



SF Environment

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A Department of the City and County of San Francisco



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Director

San Francisco Department of the Environment Regulation #SFE-18-01-CDO

Regulations Implementing the Construction and Demolition Debris Recovery Ordinance (Ordinance No. 27-06)

Regulation Effective Date: Upon Director's Signature

A. Authorization

The Construction and Demolition Debris Recovery Ordinance, Ordinance No. 27-06 ("Ordinance") was signed by the Mayor on February 16, 2006 and became effective July 1, 2006. Because the Ordinance created a program that is jointly implemented and enforced by the Department of Building Inspection, the Department of Public Health, and the Department of the Environment, it is codified in various places in the Municipal Code: Building Code 2016 Edition, Section 106A.3.2.2 and Chapter 13B; Health Code Sections 288 and 288.1; Environment Code Chapter 14; and Police Code Section 39-1. The Ordinance establishes a comprehensive program to require the Recovery of Construction and Demolition Debris generated in San Francisco, by: prohibiting disposal of such debris with municipal solid waste; imposing requirements and conditions in building permits; establishing a program to register Construction and Demolition Debris Transporters and processing Facilities; and establishing enforcement mechanisms including penalties.

The Director of the Department of the Environment ("SFE") promulgates these regulations pursuant to her authority under Environment Code Section 1412 to adopt forms, regulations, and guidelines as necessary and appropriate to implement Environment Code Chapter 14.

B. Scope

These regulations apply to any Facility, or operator of a Facility, that is seeking to become a Registered Facility, or maintain or renew its registration, to receive and process Construction and Demolition Debris from San Francisco in compliance with the Ordinance. These regulations detail the minimum requirements for registration,

operational effectiveness to meet an overall minimum 65% Recovery rate, and reporting of mixed Construction and Demolition Debris received and processed pursuant to Section 1412 of the Ordinance. These regulations do not duplicate the Ordinance and must be read together with the Ordinance.

C. Process

SFE has consulted with the Department of Building Inspection and the Department of Public Health in promulgating these regulations. The Director held a public hearing to discuss these regulations on Monday, May 14, 2018. The Department accepted written comments up to three days prior to the public hearing. Regulations will take effect on the Effective Date.

D. Definitions

The terms used in these Regulations have the same meanings as in the Ordinance. Additional definitions for the purpose of these regulations are as follows:

“Letter of Engagement with a Qualified Third-Party Verifier” means written documentation showing that the Facility is in the process of pursuing Third-Party Verification signed by representatives of Facility and Qualified Third-Party Verifier and dated within 2 months of the date of the registration request.

“Provisional Facility” refers to a Facility that is in the process of becoming a Verified Facility. Such Facility must be able to provide written documentation demonstrating that the Facility is in the process of achieving Third-Party Verification (i.e., Letter of Engagement with a Qualified Third-Party Verifier) with the intention of becoming a Verified Facility.

“Records Access Authorization Form” means a form granting SFE the right to on-site access and review of all statements, receipts, weight tags and records generated, issued, and/or retained by any facility for material that originated in San Francisco, and affirming that all such records will be provided upon SFE’s request, signed by the Facility owner or authorized signatory proxy. The Form is required for Facility registration.

“Qualified Third-Party Verifier” or “Verifier” refers to any individual or organization that evaluates processing capabilities and verifies Recovery rates for mixed Construction and Demolition Debris Facilities and approved and listed by SFE.

“Recoverable Materials” means those components of Construction and Demolition Debris that are capable of being Recovered (i.e., diverted from landfill or municipal solid waste incineration).

“Third-Party Verification” refers to the process by which a Qualified Third-Party Verifier reviews and verifies the Facility Recovery rates and evaluates the Facility fitness relative to the minimum Construction and Demolition Debris Recovery requirements set forth by SFE.

“Third-Party Verification Report” means a report prepared by an SFE-approved Qualified Third-Party Verifier documenting that it has completed Third-Party Verification within the prior 12 months and is currently a Verified Facility.

“Verified Facility” refers to a Facility that has successfully completed Third-Party Verification and is therefore eligible to become a Registered Facility, subject to issuance of a Registered Facility Certificate by SFE.

E. Requirements

1. Third-Party Verification

1.1. Third-Party Verification of Recovery Rates

A Facility seeking to become a Verified Facility must engage the services of a Qualified Third-Party Verifier to conduct Third-Party Verification of Recovery rates for Recoverable Materials. Facilities are responsible for the cost of their own Third-Party Verification. A Facility may be considered a Provisional Facility prior to completing Third-Party Verification provided they submit a Records Access Authorization Form and a Letter of Engagement with a Qualified Third-Party Verifier with the intention of becoming a Verified Facility. A Facility may be designated as a Provisional Facility for no more than six (6) months.

1.2. SFE-Approved Qualified Third-Party Verifier Eligibility Criteria

Individuals or organizations seeking to become Qualified Third-Party Verifiers may do so by submitting the following to DebrisRecovery@sfgov.org:

- 1.2.1.** Name and address of the applicant submitting qualifications;
- 1.2.2.** Applicant’s headquarters if different from applicant address;
- 1.2.3.** Name, telephone number, and e-mail address of a person who can be contacted if further information is required;
- 1.2.4.** Qualifications of personnel who will provide verification services (i.e., resumes);
- 1.2.5.** Certifications of Insurance;
- 1.2.6.** Professional license(s) held that meet program goals;

- 1.2.7.** Statement verifying that the personnel to be used during verification process do not have existing or perceived conflict(s) of interest; and
- 1.2.8.** Methodology, approach and best management practices the applicant intends to employ when conducting Third-Party Verification of Facilities.

1.3. SFE Approval of Third-Party Verifiers

In considering whether to approve a Verifier applicant as Qualified, SFE will consider the proposed Third-Party Verifier’s approach and methodology, including but not limited to the following components:

1.3.1. Methods for conducting Facility site visits, annually at minimum. SFE may require Verifiers to conduct additional (more frequent than annual) Facility site visits, at SFE’s discretion. Facility site visits shall, at a minimum:

- 1.3.1.1.1. Examine how materials enter the Facility, are classified, measured, handled, processed/sorted, and exit the Facility; and
- 1.3.1.1.2. Observe and verify materials sorting process, efficacy, and accuracy; and
- 1.3.1.1.3. Characterize the contents of outgoing residuals, identifying Recoverable Materials going to landfill or municipal solid waste incineration and the reason for such disposal; and
- 1.3.1.1.4. Verify that outgoing residuals from processing operations are allocated to jurisdictions of origin based on percentage of materials received; and
- 1.3.1.1.5. Involve interviews with key personnel; and
- 1.3.1.1.6. Confirm whether equipment types and capacity are appropriate for the scale of the operation and its anticipated throughput.

1.3.2. Include review of the prior 12-months of data for all the following, provided by the Facility to the verifier:

- 1.3.2.1.1. Individual inbound loads of materials, including measurement in tons or by volume using SFE approved volume-to-weight conversion rates, and type of material (source separated or mixed); and
- 1.3.2.1.2. Individual loads of outbound materials, including measurement in tons or by volume using SFE approved volume to weight conversion rates, type of outbound material (where and how Recovered or disposed).

1.3.3. Determine whether solid waste facility permits are active and complied with; and

1.3.4. Methods for verifying use and accuracy of scales including calibration frequency and permitting, and valid/current weight master certification; and

1.3.5. Processes for auditing and verifying data submitted by the Facility to the verifier in support of the reported Recovery rate. The audit shall include, at a minimum:

1.3.5.1.1. The process for tracking inbound loads; and

1.3.5.1.2. Evaluation and verification of material sales into commodity markets

1.3.5.1.3. Monitoring off-site movement of materials; and

1.3.5.1.4. Review of the Facility's weight tag information; and

1.3.5.1.5. Methods for verifying that the Facility is operating legally and meeting the minimum program requirements set forth in the Ordinance, and related regulations, for Facility registration and Recovery rates.

1.4. Upon SFE review and approval of the qualifications and verification methodology of eligible individuals or organizations to become Verifiers, the applicant organization will be added to a list of approved Verifiers maintained and published on SFE's website at: <https://sfenvironment.org/>

2. Registration Requirements

2.1. First-Time Facility Registrants

A Facility seeking to register for the first time or submit an annual report to SFE, under Environment Code Sections 1404 or 1405(a)(iv), must submit a copy of a Third-Party Verification report prepared by an SFE-approved Verifier documenting, that it has completed Third-Party Verification within the prior 12 months and is currently a Verified Facility.

Alternatively, a Facility must provide written documentation showing that the Facility is in the process of pursuing Third-Party Verification in the form of a Letter of Engagement with a Verifier, signed by representatives of Facility and Verifier and dated within 2 months of the date of the registration request.

2.2. Facility Registration Renewals

A Facility seeking to renew a registration must submit a copy of a Third-Party Verification Report prepared by an SFE-approved Verifier documenting that it has completed Third-Party Verification within the prior 12 months and is currently a Verified Facility.

Alternatively, a Facility must provide written documentation showing that the Facility is in the process of pursuing Third-Party Verification in the form of a Letter of Engagement with a Verifier, signed by representatives of Facility and Verifier and dated within 2 months of the date of the registration request.

2.3. Authorization to Access Disposal Records

Facility registration will require the submission of a Records Access Authorization Form signed by the Facility owner or authorized signatory proxy, granting SFE the right to review all statements, receipts, weight tags and records generated, issued, and/or retained by disposal facilities for material that originated in San Francisco, and affirming that all such records will be provided upon SFE's request. Authorization will grant access to review the following criteria:

- 2.3.1.** Names and locations of disposal facilities used; and
- 2.3.2.** Types of material delivered to disposal facilities and their use (e.g., disposal, beneficial reuse, Alternative Daily Cover); and
- 2.3.3.** Weight of materials for all loads delivered to disposal facilities; and
- 2.3.4.** Date loads of materials were delivered to disposal facilities; and
- 2.3.5.** Any and all allocations by jurisdiction of origin for each load delivered to disposal facilities; and
- 2.3.6.** Names of transporters who delivered materials to disposal facilities (including sub-contractors and brokers).

Disposal facilities will be permitted to redact all information relating to pricing and fees. Attached to these regulations is a template of the language that should be used as a Records Access Authorization Form. SFE must be notified in writing within 5 days of any revocation of the Records Access Authorization. Revocation of the Records Access Authorization may result in an immediate suspension of Facility Registration.

2.4. Third-Party Verification of Facility Recovery Rate

The Third-Party Verification report must document that the Facility's Recovery rate meets the minimum Recovery rate of 65 percent for mixed Construction and Demolition Debris, unless the SFE-approved Verifier documents that there are no Recoverable Materials found in outgoing residual material loads for disposal. Recovery rates for a Verified Facility will include the combined overall average Recovery rate for all Construction and Demolition Debris handled by the Facility and will separately calculate the Facility Recovery rate with and without Alternative Daily Cover (ADC). SFE may require additional information about any other landfill uses such as beneficial reuse.

2.5. Issuance of Facility Registration Certificates

SFE will issue registration certificates to Verified Facilities that meet the conditions outlined in these regulations and in the Ordinance, with such Verified Facilities being designated Registered Facilities, or issuance of notification for Provisional Facility designation with guidance on completing Third-Party verification.

3. Reporting Requirements for Registered Facilities

3.1. Annual Reporting

Section 1405(a)(iv) of the Ordinance requires Registered Facilities to submit annual reports to SFE. The annual report details the total inbound tonnage of material received by the Registered Facility from San Francisco sources (within the City of San Francisco boundaries) over a 12-month period; a breakdown of all the recovered commodities and their end-uses; the disposal destination for residuals; and the Recovery rate for the report period.

3.2. Quarterly Reporting

In addition to annual reports, SFE may require Registered Facilities to submit quarterly reports in order to verify compliance with the Ordinance. Such quarterly reports may be required to detail the following:

3.2.1. Total tons of material received, by type, from all sources; and

3.2.2. Total tons of material received, by type, which originated from within the boundaries of San Francisco; and

3.2.3. Total tons sent for recycling, composting, and reuse, by type and use; and

3.2.4. Total tons sent for disposal, ADC, beneficial reuse, and any other use at a disposal facility, by disposal facility; and

3.2.5. Proportion of all outbound tons by type, by Recovery and disposal method, and by end destination, that are allocated to San Francisco based on proportion of inbound tonnage (these must be the same as those values used for reporting to the State of California which must be actual tonnage basis, or an allocation proportionate to inbound tonnage).

These reports will be used to establish a Facility's Recovery rate, subject to review and verification by the Verifier. New Facilities requesting registration must submit documentation, acceptable to a Qualified Third-

Party Verifier, that corroborates figures included in reports submitted to SFE. Registered Facilities will periodically be required to submit supporting documentation as necessary to verify Recovery rates as required by the Verifier or SFE.

4. Change of Information

All Registered Facilities are required to notify SFE in writing within thirty (30) days of any substantive changes (as defined in the Construction and Demolition Debris Recovery Ordinance No. 27-06, SEC. 1405) such as change in ownership, operations, staffing, material handling, processing, and/or permitting, including the specific substantive changes and their impact, positively or negatively, on the Facility's operations and Recovery rates. Change-of-Information notices shall be emailed to: DebrisRecovery@sfgov.org

5. Revoking of Permit, Authorization or License

All Registered Facilities are required to notify SFE in writing, within 24 hours of the time a permit, authorization or license required by any local, state or federal agency to operate the Facility terminates, expires or is revoked or suspended. Revocation notices shall be emailed to: DebrisRecovery@sfgov.org

The Director of the Department of the Environment hereby adopts these regulations as of the date specified below.

Deborah O. Raphael
Director Department of the Environment

Approved:

Date:

Deborah O. Raphael
6/14/18

I _____ (name), _____ (title) of _____ (name of facility) have informed the City and County of San Francisco Department of the Environment (SFE), through the Registered Facility application process, that my firm is a customer of _____ (facility name).

As a condition of operating as a Registered Facility in San Francisco pursuant to Chapter 14 of the Environment Code, I hereby authorize SFE to review and copy records associated with our activity. This authorization extends to records associated with _____ (name of any transporters) delivering material from our facility.

SFE is authorized to obtain the following information upon request from your facility including, but not limited to, weight tags and other records that identify the transporter, vehicle identification, date, and tonnage, type and jurisdiction(s) of origin of materials received. SFE is not requesting to receive or review pricing information. You may redact pricing information from records prior to making them available to SFE.

This authorization is effective _____ (date) and valid until revoked in writing by the undersigned.

_____ (signature)