

DELAWARE SOLID WASTE AUTHORITY

Statutory Authority: 7 Delaware Code, Section 6403 (7 **Del.C.** §6403)
1 **DE Admin. Code** 501

FINAL

ORDER AND DECISION

501 Regulations of the Delaware Solid Waste Authority

1. This is the Final Order and Decision of the Directors of the Delaware Solid Waste Authority (the "Authority") on proposed amendments (the "Amendments") to the Regulations of the Delaware Solid Waste Authority.

2. On June 1, 2013, the Authority caused to be published, in the Delaware *Register of Regulations*, notice of the proposed Amendments. The proposed Amendments were also the subject of publication in the *Delaware State News* on June 10, 2013.

3. In accordance with 7 **Del.C.** §6403(i), on Tuesday, July 2, 2013 a hearing was held before Michael W. Teichman, Esquire, the Authority's designated hearing officer. At the hearing, documents and sworn testimony were received into evidence.

4. The Authority issues this Final Order and Decision after a review of the documents and evidence admitted into the record at the hearing, as well as a careful review of the hearing officer's Proposed Order and Recommendations dated July 17, 2013.

Summary of Evidence, Findings of Fact and Conclusions of Law

5. The summary of evidence set forth in the hearing officer's Proposed Order and Recommendations accurately summarizes the documentary evidence and verbal testimony received into the record.

6. The findings of fact and conclusions of law in the Proposed Order and Recommendations appear well reasoned and amply supported by the summary of the evidence contained therein.

7. Accordingly, the summary of the evidence, findings of fact and conclusions of law set forth in the Proposed Order and Recommendations are incorporated by reference and adopted herein in their entirety as if fully set forth herein.

Decision

8. For the reasons set forth above, the Regulations of the Delaware Solid Waste Authority are amended in the form set forth in Exhibit A hereto.

SO ORDERED, this 25th Day of July, 2013.

Richard V. Pryor, Chairman

Ronald G. McCabe, Vice Chair

Gerard L. Esposito

Gregory Moore

Tonda L. Parks

Theodore W. Ryan

Timothy P. Sheldon

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 General 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.

"Companywide Policy" means a statement of policy or operating procedure adopted by a resolution of a company's board of directors or other governing body, which statement of policy or operating procedure shall be applicable uniformly to all industrial facilities owned or operated by such company (including any subsidiary thereof) without regard to whether such industrial facilities are located within or outside of the State of Delaware.

"Construction and Demolition Waste" means the nonhazardous component of dry waste comprised of discarded materials from construction, restoration and demolition activities and projects. In order to meet this definition, construction and demolition waste must be free of any commingled municipal solid waste or dry waste from other sources.

"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 material purported to be 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 resources recovery projects such as 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 Facility" means any land, and any building or other improvement thereon, which shall be maintained and utilized for the mechanical or chemical transformation of organic or inorganic substances into new products, characteristically using power-driven machines and materials handling equipment. The term "industrial facility" shall not include non-manufacturing business establishments, including hotels, restaurants, wholesale businesses, retail stores, warehouses, storage facilities, and health, social and educational institutions. Furthermore, the term "industrial facility" shall not include any land, and any building or other improvement thereon, that is primarily utilized for federal, state or local government activities.

"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.

"License" means the License to collect, transport and/or deliver Solid Waste in the State of Delaware, issued by DSWA in accordance with the provisions of Article 3.0 of these Regulations.

"License Stickers" 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.

"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 materials, ~~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.~~

"Recycling Center" means any solid waste management facility designed and operated by or on behalf of the DSWA for the purpose of receiving Recyclable Materials. This definition shall include drop off centers for recyclable Materials maintained throughout the State by DSWA, and shall also include the Delaware Recycling Center at Pigeon Point.

"Recyclable Materials" means ~~any~~ materials or groups of materials that can be and commonly are collected ~~or~~ and 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, at the source of generation, for the purpose of collection, disposition, or recycling or resources 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.

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

15 DE Reg. 637 (11/01/11)

3.0 Collection and Licensing

- 3.1 No person shall collect, transport, and/or deliver solid waste, or dry waste, except recyclable materials, in the State of Delaware without first having obtained a License, 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; 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 shall not be required to obtain a License.
 - 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 Stickers provided by DSWA which ~~is~~ shall remain the property of DSWA and subject to cancellation, suspension and/or revocation. The License Stickers 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 Stickers shall be not be placed on fuel or hydraulic tanks or reservoirs, or areas where the operation of mechanical parts would impair the visibility of the License Stickers;

- 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~~ [Reserved]
- 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~~ [Reserved]
- 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 Each Licensee shall pay all amounts due and owing to the DSWA for services at the time such services are rendered, unless such Licensee has a charge account established and in good standing in accordance with DSWA policy and procedure respecting charge account privileges.
- 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 weighstation 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 a charge 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 which has been revoked;
 - 3.19.4 holds or has held a License 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 has been revoked;

- 3.19.6 holds or has held an interest in any Licensee whose License 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 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, or 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.
 - 3.23.5 Any transfer, assignment or other arrangement whereby the customers or accounts of one Licensee are serviced by another Licensee. Such notice shall include the number and type (e.g., commercial, municipal, residential, industrial, etc.) of accounts or customers affected, and a description of the geographical location in which such accounts or customers are located.
- 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 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 CB).

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

15 DE Reg. 637 (11/01/11)

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, collected, or transported by any municipality, or by a person pursuant to an agreement with any municipality, 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 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 solid waste shall be disposed at a DSWA facility.

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, have an adverse effect on the DSWA facility, or the operation of the DSWA facility, or if an effective means of risk and cost allocation cannot be achieved.
- 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 subject to any limitations imposed by statute, regulation or permit conditions; or otherwise appropriate fee or user charge, provided that delivery of such solid waste is not otherwise proscribed by §4.2:

- 4.3.1 Yard waste, subject to any limitations imposed by statute, regulation or permit conditions; or otherwise 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 Non-hazardous waste resulting from emergency clean-up actions ~~of DNREC.~~
- 4.3.3 Any special solid waste allowed at a DSWA facility pursuant to Article VI of these regulations.
- 4.3.4 Asbestos.
- 4.3.5 Recyclable materials
- 4.3.6 Industrial solid waste
- 4.3.7 Agricultural waste generated on a farm
- 4.3.8 Tires
- 4.3.9 Construction and demolition waste generated and collected in New Castle County.
- 4.3.10 Waste materials collected from industrial facilities which have adopted and implemented a companywide policy requiring all waste materials generated at its industrial facilities to be disposed at waste to energy plants. In order for waste to qualify under this subsection 4.3.10, the Licensee transporting such waste must provide a written notification from the industrial facility to the DSWA stating: (i) the name and location of the industrial facility in Delaware; (ii) the industrial facility's companywide policy; (iii) the date and manner by which such companywide policy was adopted; and (iv) the name and location of the waste to energy plant to which the waste materials are being transported.

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

5.0 Use of DSWA Facilities by Persons Other Than Municipalities and Their Contractors

- 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.
- 6.6 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.

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

7.0 Operating in a DSWA Facility

- 7.1 All vehicles entering a DSWA facility to deliver solid waste, dry waste, construction and demolition 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 house 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 or~~ suspended. 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 problem 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 untarpping 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 properly remove all of the waste emptied from the solid waste collection vehicle at his expense. If that is not accomplished within four (4) hours (or the end of the facility business hours, whichever is greater) 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)

15 DE Reg. 637 (11/01/11)

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 resources recovery of ~~recyclable~~ materials in excess of 5 tons annually shall file with DSWA an annual registration statement in the form which appears as Attachment DC to these regulations. Such statement shall be filed no later than February 1 of each year.
- 8.2 At a ~~Recycle Delaware~~ Recycling Center, no person shall:
 - 8.2.1 dispose of solid waste or litter other than source separated recyclable materials or, to the extent appropriate, construction and demolition waste;
 - 8.2.2 leave materials outside of containers specifically designated for such materials;
 - 8.2.3 deposit into a container any material other than the specific source separated 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; or
 - 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. The collection and transportation of recyclable materials shall be subject to the requirements of subsections 8.3.1 through 8.3.3 below:~~
 - 8.3.1 Recyclable materials shall be source separated at the place of generation, including any materials collected under curbside recycling programs;
 - 8.3.2 Any Recyclable materials that are not delivered to a DSWA facility and that are in the possession of a Municipality (or any person under contract with such Municipality) or that are in the possession of a person required by contract with the DSWA to deliver solid waste to DSWA facilities, shall be delivered for processing only to a recycling facility that certifies as to its operations that: (i) the rate of recovery from recyclable materials is at least eighty percent (80%) by weight unless the waste is construction and

demolition waste, in which case the rate of recovery is at least sixty percent (60%) by weight; and (ii) materials recovered (i.e., not residue) must be recovered for reuse and not for disposal as solid waste. The foregoing certification shall be provided in the form attached hereto as Attachment D; and

8.3.3 The facility at which such recyclable materials are being handled or processed shall operate in full compliance with applicable federal, state and local laws, regulations, ordinances, permits, conditions or other requirements.

8.4 Waste residue resulting from recycling, resources recovery or beneficial use of Delaware solid waste and dry waste (including construction and demolition waste) which is generated from such activities conducted within the State of Delaware shall not be considered recyclable materials for purposes of this Regulation and the Delaware Code.

8.5 Solid waste and dry waste collected for purposes of incineration, waste to energy, or conversion to any type or form of waste derived fuel, in whole or in part shall not be treated as recyclable materials for purposes of this Regulation and the Delaware Code.

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 BE;

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 BE;

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.~~

10.21 Any person who violates a provision of these Regulations or a License condition shall be subject to the following sanctions:

10.21.1 If the violation has been ~~committed~~ completed, a civil penalty of not less than One Hundred (\$100) Dollars and not more than Five Thousand (\$5000) Dollars shall be assessed per violation pursuant to a civil action brought in the Delaware Court of Common Pleas;

10.1.2 For violations of §§ 6430 or 6431 pertaining to infectious waste, if the violation has been completed, a civil penalty of not less than One Thousand (\$1,000) Dollars and not more than Ten Thousand (\$10,000) Dollars shall be assessed per violation pursuant to a civil action brought in the Delaware Superior Court;

10.1.3 In the alternative, after notice and a hearing before the DSWA board of directors, DSWA may suspend or revoke a License, or DSWA may impose an administrative penalty of between Five Hundred (\$500) Dollars and Two Thousand Five Hundred (\$2,500) Dollars per violation;

10.2.1.4 If a violation resulting in sanctions under 10.1.1 through 10.1.3 continues for a number of days, each day of such violation shall be considered a separate completed violation;

10.2.3.1.5 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 in the Delaware Court of Chancery.

~~10.2.4 Any person holding a License 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 July 1, 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 and deemed complete 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:

Street

Area code - Phone number

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:

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:

15. Indicate if your company or parent company has ever been convicted of civil or criminal offenses 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:

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. Other solid waste collected: _____ Tons.

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

Type of Waste	Location Delivered

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

25. 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 Sticker 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 Sticker 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 4.01, 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.

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 CB

SOLID WASTE HAULER REPORT FOR WASTE GENERATED IN DELAWARE AND DELIVERED AND/OR DISPOSED
AT OTHER THAN DSWA FACILITY

From: _____ Reporting Period: _____
To: Delaware Solid Waste Authority Date: _____

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

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

CERTIFICATION I hereby certify that the above information is true and correct, to the best of my knowledge, this
day of _____, A.D. 20____.

Notary Public

Signature Owner's Representative

Notary Public Printed Name

Owners Representative Printed Name and Title:

ATTACHMENT D C

REGISTRATION STATEMENT – RECYCLING PROGRAM/FACILITIES

Name of Person or Entity (the Registrant):

Address and Phone Number of the Registrant:

Address(es) and Phone Number(s) of any and all recycling facilities located in the State of Delaware owned or operated by the Registrant:

Description of recycling activity engaged in by Registrant:

Annual Tons Recycled: _____

Annual Tons Disposed of as Residue: _____

I hereby represent that I am authorized to file this statement on behalf of the Registrant, and certify that the above information is true and correct to the best of my knowledge, this ____ day of _____, A.D. 20____.

Notary Public

Signature

Printed Name and Title

ATTACHMENT D
MATERIALS RECOVERY FACILITY
ANNUAL CERTIFICATION

I, [name], [title] of [name of MRF] (the "Facility") do hereby certify that I am a representative of the Facility authorized to provide the certifications provided herein; and I further certify as follows with respect to the operations of the Facility during the preceding 12 month period:

1. Did the Facility process recyclable materials other than construction and demolition waste?
YES _____ NO _____
2. Did the Facility achieve an average recovery rate of at least 80% by weight for such recyclable materials in each month during the period certified? YES _____ NO _____
3. Did the Facility process construction and demolition waste?
YES _____ NO _____
4. Did the Facility achieve an average recovery rate of at least 60% by weight for such construction and demolition waste in each month during the period certified?
YES _____ NO _____
5. Was the Facility in substantial and material compliance with all applicable federal, state and local laws?
YES _____ NO _____
6. The foregoing responses are true and correct to the best of my knowledge this _____ day of _____, 20_____.

Name
Title

Notary Public: _____
 My Commission Expires: _____

ATTACHMENT BE

TRANSFER STATION MONTHLY SOLID WASTE REPORT

Transfer Station Name: _____

Transfer Station Number: _____

Transfer Station Operator: _____

From: _____ Reporting Period:

To: Delaware Solid Waste Authority Date:

TYPE OF WASTE	TONS RECEIVED	TONS DISPOSED	DISPOSAL FACILITY	
			Tons Address	Location (Name and Address)
SOLID WASTE				
a. Delaware			1.	
			2.	
			3.	
			4.	
b. Other			1.	
			2.	
			3.	
			4.	
TOTAL				
SPECIAL SOLID WASTE				
a. Delaware			1.	
			2.	
			3.	
			4.	
b. Other			1.	
			2.	
			3.	
			4.	
TOTAL				
DRY WASTE				
a. Delaware			1.	
			2.	
			3.	
			4.	

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

CERTIFICATION I hereby certify that the above information is true and correct, to the best of my knowledge, this day of _____, A.D. 20_____.

Notary Public

Signature Owner's Representative

Notary Public Printed Name

Owners Representative Printed Name and Title:

12 DE Reg. 1192 (03/01/09)

15 DE Reg. 637 (11/01/11)

17 DE Reg. 313 (09/01/13)(Final)