

**Allen County Solid Waste
Management District**

**Diversion Credit Program
Ordinance**

**Revised
February 2010**

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SECTION I – OVERVIEW

A. PRINCIPLE AND PURPOSE OF DIVERSION CREDIT PROGRAM

The District’s goal is to promote effective and long term recycling programs in the most cost-effective manner. The private sector is already providing a wide range of recycling services in Allen County. With this in mind, a Diversion Credit Program was created to reinforce the existing infrastructure and encourage expansion and growth of recycling services in order to increase residential/commercial recycling rates.

The District will pay processors a per ton processing fee or “credit” for eligible District-generated residential/commercial waste processed at facilities located within the District. The credit is designed to make collection and processing of certain materials economically feasible.

B. DIVERSION CREDIT PROGRAM ORDINANCE 93-1

Title II, Article I of the Allen County Solid Waste Management District Code entitled “Diversion Credit Program” is hereby established.

Chapter 1

Title II, Article I, Chapter 1 shall read as follows:

2-1-1 ACRONYMS AND DEFINITIONS

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

2-1-1-1

ALUMINUM UBC:

Beverage containers made entirely of aluminum.

2-1-1-2

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.

2-1-1-3

BI-METAL UBC:

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

2-1-1-4

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.

2-1-1-5

CARDBOARD:

Corrugated cardboard and paperboard.

2-1-1-6

COLLECTOR:

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

2-1-1-7

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.

2-1-1-8

COMMINGLED RECYCLABLES:

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

2-1-1-9

DCP:

Abbreviation for Diversion Credit Program.

2-1-1-10

DESK REVIEW REPORT:

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

2-1-1-11

DISCREPANCY:

An instance of difference, inconsistency or inaccuracy.

2-1-1-12

DISTRICT:

Abbreviation for Allen County Solid Waste Management District; the ACSWMD is a single-county district composed of all of the incorporated and unincorporated territory of Allen County.

2-1-1-13

ELIGIBLE MATERIALS:

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

2-1-1-14

END-USER:

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

2-1-1-15

FERROUS METALS:

All metals which contain iron or steel.

2-1-1-16

GLASS:

All glass bottles and jars used for food or beverages.

2-1-1-17

HAULER:

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

2-1-1-18

I/D:

In-District, meaning within the ACSWMD.

2-1-1-19

INDUSTRIAL RECYCLABLES:

Any recyclable material generated from a manufacturing process.

2-1-1-20

MARKET:

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

2-1-1-21

MUNICIPAL SOLID WASTE:

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

2-1-1-22

MIXED PAPER:

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

2-1-1-23

NEWSPAPER:

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

2-1-1-24

NON-FERROUS METALS:

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

2-1-1-25

O/D:

Out-of-District. Outside of the ACSWMD.

2-1-1-26

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.

2-1-1-27

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.

2-1-1-28

PROCESSOR:

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

2-1-1-29

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.

2-1-1-30

REGISTERED APPLICANT:

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

2-1-1-31

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.

2-1-1-32

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.

2-1-1-33

STEEL CANS:

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

2-1-1-34

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.

Chapter 2

Title II, Article I, Chapter 2 shall read as follows:

2-1-2 APPLICATION AND QUALIFICATION REQUIREMENTS TO BECOME A REGISTERED APPLICANT

2-1-2-1

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 District and processes post-consumer recyclables from residents and businesses in the District.
- 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 District 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 District 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 District. The bond shall be payable to the District 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.

2-1-2-2

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 District 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.

2-1-2-3

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 District Board as set forth in Chapter 6.

Chapter 3

Title II, Article I, Chapter 3 shall read as follows:

2-1-3 FUNDING LEVEL AND ALLOCATION PROCEDURES

2-1-3-1

The District 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 District may vary the rate based on the method of collection or such other matters as deemed appropriate by the District Board. The District 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 District to exceed its maximum annual budget for the DCP.

2-1-3-2

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 District programs in accordance with the resolution of the Board. Rates for said collection categories may change with approval of the Board.

Chapter 4

Title II, Article I, Chapter 4 shall read as follows:

2-1-4 APPLICATIONS FOR AN AMOUNT OF PAYMENT

2-1-4-1

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.

2-1-4-2

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 District shall keep track of the time its employees incur in the review and notification process.

B) Subsequent discrepancy. The District 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 District 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.

2-1-4-3

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.

2-1-4-4

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 District Board. If the explanation of said twenty percent (20%) increase is rejected with probable cause by the District or District Board, the explanation rejection will be treated as a discrepancy. (See 2-1-4-2 for detailed explanation of discrepancy procedures.)

2-1-4-5

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.

Chapter 5

Title II, Article I, Chapter 5 shall read as follows:

2-1-5 **RIGHT TO REVIEW RECORDS**

2-1-5-1

The District 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 District may revoke the registration of the Registered Applicant after an administrative hearing before the Board.

Chapter 6

Title II, Article 6 shall read as follows:

2-1-6 **ORDINANCE VIOLATIONS, ENFORCEMENT AND APPEALS**

2-1-6-1

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 District in writing prior to expiration of said period. The revocation shall constitute a debarment for the period of time set forth in the notice.

2-1-6-2

If a Registered Applicant elects to appeal, the Registered Applicant shall be entitled to a hearing before the District 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 Director's decision and/or the period of debarment. If the applicant appeals, as set forth herein, the debarment as proposed by the District Director shall not commence until approved and /or modified by order of the District Board. The Registered Applicant and the District Director may present such evidence and witnesses as they deem appropriate.

2-1-6-3

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

2-1-6-4

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 District all funds to which they were not entitled, they shall additionally be subject to a fine of not to exceed \$1000 for each incident.

2-1-6-5

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.

SECTION II - PROCESS OVERVIEW

A. REGISTRATION FORM FOR DIVERSION CREDIT PROGRAM; DC-REG

What must complete This form?	Any person that wishes to apply for diversion credits.
How often must the form be completed?	Once, after the form is completed and reviewed, the applicant may be accepted as eligible for the Diversion Credit program. If the applicant is not eligible, a new registration form may be completed if significant changes are made to the organization such that the applicant feels they may now be eligible.
Who must complete this form?	Any person that wishes to apply for diversion credits.
When must the form be completed?	Ninety (90) days before the applicant will begin receiving diversion credits. Diversion credits will not begin until the Ninety-day period has been met.
What data is reported?	The form requests information regarding the structure of the organization, the methods used for collecting the recyclable material, and market information for material sold.
Who is the information reported to?	The Allen County Solid Waste Management District.
Where should the report be sent?	Mail or hand-deliver your report only to: Allen County Solid Waste Management District One Main Street, City County Building Room B-86 Fort Wayne, IN 46802

May the registration be hand delivered?	Yes. The registration must be delivered on any working day between the hours of 8:00 a.m. and 4:30 p.m. to the City- County Building, Room B-86.
What happens once the registration is submitted?	The District staff will review the form and determine whether the applicant is eligible to apply for diversion credits (See Section I, Chapter 2). If an applicant is declared ineligible, a notation of the reason why will be made.
What happens once the office has reviewed the registration?	The District will notify the District Board of the decision.

B. DIVERSION CREDIT PROGRAM SUMMARY FORM (DC-SUM)

Who must complete the form?	Any registered applicant who wishes to report material eligible for diversion credits.
How are diversion credit applications made?	In addition to completing forms DC-SUM, a separate Material Report Form (DC-MRF) must also be completed for each material collected. Weight tickets and adding machine tapes must accompany these forms.
How often must the form be completed?	A form must be completed every month regardless of whether or not diversion credits will be claimed.
What is the reporting period?	For this purpose of the Diversion Credit application, the reporting period is no more than one (1) month. A reporting period will never be a combination of more than one (1) month.
What is the report deadline?	Reports must be turned in by the 15th of the month following the the month for which diversion credits will be claimed.
What happens if I miss my deadline?	Any failure to submit the reports will cause Registered Applicants to again go through the two (2) month filing period without payment.
Is there any exception to this rule?	The Registered Applicant may elect to appeal and will be entitled to a hearing before the District Board at its next regularly scheduled meeting which is not less than ten (10) days after the notice provided by the Registered Applicant.
What if I needed assistance in completing this form?	This manual contains detailed instructions, references, and appendices to assist in preparing this form. The District staff can also answer questions related to the preparation the forms and documentation.
Who is the data reported to?	The Allen County Solid Waste Management District.
Where should the report be sent?	Mail or hand-deliver your report and documentation only to: Allen County Solid Waste Management District One Main Street, City-County Building Room B-86 Fort Wayne, IN 46802
May the information be hand-delivered?	The reports and documentation may be delivered on any working day between the hours of 8:00 a.m. and 4:30 p.m. to the City-County Building, Room B-86.
What happens after the report is submitted?	The District will review the report and determine whether the amounts claimed will be allowed. If any amount claimed is ineligible, notation of the reason for the amount disallowed will be made.

What happens once the office has reviewed the data?	The District will notify the District Board of the status of the reports by forwarding a desk review report to the Board. This report will list the amounts and types of materials claimed. If there is an amount the District determines ineligible, the amount and disallowance reason will be listed on the report.
May errors be corrected?	Yes. However, amounts in question will not be paid until the errors have been resolved.
When must the corrections be submitted?	Corrections to reports or documentation must be returned to the District within ten (10) calendar days from the date on the desk review report. Corrections received after that date will not be allowed.
What happens if corrections are submitted?	The District staff will review any additional information and determine whether any disallowed amounts will be allowed based on the this information.

C. MATERIAL REPORT FORM (DC-MRF)

Who must complete this form?	Any applicant also completing form DC-SUM for diversion credits.
How often must the form be completed?	Every time a form DC-SUM is completed. There is no exception to this.
What data is reported?	Incoming material: the type; weight; source (in-district/out-of-district; residential/commercial, industrial); method of collection; hauler; date and an authorized signature for each load of material collected. Material sold or disposed of: the type; weight and condition of the material sold. Documentation also must be provided with the weight of material which went out for final disposal (trash). The following data must be retained by the Registered Applicant and available for review: the name; address; phone number of the buyer; and a copy of the check or cash receipt.
Must I report data on material that is not eligible for diversion credits?	Yes. Report data on all material incoming and outgoing including material destined for final disposal (trash). Failure to do so may result in the withdrawal of eligibility for that reporting period, and diversion credits would not be paid for that reporting period
Where can the data come from?	<p>Incoming materials: validation of the materials collected must come from Waste District-approved weight tickets which have been completed entirely and signed by the authorized parties.</p> <p>Information regarding the delivery or collection of the material must be on the weight ticket; this includes name, address, and signature of the hauler, source of the material, name of the recipient, date of the delivery, condition of the material (commingled, separated, etc.), and weight of the material as recorded by a certified scale.</p> <p>Materials sold or disposed of: validation of the materials sold must come from receipts sent by the buyer of the material or from Bills of Lading which are followed by proof of payment for shipment within ninety (90) days of the date on the Bill of Lading. The receipts must include the name, address, and phone number of the buyer, the weight and condition of the material, and a copy of the check or notation by the buyer regarding the check number and the amount of the remittance.</p>

SECTION III - REPORTING FORMS AND INSTRUCTIONS

The next section contains the registration form and all reporting forms which apply to the Diversion Credit Program. Instructions accompany the forms if more explanation is needed.

Assistance in filing out the forms is available from the staff of the Solid Waste District. Assistance can be requested by phone by calling 449-7878 between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday.

Reporting deadlines and other important information regarding each report is provided in Section II - Process Overview.

Definitions are listed in the Overview, Section I, B.

SECTION IV - PHYSICAL INVENTORY AND AUDIT PROCEDURE

A. Physical Inventory

An inventory will be conducted before the start of business on the first day of participation in the Diversion Credit Program as a Registered Applicant. The facility will be inventoried according to accepted accounting rules.

B. Physical Inventory Video

The physical inventory video is an objective of verification of the beginning inventory count. The video is done in conjunction with the physical inventory on the first day of participation.

C. Announced Monthly Inspections

The District will have regular monthly contact with processors receiving diversion credit funds. During this monthly contact, the District may verify such items as material weights, estimation formulas, percentage weights given to commingled streams, bills of sale, receipts, all flows of material and any paper verification of reported figures given on the Diversion Credit report sheets.

D. Unannounced Inspections

The District may inspect all Diversion Credit participants at any time during regular business hours. This inspection includes, but is not limited to, the above announced inspection activities.

SECTION V - CONVERSION FACTORS

RESIDENTIAL COMMINGLED PERCENTAGES

Residential commingled percentages will be calculated by conducting a sample commingled sort at said processing facility. This sort will determine the percentage of each accepted material in relation to the total amount of sample material collected.

DROP-OFF PROGRAM PERCENTAGES

Material weights for commingled items collected at drop-off sites subsidized by the District will be determined by conducting a sample commingled sort. This sort will determine the percentage of each accepted material in relation to the total amount of sample material collected. Items collected and weighed in separate trailers will not be included in the sample commingled sort percentages.

All percentages will be updated when deemed necessary by the District staff.

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