

## TITLE III

### Chapter 3.01 SOLID WASTE FACILITIES

#### 3.01.010 Purpose and Declarations

It is hereby declared and determined that accurate records regarding the origin and weight of wastes disposed at landfills, or wastes or residuals transferred to landfills from transfer/processing facilities, composting facilities, or recycling facilities are necessary for the following purposes: (1) allocating revenue among Solid Waste Authority (SWA) member jurisdictions, and (2) monitoring and calculating jurisdictional annual reports of diversion to the California Integrated Waste Management Board, in compliance with Public Resources Code Section 41780 and California Code of Regulations, Title 14, Division 7, Chapter 9, Article 9.2. Continuous origin surveys of each load of solid waste, recyclable, or green material received at facilities regulated by the SWA during each day of facility operation will ensure that the most accurate data is collected for jurisdictional revenue allocation and for AB 939 compliance planning and reporting.

It is further declared and determined that technology is readily available for solid waste facilities to meet and further the goals of AB 939 by extracting, separating and marketing recyclable material from mixed construction and demolition (C&D) debris, providing an alternative to source separation of recyclable material for generators and haulers of C&D debris, who wish, or are required, to recycle. Facilities located in the SWA region, employing such technology, for the sake of the public interest, may voluntarily be held to performance standards established and upheld by the SWA.

#### 3.01.030 Determining Jurisdiction of Origin

A. A commercial hauler or self-hauler of solid waste shall provide information on the amount and jurisdiction of origin of all waste collected and delivered to a landfill or transfer/processing facility regulated by the LEA in the SWA Region, or delivered to a SWA-certified C&D sorting facility, to the operator of that facility. However, commercial haulers which deliver transfer trailer loads from a transfer/processing facility that reports jurisdiction of origin for all incoming wastes to DWMR shall not be required to provide jurisdictional origin information to the operator of the receiving disposal facility; rather, such commercial haulers shall report the facility name from which the transfer load originated to the disposal facility operator.

B. A commercial hauler or self-hauler of recyclable or green material shall provide information on the amount and jurisdiction of origin of all recyclable or green material, by commodity type, delivered to a transfer/processing facility, composting facility, or recycling facility regulated by the LEA in the SWA Region.

C. If a load of waste, recyclables, or green material includes material from multiple jurisdictions of origin, the commercial hauler shall provide the percentage of tonnage originating from each jurisdiction. If actual tons collected by jurisdiction are not available, a commercial hauler may provide an estimate of the percentage or tonnage from each jurisdiction using information available on capacity:

1. The total number and size of bins collected from each jurisdiction in an individual load; or
2. The approximate number and size of bins collected in each jurisdiction.

**3.01.040 Origin Survey Frequency.**

A. An operator of an SWA-regulated landfill, transfer/processing facility, composting facility, or recycling facility in the SWA Region, or of a SWA-certified facility, shall conduct a continuous, daily origin survey of every load of waste, recyclables, or green material received on every day of operation in which loads are received from commercial haulers or self-haulers, to determine the jurisdictional origin and type of all materials received.

B. A commercial hauler or self-hauler shall provide information about the jurisdiction of origin of every individual load of waste, recyclables, or green material to the operator of every SWA- regulated landfill, transfer/processing facility, composting facility, or recycling facility in the SWA Region to which loads are hauled.

**3.01.050 Weighing of Loads**

An operator of an SWA-regulated landfill, transfer/processing facility, composting facility, or recycling facility in the SWA Region, or of a SWA-certified C&D sorting facility, shall make every reasonable effort to measure and record the weight of every load of waste, recyclables, or green material received, using the most accurate method of measurement available.

A. To the extent practical, each facility operator shall weigh all loads received on a computerized scale system. Scales shall be in compliance with all regulatory requirements for accuracy and maintenance.

B. For loads received in pickup trucks, vans, station wagons, sport utility vehicles, passenger cars, or other vehicles for which weighing is not practical due to small size or other considerations, an average tons per load conversion factor may be used.

C. Conversion factors must have prior written approval by the GME.

**3.01.060 Origin Survey Requirements for Transfer/Processing Facility Operators**

A. The operator of a transfer/processing facility regulated by the SWA in the SWA region shall record daily the amount and jurisdiction of origin of every load of waste received at the facility from commercial haulers and self-haulers, and shall report the information quarterly to the SWA in an approved format that shall be provided by the SWA.

B. The operator of a transfer/processing facility regulated by the SWA in the SWA region shall record daily the amount and jurisdiction of origin of every load of recyclable or green material, by commodity type, received at the facility from commercial haulers and self-haulers. The facility operator shall report the origin survey information quarterly to the SWA in an approved format that shall be provided by the SWA.

**3.01.070 Origin Survey Requirements for Landfill Operators**

A. The operator of a landfill regulated by the SWA in the SWA region shall record daily the amount and jurisdiction of origin of every load of waste received at the landfill from commercial haulers, transfer trailer haulers, and self-haulers, and shall report the information quarterly to the SWA in an approved format that shall be provided by the SWA.

B. The operator of a landfill regulated by the SWA in the SWA region shall record daily the amount and jurisdiction of origin of every load of recyclable or green material (for diversion programs), by commodity type, received at the facility from commercial haulers, transfer trailer haulers, and self-haulers. The facility operator shall report the origin survey information quarterly to the SWA in an approved format that shall be provided by the SWA.

C. The operator of a landfill regulated by the SWA shall collect the facility name from which a transfer trailer load originated, for any and all loads transferred to a landfill from a transfer/processing facility.

### **3.01.080 Origin Survey Requirements for Recycling Facilities or Compost Facilities**

The operator of a recycling facility or compost facility regulated by the LEA in the SWA Region shall record daily the amount and jurisdiction of origin of every load of recyclable or green material, by commodity type, received at the facility from commercial haulers, transfer trailer haulers, and self-haulers, and shall report the information quarterly to DWMR in an approved format that shall be provided by DWMR.

### **3.01.085 Origin Survey Requirements for Certified C&D Sorting Facilities**

The operator of a certified C&D sorting facility shall record daily the amount and jurisdiction of origin of every load of mixed C&D debris and every load of separated recyclable material, by material type, received at the facility from commercial haulers and self-haulers, and shall report the information quarterly to the SWA in an approved format that shall be provided by the SWA.

### **3.01.090 Reporting Requirements.**

A. The operator of a SWA regulated landfill, transfer/processing facility, composting facility, organic material facility, or recycling facility in the SWA region shall submit to the SWA a quarterly report of the amount and jurisdiction of origin of waste, recyclables, or green material received from commercial haulers and self-haulers by commodity type. The operator shall report the jurisdictional origin of loads received from each individual SWA franchised commercial hauler. Such report shall be in such form and detail as developed and required by the GME. The SWA shall establish guidelines, forms and other appropriate material to assist facilities and operators in preparing the report required by this chapter. Failure to file the report required by this section chapter shall constitute a violation pursuant to 3.01.110 hereof.

B. The operator of a certified facility shall file with the GME a quarterly report, on forms provided by the SWA, of all material delivered, the jurisdiction of origin of all material, the hauler and source of such material, and the amounts and types of material sorted and/or recycled. The report shall be in such form, including electronic form, and

detail as required by the GME. The report shall also contain any other information or data as the GME determines is necessary to effectively administer this chapter. This report can be integrated into the report described in Section 3.01.090 (A) of this Chapter.

C. All operators shall report the daily origin survey information described in this code on a quarterly basis, by the 15th day following the end of the quarter for which the information was collected.

D. If any report required under 3.01.090 (A) through (C) is not received by the SWA on the 15th day following end of the quarter for which the information was collected, the operator shall pay to the SWA a delinquent report charge in the amount of fifty (50) dollars. If the report remains delinquent for more than fifteen (15) days, the operator shall pay to the SWA a delinquent report charge in the amount of one hundred (100) dollars.

E. All operators shall maintain original daily survey records for five (5) years. This information shall be provided to the SWA upon request.

### **3.01.100 Appeal**

If a facility operator in the SWA Region experiences unique circumstances that make it infeasible to comply with the requirements of this code, the operator shall have an opportunity to appeal the identification, allocation, conversion, reporting, or any other requirements to the Board pursuant to Section 3.01.160. The operator may propose alternatives for consideration by the Board that will provide substantially the same information to the SWA for revenue allocation and for planning for and monitoring compliance with Public Resources Code Section 41780.

### **3.01.110 Certification of C&D Sorting Facilities**

A. The GME shall develop a process and standards for certifying C&D sorting facilities. Such standards shall be based on sorting recyclable C&D material from mixed C&D debris. Such standards shall be effective 30 days after being received and filed by the clerk of the Board. The standards shall include, but are not limited to the following:

1. Each load of mixed C&D that meets both of the following criteria shall be subjected to the facility's process of extracting recyclable material from it:
  - a. The load would reasonably be expected to contain, based on visual analysis while still contained, at least 33% recyclable material by either weight or volume, and
  - b. The load comes from a covered project.
2. A minimum of 75% of all loads from covered projects shall be subjected to the facility's recyclable material extraction protocols.
3. Requiring extraction and marketing of recyclable C&D material, designated as such pursuant to this section, from Mixed C&D to the degree that the presence of such recyclable material in the residual, landfill-bound debris could reasonably be characterized as incidental, and

B. The GME shall designate and periodically review recyclable materials that must be extracted by certified C&D sorting facilities. Such designation shall consider material market conditions and the availability of cost-effective systems of recycling

those materials. Furthermore, certified C&D sorting facilities are encouraged to consider recycling additional materials whether or not they have been designated as recyclable materials.

C. To be certified as an approved C&D sorting facility, the facility must first submit an application for certification to the SWA on forms furnished by the SWA.

D. All Certification applications and applications for renewal must be accompanied by a processing fee which will be set by the SWA Board by Resolution, which may be amended from time to time.

E. The GME is authorized to certify a C&D sorting facility whose application demonstrates a technical competence to extract and market recyclable material from mixed C&D.

F. Certification will be valid for one year from the date of approval and shall be subject to annual renewal.

G. Certified C&D sorting facilities will be subject to inspections by the GME, on no less than a monthly basis, to ensure ongoing compliance with the terms of certification, and these inspections will be unannounced.

### **3.01.115 Certification Suspension and Revocation**

A. The GME shall have the authority to suspend any certification pursuant to this chapter if the GME finds any of the following:

1. The residual, post-processing, landfill-bound waste material at the certified C&D sorting facility is repeatedly (on more than two instances) found to contain recyclable material in an amount greater than that which could be reasonably characterized as incidental.

2. The operator has failed to comply with, or to do anything required of the operator by, the SWA Code or Administrative Rules, or provisions of State law.

B. The suspension will remain in effect until the grantee provides documentation satisfactory to the GME, verifying that the reason for suspension specified above no longer exists

C. The GME shall have the right to revoke any certification upon the facility's second suspension in any 12 month period.

D. Any certification granted pursuant to this part shall automatically be suspended whenever the grantee:

1. Fails to keep in full force and effect the insurance required by the certification; or

2. Fails to keep in full force and effect any applicable licenses or permits required by federal, state or local law.

E. If, following an audit pursuant to Section 3.01.140 (D) SWA Code, a facility's recycling percentage is discovered to have been reported inconsistently with the requirements of Section 3.01.120 (B) of SWA Code, remedies will be implemented according to the following schedule for each facility separately:

1. First instance: Clarification notice of correction needed to calculation methods
2. Second instance: Tonnage shortfall subtracted from the subsequent quarterly recycling percentage

3. Third instance: Remedy from item “2” above, and suspension of certification pursuant to Section 3.01.115 of SWA Code

4. Fourth instance: Revocation of certification pursuant to Section 3.01.115 of SWA Code

F. Notices of suspension or revocation of certification shall be communicated in the manner proscribed in section 3.01.125.B and will state the reason or reasons for suspension or revocation.

### **3.01.120 Performance**

A. The GME shall calculate, for each certified C&D sorting facility, a recycling percentage.

B. The recycling percentage shall be calculated quarterly by the following method: All C&D material extracted and recovered by the C&D sorting protocols divided by all C&D material, subjected to the C&D sorting protocols multiplied by 100, expressed as a percent.

C. The GME is authorized to maintain, and make available to the public, a list of all certified C&D sorting facilities and their specific recycling percentage performance.

### **3.01.125 Notices**

A. Whenever a provision of this code authorizes or requires a public hearing to be conducted by the Board, notice of the time, date, place and purpose of the hearing shall be served upon each facility operator who is affected by such hearing.

B. Any written notice or other communication to a facility operator which is authorized or required by this code shall be deemed served and effective for all purposes when deposited in the United States mail, postage prepaid, and addressed to the latest address of the facility operator shown on file in the SWA records pertaining to the certification.

### **3.01.130 Certification of Separated Material Recycling Facilities** [RESERVED]

### **3.01.140 Certification Terms and Conditions**

A. All certifications granted pursuant to this part shall be nonexclusive. No provision of this part shall be deemed to require restricting the number of certified facilities or to require the GME to grant any certification if the GME finds or determines that the grant of any such certification is not in the public interest.

B. Each certified facility shall be subject to terms and conditions specified in this Code and any amendments thereto, including any additional terms and conditions not in conflict with this Code, and SWA Administrative Rules, as in the judgment of the GME or the Board are in the public interest.

C. Each certified facility shall provide services without undue interruption caused by mechanical failures or other inadequacies of equipment and shall utilize equipment in quantities and of an age and quality adequate for the provision of reliable service and achievement of the minimum diversion standards established by this chapter.

D. Each certified C&D sorting facility operator shall at all times maintain accurate and complete accounts of all C&D debris delivered and the hauler and source of such C&D debris. The operator's books, accounts and records reasonably necessary for the enforcement of this code shall be made available for inspection, examination and audit during normal business hours by authorized officers, employees and agents of the SWA.

1. Where the GME determines that an audit is necessary, operators shall be responsible for reimbursement of audit costs, including any SWA or consultant services, to perform audits of accounts of all C&D debris delivered and the hauler and source of such C&D debris and all recyclable C&D material, disposed or recycled.

E. Each certified C&D sorting facility operator shall survey each incoming load whether the C&D debris was generated from a covered project or not.

### **3.01.150 Appeals of Certification Denial**

A. Within thirty (30) days of written notification of denial of certification or within sixty (60) days of GME's failure to act on the certification application, the candidate has the right to meet with the GME to review the items cited in the written notice and provide any additional evidence to support an award. Within fifteen (15) days of such meeting, the GME will make a final, written determination of the application, based on the reviews of additional evidence and the original application. The GME will send a copy of all final written determinations, including reasons for denial, if any, to both the candidate and the Board.

B. The candidate may, within ten (10) days after receiving the GME's final denial, request a public hearing before the Board by submitting to the Clerk of the Board a written petition for an appeal hearing. If a public hearing is requested, the Clerk of the Board shall set the matter for hearing at the next regularly scheduled Board meeting or any later date as agreed upon by the candidate and Clerk of the Board. At such hearing, the candidate may present evidence in writing and through testimony of its employees and others relevant to the application. During such hearing, the Board may demand from the candidate such additional information as the Board may deem relevant and necessary. Standard rules of evidence are not in effect at such public hearing. The candidate shall have the burden of proof to show facts demonstrating that the candidate does in fact meet the requirements of this code. Any hearing may be continued or adjourned to a stated time and place without the giving of further notice. The Board will provide the candidate with a written explanation of its determination on the application within thirty (30) days of such hearing. The Board's decision is final.

### **3.01.160 Appeals of Suspension or Revocation**

A. Within thirty (30) days of suspension or revocation, the operator has the right to meet with the GME to review the items cited in the written notice of suspension or revocation and provide any additional evidence in appeal. Within fifteen (15) days of such meeting, the GME will make a written determination of the appeal, either reversing or affirming, based on the reviews of additional evidence and the original application for certification. The GME will send a copy of his or her written determinations to both the operator and the Board.

B. The operator may, within ten (10) days after receiving the GME's final written determination, request a public hearing before the Board by submitting to the Clerk of the Board a written petition for an appeal hearing. If a public hearing is requested, the Clerk of the Board shall set the matter for hearing at the next regularly scheduled Board meeting or any later date as agreed upon by the operator and Clerk of the Board. At such hearing, the operator may present evidence in writing and through testimony of its employees and others relevant to the suspension or revocation. During such hearing, the Board may demand from the operator such additional information as the Board may deem relevant and necessary. Standard rules of evidence are not in effect at such public hearing. The operator shall have the burden of proof to show facts demonstrating that the operator does in fact meet the requirements of this code. Any hearing may be continued or adjourned to a stated time and place without the giving of further notice. The Board will provide the operator with a written explanation of its determination on the suspension or revocation within thirty (30) days of such hearing. The Board's decision is final.

### **3.01.170 Certification of Putrescible Organic Material Facilities.**

A. The GME shall develop a process and standards for certifying Putrescible Organic Material facilities. Such standards shall be based on diverting recyclable putrescible organic material from disposal. Such standards shall be effective 30 days after being received and filed by the clerk of the Board. The standards shall include, but are not limited to, the following:

1. Possession of a valid, Solid Waste Facility Permit or Notification (Full, Standardized, Registration and Notification tiers only) issued by the Local Enforcement Agency with concurrence by the California Department of Resources, Recycling, and Recovery, or a valid permit issued by a comparable State or Federal governmental authority, to conduct the specific activities involved in the processing, and diversion from disposal, of putrescible organic material,

2. Possession of a valid municipal land use permit, as necessary, issued by the municipal jurisdiction in which the facility is located, entitling the facility to conduct the specific activities involved in the processing, and diversion from disposal, of putrescible organic material,

3. Possession of a valid business license to operate in the municipal jurisdiction in which the facility is located, and

4. Possession of a document, issued by the appropriate governmental agency, demonstrating that the activities involved in the processing, and diversion from disposal, of putrescible organic material, have met compliance with the California Environmental Quality Act (CEQA) at the facility location, or, alternatively, stating that said activities do not require compliance with CEQA and stating the rationale for that determination.

### **3.01.300 Enforcement**

Except as otherwise expressly provided, the provisions of this chapter shall be administered and enforced within the SWA Region on behalf of the SWA by DWMR.