

# ENROLLMENT(S)

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# **COUNCIL OF THE DISTRICT OF COLUMBIA**

## **NOTICE**

### **D.C. LAW 10- 251**

#### **"Solid Waste Facility Permit Temporary Act of 1994".**

Pursuant to Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act, P.L. 93-198 "the Act", the Council of the District of Columbia adopted Bill No. 10-835 on first and second readings, December 6, 1994 and January 3, 1995, respectively. Following the signature of the Mayor on January 18, 1995, pursuant to Section 404(e) of "the Act", and was assigned Act No. 10-398, and published in the January 27, 1995, edition of the D.C. Register (Vol. 42 page 520) and transmitted to Congress on February 7, 1995 for a 30-day review, in accordance with Section 602(c)(1) of the Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional Review Period has expired, and therefore, cites this enactment as D.C. Law 10-251, effective March 23, 1995.



DAVID A. CLARKE  
Chairman of the Council

#### Dates Counted During the 30-day Congressional Review Period:

Feb. 7,8,9,10,13,14,15,16,21,22,23,24,27,28

Mar. 1,2,3,6,7,8,9,10,13,14,15,16,17,20,21,22

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JANUARY 18, 1995

To prohibit, on a temporary basis, the operation of an open solid waste facility in the District of Columbia; to prohibit the construction, operation or substantial alteration of an otherwise lawful solid waste facility in the District of Columbia without a solid waste facility permit issued or modified by the Mayor; to establish application fees; to establish reporting requirements and a solid waste facility charge; to authorize inspections of solid waste facilities by the Mayor; to amend the Illegal Dumping Enforcement Act of 1994 and Chapter 3 of title 8 of the District of Columbia Health Regulations to conform with the provisions of this act; and to repeal Sections 502.11, 502.12, and 903.2 of Title 20 DCMR.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Solid Waste Facility Permit Temporary Act of 1994".

Note,  
Section  
6-3401

Sec. 2. Definitions.

For the purposes of this act, the term:

- (1) "Composting facility" means any location or structure which uses a microbial process to convert organic material, including either wood, paper, mulch, yard or food waste, into a soil amendment.
- (2) "Existing solid waste facility" means a solid waste facility in construction, including site preparation, or operation on the effective date of this act.
- (3) "Final disposal" means depositing or placing solid waste for its final location.
- (4) "Open solid waste facility" means any public or privately owned or operated solid waste disposal or solid waste handling facility where solid waste is stored or processed outside of a fully enclosed building or structure.
- (5) "Person" means any individual, partnership, corporation, trust, association, firm, joint stock company, organization, commission, District of Columbia and Federal governments, or any other entity.
- (6) "Recyclable material" means material which would otherwise become municipal solid waste, and that may be collected, separated or processed, and returned to the economic mainstream as a raw material or product.
- (7) "Recycling facility" means a facility which receives source separated recyclable material for separation, storage, conversion, baling

or processing prior to marketing for reuse, including a drop-off or buy-back facility, which produces no more than an average monthly 15% residue.

(8) "Residue" means the solid waste, as measured by weight, requiring disposal after recyclable material is removed during or after processing.

(9) "Solid waste" means garbage, refuse or any other waste product, including solid, semi-solid or liquid material resulting from commercial, industrial, or governmental operation or residential or community activity, but not including sludge resulting from a wastewater treatment process, or hazardous waste as that term is defined in section 3 of the Hazardous Waste Management Act of 1977, effective March 16, 1978 (D.C. Law 2-64; D.C. Code § 6-702).

(10) "Solid waste disposal facility" means any facility where solid waste is discharged, deposited, tipped, dumped or placed for final disposal, including incinerators, waste-to-energy facilities, rubble fills and landfills.

(11) "Solid waste facility" means any public or privately owned or operated solid waste disposal facility or solid waste handling facility.

(12) "Solid waste handling facility" means any facility where solid waste temporarily is deposited, or placed for processing, at any time prior to its final disposal at a solid waste disposal facility.

(13) "Solid waste transfer station" means a facility where solid waste is deposited prior to loading the solid waste into vehicles for transport to a solid waste disposal facility.

(14) "Source separated" means the end result when recyclable material is separated from solid waste at its point of origin for separate collection and processing.

(15) "Substantially alter" means to make any physical modification to a solid waste facility which increases or decreases the facility's maximum annual capacity, as indicated in the facility's solid waste facility permit, by more than 10% per year, or in any way alters or modifies the method by which the waste is processed or disposed or which increases the amount of any air pollutant emitted or which results in an emission of any air pollutant not previously emitted.

### Sec. 3. Open facilities prohibited.

It is unlawful to operate an open solid waste facility in the District of Columbia.

### Sec. 4. Permits required.

(a) It is unlawful to construct or operate a solid waste facility in the District of Columbia except in accordance with a solid waste facility permit issued for that facility by the Mayor.

(b)(1) An existing solid waste facility shall cease construction, including site preparation, or operation 60 days after the effective date of the Solid Waste Facility Permit Emergency Amendment Act of 1994, unless the Mayor has issued an interim operating permit for the facility pursuant to paragraph (2) of this subsection.

(2) The Mayor may issue an interim operating permit with terms and conditions of operation to an existing solid waste facility if the Mayor has received a completed solid waste facility permit application for that facility within 60 days of the effective date of the Solid Waste Facility

Permit Emergency Amendment Act of 1994 and the payment of an initial permit fee of \$15,000.

(3) An interim operating permit shall be valid until such time as a final disposition of the solid waste facility permit application has been made by the Mayor unless the final disposition of the application has not been made because of the failure of the applicant to furnish information reasonably required or requested in order to process the application.

(4) In addition to any other remedies available at law or equity, the Mayor may immediately suspend or revoke an interim operating permit, and order closure of the facility if the Mayor finds that the facility is operating in violation of: (a) its interim operating permit; or (b) health, safety, environmental, and zoning laws, rules and regulations, including such rules and regulations as may be issued by the Mayor pertaining to solid waste facilities operating under interim operating permits; or (c) if the facility is endangering human health, the public welfare, or the environment; or (d) failure of the applicant to furnish information reasonably required or requested in order to process the application.

(c) A solid waste facility shall not be substantially altered unless the Mayor has given prior approval to the alteration by issuing to the facility a modification of the facility's existing permit and payment of the modification application fee by the applicant.

(d) An existing solid waste facility while operating under an interim operating permit shall not be substantially altered except as expressly authorized by the Mayor.

(e) The Mayor may, in accordance with standards to be established by regulation, issue, renew, suspend, revoke, or deny a solid waste facility permit, and determine, vary or modify its terms and conditions. No solid waste facility permit shall be issued or renewed until the Mayor has determined that the proposed facility is operating or will operate in full compliance with environmental, health, safety, and zoning laws, rules, and regulations and that the proposed facility will not endanger human health, the public welfare, or the environment. A contrary determination shall allow the Mayor to order closure of an existing facility.

(f) Permits issued under subsection (e) of this section shall be valid for a period not to exceed 3 years from the date of issuance.

(g) Each permit issued under this section shall be limited to one site and one person and shall not be transferable to another site, facility or person.

(h) No permit shall be required under this section for:

(1) Recycling or composting facilities;

(2) Any existing facility which receives and processes construction and demolition material exclusively, pursuant to a valid certificate of occupancy obtained not less than 1 year immediately preceding the effective date of this act.

(3) Treatment, storage, or disposal facilities that have been issued a permit pursuant to the District of Columbia Hazardous Waste Management Act of 1977, effective March 16, 1978 (D.C. Law 2-64; D.C. Code § 6-701 *et seq.*);

(4) Solid waste facilities owned and operated by, or on behalf of, the District of Columbia;

(5) The temporary storage of sand, salt, milled asphalt, dirt, street sweepings, or other non-putrescible material resulting from a municipal operation; or

(6) The temporary storage of dirt, construction material or demolition material generated on site in conformance with a permit issued by the Department of Consumer and Regulatory Affairs.

(i) Nothing in this act shall relieve any person of the obligation to construct and operate a solid waste facility in full compliance with any applicable laws, rules or regulations, including those pertaining to nuisances, health, safety, environment, property values, and zoning.

Sec. 5. Application for permits.

(a) Applications for solid waste facility permits and permit modifications, shall be submitted to the Mayor in the form prescribed by regulation and shall include all information as the Mayor may reasonably require.

(b) The application fees for solid waste facilities shall be as follows:

(i) Initial permit -- \$15,000;

(ii) Renewal permit -- \$12,000; and

(iii) Modification permit for substantial alterations -- \$2,000.

(c) The payment under subsection (b)(i) of this section shall be waived if already paid pursuant to section 4(b)(2).

(d) The Mayor may by rulemaking revise the application fees as necessary to recover the administrative costs associated with the review of applications for solid waste facility permits and interim operating permits, the review of annual reports, the inspection of facilities and all other activities associated with the administration and enforcement of this act. Subject to the enactment of appropriations, solid waste facility application fees shall be used to offset the cost of reviewing and processing solid waste facility applications, and monitoring facility compliance with the requirements of this Act and the terms and conditions of the solid waste facility permit.

Sec. 6. Reporting requirements.

Owners and operators of solid waste facilities subject to the provisions of this act shall submit periodic reports to the Mayor at the times specified by regulation. The reports shall contain all information as the Mayor considers reasonably necessary to determine compliance with this act including origin of solid waste, the quantity and type of District and non-District solid waste received, separated and marketed, or transferred and sent to solid waste facilities, wherever located. Records necessary to comply with this reporting requirement shall be maintained in a central location at solid waste facilities for such period of time as the Mayor may prescribe. Failure to submit periodic reports or maintain records may result in the imposition of a \$25,000 fine, suspension or revocation of a solid waste facility permit, or both.

Sec. 7. Inspections.

The Mayor shall have the right to randomly and periodically inspect solid waste facilities located in the District of Columbia, and all records, documents, or data compilations contained therein, for the purpose of

ensuring compliance with this act. Inspections shall take place while the facility is in operation.

Sec. 8. Annual facility charge.

(a) In addition to the solid waste facility permit fee, the Mayor shall collect an annual solid waste facility charge from owners and operators of solid waste facilities. The charge shall be based upon the facility's maximum annual capacity, as indicated in the facility's interim operating permit or solid waste facility permit.

(b) The charge shall be determined by multiplying the facility's maximum annual capacity, as determined by the Mayor, and as indicated in the permit, by \$10 per ton. The initial payment shall be due on the effective date of a facility's interim or permanent permit, whichever is issued first. The annual facility charge shall be paid in two equal payments on June 30 and on December 30 of each year. The initial payment shall be prorated for the period between the permit issuance date and the next payment date.

(c) The Mayor may revise the solid waste facility charge as necessary to offset the cost of developing new and additional methods of solid waste management and to the fund recycling activities of the District.

(d) Failure to pay the solid waste facility charge within 10 calendar days of the due date shall result in the immediate suspension of the solid waste facility operating permit and closure of the facility until all charges due the District are paid in full, including payment of a penalty equal to 1% per month of the unpaid balance.

(e) Subject to the enactment of appropriations, revenues collected from the payment of the solid waste facility charge shall be used to fund recycling activities in accordance with section 16 of the District of Columbia Solid Waste Management and Multi-Material Recycling Act of 1988, effective March 16, 1989 (D.C. Law 7-226; D.C. Code § 6-3415).

Sec. 9. Rulemaking.

(a) The Mayor is authorized, in accordance with title 1 of the District of Columbia Administrative Procedures Act, approved October 21, 1968 (82 Stat. 1024; D.C. Code § 1-1501 *et seq.*), to adopt rules and regulations to implement the provisions of this act, including the establishment of:

(1) Solid waste facility permit requirements that include siting, construction, safety, environmental and operating performance standards for solid waste facilities;

(2) Permit terms and conditions;

(3) A schedule of fines for violations of this act, or the rules and regulations issued under its authority;

(4) Financial and other applicant disclosure forms;

(5) Bonding requirements, or other forms of commercial insurance, or such other mechanisms as the Mayor may deem appropriate;

(6) Procedures to ensure the prompt and safe removal of solid waste from a solid waste facility which has permanently ceased operation; and

(7) Procedures to assure that the facility will not have a negative impact on an adjoining residential or commercial building or areas.

(b) The Mayor is further authorized to amend or repeal any provision of chapter 3 of title 8 of the District of Columbia Health Regulations, issued June 29, 1971 (Reg. 71-21; 21 DCMR § 700 *et seq.*), to conform the chapter with, or to further the purposes of this act.

Sec. 10. Hearings.

Any person adversely affected by an action taken pursuant to the provisions of this act, or the rules and regulations issued under its authority, is entitled to a hearing before the Mayor upon filing with the Mayor, within 15 days of the date of such action, a written request for a hearing. Such hearing shall be held in accordance with section 109 of the District of Columbia Administrative Procedures Act, approved October 21, 1968 (82 Stat. 1024; D.C. Code § 1-1509).

Sec. 11. Remedies.

(a)(1) Whenever the Mayor has reason to believe that (i) there has been a violation of this act or of the rules and regulations issued under its authority, or (ii) a threat exists to human health, the public welfare, or the environment as the result of the construction, modification, or operation of a solid waste facility located within the District of Columbia, the Mayor may give written notice of the alleged violation or threat to the person responsible and order the person to take such corrective measures as the Mayor determines reasonable and necessary.

(2) If a person fails to comply with the notice within the time period stated in the notice, the Mayor may take corrective actions necessary to alleviate or terminate the violation or threat. The Mayor may assess a penalty against the person responsible equal to triple the costs of undertaking the corrective actions, or close the facility, or both.

(b) If the Mayor finds that any person is constructing or operating a solid waste facility in a manner which endangers human health, the public welfare, or the environment, or is operating a facility in violation of section 3 or section 4(b)(1), the Mayor may: (i) request the Corporation Counsel to commence appropriate civil action in the Superior Court of the District of Columbia to secure a temporary restraining order, a preliminary injunction, a permanent injunction, or other appropriate relief or (ii) issue a cease and desist order.

(c) The Mayor or any Court may impose civil fines, penalties, costs and fees as alternate sanctions for violations of this act, or the rules and regulations issued under its authority, pursuant to the Litter Control Administration Act of 1985, effective March 25, 1986 (D.C. Law 6-100; D.C. Code § 6-2901 *et seq.*) ("Litter Control Administration Act"). Adjudications of any infractions of this act shall be pursuant to the Litter Control Administration Act. For any violation, each day of the violation shall constitute a separate offense and the penalties prescribed shall apply separately to each separate offense.

Sec. 12. Section 7 of the District of Columbia Environmental Policy Act of 1989, effective October 18, 1989 (D.C. Law 8-36; D.C. Code § 6-986), is amended by adding a new subsection (a)(9) to read as follows:

"(9) Granting an interim operating permit to an existing solid waste facility pursuant to section 4(b) of the Solid Waste Facility Permit



Emergency Amendment Act of 1994 and section 4(b) of the Solid Waste Facility Permit Temporary Amendment Act of 1994."

Sec. 13. Section 3(a) of the Illegal Dumping Enforcement Act of 1994, effective May 20, 1994 (D.C. Law 10-117; D.C. Code § 6-2912 (a)), is amended by striking the phrase "authorized for the disposal of solid waste by the Mayor" and inserting in its place the phrase "a solid waste facility owned or operated by, or on behalf of, the District of Columbia, or is a solid waste facility which has obtained a solid waste facility permit from the Mayor."

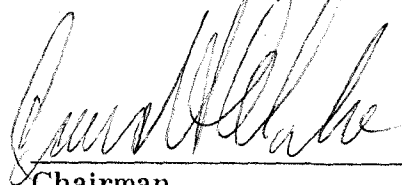
Sec. 14. Section 3 of the District of Columbia Air Pollution Control Act of 1984, effective March 15, 1985 (D.C. Law 5-165; 20 DCMR) is amended as follows:

- (a) 20 DCMR 502.11 and 502.12 are repealed.
- (b) 20 DCMR 903.2 is repealed.

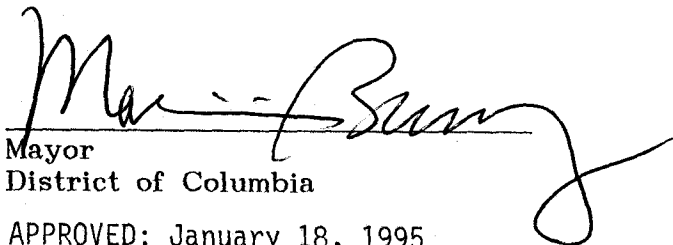
Sec. 15. Subsections 8-3:607 (c), (f), (g), (h) and (j) of Chapter 3 of title 8 of the District of Columbia Health Regulations, issued June 29, 1971 (Reg. 71-21; 21 DCMR §§ 713.2, 713.6 and 713.8 through 713.10, are repealed.

Sec. 16.(a) This act shall take effect after a 30-day period of Congressional review following approval by the Mayor (or in the event of veto by the Mayor, action by the Council of the District of Columbia to override the veto) as provided in section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 813; D.C. Code §1-233(c)(1)), and publication in either the District of Columbia Register, the District of Columbia Statutes-at-Large, or the District of Columbia Municipal Regulations.

(b) This act shall expire on the 225th day of its having taken effect or upon the effective date of the Solid Waste Facility Permit Amendment Act of 1995, whichever occurs first.



Chairman  
Council of the District of Columbia



Mayor  
District of Columbia

APPROVED: January 18, 1995



## COUNCIL OF THE DISTRICT OF COLUMBIA

COUNCIL PERIOD ELEVEN

## RECORD OF OFFICIAL COUNCIL VOTE

B10-835

Docket No. \_\_\_\_\_

( ) ITEM ON CONSENT CALENDAR

(X) ACTION &amp; DATE \_\_\_\_\_

Adopted First Reading, 12-6-94

(X) VOICE VOTE  
RECORDED VOTE ON REQUEST

Approved

ABSENT \_\_\_\_\_

Ray

( ) ROLL CALL VOTE - Result \_\_\_\_\_

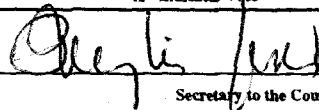
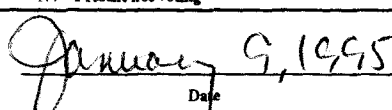
Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
CHMN. CLARKE					EVANS					RAY				
BARRY					JARVIS					SMITH, JR.				
BRAZIL					LIGHTFOOT					THOMAS, SR.				
CHAVOUS					MASON									
CROPP					NATHANSON									

X - Indicates Vote

AB - Absent

NV - Present not voting

CERTIFICATION RECORD

  
Secretary to the Council  
Date January 9, 1995

( ) ITEM ON CONSENT CALENDAR

(X) ACTION &amp; DATE \_\_\_\_\_

Adopted Final Reading, 1-3-95

(X) VOICE VOTE  
RECORDED VOTE ON REQUEST

Approved

ABSENT \_\_\_\_\_

Chavous and Jarvis

( ) ROLL CALL VOTE - Result \_\_\_\_\_

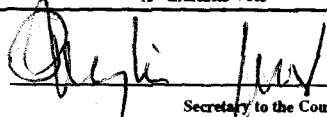
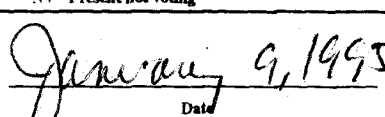
Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
CHMN. CLARKE					JARVIS					SMITH, JR.				
BRAZIL					LIGHTFOOT					THOMAS, SR.				
CHAVOUS					MASON									
CROPP					PATTERSON									
EVANS					RAY									

X - Indicates Vote

AB - Absent

NV - Present not voting

CERTIFICATION RECORD

  
Secretary to the Council  
Date January 9, 1995

( ) ITEM ON CONSENT CALENDAR

( ) ACTION &amp; DATE \_\_\_\_\_

( ) VOICE VOTE  
RECORDED VOTE ON REQUEST

ABSENT \_\_\_\_\_

( ) ROLL CALL VOTE - Result \_\_\_\_\_

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
CHMN. CLARKE					JARVIS					SMITH, JR.				
BRAZIL					LIGHTFOOT					THOMAS, SR.				
CHAVOUS					MASON									
CROPP					PATTERSON									
EVANS					RAY									

X - Indicates Vote

AB - Absent

NV - Present not voting

CERTIFICATION RECORD

Secretary to the Council

Date