding maximums of 2-1-3. In no case will an increase or decrease by more than twenty percent (20%) of any eligible material from that reported and allowed the prior month, be allowed for the purposes of determining eligible amounts unless said increase is reviewed and approved by the Board. If the explanation of said twenty percent (20%) increase is rejected with probable cause by the Department or Board, the explanation rejection will be treated as a discrepancy. (See 2-1-4-2 for detailed explanation of discrepancy procedures.)

20-2-4-5

Any failure to submit reports as required by this section shall cause the Registered Applicant to again go through the two (2) month filing period without payment.

20-2-5 **Chapter 5: RIGHT TO REVIEW RECORDS**

20-2-5-1

The Department reserves the right to inspect records and processing facilities without notice any time during normal working hours. Failure to keep accurate and up-to-date records of all incoming material, outgoing material, rejects, origin and destination of material, etc. may result in a warning being issued to the Registered Applicant. After two written warnings in any twelve (12) month period, the Department may revoke the registration of the Registered Applicant after an administrative hearing before the Board.

20-2-6 Chapter 6: ORDINANCE VIOLATIONS, ENFORCEMENT AND APPEALS

20-2-6-1

A Registered Applicant that (i) fails to comply with any of the previous sections of this Ordinance including, but not limited to, a failure to maintain the requirements of becoming a Registered Applicant under 2-1-2-1 of this Ordinance; or (ii) makes any materially false statement in an application or in the records which it provides pursuant to this Ordinance; or (iii) is in violation of any federal, state, or local fire, safety, or environmental laws, shall be subject to revocation of the Registered Applicant's status pursuant to the terms of this title. Such revocation shall take effect ten (10) days after receipt of written notification by the Registered Applicant, unless said applicant appeals the revocation to the Board in writing prior to expiration of said period. The revocation shall constitute a debarment for the period of time set forth in the notice.

20-2-6-2

If a Registered Applicant elects to appeal, the Registered Applicant shall be entitled to a hearing before the Board at its next regularly scheduled meeting which is not less than ten (10) days after the notice provided by the Registered Applicant. The applicant may appear at that time, with counsel, and contest either the factual basis for the Department's decision and/or the period of debarment. If the applicant appeals, as set forth herein, the debarment as proposed by the Department shall not commence until approved and /or modified by order of the Department. The Registered Applicant and the Department may present such evidence and witnesses as they deem appropriate.

20-2-6-3

All orders of the Board shall be in writing and approved by a vote of the majority of same.

20-2-6-4

If a Registered Applicant has received funds to which they were not otherwise entitled because of making either a false application or filing false reports, in addition to being obligated to return to the Department all funds to which they were not entitled, they shall additionally be subject to a fine of not to exceed \$1000 for each incident.

20-2-6-5

Should the Board commence any action to recover funds inappropriately paid to any Registered Applicant or otherwise enforce this ordinance, it shall be entitled to an award of reasonable attorney fees plus court costs for enforcing same.

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