

HART COUNTY SOLID WASTE MANAGEMENT DISTRICT
SOLID WASTE REGULATION

A REGULATION RELATING TO THE APPROVAL AND LICENSING OF OWNERS/
OPERATORS, SITES AND FACILITIES FOR SOLID WASTE MANAGEMENT.

SUMMARY

A Regulation establishing criteria for licensing of owners and operators of solid waste management facilities and the approval of sites and facilities for solid waste disposal.

PREAMBLE

The Hart County Solid Waste Management District, by the passage of this regulation has determined that such is necessary to abate a potential public nuisance; to enhance and protect the public health; to conserve, enhance and preserve the natural resources of the county; to regulate commerce for the protection and convenience of the public; to assure adequate capacity for proper management of solid waste consistent with protection of the public health; safety and general welfare; and to encourage waste reduction; and to protect and enhance the social and economic development of Hart County all consistent with the Hart County Solid Waste Plan and subsequent revisions and amendments.

The District has determined that the regulation of solid waste management activities and facilities in this county is required for the protection of the health, welfare and safety of the citizens of Hart County, and that this regulation is consistent with state statutes. If any standard set forth in this regulation is for any reason deemed more stringent than any existing state standard, the District has determined that such stringency is required because of the karst geology of the county, its rural and agricultural environment, and the serious concerns raised by the nature and potential effect of all forms of hazardous waste and solid waste management facilities on the District's groundwater.

Further, the purpose of this regulation is to establish criteria and standards for the assessment of the social, economic, human health, public safety and natural resources effects of the management of solid waste within the District and the siting of solid waste management facilities therein. Further, to establish the criteria and procedure for obtaining District approval of a solid waste management facility site and annual license prior to the commencement of the operation of the facility.

BE IT ORDAINED BY THE HART COUNTY SOLID WASTE MANAGEMENT DISTRICT AS FOLLOWS:

SECTION 1.1 DEFINITIONS:

(1) CLOSURE: means the time at which a waste treatment, storage or disposal facility permanently ceases to accept wastes, and includes those actions taken by the owner or operator of the facility to prepare the site for post-closure monitoring and maintenance or to make it suitable for other uses.

(2) CABINET: means the natural resources and environmental protection cabinet.

(3) DISPOSAL: means the discharge, deposit, injection, dumping, throwing, spilling, leaking or placing of any waste into or on any land or water;

(4) PERSON: means an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, federal agency, state agency, city, commission, political subdivision of the Commonwealth, or any interstate body.

(5) POST-CLOSURE MONITORING AND MAINTENANCE: means the routine care, maintenance and monitoring of a solid waste or hazardous waste treatment, storage or disposal facility following closure of the facility.

(6) SOLID WASTE MANAGEMENT SITE: means any place where waste is dumped, managed, stored, processed or disposed of by incineration, landfilling or any other method and shall include transfer stations.

(7) STORAGE: means the containment of wastes, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal of such wastes.

(8) SOLID WASTE:

(a) Solid Waste means any garbage, refuse, sludge and other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining (excluding coal mining wastes, coal mining by-products, refuse and overburden) and from community activities, but does not include solid or dissolved material in irrigation return flows or industrial discharges which are point sources subject to permits under Section 402 of the federal Water Pollution Control Act, as amended (86 Stat. 880), or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923).

(9) HAZARDOUS WASTE: means any discarded material or material intended to be discarded or substance or combination of such substances intended to be discarded, in any form which because of its quantity, concentration or physical, chemical or infectious characteristics may cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed.

(10) MANIFEST: means the form used for identifying the quantity, composition, and the origin, routing and destination of limited quantity generator hazardous waste during its transportation from the point of generation to the point of disposal, treatment, or storage.

(11) SOLID WASTE MANAGEMENT: means the administration of solid waste activities: collection, source separation, storage, transportation, transfer, processing, treatment and disposal.

(12) SOLID WASTE MANAGEMENT FACILITY: means any resource recovery system or component thereof, any system, program or facility for resource conservation, and any facility for collection, source separation, storage, transportation, transfer, processing, treatment or disposal of solid waste, whether such facility is associated with facilities generating such wastes or otherwise.

SECTION 2.1 APPLICABILITY

This Regulation shall not apply to any person who has, on the effective date hereof, and issued by the Kentucky Natural Resources and Environmental Protection Cabinet, a valid, unrevoked permit to operate a solid waste management facility in the District.

Any person operating a facility in the district pursuant to a permit by rule, shall within ninety (90) days of the effective date hereof, demonstrate to the District, compliance with the Environmental Performance Standards contained in 401 KAR 47:030.

Owners and/or operators of unpermitted solid waste management sites and/or facilities, including illegal garbage dumps, in existence on the effective date of this regulation shall have ninety (90) days from that date to:

- (1) Comply with this regulation including Section Three. During the application period, no additional solid waste shall be disposed of at the site. The application period shall begin on the effective date of this regulation and end with the District's final determination, or
- (2) Cease operations and remove all solid waste from the site to a permitted solid waste management site and commence reclamation procedures, if any, required by law.
- (3) If the owner/operator's application is denied, compliance with (2) above shall be required within ninety (90) days of the District's denial.

SECTION 3: SOLID WASTE MANAGEMENT SITES AND FACILITIES

3.1 Prohibition:

It shall be unlawful for any person to operate a solid waste management site or facility within the boundaries of the district until:

(A) The owner/operator, site and facility has been approved by the District and a license issued pursuant to this regulation, and

(B) The owner/operator, site and facility has been approved and a permit to operate has been issued by the Kentucky Natural Resources and Environmental Protection Cabinet.

(C) No person shall dispose of any of the following types of waste in the District:

(1) Hazardous waste

(2) Untreated infectious hospital waste

(3) Radioactive waste of any kind including low level radioactive waste deemed below Nuclear Regulatory Commission concern.

(4) Limited quantity generator hazardous waste. If this prohibition is found to be unenforceable, the licensee shall manifest such waste separate from all other types of waste and shall submit to the District true and correct copies of all manifest documents from point of generation to disposal. Disposal shall not occur until all documents have been approved by the District.

3.2 Site and License Approval Process:

(A) The owner and/or operator (owner/operator) of the site and/or proposed facility shall file an application for owner/operator, site and facility approval with the District at the office of the County

Judge Executive. If the proposed owner and operator are different people or entities, both shall provide the information required herein.

(B) The application for site approval shall include:

(1) The name and address of the owner/operator and the street address, if any, of the proposed site for the facility;

(2) A copy of the deed or other document establishing the right, title and interest of the owner/operator in the proposed site of the facility;

(3) A current USGS map showing the location of the proposed site, at a scale of one (1) inch equals two thousand (2,000) feet, with said map showing the entire boundaries of the site or proposed site;

(4) A description of the type of solid waste and the source of generation of the solid waste involved in the solid waste activity to be conducted on the site, together with a detailed description of the technology and the procedures the owner/operator proposes to utilize in each phase of its solid waste management activities at the site. Source of generation data shall include the:

- (a) Number of counties in the generation area,
- (b) Population and number of households in each,
- (c) Number of proposed business customers by category (service, commercial, light industry, heavy industry),
- (d) Number of limited quantity hazardous waste producers and anticipated volume from each,
- (e) Number of tons and cubic yards per day applicant intends to dispose of at the site broken down by household and business categories.

(5) Applicant shall describe in detail all resource recovery activities it will use to reduce the waste stream flowing to the proposed site. This description shall include the type of equipment used, the quantity per day to be recovered, the ultimate destination of the material to be recovered, how long recovered material will remain on the site and method of storage prior to shipment.

(6) A complete history of the owner/operator's prior experience in the ownership and/or operation of any and all solid waste sites or facilities, wherever situated. The description shall include a record of compliance with Federal, State and local laws and regulations applicable to the operation of solid waste management facilities; and with respect to the owner/operator, such description shall disclose:

(a) Any administrative (including license suspension or revocation), criminal or civil action which have been filed against it, him or her, alleging a violation of any Federal, State or local law or regulation concerning solid waste, the protection of human health and safety, or the environment. Applicant shall state the authority exercising jurisdiction over applicant, the date of filing of action, case or docket number and disposition and date thereof.

(b) Whether the owner/operator has been convicted of a crime, entered a plea of guilty, a plea of NOLO Contendere or such other plea of no contest to felony or misdemeanor charge, been held liable in a civil or administrative action, or agreed to the payment of any civil penalties or monies as a part of the final disposition of any civil, administrative or criminal proceeding, involving the violation of any Federal, State or local law or regulation applicable to the management of solid waste and the protection of human health and the safety of the environment;

(7) The application for site approval shall identify the following persons and entities, and provide the compliance information required by Subsection (B) (6) of this Section (2.2) for each person or entity so identified:

(a) If the owner/operator is a proprietorship, each proprietor and the interest held;

(b) If the owner/operator is a partnership, each of the partners and their respective interest, and any corporation, joint venture or partnership in which any of the partners of the applicant owner/operator holds a five (5%) percent or greater interest;

(c) If the owner/operator is a corporation, a list of the names, addresses and social security numbers of the officers, directors and any stockholders holding five (5%) percent or more stock in the corporation; any corporation which holds any interest in the applicant; any corporation in which the applicant holds an interest; and any proprietorship, partnership, or joint venture in which the applicant holds a five (5%) percent or greater interest.

For purposes of this section "interest" means ownership, including beneficial legal or equitable interest in stocks, assets, oral and written contracts and trust agreements as well as a security interest if any of the above.

(d) The names, addresses and social security numbers of all individuals employed by the applicant in a supervisory capacity or empowered to make discretionary decisions with respect to the solid waste or hazardous waste disposal at the site.

(e) Any individual required to be listed in the application shall be fingerprinted for identification and investigation purposes in accordance with procedures established by the Sheriff of Hart County, Kentucky.

(8) Financial data including:

(a) An estimate of the total cost of the facility and an estimate of the cost of each of the major components of the facility.

(b) Audited statements of income and balance sheets of the owner and operator for each of the three (3) years immediately preceding the year in which the application for site approval is filed. If applicant is granted a license it shall submit quarterly financial statements and audited financial statements with balance sheet within thirty (30) days of fiscal year end.

(c) A plan of financing for the proposed facility, including the amount to be raised through debt and the potential sources thereof. If the owner/operator is a subsidiary corporation which wishes to have the financial resources of its parent considered, then the owner/operator shall submit, in addition to the foregoing, a description of the relation between the subsidiary and the parent and written confirmation from such parent corporation that its financial resources are available to finance the proposed facility as represented by the subsidiary.

(d) A statement showing evidence of a minimum of \$5,000,000 liability insurance coverage or other form of security acceptable to the District in effect or proposed with respect to the site and facility, together with true copies of any policies of insurance in effect and a listing of any claims made or threatened under any policies of liability insurance in which applicant is an insured. The insurance policy shall have a maximum deductible of \$2,500 per occurrence and shall insure against all reasonably foresable risks including ground water contamination. The District reserves the right to require increases in the limits of liability insurance upon thirty (30) days notice to applicant. All policies shall reflect that the District, c/o the Hart County Judge Executive's office shall be notified of any attempt to cancel or modify the policy provisions.

(e) A statement as to whether the owner/operator has been designated as a potential responsible party under the comprehensive Environmental Response Compensation and Liability Act of 1980, as amended; and, if so, the location of the site or sites involved, an estimate of the owner/operator's share, if any, of the cost to clean up the site and a description of site and Superfund listing.

(9) A statement as to the present suitability of the site for the conduct of the proposed activity at the facility and of any additional measures that would be required to make the site suitable for such activity.

(10) A set of drawings prepared by a licensed engineer depicting the proposed facility, which drawings impart sufficient detail and information for the review of the application under this ordinance.

(11) A facility impact report (FIR) in accordance with Section 3.3 of this Ordinance.

(12) A copy of the public notice of the right to submit comments to the District pursuant to Subsection (D) hereof;

(13) Evidence of notification by certified mail to adjoining property owners of the site of the intention to submit to the District an application for site and facility approval of a solid waste management facility. Property owners include:

(a) Property owners immediately adjacent to the site;

(b) Persons owning property in the District along transportation corridors providing direct access to the site which are within a one mile radius of the site;

(14) The District reserves the right to request additional information at any time from applicant. A reasonable time shall be given to applicant to submit such information and the application shall not be deemed complete until all requested information has been received.

(15) An authorization signed by each person named in 3.2B(7) of the application authorizing the release to the District's representative of any information, written or oral, which in the District's opinion is necessary to properly consider the application.

(16) The following certification:

"I certify that I have personally examined the information submitted in this application and all attached documents and that based on my own personal knowledge, I represent that the submitted information is true, accurate and complete. I acknowledge that applicant is under a continuing duty to correct and supplement information contained herein and that failure to do so may result in the revocation of applicant's license to operate if such is granted by the District."

This certification shall be signed by:

(a) If the owner/operator is a corporation, by an authorized executive officer; or

(b) If the owner/operator is a partnership, by an authorized general partner; or

(c) If the owner/operator is a sole proprietor, by the proprietor; or

(d) If the owner/operator is a governmental agency, by the head of that agency.

(17) The owner/operator siting fee or fees under Section (3.3) of this ordinance.

(18) Any information submitted to the District pursuant to this Regulation may be claimed confidential by the submitter. Any such claim must be asserted at the time of submission in the manner prescribed on the application form or instructions or in the case of other submissions, by stamping the words "CONFIDENTIAL BUSINESS INFORMATION" on each page containing such information. If no claim is made at the time of submission, the District may make the information available to the public without further notice. If a claim is asserted, the information will be treated in accordance with the procedures in KRS 224.035 which are adopted hereinby reference. Claims that the name and address of any owner/operator or the type of waste to be disposed of at the landfill is confidential will be denied.

(19) A true copy of the permit application required by the Cabinet. The owner/operator shall include all information required by Title 401 KAR, Chapter 47.

(20) A Closure Plan for the landfill as required by Title 401, Chapter 47 of KRS with an estimate of closure costs.

3.3 Facility Impact Report (FIR):

(A) The owner/operator shall file with its petition for site approval a facility impact report which shall include the following: environmental impact report; a socio-economic report; and a risk assessment. Each such section of the facility impact report shall be in type-written form and shall address issues and matters as hereinafter set out.

The owner/operator shall publish notice of the availability of the Facility Impact Report for examination and review at the office of the County Judge Executive, such notice to be included in the public notice required in Section (3.4) (D) hereof with respect to the petition for site approval.

(B) Contents of Facility Impact Report.

(1) The Facility Impact Report shall contain a socio-economic report which shall include a comprehensive community inventory which shall identify the following:

(a) The historic land use of the facility site;

(b) Proximity of the facility site to residences, schools, churches, public parks, agricultural land, nursing homes, hospitals, cemeteries, historic structures, and infant care facilities;

(c) A general profile of the business community located in the vicinity of the facility site including any sites planned for future industrial parks or sites being considered for any business or manufacturing facility;

(d) Streets, roads, highways and transportation facilities information including capacity and usage;

(e) Cultural resources;

(f) Population data and trends for the County and the vicinity of the facility site; and

(g) A statement as to the impact on the community, including community perception, direct and indirect impact on the local economy and economic growth, and an analysis on the impact on land values in the vicinity of the facility site.

(2) The Facility Impact Report shall contain an environmental impact report which shall identify existing environmental conditions in the vicinity of the facility site, such report to include at a minimum:

(a) A geological report with a description of the soil types to include soil permeability, stability and drainage and the geology down through and including the aquifer zones in the area;

(b) A hydrological report with a description of the hydrology and surface and groundwater quality and quantity in the area, including proximity to any aquifers and recharge areas and sensitive areas such as wet lands;

(c) Proximity to public and private surface or groundwater supplies, including current and potential future uses;

(d) A biological report with a description of the presence of significant, threatened or endangered species;

(e) An air quality report, including the characteristics (stability) of the atmosphere which affect the site and the present and projected population and the effects of emitted gases and odors in relation to the facility and prevailing wind;

(f) Flood plain identification;

(g) An archeological report with a description of historic, archaeological and natural sites and landmarks, outstanding resource waters, public forest areas, and dedicated or designated open space, public recreational areas, wild-life refuges, gamelands and fishing waters;

(h) Applicant's plan for preventing the entry of landfill site leachate into the District's groundwater and the probability of failure of that plan.

To the extent the data and information included in a solid waste facility or site application as required by the provisions of Title 40I KAR, Chapter 47 Section (2) set forth the information required by this Subsection (2), the owner/operator may submit a true and verified copy of the particular permit application submitted or to be submitted to the Cabinet, with respect to the facility.

(3) The Facility Impact Report shall include a risk assessment which shall quantitatively and qualitatively define the public health, safety and environmental risk associated with routine operations and upset conditions at the facility site. The scope and context of the impact on the community will vary depending upon the nature, size, duration and extent of the activity to be conducted at the facility site. The risk assessment shall analyze those items as identified by the Hart County Solid Waste Management District, which shall include the following:

(a) Risks associated with accidents in transportation, such analysis to include mode of transportation, route, schedule and frequency of deliveries, accident rate of mode and route, and the characteristics of structures and population, residential and nonresidential, within the reasonably predicted impact area;

(b) Nature, extent, quantity and impact of routine releases to air, water, land and groundwater from all sources at the facility site, including storm water run off.

(c) Nature, extent, quantity and impact of releases to air, water, land in upset conditions, including both historical data from comparable facilities and modeling reasonable worst-case upset conditions;

(d) Adequacy of emergency services (police, fire, medical) to protect human health, safety and environment in fire, explosion, flood, chemical release or any natural disaster, including emergency response capability and the owner/operator's emergency implementation plan;

(e) Projections of possible health effects with particular emphasis on occupational health, human health, chronic and acute exposure for both at the facility site and the surrounding area;

3.3 Application Fees:

The District in its sole discretion may hire one or more engineers, geologists, consultants, attorneys or other professionals and incur other reasonable and necessary expenses to assist in the evaluation of the proposed owner/operator, site and facility or to evaluate disposal site/facility construction. Services and expenses shall be paid for by applicant in the following manner:

(A) Applicant shall file with its application for site and facility approval (or expansion of an existing facility or site) an initial deposit of \$10,000. Applicant will be given a bi-monthly accounting of expenditures charged to the deposit.

(B) If the District anticipates that the deposit will not be adequate, or if it retains a construction evaluator, it will so advise applicant who will make a supplemental deposit within ten (10) days of notice.

(C) Deposits may be in the form of a bank draw account or other form acceptable to the District.

(D) Any uncommitted funds or deposit with the District will be released to applicant within thirty (30) days after its final determination.

3.4 Submission and Distribution:

(A) The application for site approval shall be submitted to the Hart County Solid Waste Management District through the Office of the Hart County Judge Executive. Within forty-five (45) days of the receipt of the application for site approval, the owner/operator shall be notified in writing if the application for site approval is administratively complete. For the purposes of this Regulation, "Administratively complete application" means an application for facility and site approval which the District determines to contain all information addressing each application requirement of this Regulation and to contain all information necessary to initiate technical processing and public review. Additional information may be required after determination that the application is deemed administratively complete.

(B) Upon receipt of the notification from the District of administrative completeness, the owner/operator shall forthwith deliver the petition for site approval to the following persons:

(1) Members of the Hart County Fiscal Court, c/o County Judge Executive;

(2) The Fire Department Chief over the jurisdiction of the site or facility, such fire department shall be within the boundaries of Hart County;

(3) The County Disaster and Emergency Services Coordinator (DES);

(4) Directors of the following Hart County agencies and departments: Department of Health, Chamber of Commerce, Office of the County Attorney.

(C) Public Comment and Public Hearing.

Each application for site approval shall be subject to a public comment period and a public hearing. After the owner/operator has been notified that the petition for site approval is administratively complete and has delivered the application as required, the owner/operator shall cause to be published a public notice weekly for six (6) consecutive weeks in the newspaper of the greatest circulation serving Hart County.

The notice shall be in a form approved by the District and shall advise the public that a petition for site approval has been filed, the beginning date and the ending date of the public comment period shall commence as of the date of the first public notice and shall end on the date on which the public hearing is concluded. The public hearing shall be held forty-five (45) days after the date of the publication of the last weekly public notice required herein. The public hearing will be held in Hart county.

3.5 District Determination As to Facility Site Approval:

(A) Within sixty (60) days after the conclusion of the public hearing, the appropriate fire department chief, the County DES Coordinator, the Director of the Department of Health, and the Director of the Chamber of Commerce shall review the application for site approval, together with any comments or information received during the public comment period, and any other information deemed appropriate, and each such agency shall make a recommendation to Fiscal Court regarding the granting or denial of the approval of the facility site.

(B) Within thirty (30) days after the conclusion of the public hearing the Hart County Attorney shall prepare and transmit to the District through its chairperson an investigative report on the applicant(s). In preparing the report, the County Attorney may request and receive criminal history information from the Federal Bureau of Investigation and any other law enforcement agency or organization.

(C) Criteria for District Determination.

The purpose of this Regulation is to protect human health and the quality of life and the environment of Hart County from unreasonable risk posed by improper siting of solid waste sites or facilities. The public must be afforded protection from unreasonable risk to human health and safety from the siting of or modification to solid waste sites or facilities and the operation of such facilities. The District in making its determinations pursuant to this Regulation, will consider the facility impact report and other information required to be submitted by the applicant as well as the independent consultants commissioned by the District, and other information and opinions submitted by the public. In no event will approval be granted nor license be issued for a site which exceeds the reasonably foreseeable disposal capacity needs of the District.

At a minimum, the District will consider the following criteria in determining the appropriateness of the siting of the proposed solid waste site or facility or modifications to an existing site or facility.

The District will consider each potential pathway for exposure, the magnitude, frequency, duration and degree of risk posed, and the chronic, acute, direct, indirect, and cumulative risk posed to human health by the proposed activity in determining whether the risk posed by the proposed activity, siting or modification and subsequent operation are reasonable.

The District shall grant the application for owner/operator facility and site approval if it finds, on the basis of the information available to it that:

(1) The nature of the solid waste management activity conducted at the facility site will not present an unreasonable risk to human health, safety or the environment; and

(2) The nature of the solid waste activity conducted at the proposed site would not significantly impede or adversely impact the provision of fire, health and other emergency services to the public both in the vicinity of the site and throughout Hart County; and

(3) The nature of the solid waste activity conducted at the facility site would not result in a significant reduction in the public's use and enjoyment of parks, recreational waters, historic structures, cultural and natural resources located in the vicinity of the facility site; and

(4) The facility and the solid waste activity occurring on the site will not have a significant adverse impact on the establishment of businesses, residential developments, churches, schools or other types of activities related to the social, economic and cultural development of Hart County; and

(5) The owner/operator's prior experience and history in solid waste activities indicates a reasonably satisfactory record of compliance with applicable Federal, State and Local laws and regulations, and based upon such prior record, it can be reasonably expected that the owner/operator will, in constructing, expanding, maintaining, operating or closing the facility at the proposed site, including the performance of necessary corrective action during post-closure including pumping and treatment, maintain a corresponding satisfactory record of compliance with applicable laws and regulations; and

(6) The owner/operator has sufficient financial resources to: complete construction of the new or expanded facility; maintain and operate the facility in compliance with applicable laws and regulations; respond immediately in the event of emergency by reason of accident or upset at the site; and complete closure of the facility; and to perform any necessary corrective action during post-closure, including pumping and treatment.

(7) The owner/operator has complied with all solid waste management laws and regulations concerning solid waste facility permits, filings and/or notifications required by the Natural Resources and Environmental Protection Cabinet for the construction and operation of the facility site; and

(8) The application is consistent with the goals and objectives of the Hart County Solid Waste Management Plan as adopted; and

(9) The applicant has in existence a plan acceptable to the District to recover and recycle solid waste thereby reducing the solid waste stream to the landfill.

(10) The potential volume of the proposed site and facility does not exceed the reasonably foreseeable disposal capacity needs of the district.

(II) In addition to the Cabinet's financial responsibility requirements for closure:

(a) The deposit with the District the sum of \$10,000 ten thousand dollars.

(b) The Execution of an agreement to deposit with the District the sum of twenty-five cents per ton of solid waste disposed of at the facility payable in the same manner as the license fee.

These sums shall be applied towards the cost of required post-closure corrective action.

(c) Additional financial requirements for closure will be determined by the detailed plan for closure as required by KRS 224.846 and Title 401 KAR 47:040 in combination with the estimated closure costs provided by the application for site approval. In the event that closure costs as determined by the application for site approval exceed those determined by the Cabinet, owner/operator shall account for an amount set to cover the net difference in the estimated costs for closure.

(d) At the time the facility permanently ceases accepting waste, the facility shall be filled, covered, graded, seeded and revegetated according to regulations promulgated by the District, State and Federal authorities. Upon determination by the Cabinet that the site has been fully closed and at the end of a thirty (30) year post closure date, the District shall release the bond or other guarantee of financial responsibility that has been provided to the County. If such closure requirements are not accomplished by the operator of the facility, the Hart County Judge Executive or its agents shall forfeit the bond or demand release of the monies held to guarantee financial responsibility.

(e) The approved cost estimate for closure and corresponding tonnage deposit shall be reviewed and adjusted at least once every three (3) years and the deposit is subject to review and adjustment by the District.

(12) Within thirty (30) days following receipt of the agency recommendations, the District shall make final determination whether to grant or deny the petition for site approval.

(D) Notification.

The District shall send written notification of its determination with respect to the petition for site approval to the owner/operator and to all persons who submitted written or oral comments during the public comment period. Such notification shall include a written summary of the basis for the determination. If the facility and site are approved, a license for operation shall be issued by the District. Such license will be valid for a period of one (1) year from the date of issue.

3.6 Annual License and Fee.

Licensee shall pay to the District a license fee computed as follows:

(A) Fifty cents (50¢) per ton of District Solid Waste disposed of at the site or five percent (5%) of the Licensee's gross receipts for disposal of that waste, whichever amount is greater and

(B) Sixty-two and one-half cents (62.5¢) per ton of solid waste, if any, generated outside of the District and disposed of at the site or six and one-fourth percent (6.25%) of the Licensee's gross receipts for disposal of that waste, whichever amount is greater. The twenty-five percent (25%) surcharge on waste brought in from out of the county is necessary to to compensate the county for the additional burden that waste imposes on the county infrastructure and services. That surcharge will be paid to the county by the District within ten (10) days of receipt.

(C) If any out of District surcharge is found to be unenforceable, the fee for out of District solid waste will be the same as for District solid waste.

(D) License fees shall be paid each ninety (90) days with the first payment to be made ninety (90) days after the first day solid waste is disposed of at the site and every ninety (90) days thereafter. Each payment shall be accompanied by documentation listing the tons of solid waste and gross receipts from solid waste from and out of the District.

The annual license may be renewed by the District upon:

- (1) Licensee's payment of all fees due to the time of renewal;
- (2) Amending and supplementing any portions of Licensee's original application which are no longer correct;

(3) Determination by the District that:

(a) Based on the information provided by Licensee and the considerations expressed in 3.5(C) hereof that the license should be renewed.

(b) That Licensee's permit issued by the Cabinet is valid and that there has been no action by the Cabinet to revoke such permit.

(E) Site Approvals and licenses to operate are not transferable. The attempted transfer of any interest in the owner/operator will immediately terminate the owner/operator's site and facility approval and license unless the proposed new owner provides to the District all information required by Section 3.2 of this regulation and the District has approved the transfer pursuant to Subsection 1, 2 and 3. Any agreements providing for the proposed transfer of any interest in the owner/operator shall provide that the proposed transfer is subject to the approval of the District

SECTION 4: PENALTIES

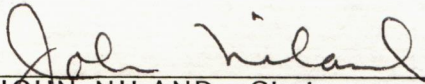
(A) Any person who violates this Regulation shall be fined not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000) and or up to one year in the county jail for each violation. Each day of violation shall constitute a separate offense.

SECTION 5: MISCELLANEOUS

(A) The provisions of this Regulation are severable, and if any provision, section, paragraph, phrase, sentence or clause or the application thereof is held by court of competent jurisdiction to be invalid, such invalidity shall not affect the remainder of this Regulation.

(B) This Regulation shall take effect and may be enforced upon its passage and publication.

Approved by the Hart County Solid Waste Management District the 13th day of February, 1991.



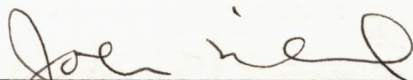
JOHN NILAND, Chairman

FIRST READING CONDUCTED THE 13th DAY OF FEBRUARY, 1991.

SECOND READING CONDUCTED THE 13th DAY OF March, 1991.

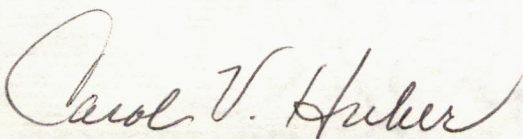
Adopted by the Hart County Solid Waste Management District the day of March, 1991.

13th



JOHN NILAND, CHAIRMAN

ATTEST:



CAROL HUBER, Secretary