

DELAWARE SOLID WASTE AUTHORITY

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

PROPOSED

502 Statewide Solid Waste Management Plan

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 Statewide Solid Waste Management Plan (adopted May 26, 1994).

Notice of Hearing: A public hearing will be held Wednesday, October 7, 2009, at 5:00 p.m., 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 address the purposes and impact of changes to DSWA regulations, proposed contemporaneously herewith, that will have the effect of requiring most solid waste generated in the State of Delaware to be delivered to a DSWA facility.

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 SSWMP, and the contemporaneous proposed amendments to the Regulations of the DSWA, 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.

502 Statewide Solid Waste Management Plan

(Break in Continuity of Sections)

CHAPTER III - CURRENT PROJECTS

(Break in Continuity of Sections)

C. STATEWIDE PROGRAMS

(Break in Continuity of Sections)

Statewide Disposal of Solid Waste at DSWA Facilities

In carrying out its broad statutory responsibilities to comprehensively manage solid waste on a statewide basis for the benefit of the people of the State of Delaware, the 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;

2. The acquisition, retrofitting and operation of a landfill gas processing plant at Cherry Island;

3. The design, construction and operation through contract with an out of state company, of a solid waste transfer station at Pine Tree Corners in New Castle County;

4. The design, construction and operation of a modern landfill at Sandtown to serve the needs of Kent County;

5. The design, construction and operation of a solid waste transfer station at Milford, Delaware;

6. The design, construction and operation of a modern landfill at Jones Crossroads to serve the needs of Sussex County;

7. The design, construction and operation of a solid waste transfer station at Route 5, Sussex County Delaware;

8. The operation of a source separated drop-off recycling program with 183 drop-off centers statewide;

9. The operation of a statewide single stream subscription curbside collection program for recyclables separated from municipal solid waste;

10. Special separation and recycling processes for electronics, tires, white goods, drywall, textiles, used oil, oil filters, construction and demolition wastes and yard wastes;

11. Public education and outreach programs, including school and community presentations, distribution of educational materials, participation in public events and other forms of public outreach;

12. Special collection and disposal of household hazardous wastes; and

13. Coordination and participation in waste management and recycling activities with state, county and municipal local and civic organizations throughout the state

In order to fund these comprehensive activities, DSWA charges user fees for the services it provides and borrows 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, and is expressly authorized, pursuant to 7 Del.C. §6406 (a)(31) to "control through regulation or otherwise, the collection, transportation, storage and disposal of solid waste, including the diversion of solid waste within specified geographic areas to facilities owned, operated or controlled by the Authority". Also, 7 Del.C. § 6422(b) authorizes DSWA, by rule or regulation, to "require the owners and occupants of all lands, buildings and premises [in Delaware] to use the services and facilities of the Authority under such rules and regulations as the Authority shall fix and establish."

User fees have been and will continue to be the basic source of revenue to fund DSWA operations and debt service. As noted, in order to assure a consistent and reliable revenue stream, the DSWA is entitled to adopt amendments to its regulations, implementing the provisions of 7 Del.C. §6406 (a)(31) and §6422(b), that require specified solid waste generated in Delaware to be delivered to a DSWA facility. Certain wastes that are not appropriate for landfill disposal would be excluded from any such amendments, including recyclables, hazardous waste, infectious waste, explosives, radioactive wastes and wastes not permitted to be disposed due to DNREC permit conditions. Additionally, dry waste collected in New Castle County would also be subject to exception due to the desire to conserve landfill space at the Cherry Island landfill. It would be difficult to site a new landfill in New Castle County under current requirements.

Beyond assuring a steady and consistent source of revenue, the DSWA has also determined that maximizing disposal of Delaware-generated solid waste in DSWA facilities will better assist DSWA in its efforts 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 that may become available in the future.

13 DE Reg. 333 (09/01/09) (Prop.)