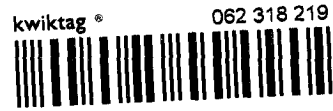


ENROLLMENT(S)



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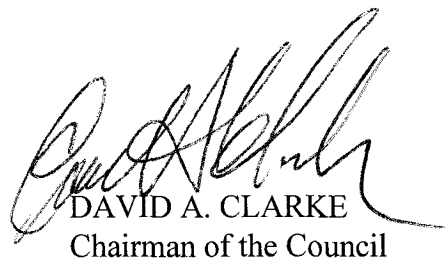
COUNCIL OF THE DISTRICT OF COLUMBIA

D.C. LAW 11-80

"Solid Waste Facility Permit Temporary Act of 1995".

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. 11-456 on first and second readings, October 10, 1995 and November 7, 1995 respectively. Following the signature of the Mayor on November 22, 1995, pursuant to Section 404(e) of "the Act", and was assigned Act No. 11-156 and published in the December 8, 1995, edition of the D.C. Register (Vol. 42 page 6739) and transmitted to Congress on December 5, 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 11-80, effective February 6, 1996.



DAVID A. CLARKE
Chairman of the Council

Dates Counted During the 30-day Congressional Review Period:

Dec.	5,6,7,8,11,12,13,14,15,18,19,20,21,22,27
Jan.	3,4,5,8,9,22,23,24,25,26,29,30
Feb.	1,2,5

ENROLLED ORIGINAL

AN ACT

D.C. ACT 11-156

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

NOVEMBER 22, 1995

*Codification
District of
Columbia
Code
1996 Supp.*

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 a solid waste facility in the District of Columbia without a solid waste facility permit issued or modified; to establish application fees for solid waste facility permit; to establish reporting requirements and a solid waste facility charge; to authorize inspections of solid waste facilities by the Mayor; to make conforming amendments to the Illegal Dumping Enforcement Act of 1994 and Chapter 3 of Title 8 of the District of Columbia Health Regulations; 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 1995".

*Note, Section
6-3423*

Sec. 2. Definitions.

For the purpose of this act, the term:

(1) "Composting facility" means any location or structure which uses a microbial process to convert organic material, including wood, paper, mulch, or yard or food waste into a soil amendment.

(2) "Construction and demolition wastes" means the waste building materials and rubble resulting from construction, remodeling, repair, and demolition operation on houses, commercial buildings, pavements, and other structures.

(3) "Existing solid waste facility" means a solid waste facility in construction, including site preparation, or operating on the effective date of the Solid Waste Facility Permit Temporary Act of 1994, effective March 23, 1995 (D.C. Law 10-251; 42 DCR 520) ("Temporary Act of 1994").

(4) "Final disposal" means depositing or placing solid waste at its final location.

(5) "Intermediate materials recycling facility" means a fully enclosed structure used for the receipt, separation, storage, conversion, baling, briquetting, crushing, compacting, grinding, shredding, or processing of paper, metal, glass, plastics, tires, bulk waste, or other nonbiodegradable recyclable materials for the purpose of reutilization of such materials. The

ENROLLED ORIGINAL

term "intermediate materials recycling facility" shall not include a facility used for the storage or processing of biodegradable materials, construction and demolition wastes, white goods, and hazardous substances, as defined in section 3 of the District of Columbia Environmental Policy Act of 1989, effective October 18, 1989 (D.C. Law 8-36; D.C. Code § 6-982(4)), and the rules and regulations pursuant thereto..

(6) "Open solid waste facility" means any 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.

(7) "Person" means any individual, partnership, corporation, trust, association, firm, joint stock company, organization, commission, or any other private entity.

(8) "Recyclable material" means material which would otherwise become solid waste, and that may be collected, separated, or processed, and returned to the economic mainstream as a raw material or product.

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

(10) "Solid waste" means garbage, refuse or any other waste product, including solid, liquid, semisolid, or contained gaseous material, resulting from commercial, industrial, or government operation, or residential or community activity.

(11) "Solid waste disposal facility" means any facility where solid waste is discharged, deposited, tipped, dumped or placed for final disposal, including an incinerator, waste-to-energy facility, rubble fill, or landfill.

(12) "Solid waste facility" means any privately owned or operated solid waste disposal facility or solid waste handling facility, which accepts solid waste that is not the incidental by-product of the facility's manufacturing or operational processes.

(13) "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.

(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 solid waste facility's maximum annual capacity, by more than 10% per year, as indicated in the solid waste facility's solid waste facility permit, 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 not previously emitted.

Sec. 3. Open solid waste facilities prohibited.

No person shall operate an open solid waste facility in the District.

Sec. 4. Permits required.

(a) No person shall construct or operate a solid waste facility in the District which accepts solid waste for a fee except in accordance with a solid waste facility permit issued for

ENROLLED ORIGINAL

that solid waste facility by the Mayor.

(b) (1) An existing solid waste facility shall cease construction, including site preparation or operation, by June 30, 1995, unless the Mayor has issued an interim operating permit for the facility pursuant to paragraph (2) of this subsection.

(2)(A) Except as provided in subparagraph (B) of this paragraph, the Mayor may issue an interim operating permit with terms and conditions of operation for an existing solid waste facility if the Mayor has received a completed solid waste facility permit application for that facility by June 30, 1995, and the payment of an initial permit fee of \$10,000.

(B) The Mayor may issue an interim operating permit with terms and conditions of operation for an existing solid waste facility that receives and processes construction and demolition waste exclusively if the Mayor has received a completed solid waste facility permit application for that facility by March 1, 1996, and the payment of an initial permit fee of \$10,000.

(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 solid waste facility if the Mayor finds that the facility is operating (i) in violation of its interim operating permit; (ii) in violation of 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; (iii) in a manner that endangers human health, the public welfare, or the environment; or (iv) after 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 for the alteration by issuing to the solid waste facility a modification of the solid waste 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)(1) The Mayor may issue a solid waste facility permit with terms and conditions of operation after the Mayor has received a completed solid waste facility permit application and made a final disposition of the solid waste facility permit application.

(2) 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 solid waste facility is operating, or will operate, in full compliance with environmental, health, safety, and zoning laws, rules, and regulations and that the solid waste 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.

ENROLLED ORIGINAL

(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 the following:

(1) An intermediate materials recycling facility which produces no more than an average monthly residue of 20%;

(2) A composting facility;

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

(4) The storage of hazardous waste as the term is defined in section 3(b) of the Hazardous Waste Management Act of 1977, effective March 16, 1978 (D.C. Law 2-64; D.C. Code § 6-702(2)).

(i) Nothing in this section 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, 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 permits to operate solid waste facilities shall be as follows:

(1) Initial permit -- \$10,000;

(2) Renewal permit -- \$9,000; and

(3) Modification permit for substantial alterations -- \$1,000.

(c) The payment under subsection (b)(1) of this section shall be waived if already paid pursuant to section 4(b)(2).

(d) If the Mayor denies the issuance of a solid waste facility permit pursuant to section 4(e), \$9,000 shall be refunded to the applicant.

(e) 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.

(a) 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 the Mayor considers reasonably necessary to determine compliance with

ENROLLED ORIGINAL

this act. Records necessary to comply with this reporting requirement shall be maintained in a central location at each solid waste facility for a period of time prescribed by the Mayor. The Mayor may provide, by rulemaking, that failure to submit periodic reports or maintain records may result in the imposition of a fine of up to \$25,000, suspension or revocation of a solid waste facility permit, or both.

(b) The information contained in the periodic reports and the application shall be considered proprietary and held confidential by the District.

Sec. 7 Inspections.

The Mayor shall have the right to randomly and periodically inspect any solid waste facility located in the District, and all records, documents, or data compilations retained by the solid waste facility, for the purpose of ensuring compliance with this act. Inspections shall generally take place while the solid waste facility is in operation.

Sec. 8 Solid waste facility charge.

(a) In addition to the solid waste facility application fee for permit, a person shall pay a solid waste facility charge for operating a solid waste facility in the District. The solid waste facility charge shall be based upon the actual tonnage of solid waste deposited at the solid waste facility, as indicated in the periodic report.

(b)(1) Except as provided in subsection (c) of this section, the solid waste facility charge shall be determined by multiplying the actual tonnage of solid waste deposited or placed at the solid waste facility by \$4 per ton. The person shall pay the annual facility charge in conjunction with the submittal of periodic reports required by section 6.

(2) If an applicant has already paid an annual solid waste facility charge of \$10 per ton under section 8(b) of the Temporary Act of 1994, the person may deduct from the first solid waste facility charge due after the effective date of the Solid Waste Facility Permit Emergency Act of 1995 (Act 11-144), an amount equal to \$6 per ton for any annual solid waste facility charge paid under Temporary Act of 1994.

(c) Any solid waste facility which receives and processes construction and demolition wastes exclusively shall pay a solid waste facility charge which shall be determined by multiplying the actual tonnage of construction and demolition material deposited or placed at the solid waste facility by \$2 per ton. The person shall pay the solid waste facility charge in conjunction with the submittal of periodic reports required by section 6.

(d) 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 fund recycling activities of the District.

(e) The Mayor shall suspend a solid waste facility operating permit and close the solid waste facility if the person fails to pay the solid waste facility charge within 10 calendar days of the due date. The Mayor shall keep the solid waste facility closed until all charges due the District are paid in full, including payment of a penalty equal to 1% per month for any unpaid balance.

ENROLLED ORIGINAL

(f) 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;
- (7) Procedures to assure that the facility will minimize any negative impacts on an adjoining residential or commercial building or areas; and
- (8) Application fees for permits and a solid waste facility charge.

(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, shall be entitled to a hearing before the Mayor upon filing with the Mayor, within 15 days of the date of the action, a written request for a hearing. The hearing shall be held in accordance with section 109 of the District of Columbia Administrative Procedure 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, 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.

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(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 this act, 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 Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Code § 6-2702 *et seq.*). Adjudications of any infractions of this act shall be pursuant to the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985. 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(a) of District of Columbia Environmental Policy Act of 1989, effective October 18, 1989 (D. C. Law 8-36; D.C. Code § 6-986(a)), is amended by adding a paragraph (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 Temporary Act of 1995."

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 the District of Columbia, or is a solid waste facility which has obtained a solid waste facility permit from the Mayor" in its place.

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. Section 8-3:607(c), (f), (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 713.6 and 713.8 through 713.10), is repealed.

Sec. 16. Budgetary Impact Statement

1. General Statement of Fiscal Impact

ENROLLED ORIGINAL

This legislation establishes several revenue sources related to the issuance of solid waste facility permits. The first revenue source is the issuance of a solid waste facility permit application fee, the second is the annual facility charge, and the third revenue source fines resulting from violations of permit conditions.

2. Expenditures needed to implement the measure

This legislation will require several new expenditures by the District government. Expenditures will be required to review and process solid waste facility permit applications. Expenditures will also be required to monitor the permitted solid waste facilities, including the review of periodic tonnage reports and to conduct solid waste facility inspections. This would include \$1,000 for initial permit review and processing, and \$9,000 for three years of solid waste facility inspections and record keeping. Assuming all nine existing facilities submit a solid waste facility permit application, approximately \$90,000 in expenses could be incurred on a 3-year basis.

3. Revenue sources

Revenues to administer this program will provide through the solid waste facility operating permit application fee. The legislation currently includes an application fee of \$10,000. assuming all nine existing solid waste facilities submit a facility permit application, approximately \$90,000 would be generated by the application fee. This would include \$1,000 for initial permit review and processing, and \$9,000 for three years of solid waste facility inspections and record keeping.

The legislation also includes an annual solid waste facility charge of \$4 per ton of permitted solid waste disposed. The District government estimates that approximately 25,000 tons of District general commercial solid waste will be handled at these private solid waste facilities, resulting in approximately \$1.0 million in revenues per year.

4. Appropriations available to finance the program

No Appropriated funds are available to administer this program. Funding to operate the solid waste facility permit program must be generated by the permit application fee

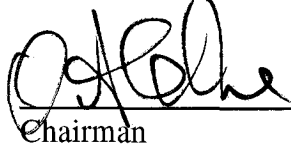
5. Conclusion

This legislation will result in a positive fiscal impact over the next 4 years.

Sec. 17. (a) This act shall take effect 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) approval by the Financial Responsibility and Management Assistance Authority as provided in section 203(a) of the District of Columbia Financial Responsibility and Management Assistance Authority Act of 1995, approved April 17, 1985 (109 Stat. 116; D.C. Code § 47-392.3(c), and a 30-day period of Congressional review 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 § 1-223(c)(1)), and publication in the District of Columbia Register.

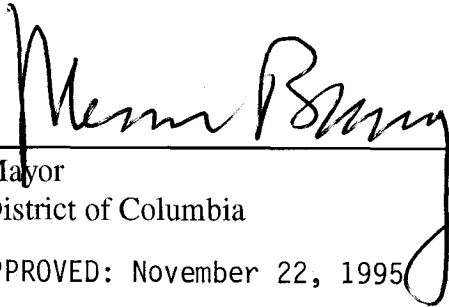
ENROLLED ORIGINAL

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



Chairman

Council of the District of Columbia



Mayor

District of Columbia

APPROVED: November 22, 1995



COUNCIL OF THE DISTRICT OF COLUMBIA

COUNCIL PERIOD ELEVEN

RECORD OF OFFICIAL COUNCIL VOTE

Docket No.

B11-456

☐ ITEM ON CONSENT CALENDAR☒ ACTION & DATE

ADOPTED FIRST READING, 10-10-95

☒ VOICE VOTE
RECORDED VOTE ON REQUEST

APPROVED

ABSENT

BRAZIL, CROPP AND RAY

☐ 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					Whittington				
Cropp					Patterson									
Evans					Ray									

X - Indicates Vote

AB - Absent

NV - Present not Voting

CERTIFICATION RECORD

Angela [Signature]
Secretary to the Council

November 9, 1995
Date

☒ ITEM ON CONSENT CALENDAR☒ ACTION & DATE

ADOPTED FINAL READING, 11-7-95

☒ VOICE VOTE
RECORDED VOTE ON REQUEST

APPROVED

ABSENT

SMITH

☐ 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					Whittington				
Cropp					Patterson									
Evans					Ray									

X-indicates no

AB-Absent

NV-Present not voting

CERTIFICATION RECORD

Angela [Signature]
Secretary to the Council

November 9, 1995
Date

☐ ITEM ON CONSENT CALENDAR☐ ACTION & 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					Whittington				
Cropp					Patterson									
Evans					Ray									

X - Indicates Vote

AB - Absent

NV - Present not Voting

CERTIFICATION RECORD

Secretary to the Council

Date

ENROLLED ORIGINAL

AN ACT

*Codification
District of
Columbia
Code
1996 Supp.*

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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 a solid waste facility in the District of Columbia without a solid waste facility permit issued or modified; to establish application fees for solid waste facility permit; to establish reporting requirements and a solid waste facility charge; to authorize inspections of solid waste facilities by the Mayor; to make conforming amendments to the Illegal Dumping Enforcement Act of 1994 and Chapter 3 of Title 8 of the District of Columbia Health Regulations; 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 1995".

*Note, Section
6-3423*

Sec. 2. Definitions.

For the purpose of this act, the term:

- (1) "Composting facility" means any location or structure which uses a microbial process to convert organic material, including wood, paper, mulch, or yard or food waste into a soil amendment.
- (2) "Construction and demolition wastes" means the waste building materials and rubble resulting from construction, remodeling, repair, and demolition operation on houses, commercial buildings, pavements, and other structures.
- (3) "Existing solid waste facility" means a solid waste facility in construction, including site preparation, or operating on the effective date of the Solid Waste Facility Permit Temporary Act of 1994, effective March 23, 1995 (D.C. Law 10-251; 42 DCR 520) ("Temporary Act of 1994").
- (4) "Final disposal" means depositing or placing solid waste at its final location.
- (5) "Intermediate materials recycling facility" means a fully enclosed structure used for the receipt, separation, storage, conversion, baling, briquetting, crushing, compacting, grinding, shredding, or processing of paper, metal, glass, plastics, tires, bulk waste, or other nonbiodegradable recyclable materials for the purpose of reutilization of such materials. The

ENROLLED ORIGINAL

term "intermediate materials recycling facility" shall not include a facility used for the storage or processing of biodegradable materials, construction and demolition wastes, white goods, and hazardous substances, as defined in section 3 of the District of Columbia Environmental Policy Act of 1989, effective October 18, 1989 (D.C. Law 8-36; D.C. Code § 6-982(4)), and the rules and regulations pursuant thereto..

(6) "Open solid waste facility" means any 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.

(7) "Person" means any individual, partnership, corporation, trust, association, firm, joint stock company, organization, commission, or any other private entity.

(8) "Recyclable material" means material which would otherwise become solid waste, and that may be collected, separated, or processed, and returned to the economic mainstream as a raw material or product.

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

(10) "Solid waste" means garbage, refuse or any other waste product, including solid, liquid, semisolid, or contained gaseous material, resulting from commercial, industrial, or government operation, or residential or community activity.

(11) "Solid waste disposal facility" means any facility where solid waste is discharged, deposited, tipped, dumped or placed for final disposal, including an incinerator, waste-to-energy facility, rubble fill, or landfill.

(12) "Solid waste facility" means any privately owned or operated solid waste disposal facility or solid waste handling facility, which accepts solid waste that is not the incidental by-product of the facility's manufacturing or operational processes.

(13) "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.

(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 solid waste facility's maximum annual capacity, by more than 10% per year, as indicated in the solid waste facility's solid waste facility permit, 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 not previously emitted.

Sec. 3. Open solid waste facilities prohibited.

No person shall operate an open solid waste facility in the District.

Sec. 4. Permits required.

(a) No person shall construct or operate a solid waste facility in the District which accepts solid waste for a fee except in accordance with a solid waste facility permit issued for

ENROLLED ORIGINAL

that solid waste facility by the Mayor.

(b) (1) An existing solid waste facility shall cease construction, including site preparation or operation, by June 30, 1995, unless the Mayor has issued an interim operating permit for the facility pursuant to paragraph (2) of this subsection.

(2)(A) Except as provided in subparagraph (B) of this paragraph, the Mayor may issue an interim operating permit with terms and conditions of operation for an existing solid waste facility if the Mayor has received a completed solid waste facility permit application for that facility by June 30, 1995, and the payment of an initial permit fee of \$10,000.

(B) The Mayor may issue an interim operating permit with terms and conditions of operation for an existing solid waste facility that receives and processes construction and demolition waste exclusively if the Mayor has received a completed solid waste facility permit application for that facility by March 1, 1996, and the payment of an initial permit fee of \$10,000.

(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 solid waste facility if the Mayor finds that the facility is operating (i) in violation of its interim operating permit; (ii) in violation of 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; (iii) in a manner that endangers human health, the public welfare, or the environment; or (iv) after 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 for the alteration by issuing to the solid waste facility a modification of the solid waste 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)(1) The Mayor may issue a solid waste facility permit with terms and conditions of operation after the Mayor has received a completed solid waste facility permit application and made a final disposition of the solid waste facility permit application.

(2) 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 solid waste facility is operating, or will operate, in full compliance with environmental, health, safety, and zoning laws, rules, and regulations and that the solid waste 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.

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(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 the following:

(1) An intermediate materials recycling facility which produces no more than an average monthly residue of 20%;

(2) A composting facility;

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

(4) The storage of hazardous waste as the term is defined in section 3(b) of the Hazardous Waste Management Act of 1977, effective March 16, 1978 (D.C. Law 2-64; D.C. Code § 6-702(2)).

(i) Nothing in this section 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, 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 reasonable require.

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

(1) Initial permit -- \$10,000;

(2) Renewal permit -- \$9,000; and

(3) Modification permit for substantial alterations -- \$1,000.

(c) The payment under subsection (b)(1) of this section shall be waived if already paid pursuant to section 4(b)(2).

(d) If the Mayor denies the issuance of a solid waste facility permit pursuant to section 4(e), \$9,000 shall be refunded to the applicant.

(e) 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.

(a) 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 the Mayor considers reasonably necessary to determine compliance with

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this act. Records necessary to comply with this reporting requirement shall be maintained in a central location at each solid waste facility for a period of time prescribed by the Mayor. The Mayor may provide, by rulemaking, that failure to submit periodic reports or maintain records may result in the imposition of a fine of up to \$25,000, suspension or revocation of a solid waste facility permit, or both.

(b) The information contained in the periodic reports and the application shall be considered proprietary and held confidential by the District.

Sec. 7 Inspections.

The Mayor shall have the right to randomly and periodically inspect any solid waste facility located in the District, and all records, documents, or data compilations retained by the solid waste facility, for the purpose of ensuring compliance with this act. Inspections shall generally take place while the solid waste facility is in operation.

Sec. 8 Solid waste facility charge.

(a) In addition to the solid waste facility application fee for permit, a person shall pay a solid waste facility charge for operating a solid waste facility in the District. The solid waste facility charge shall be based upon the actual tonnage of solid waste deposited at the solid waste facility, as indicated in the periodic report.

(b)(1) Except as provided in subsection (c) of this section, the solid waste facility charge shall be determined by multiplying the actual tonnage of solid waste deposited or placed at the solid waste facility by \$4 per ton. The person shall pay the annual facility charge in conjunction with the submittal of periodic reports required by section 6.

(2) If an applicant has already paid an annual solid waste facility charge of \$10 per ton under section 8(b) of the Temporary Act of 1994, the person may deduct from the first solid waste facility charge due after the effective date of the Solid Waste Facility Permit Emergency Act of 1995 (Act 11-144), an amount equal to \$6 per ton for any annual solid waste facility charge paid under Temporary Act of 1994.

(c) Any solid waste facility which receives and processes construction and demolition wastes exclusively shall pay a solid waste facility charge which shall be determined by multiplying the actual tonnage of construction and demolition material deposited or placed at the solid waste facility by \$2 per ton. The person shall pay the solid waste facility charge in conjunction with the submittal of periodic reports required by section 6.

(d) 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 fund recycling activities of the District.

(e) The Mayor shall suspend a solid waste facility operating permit and close the solid waste facility if the person fails to pay the solid waste facility charge within 10 calendar days of the due date. The Mayor shall keep the solid waste facility closed until all charges due the District are paid in full, including payment of a penalty equal to 1% per month for any unpaid balance.

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(f) 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;
- (7) Procedures to assure that the facility will minimize any negative impacts on an adjoining residential or commercial building or areas; and
- (8) Application fees for permits and a solid waste facility charge.

(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, shall be entitled to a hearing before the Mayor upon filing with the Mayor, within 15 days of the date of the action, a written request for a hearing. The hearing shall be held in accordance with section 109 of the District of Columbia Administrative Procedure 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, 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.

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(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 this act, 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 Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Code § 6-2702 *et seq.*). Adjudications of any infractions of this act shall be pursuant to the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985. 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(a) of District of Columbia Environmental Policy Act of 1989, effective October 18, 1989 (D. C. Law 8-36; D.C. Code § 6-986(a)), is amended by adding a paragraph (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 Temporary Act of 1995."

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 the District of Columbia, or is a solid waste facility which has obtained a solid waste facility permit from the Mayor" in its place.

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. Section 8-3:607(c), (f), (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 713.6 and 713.8 through 713.10), is repealed.

- Sec. 16. Budgetary Impact Statement
- 1. General Statement of Fiscal Impact

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This legislation establishes several revenue sources related to the issuance of solid waste facility permits. The first revenue source is the issuance of a solid waste facility permit application fee, the second is the annual facility charge, and the third revenue source fines resulting from violations of permit conditions.

2. Expenditures needed to implement the measure

This legislation will require several new expenditures by the District government. Expenditures will be required to review and process solid waste facility permit applications. Expenditures will also be required to monitor the permitted solid waste facilities, including the review of periodic tonnage reports and to conduct solid waste facility inspections. This would include \$1,000 for initial permit review and processing, and \$9,000 for three years of solid waste facility inspections and record keeping. Assuming all nine existing facilities submit a solid waste facility permit application, approximately \$90,000 in expenses could be incurred on a 3-year basis.

3. Revenue sources

Revenues to administer this program will provide through the solid waste facility operating permit application fee. The legislation currently includes an application fee of \$10,000. assuming all nine existing solid waste facilities submit a facility permit application, approximately \$90,000 would be generated by the application fee. This would include \$1,000 for initial permit review and processing, and \$9,000 for three years of solid waste facility inspections and record keeping.

The legislation also includes an annual solid waste facility charge of \$4 per ton of permitted solid waste disposed. The District government estimates that approximately 25,000 tons of District general commercial solid waste will be handled at these private solid waste facilities, resulting in approximately \$1.0 million in revenues per year.

4. Appropriations available to finance the program

No Appropriated funds are available to administer this program. Funding to operate the solid waste facility permit program must be generated by the permit application fee

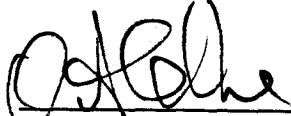
5. Conclusion

This legislation will result in a positive fiscal impact over the next 4 years.

Sec. 17. (a) This act shall take effect 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) approval by the Financial Responsibility and Management Assistance Authority as provided in section 203(a) of the District of Columbia Financial Responsibility and Management Assistance Authority Act of 1995, approved April 17, 1985 (109 Stat. 116; D.C. Code § 47-392.3(c), and a 30-day period of Congressional review 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 §1-223(c)(1)), and publication in the District of Columbia Register.

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



Chairman

Council of the District of Columbia

Mayor

District of Columbia



COUNCIL OF THE DISTRICT OF COLUMBIA

COUNCIL PERIOD ELEVEN

RECORD OF OFFICIAL COUNCIL VOTE

Docket No.

B11-456

☐ ITEM ON CONSENT CALENDAR☒ ACTION & DATE

ADOPTED FIRST READING, 10-10-95

☒ VOICE VOTE

APPROVED

☒ RECORDED VOTE ON REQUEST

ABSENT

BRAZIL, CROPP AND RAY

☐ 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					Whittington				
Cropp					Patterson									
Evans					Ray									

X - Indicates Vote

AB - Absent

NV - Present not Voting

CERTIFICATION RECORD

[Signature]
Secretary to the Council

November 9, 1995
Date

☒ ITEM ON CONSENT CALENDAR☒ ACTION & DATE

ADOPTED FINAL READING, 11-7-95

☒ VOICE VOTE

APPROVED

☒ RECORDED VOTE ON REQUEST

ABSENT

SMITH

☐ 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					Whittington				
Cropp					Patterson									
Evans					Ray									

X-indicates no

AB-Absent

NV-Present not voting

CERTIFICATION RECORD

[Signature]
Secretary to the Council

November 9, 1995
Date

☐ ITEM ON CONSENT CALENDAR☐ ACTION & 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					Whittington				
Cropp					Patterson									
Evans					Ray									

X - Indicates Vote

AB - Absent

NV - Present not Voting

CERTIFICATION RECORD

Secretary to the Council

Date