

# DELAWARE SOLID WASTE AUTHORITY

Statutory Authority: 7 Delaware Code, Section 6403 (7 Del.C. §6403)

## PROPOSED

### 501 Regulations of the Delaware Solid Waste Authority

#### PUBLIC NOTICE

Pursuant to 7 **Delaware Code**, Sections 6403, 6404, 6406 and other pertinent provisions of 7 **Delaware Code**, Chapter 64; the Delaware Solid Waste Authority ("DSWA") is proposing amendments to the Regulations of the Delaware Solid Waste Authority (adopted by DSWA Board January 29, 2009).

**Notice of Hearing:** A public hearing will be held Wednesday, October 7, 2009, immediately following the hearing scheduled at 5:00 p.m. addressing contemporaneous amendments to the Statewide Solid Waste Management Plan, at Delaware Technical Community College, Terry Campus, Corporate Training Center, Room 400, Dover, Delaware 19903. The hearing is to provide an opportunity for public comment on the proposed amendments. The public record will close at the close of the hearing, unless the hearing officer extends the comment period at the close of the hearing.

**Written Comments:** The DSWA will receive written comments, suggestions, briefs or other written material until the close of business, October 2, 2009. Written comments, suggestions, compilations of data, briefs or other written material shall be submitted to Michael D. Parkowski, Manager of Business Services and Governmental Relations, Delaware Solid Waste Authority, 1128 South Bradford Street, PO Box 455, Dover, Delaware 19903. Anyone wishing to obtain a copy of the proposed amendments may obtain a copy from the Delaware Solid Waste Authority, 1128 South Bradford Street, PO Box 455, Dover, Delaware 19903, (302) 739-5361.

**Summary of Proposed Changes:** The proposed amendments will change current provisions dealing with the use of DSWA facilities by both municipalities and persons other than municipalities, and will have the effect of requiring most solid waste generated in the State of Delaware to be delivered to a DSWA facility. The proposed amendments will also require changes to the Statewide Solid Waste Management Plan.

**Background and Purpose:** The Delaware Solid Waste Authority ("DSWA") was established by the Delaware General Assembly in 1975 as a statewide solid waste authority, a body politic and corporate constituting a public instrumentality of the State created to perform essential public and governmental functions. The findings, policies and purposes of the enabling legislation recognized among other things the need for the people of the state to have a clean and wholesome environment through the statewide management of solid waste generated in Delaware. Such statewide management includes the establishment of programs for collection and disposal of solid waste and the recovery of and reuse of discarded materials through recycling and beneficial use.

In discharging its responsibility, DSWA undertakes planning, research and development functions utilizing professional technical and management employees, and a support staff. The activities of DSWA are subject to the oversight and control of a seven (7) person Board of Directors, each Director being appointed by the Governor and confirmed by the Senate.

DSWA has been granted the authority to adopt regulations and establish a licensing program for collectors of solid waste. Enforcement powers granted to DSWA include the assessment of civil penalties, license suspension or revocation, and injunctive relief.

In order to fund the comprehensive activities authorized by the General Assembly, DSWA has been empowered to establish user fees for the services it provides and to borrow money through bond financing and otherwise. DSWA receives no State or federal funding, and the full faith and credit of the State is not pledged for any of DSWA's debt. To assure the proper management of the solid waste and provide sufficient financial support

for its programs, DSWA is authorized to control the collection, transportation, storage and disposal of solid waste throughout the State.

DSWA has been provided extensive authority to utilize services provided by the private sector and to engage in cooperative arrangements with other State entities, counties and municipalities. DSWA has also been charged with establishing an extensive recycling program and a public education program. Included in the recycling initiative is the removal of materials from the solid waste stream which are harmful to the environment, and which cannot be recycled, so that they are disposed in an authorized manner.

In carrying out its broad statewide responsibilities to comprehensively manage solid waste, DSWA has undertaken the following activities:

1. The design, construction and operation of a modern landfill at Cherry Island to serve the needs of New Castle County. The landfill includes environmental protective measures such as a leachate collection system and a landfill gas recovery system. The expansion of the landfill is currently underway and has been financed through an approximate \$100 million bond issuance. With the waste diversion measures currently in place the capacity of the landfill is not expected to be reached until 2039.

2. The acquisition, retrofitting and operation of a landfill gas processing plant at Cherry Island. The processing plant produces commercial quality methane gas which is transported by pipeline and sold to Conectiv Energy Supply, Inc..

3. The design, construction and operation of a solid waste transfer station at Pine Tree Corners in New Castle County. The transfer station serves the Middletown - Odessa - Townsend area and the solid waste delivered to this facility is transferred to the DSWA landfill at Sandtown in order to preserve landfill space at Cherry Island.

4. The design, construction and operation of a modern landfill at Sandtown to serve the needs of Kent County. The landfill includes environmental protective measures such as a leachate collection system and a landfill gas recovery system. The landfill gas is sold to a private company which uses the gas as fuel to operate an electric generating facility. An expansion of the landfill is currently underway and will be financed with approximately \$23 million of the proceeds of an approximate \$40 million bond issuance. The capacity of the landfill with expansions is not expected to be reached until 2050.

5. The design, construction and operation of a solid waste transfer station at Milford. The solid waste delivered to this facility is transferred to the DSWA landfill at Sandtown.

6. The design, construction and operation of a modern landfill at Jones Crossroads to serve the needs of Sussex County. The landfill includes environmental protective measures such as a leachate collection system and a landfill gas recovery system. The landfill gas is sold to a private company which uses the gas as a fuel to operate an electric generating facility. An expansion of the landfill is currently underway and will be financed with approximately \$17 million of the proceeds of an approximate \$40 million bond issuance. The capacity of the landfill with expansions is not expected to be reached until 2048.

7. The design, construction and operation of a solid waste transfer station at Route 5. The transfer station serves the Lewes - Rehoboth - Georgetown area and the solid waste delivered to the facility is transferred to the DSWA landfill at Jones Crossroads.

8. The operation of a drop-off recycling program with 183 drop-off centers statewide. The recyclables collected are deposited in a single stream with the exception of cardboard, household batteries, motor oil, oil filters and textiles which are separated. DSWA collects and transports the recyclables from the drop off centers, and markets the appropriate recovered materials to regional recycling centers, while arranging for the proper disposal of unusable materials.

9. The operation of a statewide single stream subscription curbside collection program for recyclables separated from municipal solid waste. The recyclables collected are in a single stream, except for yard waste which is collected separately. Approximately 45,000 customers subscribe to the service statewide.

10. The operation of a recycling program for electronic goods at twenty four (24) drop off locations throughout the State.

11. The operation of a recycling program at DSWA transfer stations and landfills which involves the separation and recycling of tires, white goods, drywall, textiles, used oil, oil filters, construction and demolition materials, and yard wastes.

12. The design, construction and operation of yard waste composting systems at the Cherry Island and Jones Crossroads landfills, and the operation of yard waste mulching systems at all DSWA landfills.

13. The establishment and operation of a public education and public outreach program which includes school and community presentations, distribution of books and educational materials, participation in public events, use of slogans and themes, use of a mascot, and public advertising.

14. The collection and proper disposal of household hazardous wastes at eight (8) scheduled events conducted throughout the State.

15. Coordination and participation in solid waste and recycling activities with State, county, municipal, local and civic organizations throughout the State.

The proposed amendments to the Regulations will allow DSWA to better control and manage the collection of solid waste in Delaware, assure the usage of the facilities provided by DSWA, and provide the means of financially supporting the referenced activities conducted under the authority and dictates of DSWA's enabling legislation. The proposed amendments will enhance DSWA's ability to monitor, evaluate and police the system of solid waste management in Delaware, including such issues as proper waste disposal, waste volume reduction, use of recycling programs and the full capture of those recyclables in the future.

## **501 Regulations of the Delaware Solid Waste Authority**

### **1.0 Purpose and Authorization**

These Regulations are adopted pursuant to the Act to achieve the goals set forth therein.

### **2.0 Definitions**

**"Act"** means the Delaware Solid Waste Authority Act, 7 Del.C. Ch. 64.

**"Applicant"** means any person applying for a license under these regulations.

**"CEO"** means Chief Executive Officer and Manager of DSWA.

**"Chairman"** means the Director designated by the Governor as chairman of DSWA in accordance with 7 Del.C. §6403(a).

**"Collection Vehicle"** means any vehicle, truck, container, box, trailer, roll-off, or other device used for the collection, transportation or delivery of solid waste or recyclable materials.

**"Contamination"** means unacceptable material(s) mixed in a primary material, which in DSWA's sole judgment corrupts the intended use or the intended classification of the primary material. For example, a DSWA representative using visual senses may determine a load of material to be "contaminated" because municipal waste was found mixed in a load of recyclable materials.

**"DNREC"** means the Department of Natural Resources and Environmental Control of the State of Delaware.

**"Directors"** means the directors of DSWA holding office in accordance with 7 Del.C. §6403.

**"Dry Waste"** means any solid waste including, but not limited to construction and demolition waste, plastics, rubber, lumber, trees, stumps, vegetative matter, asphalt pavement, asphaltic products incidental to construction/demolition debris, or other materials which have reduced potential for environmental degradation and leachate production.

**"DSWA"** means the Delaware Solid Waste Authority, an instrumentality of the State of Delaware, existing pursuant to the Act.

**"DSWA Facility"** means any DSWA solid waste disposal or recyclable materials site, system or process and the operation thereof, including but not limited to personnel, equipment and buildings. Such facility includes any landfill, recycling project, including waste to energy projects, collection station, transfer station, or other solid waste processing or disposal facility for projects operated by, on behalf of, or under contract with DSWA.

**"Hazardous Waste"** means a solid waste, or combination of solid wastes, which because of its quantity, concentration, or physical, or chemical or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating irreversible illness, or poses a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported or disposed of, or otherwise managed. Without limitation,

included within this definition are those hazardous wastes described in §§261.31, 261.32 and 261.33 of the Delaware Regulations Governing Hazardous Waste.

**"Industrial Solid Waste"** means solid waste produced by or resulting from industrial applications, processes or operations and includes, by way of example and not by way of limitation, sludges of chemical processes, waste treatment plants, water supply treatment plants, and air pollution control facilities and incinerator residues, but does not include the solid waste generated at an industrial facility which is comparable to municipal solid waste, such as cafeteria waste, cardboard, paper and pallets, crates or other containers constructed of and containing non-hazardous combustible material.

**"Licensee"** means a person holding a license issued by DSWA pursuant to Article III of these Regulations.

**"Municipality"** means a county, city, town or other entity or public body of the State of Delaware including but not limited to any State agency, department, instrumentality, commission, board, school district, and publicly supported institution of higher learning.

**"Permit"** means the stickers which DSWA issues under the License identifying the Licensee's account number and a vehicle number, which shall be affixed to both sides of the vehicle.

**"Person"** means any individual, partnership, corporation, association, institution, cooperative enterprise, municipality, commission, political subdivision, or other entity.

**"Recycling"** means the process by which solid waste and other discarded materials are transformed into usable material, product, energy, or managed separately in an authorized manner to reduce adverse environmental impacts.

**"Recycle Delaware Center"** means a DSWA facility, established pursuant to 7 **Del.C.** §6450 et seq., to receive recyclable materials and includes the recycling containers marked for the specific recyclable materials which are to be deposited therein and the area immediately surrounding them necessary for the purposes of such recycling centers.

**"Recyclable Materials"** means any material or group of materials that can be and commonly are collected or separated from the waste stream and sold or used for beneficial purposes and in an authorized manner to reduce environmental impacts.

**"Recycler"** means a person in the business of collecting, transporting, and delivering recyclable materials.

**"Solid Waste"** means any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant or air pollution control facility and other discarded material, including solid, liquid, semi-solid or contained gaseous material, resulting from industrial, commercial, mining and agricultural operations, and from community activities, but does not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under 7 **Del.C.**, Ch. 60 as amended, or source, special nuclear, or by-product materials defined by the Atomic Energy Act of 1954, as amended, or materials separated on-site by the generator thereof for further use, service or value.

**"Source Separation"** or "Source Separated" means the process by which recyclable materials are segregated and kept apart from the waste stream by the generator thereof for the purpose of collection, disposition, or recycling or resource recovery.

**"Special Solid Wastes"** means those wastes that require extraordinary management. They include but are not limited to abandoned automobiles, white goods, used tires, waste oil, sludges, dead animals, agricultural and industrial solid waste, municipal ash, septic tank pumpings, and sewage residues.

**"Transfer Station"** means any facility where quantities of solid waste delivered by vehicle are consolidated or aggregated for subsequent transfer by vehicle for processing, recycling or disposal.

**"Yard Waste"** means plant material resulting from lawn maintenance or other horticultural gardening or landscaping activities and includes but is not limited to grass, leaves prunings, brush, shrubs, garden materials, Christmas trees, and tree limbs up to 4 inches in diameter.

### **3.0 Collection and Licensing**

- 3.1 No person shall collect, transport, and/or deliver solid waste, or dry waste, except recycling materials, in the State of Delaware without first having obtained a license from DSWA, provided, however, that:
  - 3.1.1 persons transporting and delivering solid waste, or dry waste, that they created on their premises resulting from their activities shall not be required to obtain a license therefore; and
  - 3.1.2 persons collecting, transporting and/or delivering solid waste, or dry waste, in the course of their employment by a person holding a license from DSWA shall not be required to obtain a license therefor.
  - 3.1.3 persons who first became subject to this licensing requirement because of amendments to the regulations which require a license for the collection, transport, and/or delivery of dry waste, shall not be required to have such license for the 60 day period following the effective date of the regulations.
- 3.2 The CEO may designate a specific DSWA facility or facilities for delivery or disposal of solid waste, dry waste, or recyclable materials.
- 3.3 Each Licensee shall clearly display on both sides of the vehicle:
  - 3.3.1 the license permit provided by DSWA which is the property of DSWA and subject to cancellation, suspension and/or revocation. The license permit shall be legible at all times and shall be placed in an area of high visibility to allow immediate identification by DSWA Weighmasters and Compliance Officers. The license permit shall not be placed on fuel or hydraulic tanks or reservoirs, or areas where the operation of mechanical parts would impair the visibility of the permit;
  - 3.3.2 the Licensee's business name with letters at least three (3) inches high and of a color that contrasts with the color of the vehicle. No name other than the Licensee's business name shall be displayed. A regularly used business logo may also be displayed.
- 3.4 Licensees shall maintain business offices and phone numbers as follows:
  - 3.4.1 Licensees who collect on a yearly average 100 tons per month or more:
    - 3.4.1.1 each Licensee shall maintain a manned business office location or locations and designate a representative in responsible charge thereof;
    - 3.4.1.2 each Licensee shall provide a street address for the business office to which correspondence may be mailed;
    - 3.4.1.3 telephone coverage with a Delaware telephone number listed in the appropriate Delaware Telephone Directory in the business name of the Licensee shall be maintained by a responsible and authorized person at the main office during normal business hours. Licensees may utilize a call forwarding service so that a Delaware telephone number may be dialed to reach an out-of-state office. The exclusive use of an answering machine shall not satisfy this requirement; and
    - 3.4.1.4 notification regarding any change of business location or telephone number shall be provided to DSWA in writing within seven days of such change.
- 3.5 Licensees who collect on a yearly average less than 100 tons per month:
  - 3.5.1 each Licensee shall provide a street address for the business office or dwelling to which correspondence may be mailed. A Post Office Box shall not satisfy this requirement;
  - 3.5.2 telephone coverage with a Delaware telephone number listed in the appropriate Delaware Telephone Directory in the business name of the Licensee shall be maintained by the Licensee during normal business hours. Licensees may utilize a call forwarding service so that a Delaware telephone number may be dialed to reach an out-of-state office. The exclusive use of an answering service may be utilized. An answering machine shall not satisfy this requirement; and
  - 3.5.3 notification regarding any change of business location or telephone number shall be provided to DSWA in writing within seven days of such change.
- 3.6 Each Licensee shall maintain insurance at the following minimum amounts:
  - 3.6.1 Automobile liability: \$350,000 combined bodily injury and property damage per occurrence;

- 3.6.2 General liability: bodily injury \$300,000 per occurrence; property damage: \$100,000 per occurrence; and
- 3.6.3 Workman's Compensation as required by law.
- 3.6.4 Each Licensee shall provide to DSWA new certification of the coverages specified in Section 3.6 including a certification within ten (10) days of renewal. Each such certification of insurance shall provide that DSWA receive at least thirty (30) days advance notice of any canceled, discontinued, or diminished coverage.
- 3.7 Each DSWA permitted vehicle shall, at all times:
  - 3.7.1 Be maintained to prevent fluids or other contents from spilling onto any surface;
  - 3.7.2 Be capable of being readily emptied;
  - 3.7.3 Be kept in as much of a sanitary condition as possible to control the presence of vectors;
  - 3.7.4 Be equipped so that it can be readily towed, and maintained in good operational condition for safe and stable operation and/or navigation in or about a DSWA facility; and
  - 3.7.5 Be subject at all times to inspection by DSWA, including the contents thereof.
- 3.8 Each Licensee shall comply with the following requirements while collecting, transporting and/or delivering solid waste or dry waste.
  - 3.8.1 Solid waste, or dry waste, shall not be processed, scavenged, modified, or altered unless in compliance with applicable laws and regulations.
  - 3.8.2 Solid waste, or dry waste, in collection vehicles and/or containers shall be suitably enclosed or covered to prevent littering or spillage of solid waste or fluids.
  - 3.8.3 Solid waste shall not be stored in a collection vehicle for more than twenty-four (24) hours unless the solid waste is being delivered to a facility authorized to receive such waste and the facility is closed for the entire day when the twenty four hour period expires, in which case the collection vehicle may discharge the solid waste at the facility on the next day that the facility is open.
  - 3.8.4 Any spillage shall be immediately cleaned up and removed.
  - 3.8.5 No undue disturbance shall be caused in residential areas as a result of collection operations.
- 3.9 All collection vehicles shall be owned in the name of the Licensee or leased in the name of the Licensee. Upon submission of an application for a first time license, each applicant shall provide a copy of a valid motor vehicle registration card for each collection vehicle. If the collection vehicle is not owned by the applicant, a copy of a written motor vehicle lease agreement shall also be submitted with the application.
- 3.10 As a minimum each Licensee, except for municipalities with a written agreement with a licensed collector for such backup, shall own and/or lease, in the name of the licensee, at least two fully and continuously operational collection vehicles of like service, except for down time for routine maintenance
- 3.11 With the exception of any municipality, each applicant for a license and each Licensee shall provide to DSWA and maintain a bond under which the Licensee shall be jointly and severally bound with a corporate surety qualified to act in the Courts of Delaware to DSWA for amounts due to DSWA for fees or charges for services. A Bond or Surety is not required if the Licensee pays at the time of solid waste delivery. DSWA may suspend or revoke a license if the Licensee's account with DSWA is past due.
  - 3.11.1 In lieu of corporate surety, the applicant or Licensee may provide security for its bond by depositing with DSWA, one of the following in an amount at least equal to the amount of the bond:
    - 3.11.1.1 United States Treasury bonds, United States Treasury notes, United States Treasury certificates of indebtedness, or United States Treasury bills; or
    - 3.11.1.2 bonds or notes of the State of Delaware; or
    - 3.11.1.3 bonds of any political subdivision of the State of Delaware; or
    - 3.11.1.4 certificates of deposit or irrevocable letters of credit from any state or national bank located within the United States; or
    - 3.11.1.5 United States currency, or check for certified funds from any state or national bank located within the United States.

3.11.2 The amount of the bond specified in Section 3.11 shall be based upon the total solid waste tonnage delivered by the Licensee at a DSWA facility during the month of November immediately preceding the license year for which the license is issued in accordance with the following schedule:

<b>"TONNAGE CHARGED FOR PRIOR NOVEMBER"</b>	<b>AMOUNT OF BOND</b>
Less than or equal to 750 tons	(minimum) \$5,000
Greater than 750 tons but less than or equal to 1,500 tons	\$25,000
Greater than 1,500 tons	\$50,000
Each additional 1000 tons over 1,500 tons	\$5,000

If the Licensee has expanded or acquired its business since the preceding November, then the total tonnage for November and Bond amount will be adjusted to account for such increase. By reference to the accounts, business, or assets acquired, an estimate will be made of what the charges in November would have been if the Licensee had been operating the newly acquired accounts, business, or assets at that time.

- 3.12 Any person desiring to collect, transport, and/or deliver solid waste or dry waste, except recyclable materials, in the State of Delaware shall submit a completed application for license to DSWA on forms provided by DSWA substantially in the form set forth in Attachment "A" of these Regulations. DSWA shall approve or deny license applications within thirty (30) days of receipt of a completed application.
- 3.13 DSWA may require information to supplement that requested in Attachment "A" in reviewing license applications.
- 3.14 The license period for municipalities shall be five years. The license period for all Licensees except municipalities shall be two years, or such other time period as determined by DSWA's CEO or COO. The license renewal application shall be submitted to DSWA at least thirty (30) calendar days prior to the expiration date of the existing license.
- 3.15 Before any additional collection vehicle or substitute collection vehicle is utilized for the collection, transportation, and/or delivery of solid waste or dry waste, the Licensee shall submit to DSWA the following:
  - 3.15.1 The name, address and telephone number of the owner of the vehicle.
  - 3.15.2 The state motor vehicle registration number.
  - 3.15.3 A description of chassis by year and manufacturer.
  - 3.15.4 A description of the body by year and manufacturer.
  - 3.15.5 The legal weight limit of the vehicle.
  - 3.15.6 The volume of the body of the vehicle in cubic yards.
  - 3.15.7 Evidence of the insurance coverage as required by Section 3.6.
- 3.16 Each license shall contain the following:
  - 3.16.1 Owners Name and/or trading name.
  - 3.16.2 Physical and/or mailing addresses.
  - 3.16.3 License period.
  - 3.16.4 Authorized signature.
  - 3.16.5 Special license conditions regarding collection, transportation, and/or delivery of solid waste or dry waste, as specified by DSWA.
- 3.17 The Licensee shall notify DSWA of any transfer of a license or title to a DSWA permitted vehicle within seven days of such transfer. Except for a municipality with a written agreement with a licensed collector for backup capacity, no person shall be entitled to collect, transport and/or deliver solid waste or dry waste under another person's license.

- 3.18 Notwithstanding anything to the contrary contained in these Regulations, a Licensee may operate a replacement vehicle on a temporary basis for a period of fifteen (15) days; provided further, that the licensee shall provide DSWA an original signed letter on company letterhead providing the information listed in §3.15 of these Regulations. An original letter must be submitted for each day of operation until DSWA license stickers are properly displayed on the vehicle or the vehicle is removed from temporary service. Letters must be taken to the weigh station of the DSWA Solid Waste Facility. Only persons licensed by DSWA shall utilize properly complete letters of authorization. No other letters of authorization shall be accepted at DSWA facilities.
- 3.19 No license shall be issued to any person who:
- 3.19.1 has an account with DSWA that is past due in accordance with DSWA policies or
  - 3.19.2 is obligated to file a report in accordance with these Regulations and has not done so for the immediately preceding calendar year.
  - 3.19.3 holds or has held a license from DSWA which as been revoked;
  - 3.19.4 holds or has held a license from DSWA which has been suspended, for such period as the license is suspended;
  - 3.19.5 holds or has held an interest in any Licensee whose license from DSWA has been revoked;
  - 3.19.6 holds or has held an interest in any Licensee whose license from DSWA has been suspended, for such period as the license is suspended; and
  - 3.19.7 owns, in whole or in part, operating assets, including vehicles and routes, which were acquired from a Licensee whose license from DSWA was revoked or suspended and who acquired such assets from such Licensee for less than fair market value. Applicants for a license may be required to produce records and other information to demonstrate that they comply with this paragraph before a license will be issued.
- 3.20 Any person who first collects, transports, and/or delivers solid waste or dry waste, except recyclable materials, within the State of Delaware, without leaving first obtained a license under this Article, shall not be issued a license required under this Article, until the expiration of one hundred twenty (120) days after the last day on which such collection, transportation and delivery without a license occurred, as determined by the CEO, or his designee.
- 3.21 Any Licensee who does not maintain his principal place of business in Delaware shall designate an agent, by name and street address (box number not acceptable), for service of process within Delaware. The agent shall be either an individual resident in Delaware or a corporation authorized under Title 8 of the **Delaware Code** to transact business in Delaware.
- 3.22 Before a license application is approved or denied, DSWA shall determine whether the applicant is able and reasonably certain to comply with these Regulations. Such determination may take into account any relevant factors including, but not limited to, the prior conduct of the applicant or any person, as defined herein, who is employed by or is otherwise associated with the applicant and may significantly affect the applicant's performance as it is related to the licensed activities. If the application is denied, the determination shall be reduced to writing and include the rationale for denial. Any person denied a license shall be entitled to request a hearing on such determination before the Directors of DSWA in accordance with these Regulations.
- 3.23 A Licensee shall give written notice to DSWA within seven (7) days of any of the following:
- 3.23.1 sale or conveyance of a significant portion of its assets;
  - 3.23.2 sale or conveyance of a significant portion of the equity interest (e.g. stock) held in it;
  - 3.23.3 purchase or other acquisition of a significant portion of the assets of another Licensee;
  - 3.23.4 purchase or other acquisition of a significant portion of the equity interest in another Licensee. For purposes of this paragraph, a significant portion shall mean one-half. Fragmentation of a transfer into smaller portions shall not be used to avoid the requirements of this paragraph.
- 3.24 With respect to any vehicle which accesses a DSWA facility based on the extension of credit by DSWA, the vehicles shall use:
- 3.24.1 License permit stickers or charge account stickers;
  - 3.24.2 RF transponders;

- 3.24.3 barcode identification Cards; or
- 3.24.4 Other identification as permitted by DSWA.

By using one or more of the above required items, the originally assigned person is accepting responsibility for all charges to the person's account. The required identification items are the property of DSWA and must be removed, returned, and/or destroyed in accordance with existing DSWA policy upon selling or transferring a vehicle. The originally assigned person remains responsible for all charges to his account until DSWA receives written documentation from the person to confirm a change in the status of the account or the account vehicle. (For example: selling or trading a vehicle.)

- 3.25 Each Licensee shall submit a report for the preceding calendar year no later than February 1 of each year to DSWA stating, with respect to any waste collected in the State of Delaware and disposed of in the State of Delaware at a location other than a DSWA Solid Waste Facility, the quantities and types of waste disposed of, the names and address of the facility where it was disposed of, and any other information required on a form to be supplied by DSWA (See Attachment C).

#### 5 DE Reg. 100 (7/1/01)

#### 4.0 Use of DSWA Facilities ~~by Municipalities and Their Contractors~~

- 4.1 Any solid waste, including but not limited to dry waste, that is generated in the State of Delaware, and collected, or transported by any municipality, or by a person pursuant to an agreement with any municipality licensee or by a person on behalf of a licensee, shall be disposed of at a DSWA facility, unless it is a solid waste listed in Section 4.2 or Section 4.3. Any municipality licensee or other person that enters into an agreement for the collection or transportation of such solid waste that is required to be delivered to a DSWA facility pursuant to this section shall include in such agreement a requirement that the such solid waste shall be disposed at a DSWA facility. Every person required by agreement to deliver solid waste generated in Delaware to a DSWA facility shall comply with such requirement.
- 4.2 The following solid wastes shall not be delivered to a DSWA facility:
  - 4.2.1 Hazardous wastes
  - 4.2.2 Explosives
  - 4.2.3 Pathological and infectious wastes
  - 4.2.4 Radioactive wastes
  - 4.2.5 Solid wastes, ~~as determined by the CEO or his designee, which will, because of their quantity, physical properties, or chemical composition, to have an unacceptable adverse effect impact on the a DSWA facility or facilities, or the operation of the DSWA facility, or if an effective means of risk and cost allocation cannot be achieved thereof, because of its quantity, physical properties, chemical composition, risk, cost, or other relevant factor. The CEO or his designee may determine that a particular solid waste, such as dry waste, shall not be delivered to a particular DSWA facility but may be delivered to another DSWA facility or facilities.~~
  - 4.2.6 Wastes which are prohibited by the DSWA facility(s) DNREC permit.
  - 4.2.7 Solid wastes, except recyclable materials, generated outside the State of Delaware.
- 4.3 The following solid waste may but is not required to be delivered to a DSWA facility for disposal or recycling, upon payment of the appropriate fee or user charge, provided that delivery of such solid waste is not otherwise proscribed by §4.2:
  - 4.3.1 Yard waste, unless the CEO or his designee determines such waste would have an adverse effect on the DSWA facility, in which case Yard Waste shall not be delivered to the DSWA facility.
  - 4.3.2 Dry waste that is generated in New Castle County.
  - 4.3.23 Non-hazardous waste resulting from emergency clean-up actions of DNREC.
  - 4.3.34 Any special solid waste allowed at a DSWA facility pursuant to Article VI of these regulations.
  - 4.3.45 Asbestos.
  - 4.3.56 Recyclable materials

#### 5 DE Reg. 100 (7/1/01)

## **5.0 ~~Use of DSWA Facilities by Persons Other Than Municipalities and Their Contractors Reserved~~**

- ~~5.1 Except as provided in Section 5.2, any person, other than a municipality and any person under an agreement with a municipality with respect to solid waste that must be delivered to a DSWA facility pursuant to Section 4.1, may dispose of the following at a DSWA facility (unless the CEO or his designee determines such waste would have an adverse effect in the DSWA facility) or other facility authorized to receive such waste: solid waste, including, but not limited to yard waste, dry waste, and recyclable materials.~~
- ~~5.2 Every person shall deliver solid waste to a DSWA facility to the extent so required by any agreement between such person, or its assignee, and DSWA.~~
- ~~5.3 No person shall deliver to a DSWA facility any waste listed in Section 4.2 of these regulations.~~

## **6.0 Special Solid Waste**

- 6.1 Any person causing or allowing special solid waste to be delivered to any DSWA facility shall obtain the approval of DSWA prior to commencement of such delivery; provided however, that where more than one person is involved in the generation and delivery of a particular special solid waste, approval of DSWA obtained by one person shall be sufficient. DSWA has adopted a policy on special solid wastes which provides detailed information regarding the approval process.
- 6.2 In the event that there are any risks or additional costs involved in accepting any special solid wastes, the CEO may impose a special solid waste disposal surcharge to compensate DSWA for such risks and additional costs, including administrative expenses and overhead. The following factors shall be considered in determining the amount of such special solid waste surcharge:
  - 6.2.1 Quantity of waste to be disposed of;
  - 6.2.2 Degree of risk associated with such disposal;
  - 6.2.3 Additional handling, processing and disposal costs;
  - 6.2.4 Additional administrative expenses and overhead;
  - 6.2.5 Additional environmental protection controls including monitoring.
- 6.3 The special solid waste surcharge shall be set by the CEO, without notice and public hearing thereon, and may be done on a case by case basis.
- 6.4 Any person causing or allowing special solid waste to be delivered to a DSWA facility operated by or on behalf of DSWA shall be deemed to have agreed to indemnify and hold harmless DSWA from any liability arising from disposal of such special solid waste and to have agreed to reimburse DSWA for any costs reasonably incurred to protect against or reduce any risk resulting therefrom; provided, however, such person, if such person has not caused or allowed the delivery of a hazardous substance within the meaning of the Comprehensive Environmental Response Compensation Liability Act (CERCLA), as amended, 42 USC Section 9601, et.seq., shall not be liable under this subsection to DSWA for harm or damage caused by the negligence of DSWA.
- 6.5 It shall be the responsibility of each generator of special solid waste, in addition to the person collecting, transporting and delivering it, to obtain the approval of DSWA for disposal of special solid waste at the DSWA facility and to assure that such waste is delivered to the DSWA facility for disposal. Such solid waste shall not be disposed in a DSWA facility if:
  - 6.5.1 DSWA refuses to approve the disposal of such waste at a DSWA facility; or
  - 6.5.2 the generator of such waste determines or agrees to have such waste disposed of at another properly licensed or permitted facility;
  - 6.5.3 the solid waste is described in § 4.2.
- 6.46 Any person aggrieved by a determination of the CEO or his designee, under this Article or Sections 4.2 and 4.3, may seek review thereof by the Directors of DSWA in accordance with the Act, and these Regulations.

## 7.0 Operating in a DSWA Facility

- 7.1 All vehicles entering a DSWA facility to deliver solid waste, dry waste, or recyclable materials, shall proceed to the appropriate scale. Each vehicle shall come to a full stop before driving onto the scale, for weighing in or for weighing out. Quick stopping or starting on the scales will not be permitted. All personnel must remain in the vehicle unless directed by the Weighmaster to come to the scale bouse window. After weighing, the vehicle must not leave the scales until authorized to do so by the Weighmaster and must proceed to the designated area at the DSWA facility. In the event that an invoice generated from the charging of fees or user charges at a DSWA facility is not paid in accordance with DSWA credit policies the license may be revoked and/or the right to use DSWA facilities may be denied to the user. Before the license revocation and/or denial of use, the user may have a hearing before the Directors of DSWA, and the user shall be given at least fifteen (15) days notice of the hearing. The procedure for obtaining and holding the hearing shall be as set forth in these Regulations.
- 7.2 After weighing and at the direction of the Weighmaster or other DSWA representative, each vehicle shall proceed to the area designated. Spotters at the landfill face or on the tipping floor shall direct the vehicles to a special loading/unloading location. Vehicle drivers shall maintain safe distances from other vehicles at all times while at a DSWA facility. At small load facilities, waste shall be disposed only in the containers that have been provided. The contents of each vehicle shall be discharged as quickly as possible and the vehicle shall leave as directed by the operating contractor. Clean-up is allowed only at designated locations. No roll-off boxes will be dropped anywhere in a DSWA facility without the express approval from a DSWA representative.
- 7.3 Each vehicle operator shall exercise caution, due care, and safe procedures in all operations at all DSWA facilities. Vehicle drivers who disregard the posted speed limits on a DSWA facility may be denied access to any DSWA facility. Vehicle operators shall follow directions from the DSWA or its representative.
- 7.4 No hand sorting, picking over, or salvaging of solid waste, dry waste or recyclable materials will be permitted at any time, without specific DSWA approval.
- 7.5 All vehicle operators and other personnel proceed onto the delivery area or location at their own risk. DSWA shall not be liable for acts or omissions of its contractors, persons using a DSWA facility, or other third persons in or about a DSWA facility.
- 7.6 No loitering will be permitted in any DSWA facility.
- 7.7 DSWA reserves the right to redirect vehicles to alternate locations within the DSWA facility, if for any reason in the opinion of DSWA's representative, the original location cannot handle the load or type of material.
- 7.8 There shall be no smoking at any DSWA facility.
- 7.9 The DSWA from time to time may adopt and post other rules for DSWA facilities. It is the responsibility of Licensees and other persons using DSWA facilities to familiarize themselves with and to obey such rules.
- 7.10 Any vehicle that is immobile and obstructing facility operations may be moved to a nonconflicting area by DSWA representatives after notifying the Licensee's driver. The Licensee's driver will be given reasonable time to contact his office either through radio or telephone. If the blocking vehicle poses a safety or fire hazard, it will be removed immediately after giving notice to the driver. Licensee shall also give written instructions to drivers on proper procedures for towing.
- 7.11 To prevent material from falling off vehicles and to minimize litter, all vehicles, including but not limited to pick-up trucks, entering a DSWA facility shall be sufficiently secured through the use of tarpaulins or ropes or netting or enclosures sufficient to prevent the material from falling off the vehicles. Vehicles shall remain secured until reaching the designated untarping area at the DSWA facility.
- 7.12 DSWA shall have the right to require unloading of the contents of any vehicle at a DSWA facility for the purpose of inspection.
- 7.13 If any prohibited wastes, hazardous wastes, explosives, toxic substance, pathological and infectious wastes, radioactive wastes are found, then the person delivering such waste to a DSWA facility shall be subject to the sanctions that may be imposed under Section 10.0 and other applicable laws and

regulations and that person shall be notified and given an opportunity to remove properly all of the waste emptied from the solid waste collection vehicle at his expense. If that is not accomplished within four (4) hours of such notice, which shall be either in person or by telephone, or, if the person cannot be reached immediately, either in person or by telephone, DSWA may proceed to arrange for removal and proper disposal of the entire load and the person who delivered such material to the DSWA facility shall be liable to DSWA for all costs incurred by DSWA in arranging for proper disposal, including, without limitation, DSWA's out-of-pocket expenses, contractor's fees, disposal costs, overhead supervisory costs, legal fees, testing costs, and transportation costs.

**5 DE Reg. 100 (7/1/01)**

**8.0 Recycling**

- 8.1 Any person who owns or operates a program or facility within the State of Delaware for the purpose of recycling or recovery of recyclable materials shall file with DSWA an annual registration statement in the form which appears as Attachment D to these regulations. Such statement shall be filed no later than February 1 of each year.
- 8.2 At a Recycle Delaware Center, no person shall:
  - 8.2.1 dispose of solid waste or litter;
  - 8.2.2 leave materials outside of containers;
  - 8.2.3 deposit into a container any material other than the specific recyclable material for which the recycling container is marked to receive;
  - 8.2.4 damage, deface, or abuse a container;
  - 8.2.5 block or obstruct vehicles;
  - 8.2.6 loiter;
  - 8.2.7 scavenge any recyclable materials; or
  - 8.2.8 deposit recyclable materials that have been collected from or by a Recycler.
- 8.3 Recyclable materials and dry waste delivered to a DSWA facility shall be free of contamination as determined by DSWA.

**5 DE Reg. 100 (7/1/01)**

**9.0 Transfer Station Requirements**

- 9.1 Any person operating a transfer station for solid waste within the State of Delaware shall;
  - 9.1.1 prepare daily and maintain (for minimum period of three years after preparation) records of the solid waste handled at the transfer station showing the source and final disposition of such waste after removal from transfer station, including address of such final disposition. The records to be maintained shall be adequate to provide all information required by the Transfer Station Monthly Solid Waste Report, shown in Attachment B;
  - 9.1.2 submit to DSWA the report required by §9.1.1 of these Regulations and verify the accuracy thereof to DSWA on or before the twentieth (20th) day of the month following the month for which the report is compiled. The report shall be in the form of the Transfer Station Monthly Solid Waste Report, shown in Attachment B;
  - 9.1.3 make the records required to be maintained and preserved by §9.1.1 of these Regulations available for inspection by representatives of DSWA during normal business hours.
- 9.2 DSWA through its designated representatives shall have the right to inspect any transfer station in the State of Delaware and solid waste hauling vehicles entering and leaving the transfer station.

**5 DE Reg. 100 (7/1/01)**

**10.0 Review, Enforcement and Sanctions**

- 10.1 Any person seeking a license or to have solid waste, dry waste, or recyclable materials, delivered to a DSWA facility who has been aggrieved by a determination of the CEO or his designee with respect to the denial of such license or delivery of solid waste, dry waste or recyclable materials may seek review

thereof by the Directors of DSWA by filing a request for review with the CEO within fifteen (15) days of receipt of notice of such determination. The hearing shall be held in accordance with Section 10.1.2 of these Regulations.

- 10.1.1 The person filing the request for review under paragraph 10.01 (a) of these Regulations shall be provided notice by registered mail at least fifteen (15) days before the time set for the hearing. The person filing the request for the hearing shall bear the burden of proof.
  - 10.1.2 The person requesting the hearing may appear personally and/or by counsel and may produce competent evidence in his behalf. Upon the request of the person requesting the hearing or the CEO, the Chairman of DSWA shall issue subpoenas requiring the testimony of witnesses and the production of books, records, or other documents relevant to the material involved in such hearing.
  - 10.1.3 All testimony at the hearing shall be given under oath and the Chairman shall administer oaths and all Directors shall be entitled to examine witnesses.
  - 10.1.4 The hearing may be held as part of a regular meeting or a special meeting of the Directors of DSWA. Deliberation shall be held in executive session.
  - 10.1.5 The decision of the Directors of DSWA shall be announced at a public meeting and shall be forwarded to the person requesting the hearing in written form by registered mail.
- 10.2 Any person who violates a provision of these Regulations shall be subject to the following sanctions:
- 10.2.1 If the violation has been committed, a civil penalty of not less than One Hundred (\$100) Dollars and not more than Five Thousand (\$5000) Dollars shall be assessed;
  - 10.2.2 If a violation continues for a number of days, each day of such violation shall be considered a separate violation;
  - 10.2.3 If the violation is continuous, or there is substantial likelihood that it will reoccur, DSWA may seek a temporary restraining order, a preliminary injunction or permanent injunction;
  - 10.2.4 Any person holding a license issued by DSWA who violates these Regulations shall be subject to revocation of such license, or suspension of such license for such period as determined by DSWA.
  - 10.2.5 DSWA personnel are empowered to issue written notices of violations of these Regulations, without the need to employ the sanctions set forth above.
- 10.3 Any person who violates a provision of these Regulations may be prevented from entering a DSWA facility, as determined by the CEO or his designee, until that person is in compliance with these Regulations.

**5 DE Reg. 100 (7/1/01)**

**Attachment A**

To: Delaware Solid Waste Authority  
P.O. Box 455  
Dover, DE 19903-0455

I hereby apply for a Solid Waste Collectors License for the period of July1, 20\_\_\_ through June 30, 20\_\_\_ in accordance with the Regulations of the Delaware Solid Waste Authority. Accordingly, the following is submitted:

*Note: This application will not be processed unless all requested information is provided including;*

Proof of insurance as required by section 3.04;

Minimum Bond or Surety, as required by Section 3.10; and,

A copy of your Delaware Business License.

1. Applicant: (Individual or Firm Name) \_\_\_\_\_
2. Doing business as: (name to appear on license) \_\_\_\_\_
3. Business Office Information: (one phone number must be a Delaware number) OFFICE A:

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Street

Area code - Phone number

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City

State

Zip Code

*Name of Individual having administrative responsibility at this location*

OFFICE B:

*Street*

*Area code - Phone number*

City

State

Zip Code

*Name of Individual having administrative responsibility at this location*

4. Answering service if applicable:

*Name of service*

Street

Area code - Phone number

City

State

Zip Code

Name of Individual having administrative responsibility at this location

5. Registered Agents or Authorized Representatives:

A:

*Name*

Street

Area code - Phone number

City

State

Zip Code

B:

*Name*

Street

Area code - Phone number

City

State

Zip Code

6. Type of business:  Sole Proprietorship  Partnership  Municipality  Corporation\*

\* If Non-Delaware Corporation, provide proof of Delaware Registration

7. Date business was established: \_\_\_\_\_

8. Delaware Business License number: (contact Division of Revenue) \_\_\_\_\_

9. DNREC Waste Haulers License number: \_\_\_\_\_

10. Federal Taxpayer Identification number: \_\_\_\_\_

11. Owners or partners in unincorporated business. Indicate percentage of ownership:

A: \_\_\_\_\_

Name		Percentage	
Street	City	State	Zip Code
B:			
Name		Percentage	
Street	City	State	Zip Code
C:			
Name		Percentage	
Street	City	State	Zip Code

12. Officers, Directors, Shareholders holding in excess of 10% of issued Stock in incorporated business:

A:			
Name		Percentage	
Street	City	State	Zip Code
B:			
Name		Percentage	
Street	City	State	Zip Code
C:			
Name		Percentage	
Street	City	State	Zip Code

13. Indicate if any partnership or corporation other than applicant has any interest, direct or indirect, in the license applied for, or in the business conducted under such license. (If so, state names, addresses, and interest of the partnerships, corporations, and principals involved, indicating the nature and extent of the interest.)

- Not applicable  Applicable, provide details:

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14. Indicate if any individual, partnership or corporation other than applicant receives or will receive (by way of rent, salary, or otherwise) all or any portion of percentage of the gross or net profits or income derived from business conducted under license applied for:

- Not applicable  Applicable, provide details:

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15. Indicate if your company or parent company has ever been convicted of civil or criminal offences concerning waste transporting, processing, or disposal.

- No  Yes (Provide details: Use the back of this sheet or separate sheet if necessary)

16. Indicate if the applicant, any person mentioned in this application, or any person having a beneficial interest in the application has ever been denied a license to collect solid waste.

- Not applicable  Applicable, provide details:

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17. State general area served by applicant:

\_\_\_\_\_

\_\_\_\_\_

18. Indicate days of the week collections are made:

Mon  Tue  Wed  Thu  Fri  Sat  Sun

19. Daily average weight of Household solid waste collected: \_\_\_\_\_ Tons

20. Daily average weight of Municipal solid waste collected: \_\_\_\_\_ Tons

21. Daily average weight of Commercial/Industrial solid waste collected: \_\_\_\_\_ Tons

22. Indicate location(s) where solid waste is being or will be delivered:

Type of Waste	Location Delivered

Statement of experience in solid waste collection, transportation, and/or disposal:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

24. Consent to Inspections:

The applicant hereby agrees and consents to the inspection at any time or place, by any employee of the Delaware Solid Waste Authority who presents identification of his/her status as an employee of DSWA, of any vehicle owned or operated on behalf of the applicant which displays a license permit issued by DSWA. Unless otherwise prohibited by law, the applicant also hereby agrees and consents to the inspection, by any employee of DSWA, of any container used for the deposit of any material which the applicant may transport with a vehicle which displays a license permit issued by DSWA.

I HEREBY CERTIFY THAT THE INFORMATION PROVIDED HEREIN AND ATTACHED HERETO IS TRUE AND CORRECT AND THAT I HAVE READ AND AM FAMILIAR WITH THE REQUIREMENTS OF THE REGULATIONS OF THE DELAWARE SOLID WASTE AUTHORITY.

~~I SPECIFICALLY UNDERSTAND AND AGREE TO BE BOUND BY SECTION 4.04, IF APPLICABLE, WHICH REQUIRES CONTRACTORS WHO COLLECT OR HAUL SOLID WASTE PURSUANT TO A CONTRACT WITH A MUNICIPALITY (INCLUDING TOWNS, CITIES, COUNTIES, STATE AGENCIES, ETC.) TO DELIVER SUCH SOLID WASTE TO A DSWA FACILITY OF SUCH REGULATIONS.~~

\_\_\_\_\_

Date

Signature of Applicant

Title

\_\_\_\_\_

Printed or typed name of Applicant

STATE OF \_\_\_\_\_ COUNTY OF \_\_\_\_\_

Before me appeared \_\_\_\_\_, who under oath certifies that the information  
*Print Name*

provided in this application is true and correct.

Date

Notary Public

**ATTACHMENT B**

**TRANSFER STATION MONTHLY SOLID WASTE REPORT**

From: \_\_\_\_\_ Reporting Period: \_\_\_\_\_

To: Delaware Solid Waste Authority Date: \_\_\_\_\_

TYPE OF WASTE	TONS RECEIVED	TONS DISPOSED	DISPOSAL FACILITY	
			Tons	Location
<b>SOLID WASTE</b>				
a. Delaware			1.	
			2.	
			3.	
			4.	
b. Other			1.	
			2.	
			3.	
			4.	
TOTAL				
<b>INDUSTRIAL PROCESS WASTE</b>				
a. Delaware			1.	
			2.	
			3.	
			4.	
b. Other			1.	
			2.	
			3.	
			4.	
TOTAL				
<b>DRY WASTE</b>				
a. Delaware			1.	
			2.	
			3.	
			4.	

B. Other			1.	
			2.	
			3.	
			4.	
TOTAL				
GRAND TOTAL				



