

*Community Yard
Waste Drop-Off
Demonstration Site
Report*

May 29, 2009



**Delaware
Department of Natural
Resources and Environmental
Control**

**Division of Air and Waste
Management**

**Solid and Hazardous Waste
Management Branch**

**Submitted in Partial Compliance
with House Bill 525**

***Community Yard Waste Drop-Off
Demonstration Site
Report***

**Presented to:
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State of Delaware**

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DNREC wishes to express sincere appreciation to the many dedicated and hard-working employees of DeIDOT/DART, DSWA, the Divisions of Parks and Recreation, Soil and Water as well as Air and Waste Management who have made these initial steps toward greater recycling possible.

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Cover: Henrietta and Jack Werner, of Meadowood, drop off the first load of yard waste on opening day at the Polly Drummond Hill Road Community Yard Waste Site. November 2007.

**Community Yard Waste Drop-Off
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Executive Summary

The Department of Natural Resources and Environmental Control (DNREC) established three Community Yard Waste Drop-Off/Mulch Pick-up Demonstration Sites in northern New Castle County between July 2007 and February 2008. DNREC established these sites to provide an additional option for residents to dispose of yard waste without landfilling, in compliance with the ban on yard waste in the northern New Castle County landfill (See Attachment A). As expected, based on decades of experience with similar sites in other states, these yard waste site provided a popular, if limited (the tonnage of yard waste at these three sites accounted for only twenty percent of the yard waste generated in northern New Castle County) option for residents.

The benefits of diverting yard waste from disposal include: conserving capacity in Delaware's largest landfill which is located in the most densely populated county, maintaining relatively low solid waste disposal costs for as long as possible, conserving natural resources, reducing green house gas emissions, promoting a conservation ethic and creating opportunities for resource management jobs that formerly did not exist. The value of each foot of disposal "air space" created through the \$90 million expansion of the Cherry Island Landfill is approximately \$4 million per foot. Given that yard waste comprises approximately 23 percent of residential solid waste, recycling yard waste instead of landfilling it has clear economic value as well as environmental benefits. Another benefit of diverting yard waste is that it is generally considered the easiest first step in a more comprehensive recycling program, given the relative ease with which yard waste can be recycled with widely available expertise and equipment.

The cost of recycling yard waste must also be considered. Obtaining real-world operational costs information was one of the purposes of establishing these community yard waste demonstration sites. The bottom line is that the costs for mulching the yard waste and regular maintenance (e.g., "push backs" to clear the pad of low density yard waste delivered by residents into a larger consolidated storage pile prior to grinding) is at least \$150,000, not including DNREC staff time costs or occasional disposal of non-yard waste solid waste items. Options for mitigating these costs are included in this report.

The funding to establish and operate these sites has been paid by DNREC using "Penalty Funds," which are derived from enforcement penalties paid by violators of environmental laws. The expectation was that only limited Penalty Funds would be required because sustained long-term operational funding would be provided through the use of a recycling fund created by revenues from a surcharge on landfilling that could be then allocated through competitive grants for various recycling enterprises including community yard waste/mulch sites. This recycling funding pattern has proven successful in many states for decades, and was embodied in HB 159

(See Attachment B) in the 2007-2008 legislative session as a variation from a similar bill, S.B.225, offered in the 2005-2006 session. Neither bill was enacted, resulting in no sustainable funding for recycling projects in Delaware. The Department's Penalty Fund policy clearly states the intent of the penalty fund is to support short term projects with clearly defined objectives and end dates and that the penalty fund should not be used for routine operating costs. The penalty fund cannot serve as an endless or dedicated funding source for the yard waste sites and an appropriate source of secured funding must be attained for this activity to continue on a long term basis. The department has sought to be absolutely clear from the outset: these sites are prudent investments but require a small amount of sustained funding to operate effectively, and without it they could only operate for a limited period of time, dependent on limited funding. The department proposed a specific sustainable source of funding (H.B. 159), which was not passed. Regrettably, the closure of these sites would eliminate an option many citizens have found useful and will pay off in future costs reductions for additional landfill space. But, like other recycling operations, the long term costs savings from this investment can only be realized with a small up-front investment by this generation of Delawareans to save substantial amounts of money and natural resources for the next.

In this context, legislators expressed concern that DNREC would shut down the three demonstration community yard waste sites, given the lack of funding. Accordingly, the General Assembly in 2008 passed Section 88 of H.B. 525, which stipulated:

“It is the intent of the General Assembly that all yard waste drop sites in New Castle County remain operational unless otherwise directed by the General Assembly. The Department of Natural Resources shall conduct public hearings on and submit a plan for maintaining operations of the yard waste drop sites to the General Assembly by May 2009.”

As directed, the Department has kept the yard waste sites open. Also, as required by HB 525 DNREC conducted three public meetings on these yard waste sites during the week of April 12, 2009. The attached report contains a recap of the public comments received and the Department's options and plans for maintaining operations of the yard waste sites.

In summary, the Department plans to continue its ongoing efforts to “privatize” operation of community yard waste drop off sites, to the extent possible (See section 4.1). DNREC's privatization efforts have already helped extend the period for operation of the sites using limited available penalty funds. This has been made possible, in the short run, by arranging a “swap” for services whereby the mulching costs are covered by a contractor who is allowed to take the mulch in exchange for subsequent resale. This swap of grinding services for mulch product, however, does not cover all operational costs. Other costs include regular site maintenance, including “push back” and trash pick up. Future privatization could involve redirecting residents to private yard waste locations where they can drop off yard waste. If the use of alternative private sector sites is not successful DNREC will seek funds for an AmeriCorps Grant and volunteer program to help keep the sites open. Additional funding beyond this supplemental staffing will still be required for site maintenance, which requires heavy equipment like backhoes or front end loaders and a tub grinder. DNREC will seek to use additional penalty funds, if needed, in order to maintain the sites through a transition to private operations.

It is important to recognize that “privatization” of the sites involves significant uncertainty about the duration and location of the yard waste site operations. A private contractor could decide, after the economy picks up again, to drop the community residential yard waste service and return to large-scale land clearing operations (See Section 3.0). In any event, these contractors will likely prefer to conduct the operations at their own sites, which may be less convenient to the community. Regardless of the option chosen, DNREC has used the Penalty Fund to keep these sites operational “as long as feasible” and in the absence of a dedicated source of funding closure may be the only remaining option if a successful transition to a sustainable privatized model is not realized.

Community Yard Waste Drop-Off Demonstration Site Report

1.0 Background

On January 6, 2006 DNREC issued DSWA permit SW-06/01 for the Northern Solid Waste Management Center (aka Cherry Island Landfill (CIL)) which, for the first time, included a ban on the disposal of yard waste in the landfill (see Attachment A). DNREC imposed this condition for several important reasons:

- The CIL is the state's largest landfill in the most densely populated county, and the landfill with the least amount of remaining available capacity.
- The permit for expansion of the Cherry Island Landfill was explicitly issued as a "terminal" permit – i.e., it would be the last permit issued for this landfill site and that when the additional 23 feet of "air space" capacity is used up, the landfill would need to close and no additional permit applications would be submitted for consideration at this landfill. Therefore conservation of the remaining landfill capacity through greater recycling is critical.
- To replace the CIL with another landfill at an alternate location in northern New Castle County will cost at least \$100 million in today's dollars and may not even be possible based on landfill siting criteria.
- Yard waste constitutes approximately ten percent of the waste disposed in CIL (23 percent of residential solid waste). By imposing the yard waste ban the CIL disposal rate is effectively reduced by ten percent. Additional recycling measures (expanded residential curbside and commercial recycling) have the potential to reduce the CIL disposal rate by an even greater percentage.
- For these reasons conserving CIL disposal capacity is paramount to maintaining the lowest possible waste disposal costs for the residents of northern New Castle County.
- By diverting the yard waste from disposal, we are not only conserving valuable landfill space, we are conserving a valuable natural resource, saving energy, reducing greenhouse gas emissions and promoting the economy by creating the opportunity for resource management jobs that formerly did not exist in Delaware.

The 2006 CIL permit condition indicated that the yard waste ban was to take effect January 1, 2007. Given the concerns expressed by some members of the General Assembly about the number of options available and costs to the public to manage their yard waste, and at least one effort via HB 1 in 2007 to void the permit condition, DNREC indicated it would delay enforcement of the yard waste ban until January 1, 2008. In response to these concerns the 144th General Assembly issued Senate Joint Resolution 2 which, among other things, required:

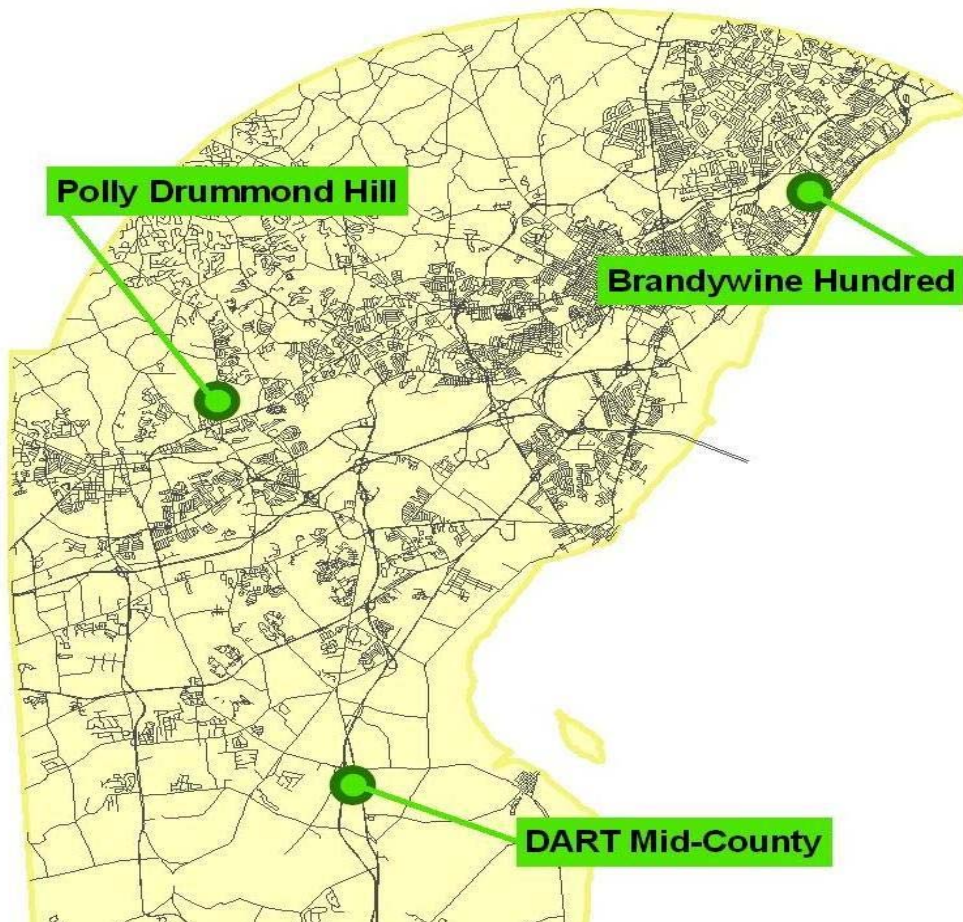
- delaying enforcement of the yard waste ban until January 24, 2008 and,

- that DNREC and DSWA shall work with all necessary partners to open and operate, as long as feasible, at least three demonstration community yard waste sites which shall be available to the public for disposal and recovery of residential yard waste.

In concert with these requirements enforcement of the ban was delayed and between July 2007 and February 2008, using money from the DNREC Penalty Fund, DNREC's Division of Air and Waste Management opened three Community Yard Waste Demonstration sites; one at the DART facility near Bear, one at the Polly Drummond Hill site near Newark and one at the Brandywine Hundred site north of Wilmington, respectively (See Figure 1).

FIGURE 1

LOCATIONS OF DNREC COMMUNITY YARD WASTE DEMONSTRATION SITES



These successful yard waste recycling demonstration sites would not have been possible without the support and joint cooperation of:

- DELDOT DTC for allowing the DART site on their property and,
- DNREC's Division of Parks and Recreation for allowing two of the yard waste demonstration sites (Polly Drummond and Brandywine Hundred) on their propertyⁱ and,
- DELDOT Canal and North districts for site construction and on-going maintenance at all three sites and,
- DNREC's Division of Soil and Water for fence construction at DART and Polly Drummond and,
- DSWA for on-going trash removal at all three sites and,
- DNREC's Environmental Crimes Unit for periodic video and enforcement surveillance.

It is also important to note that DNREC operational costs, which will be discussed subsequently in greater detail, would be much higher without the assistance of these agencies.

Overall the sites have been very successful and they are very popular with the public. It is estimated that nearly 30,000 northern New Castle County households take advantage of these yard waste drop-off sites. Collectively all three sites generate about 25,000 to 30,000 cubic yards of mulch per year. This amount of yard waste equals about 10,000 tons of material. That is 10,000 tons that is being recycled as opposed to being disposed in the Cherry Island Landfill just from the yard waste sites. According to DSWA's most recent Waste Characterization study, almost 10 percent of the waste going into the Cherry Island Landfill prior to the ban was yard waste. That equates to about 50,000 tons of yard waste per year. Therefore, approximately fifteen to twenty percent of all yard waste is being managed at the yard waste sites. The remaining eighty percent of the yard waste is either being managed by the homeowners on their own property via mulching and/or composting or it is being managed at alternate locations by landscapers and/or waste haulers.

While the majority of the public is compliant with site usage requirements there are on-going problems with residents and contractors that are simply leaving entire bags of yard waste as opposed to emptying their bags as required. Of even greater concern, some are using the sites for disposal of trash and construction and demolition wastes. This not only comes at a cost to DSWA to remove the trash, it has a negative aesthetic impact on the sites making them an eyesore, it has the effect of attracting more waste and it decreases the quality of the mulch. Oversight, by some means, is paramount to addressing and preventing these problems. It is important to note that there is no evidence of any disposal of any hazardous substances at any of the sites.

Contractual Costs for Operations: Grinding yard waste into mulch, pad clearing and site maintenance - at all three sites was running about \$150,000 per year and would have been even higher had it been necessary to continue under the most recent grinding cost structure. However, due to increased demand for mulch in the private sector we have been successful in eliminating our greatest operational expense, by exchanging the cost of grinding for the mulch and thereby

saving at least \$100,000 per year. How long these market conditions will exist is an unknown and if it becomes necessary to pay for grinding once again, operational costs will increase substantially. On the negative side, this option leaves no free mulch for the public.

Staff Costs: On the issue of costs, what must also be acknowledged is that the operations costs are exclusive of DNREC's staff costs to manage these sites and these costs are formidable. We strongly agree yard waste diversion is an important aspect of the state's waste diversion goals and these sites are an important aspect of establishing yard waste diversion. However, it is important to note that at least an additional \$100,000 per year are incurred by the DNREC in the form of administrative, technical and managerial staff time to keep these sites operational under the current conditions. While we believe this demand can be reduced substantially, we would be remiss if we did not point out that these staff resources could and should be addressing a plethora of other waste diversion issues in addition to yard waste.

DNREC, at the request of New Castle County legislators, opened these sites using penalty fund money on the supposition that recycling legislation (HB 159 – see Attachment B), inclusive of a dedicated source of funding, would pass and provide not only a dedicated source of recycling funding, but also long term financial support for proper operation of the yard waste sites. That did not happen. As such, the Department has had to continue to support these sites out of the penalty fund. This is neither sustainable nor advisable. The Department's Penalty Fund policy clearly states the intent of the penalty fund is to support short term projects with clearly defined objectives and end dates and that the penalty fund is not to be used for routine operating costs. The penalty fund cannot serve as an endless or dedicated funding source for the yard waste sites and an appropriate source of secured funding must be attained for this activity to continue on a long term basis.

In the interest of keeping the yard waste sites open Section 88 of HB 525 stipulated:

“It is the intent of the General Assembly that all yard waste drop sites in New Castle County remain operational unless otherwise directed by the General Assembly. The Department of Natural Resources shall conduct public hearings on and submit a plan for maintaining operations of the yard waste drop sites to the General Assembly by May 2009.”

As directed, the Department has kept the yard waste sites open and as required by HB 525 public yard waste meetings were held as follows:

- for the Brandywine Hundred site a meeting was held at Bellevue Hall at 7:00 p.m. on April 14, 2009 ,
- for the DART site a meeting was held at the Bear Library at 7:00 p.m. on April 15, 2009 and,
- for the Polly Drummond Site a meeting was held at 7:30 p.m. at the Deerfield Golf and Tennis Club.

This report contains a summary of the public comments received and the Department's recommendations and options for maintaining operations of the yard waste sites.

2.0 Findings

There was excellent attendance at each of the public meetings with each meeting having standing room only. In total there were approximately 350 participants at all three meetings and the attendance lists are available upon request. The Polly Drummond meeting generated the most participation with 170 registered participants and the Brandywine Hundred and DART site meetings each had nearly one hundred registered participants. In addition to the comments received at the public meetings, the Department also received nearly eighty (80) letters, emails and phone calls (copies are also available upon request). All told well over 400 New Castle County residents took the time to express their thoughts on this issue.

2.1 Summary of Public Comments:

In summary, the comments received were overwhelmingly supportive of keeping the yard waste sites open. The yard waste program has been characterized by the vast majority as a worthwhile public service, convenient and an aspect of recycling in Delaware that is long overdue. The following are excerpts from just some of the letters received:

- *“This is truly and environmentally friendly idea ... we would like to voice our support to keep the site open.”*
 - Ray and Madelyn Jeffery – Wilmington
- *“Please keep the yard waste sites open ...these sites are worth the expense.”*
 - Mr. and Mrs. Muckle – Newark
- *“Providing these sites is one of the best decisions the state has made. Please continue ...”*
 - Paul Lyons – Heritage Park
- *“I implore you to keep the yard waste sites open. This is an invaluable service.”*
 - Joseph Marvasi – Newark
- *“We appreciate it so much I tell all of my friends from New Jersey and they wish they had a place like this.”*
 - Camille and Gary Balint – Blackbird

Summarized below are the public’s recommendations on sources of revenue to keep the sites open, suggestions regarding changes to actual site operations and objections received at the public meetings. While the public is commended for the breadth and depth of suggestions offered on how to fund and/or improve operations at the yard waste sites, for a variety of

reasons, not all of the suggestions offered can be reasonably pursued. Each suggestion is briefly addressed as follows:

1. Figure out how to keep these sites open without charging the public anything just as you have been.

A challenging request and while nothing is “free”, there are some scenarios discussed in greater detail below and in the recommendations sections that have the potential to satisfy this suggestion.

2. Issues tickets to violators and use the fine money to operate the sites.

While the sites are periodically monitored by enforcement and some violators have been ticketed, with their other responsibilities it is not possible to put full time enforcement resources toward this effort. This also would not be a reliable source of revenue and would very likely be a declining revenue source once the public learned that abuse of the sites would result in a finable offense. Staffing the sites via privatization, paid employees and/or volunteers is a much more efficient way to significantly impact abuse of the sites. Given the legislated limit on criminal fines, the amount of money generated would likely not cover the costs of the enforcement officers necessary to conduct surveillance, write ticket and collect fines. Moreover, if the deterrence value of the fines is effective and no violations occur, then there would be no funding and the newly pristine sites would have to shut down due to lack of funding.

3. Install and use donation boxes.

If we are unable to privatize and it is necessary to keep these sites on public property, in combination with staffed sites via either an AmeriCorps grant and/or volunteers, this option is worthy of further consideration. Similar programs have been successful in raising significant revenue through the use of donation boxes at manned sites.

4. Use a system similar to EZ Pass that would charge each time the site is used or have a gated system similar to a regulated parking lot that would require the purchase of a prepaid access card or accept a credit card.

While the idea has merit, it is very costly to implement and of questionable effectiveness. We would have to electrify each site at a cost of thousands of dollars and to establish an EZ Pass or gated monitoring system would cost in excess of \$50,000 per site. Finally, only about 1/3 of Delaware vehicles have EZ Pass so if we were to partner with the existing program, the majority of site users still would not be charged. In order to avoid being charged a motorist could simply remove the EZ pass device from the vehicle. Therefore, just as with a toll system, on site personal are required. To establish a separate program, like a gated system, would still require on-site personal to be effective. Due to these costs, simply manning the sites is likely a more cost effective option.

5. Require the purchase of stickers much like a Parks pass or require the purchase of a State Parks pass.

Again, the resources necessary for the establishment of a separate bureaucracy for an enforceable sticker program simply are not cost effective. As for partnering with Parks, a large percentage of site users already have a Parks pass so it is very difficult to say what kind of revenue requiring a State Parks pass would generate. A system for proper division of revenue

would have to be developed and because the income generated by Parks pass sales must be used for Parks maintenance per state statute, legislation would be required to support yard waste activities. The DART site is not Parks property and therefore the Department has no authority to require users to obtain a Parks pass for that site. Finally, any “pass program” will require staffing the sites, which comes at a significant cost, otherwise the program will be ineffective. Again, simply manning the sites is likely a more cost effective option.

6. *Get corporate sponsors.*

Although no specific suggestions were provided in terms of which industry/businesses to approach, and we believe in this economic climate such opportunities are very limited, we did discuss the issue with a limited number of national corporate sponsors and no such opportunities are currently available. Nonetheless, we remain open to suggestions regarding specific corporate sponsors to solicit on this issue.

7. *Put an employee at the site and charge for site usage.*

Admittedly this seems like an obvious answer but in fact it is a very expensive scenario, particularly if done with full time staff with benefits. In addition to employee costs, there are substantial costs associated with the utilities, which currently don't exist at any of the sites, and a structure for the employee to work out of. As this would also be an expensive option, likely well in excess of an additional \$100,000 per year, it is not our first choice of ideas to keep the sites open. Depending on the fee structure, it would also result in direct competition with the private sector which was never the intent of these sites.

8. *Impose a fee on the disposal of garbage and use that money to fund the sites.*

This is precisely how many other states around the country fund their recycling programs and precisely what has been proposed in draft Delaware recycling legislation (most recently HB 159) for the past six years and for six years this legislation has not passed. As already discussed in the Background section of this document: “DNREC, at the request of New Castle County legislators, opened these sites using penalty fund money on the supposition that recycling legislation, inclusive of a dedicated source of funding, would pass and provide not only a dedicated source of recycling funding but also long term financial support for proper operation of the yard waste sites. That did not happen...” Governor Markell recently pointed out in his first joint address to the General Assembly “We must not make long term commitments with short term revenue.” However, this is exactly what is happening by continuing to fund the yard waste sites out of the DNREC penalty fund and this is exactly why we're having fiscal issues not only with proper operation of the sites but even with being able to keep them open. The Department fully supports this suggested fee mechanism not only to provide a dedicated source of funding to operate the yard waste sites but also to fund a wide range of broader recycling initiatives.

9. *Privatize the sites and/or develop a Public/Private partnership provided the public doesn't have to pay.*

While this option very well may be within the realm of possibilities to address yard waste site operations, in order to fully understand what the private sector has to offer the Department proposes solicitation of a *Request for Proposals (RFP)* that allows for maximum flexibility in the various options that may be available and that will work for both the public and the private sector. This is the Departments preferred option and the one that may be the most cost-effective

and efficient while simultaneously providing private sector opportunities and servicing the public need. The Department will issue an RFP as soon as possible.

10. Get an AmeriCorps grant and/or use volunteers to man the sites.

These suggestions definitely have merit with respect to improving site operations, but initially require even more staff resources on the part of the Department in terms of organizing, scheduling and supervising. However, successful acquisition of an AmeriCorps grant should alleviate some of the long term staff resource issues but neither scenario addresses the lack of funding and in fact the match requirements with the AmeriCorps program would actually increase costs, by about \$12,000 per year per position. Depending on the outcome of the private sector response this may be the most cost effective option available but not without a dedicated source of funding to properly operate the yard waste sites. Of note, on multiple occasions the Department has had unsolicited offers by the public to voluntarily man these sites because they value them and they recognize the need to do so. We could exercise these offers if needed but recognize that organizing this kind of effort, requires substantial effort.

11. Use existing state equipment.

This is already occurring, although the bulk of the pad clearing is done through a private contractor. DELDOT constructed the pad at each of the sites, maintains the pad at each site and DELDOT does some of the pad clearing at the DART site when they are able. DELDOT has been very responsive to the Department's needs with respect to construction and maintenance of these sites but there is limit, with all of their other obligations, as to what DELDOT can contribute to the operation of the yard waste sites. We believe we are at that limit.

12. Buy the needed equipment.

The quantity of material that must be managed at these sites simply doesn't justify the several hundred thousand dollars that would be required in capital equipment costs and the salaries required for trained operators and mechanics to operate and maintain the equipment. After addressing our needs for the yard waste sites the equipment would be idle approximately seventy five percent of the time. This is not an efficient use of resources. Based on the multiple comments we've received from the public that they didn't realize how much yard waste there is until they saw it with their own eyes, we appreciate that the public views these sites as large operations, but as stated previously, we're only managing about twenty percent of the total material available and that amount of material simply doesn't justify purchasing, maintaining and operating our own equipment.

13. Separate grass and leaves to produce compost from brush and branches to produce mulch.

Since the yard waste sites opened this suggestion has been made multiple times and in fact this is how most yard waste sites outside of Delaware, and some municipal sites within Delaware, operate. Managing grass and leaves separate from brush and branches produces higher quality mulch. The separated grass and leaves can then be composted producing a very valuable and horticulturally desirable material. Compost adds organic material and nutrients to the soil, improves drainage, reduces runoff, retains moisture and increases soil fertility, the net effects of which result in healthier plants, reduced environmental impacts and real dollar savings by reducing the need to fertilize and water. In addition to the environmental

and horticultural benefits of composting, composting also promotes a conservation ethic and an ecology economy. Simply put, the benefits of composting are noteworthy and cannot be overstated. With adequate funding we should aspire to provide this service to the public as resources permit.

14. Keep commercial and out-of-state users out to lower operational costs.

This is an important point. While we believe the issue of out-of-state usage is very minor, commercial generators of yard waste using these sites increase the amount of pad clearing and grinding required, which directly correlates to increased operational costs. We also speculate that much of the problem with unopened bags can be, in part, attributed to commercial operators that are more interested in saving time and less interested in complying with site usage rules. It is worth noting that enforcement at these sites has stepped up, including periodic video surveillance, and the fines for open dumping are substantial. However, the only permanent solution to this problem is privatization or to staff the sites, either with paid employees and/or volunteers at such a high frequency that it is simply not worth the time or the risk to abuse these sites. As indicated earlier, currently those staffing resources simply don't exist.

2.2 Objections to the sites.

There were objections from some residents of Delaire, which is a development adjacent to the Brandywine Hundred site. Some of the Delaire residents have reported complaints about dust, noise and dumping, and expressed a desire that the site be relocated. Other Delaire residents directly adjacent to the site have indicated they have not observed any noise or dust nuisance from the Brandywine Hundred site, and like having the site conveniently nearby. The department performed ambient air monitoring at the Brandywine Hundred site and found no elevated concentrations of dust. Also, while the amount of extraneous material at the site has been regrettable, it was usually removed promptly and has been significantly less than other sites. None of it has involved any hazardous materials dumping. In addition, there are a few employees of DART who request that the DART yard waste site be moved away from their work area. The Department is aware of these concerns and is always willing to investigate potential alternate locations for yard waste sites. An extensive list of possible sites has already been considered, and the department remains open to consideration of any additional site, if suggested. As the issue of how to best manage these sites progresses we will do our best to simultaneously address these requests.

3.0 Recent Market Developments and Implications for Yard Waste Management.

Due to an increase in demand for woody and green waste to make mulch and compost, there is growing private sector interest in the yard waste from these sites. As such, the opportunity to privatize and/or develop private/public partnerships is worthy of thorough evaluation for the following reasons:

1. The sites would be manned and as such the problems with dumping of inappropriate materials would be virtually eliminated.
2. Several mulch businesses have expressed an interest in managing the yard waste sites and/or acquiring the yard waste from homeowners free of charge. If these types of arrangement can be sufficiently duplicated throughout the county, the DNREC yard waste sites could close removing a substantial financial & staff resource burden from the Department and address the concerns expressed by some neighboring the sites while still providing the public a place to deposit yard waste potentially free of charge.
3. Allowing the private sector to operate the yard waste sites creates green jobs for Delaware residents and business opportunities that currently do not exist.

The downside of this current “buyers market for carbon” (yard waste) situation is that interest by contractors in privatizing operations may be ephemeral, fading as soon as traditional markets are reestablished. Hence, if the department shuts down one or more of the demonstration yard waste sites with the expectation that, for example, a private mulch site will remain open to accepting residential yard waste for free, it could result in a problem if the commercial operation decide to close to residential drop offs when the traditional business in land clearing material increases again. Also, the current willingness of a contractor to performing mulching of the yard waste in exchange for the mulch, could disappear if the contractor finds that lower cost mulch is available elsewhere when the economy picks up again and traditional sources become available again.

4.0 Plan Elements

For reasons of program effectiveness, costs and the associated absence of dedicated funding, staff resources, opportunity for job creation and the ability to service the public need, the Department will be pursuing in order of priority, the following options for management of the yard waste sites:

4.1 Privatization or a Public /Private Partnership.

Specifically, to “privatize” means the yard waste sites at Brandywine Hundred and Polly Drummond will close and the public will take their yard waste to a private sector business who has agreed to accept this material. In the case of the DART site near Bear, this site could possibly remain at its current location on public property but with private sector oversight and management (a public/private partnership). In order to fully understand what the private sector has to offer in terms of the various options available to either privatize the yard waste sites and/or develop a public/private partnership, the Department will issue a *Request for Proposals (RFP)* as soon as possible. The RFP will be issued with the intent of allowing for maximum flexibility in the various options that may be available and that will work for both the public and the private sector. This is the Department’s preferred option and the one that may - emphasize may, be the most cost-effective, efficient and sustainable option while simultaneously providing private sector business opportunities that currently do not exist and servicing the public need.

In the short run, the Department plans to continue its ongoing efforts to “privatize” operation of community yard waste drop off sites, to the extent possible, while it pursues this broader privatization option. DNREC’s previous privatization efforts have already helped extend the period for operation of the sites using very limited available penalty funds. This has been made possible, in the short run, by arranging a “swap” for services whereby the mulching costs are covered by a contractor who is allowed to take the mulch in exchange for subsequent resale. Because this swap of grinding services for mulch product does not cover all operational costs, however, it is not sustainable by itself. Other costs include regular site maintenance, including “push back” and trash pick up. For this reason the proposed privatization option will involve redirecting residents to private yard waste locations where they can drop off yard waste.

It is important to recognize that “privatization” of the sites involves significant uncertainty about the duration and location of the yard waste site operations. The current limited “privatization” whereby a contract provides grinding service in exchange for mulch is based, in part, on the current unique economic situation where there is a shortage of available “carbon (e.g., wood) waste.” Contractors who normally perform land clearing for housing and commercial projects lack business during the current recession and are eager to obtain yard waste to help fill the gap. A private contractor could decide, after the economy picks up again, to drop the community residential yard waste service and return to large-scale land clearing operations. In any event, these contractors will likely prefer to conduct the operations at their own sites, which may be less convenient to the community. Given the unique situation of a nearly unprecedented economic climate combined with a unique business model, privatization of yard waste at the existing sites or at contractors sites may not be sustainable. DNREC Penalty Fund has sought to keep the sites operational “as long as feasible”, and, in the absence of a dedicated source of funding closure may be the only remaining option if a successful transition to a sustainable privatized model is not realized.

4.2 Get an AmeriCorps grant and/or use volunteers to staff the sites.

If, and only if, the department is unable to establish satisfactory and cost-effective private and/or public private partnerships to manage the yard waste sites, we will pursue an AmeriCorps Public Allie position and possibly some AmeriCorps member positions, through the AmeriCorps grant program. We believe the addition of these positions and the use of volunteers, in combination with the use donation boxes, would be an improvement over the existing operations and substantially reduce problems with open dumping. However, it is important to recognize that this option will initially take considerable state staff resources to organize, and will initially increase costs due to the \$12,000 needed annually per AmeriCorps position. It is also important to recognize that this option does not address the establishment of permanent sites off of Parks property and it does address the lack of a dedicated source of funding to operate these sites. If unable to privatize, we believe this is the second most cost effective option available.

If the use of alternative private sector sites is not successful, DNREC will seek funds for an AmeriCorps Grant and volunteer program to help keep the sites open. Additional funding beyond this supplemental staffing will still be required for site maintenance, which requires heavy equipment like backhoes or front end loaders and a tub grinder. These costs can continue

to be minimized, in the short run, by arranging “swap” for services whereby the mulching costs will be covered by a contractor who is allowed to take the mulch in exchange for subsequent resale. DNREC will seek to use additional penalty funds, if needed, in order to maintain the sites through a transition to private operations.

4.3 Closure of the yard waste sites.

If we are unsuccessful in our efforts to privatize the yard waste sites or to acquire and AmeriCorps grant and the issue of a dedicated source of funding to operate these sites is not resolved, then the Department will have no choice but to close the yard waste sites. If it becomes necessary to close the sites the public will have to choose from the private sector options that are identified at that time. Based on their popularity and without a similar alternative, we fully expect closure of the sites will be strongly opposed by the public.

5.0 Fiscal Implications

Option ⁱⁱ	DART	Polly Drummond	Brandywine Hundred
1 ⁱⁱⁱ (Privatize)	Estimate \$50,000 - \$250,000/yr		
2 ^{iv} (AmeriCorps)	Estimate \$150,000 -\$300,000/yr		
3 (Sites Close)	Estimate \$25,000 one time expense.		

Attachments

A. CIL permit

B. HB 159

i The Division of State Parks and Recreation accommodated the yard waste demonstration sites to be established on two of its properties with the understanding that the demonstration period would not exceed two years. The two year period as stipulated in a Memorandum of Agreement between DNREC’s Division of Air and Waste Management and the Division of Parks and Recreation, shall expire in November 2009 and February 2010 at the Polly Drummond and Brandywine Hundred sites respectively.

ii All option cost estimates have the potential to increase if it is necessary to construct new sites at alternate locations. All option cost estimates have \$100,000 in DNREC staff resources factored in but are exclusive of other participating program (DELDOT & DSWA) costs.

iii Results of the RFP must be known before a more accurate estimate on program costs can be given.

iv Actual costs will depend on successful acquisition of an AmeriCorps grant, the extent to which volunteers can be used and will also be significantly impacted by whether or not grinding costs can continue to be exchanged for the value of the mulch.

ATTACHMENT A
Excerpt from the Permit (SW-06/01)
Issued by DNREC to DSWA for Expansion of the
Cherry Island Landfill in Wilmington (January 6, 2006)

- b. Yard waste diversion: DSWA shall ban disposal of all yard waste from the NSWMC-2 effective no later than January 1, 2007. The NSWMC-2 yard waste ban shall be advertised in a manner to effectively educate the public and waste haulers, using technical support from academic extension and composting experts, regarding the ban's effective date and alternatives for yard waste management. To the extent no private sector alternatives for the sustainable management of the banned yard waste becomes available, DSWA will provide for a yard waste composting and mulching facility(ies) and operation(s) capable of managing diverted yard waste to that extent. If it is necessary for the DSWA to manage any yard waste generated as a result of the ban, the DSWA shall determine and implement a competitive tipping fee for the management of this material. The tipping fee shall be set at a rate to encourage recycling and discourage disposal, and not compete with private sector alternatives. "Yard waste" means plant material resulting from lawn maintenance and other horticultural gardening and landscaping activities and includes grass, leaves, prunings, brush, shrubs, garden materials, Christmas trees, and tree limbs up to 4 inches in diameter.
- c. Removal of household hazardous waste (HHW) from the waste stream: Beginning immediately, DSWA shall provide at least quarterly HHW collection events in New Castle County. The DSWA will coordinate these events to ensure they are done safely, in compliance with applicable regulatory requirements, and with a frequency and user-friendliness that maximizes the amount of HHW collected.
- d. Pine Tree Corners Transfer Station Waste: Within 6 months of issuance of this permit, wastes collected at the Pine Tree Corners Transfer Station (PTCTS) shall not be delivered to the NSWMC-2 for disposal, and DSWA shall not accept solid wastes from PTCTS for disposal at the NSWMC-2 after this date.
- e. DSWA shall provide funding to the Department for hiring and retaining an Environmental Compliance Specialist for inspecting operations at the NSWMC-2. The DSWA shall reimburse the Department for these costs within 30 days of the date of each itemized statement submitted by the Department.
- f. By September 1, 2006 DSWA will update the DSWA Solid Waste Management Plan (SWMP) 7 Del. C. 6404 (j). The updated SWMP will incorporate the final recommendations of the solid waste Management. Technical Working Group (SWMTWG) established on October 24, 2005 by Governor Ruth Ann Minner (Note the SWMTWG final report is due May 15, 2006.)
- g. Recyclables diversion: Within six months of issuance of this permit, DSWA shall submit to the Department, the Recycling Public Advisory Council, the Citizens Advisory Board, and for public comment, a comprehensive recycling plan to maximize recycling and diversion of materials from landfill disposal with a goal of recycling 40 percent of the municipal solid waste (MSW) stream in New Castle



SPONSOR: Rep. Valihura & Sen. McBride ;
 Reps. Lofink, Hall-Long, Longhurst, McWilliams,
 Mulrooney, Brady, Ennis, Johnson, Kowalko, M
 Marshall, Oberle, Schooley, B. Short; Sens. McDowell,
 Sokola, Copeland, Sorenson, Connor, Henry

HOUSE OF REPRESENTATIVES
 144th GENERAL ASSEMBLY

HOUSE BILL NO. 159

AN ACT TO AMEND TITLE 7 OF THE DELAWARE CODE TO PROVIDE ASSISTANCE FOR THE
 ESTABLISHMENT OF PUBLIC AND PRIVATE PROGRAMS TO INCREASE THE LEVEL OF VOLUNTARY
 RECYCLING AND BENEFICIAL USE OF SOLID WASTE MATERIALS IN DELAWARE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Three-fifths of all members
 elected to each house thereof concurring therein):

Section 1. Amend § 6002, Title 7 of the Delaware Code, by inserting therein the following new paragraphs:

“(74) ‘Collector’ means a person who collects recyclable materials and/or organic yard waste.

(75) ‘Municipal Solid Waste’ means durable goods (excluding vehicles and other moving equipment),
 nondurable goods, containers and packaging, food scraps, organic yard waste and miscellaneous
 inorganic waste from residential (single- and multi-family households) and non-residential (commercial,
 institutional and industrial) sources. Municipal solid waste does not include construction and demolition
 debris, vehicle bodies, pre-consumer waste, municipal sludges, combustion ash or industrial process
 wastes.

(76) ‘Organic yard waste’ means plant material resulting from lawn maintenance and other horticultural
 gardening and landscaping activities and includes grass, leaves, prunings, brush, shrubs, garden material,
 Christmas trees and tree limbs up to 4 inches in diameter.

(77) ‘Processor’ means a person who manages recyclables and/or organic yard waste for the purpose of
 returning them to the economic mainstream.

(78) ‘Recyclable Material’ or ‘Recyclables’ means any material or group of materials that can be collected and
 sold or used for beneficial purposes.

(79) ‘Single Stream’ means a system in which all fibers (at a minimum paper, cardboard, etc.) and containers
 (at a minimum plastic and metal) are mixed together for collection into one container instead of being
 sorted into separate commodities and multiple containers.

- 19 (80) 'Source Separated' means the process by which recyclable materials are segregated and kept apart from
20 the waste stream by the generator thereof for the purpose of collection, disposition, recycling or resources
21 recovery.
- 22 (81) 'Transporter' means any person engaged in the transportation of solid waste.
- 23 (82) 'Authority' means the Delaware Solid Waste Authority.
- 24 (83) 'Recycling' means the process by which discarded municipal solid waste materials are separated and used
25 as raw materials, products or replacement of products, including the reuse of organic yard waste, but does
26 not include the burning of materials for energy.
- 27 (84) 'Local Governments' means counties, cities, towns, municipalities, civic or community associations
28 within unincorporated areas of the state that are recognized as a not-for-profit organization under state
29 and federal law.”.

30 Section 2. Amend Chapter 60, Title 7 of the Delaware Code, by adding the following new Sections to Subchapter

31 II thereof:

32 “§6043. Local Government Recycling Grants Program and Private Sector Initiatives.

- 33 (a) Local Government Recycling Grants Program. There is hereby established a competitive Local
34 Government Recycling Grants Program (Program) to assist local governments with (1) the
35 implementation of source separated recyclables collection and processing programs with emphasis on
36 start-up costs for single-stream curbside collection and (2) start-up costs for initiatives which result in the
37 beneficial use of solid waste materials which would otherwise be land disposed. The Program shall be
38 administered by the Department, and monies from the Program shall be paid based on approved grant
39 requests. The Department shall be entitled to charge to the Program an administrative fee of 7.5% of
40 grants made to cover the cost of managing the Program. The Department shall be entitled to disburse
41 grant monies for the documented costs of implementing the collection or processing of source separated
42 recyclable materials. The Department shall be entitled to adopt guidelines and procedures for
43 administering the Program and determining eligibility for receipt of funding pursuant to § 6044(a) of this
44 Title. The Department shall solicit the commentary of the grant eligible stakeholders during development
45 of the grant guidelines and procedures. Local Governments electing to implement a curbside recycling
46 program are in no way precluded from requiring mandatory participation by the residents within their
47 jurisdiction. The Program shall be funded by monies made available under the provisions of § 6044.
- 48 (b) Local Governments and private sector entities engaging in the collection, transportation, processing, and

49 marketing of source-separated recyclable materials shall conduct such activities in a manner that the
50 source-separated recyclable materials enter the marketplace or, in the event the recyclable materials are
51 unmarketable, then put to other beneficial use.”

- 52 (c) Private Sector Initiatives. There is hereby established a competitive grant program to assist private sector
53 entities with (1) start-up costs for the implementation of source separated recyclables collection and
54 processing programs with emphasis on single-stream curbside collection and (2) start-up costs for
55 beneficial use initiatives which result in the beneficial use of solid waste materials which would otherwise
56 be land disposed. The private sector initiatives program shall be administered and subject to the
57 requirements set forth in subsection (a) above.

58 §6044. Delaware Recycling Fund.

- 59 (a) There is hereby established a Delaware Recycling Fund in the Department for the exclusive purpose of
60 funding specific activities designed to enhance the state’s recycling rate and the beneficial use of
61 materials otherwise land disposed. Monies in the Delaware Recycling Fund shall be retained in an
62 interest bearing account and may be expended only:

- 63 (1) To fund the Local Governments Recycling Grants Program and Private Sector Initiatives.
64 Annual funding for the Local Governments Recycling Grants Program and Private Sector
65 Initiatives shall be dependent on revenue generated by the Delaware Recycling Fund referenced
66 in subsection (d) of this Section;
- 67 (2) To pay the Department’s limited and reasonable costs and grant recipient’s costs of establishing
68 and conducting public outreach and education programs to promote the Grant Program, curbside
69 recycling and organic yard waste management and beneficial use initiatives;
- 70 (3) To pay the limited and reasonable cost of the Department and Recycling Public Advisory
71 Council, collectively studying and evaluating the status and potential for recycling the
72 commercial component of municipal solid waste, and other improvements to the residential
73 curbside recycling program, including the funding of initiatives undertaken by Local
74 Governments and the private sector to enhance the recovery rates of recyclable materials and
75 determination of the level of recycling achievable for all solid waste generated in the state as a
76 result of implementation of the programs established under this Subchapter.

- 77 (b) The funding for the Delaware Recycling Fund shall be derived from an assessment of \$3.00 per ton made
78 by the Department for every ton of solid waste generated and/or disposed in Delaware, excluding

79 recyclable materials actually recycled and hazardous waste, collected by transporters and/or generators
80 subject to: (i) the permit requirements of the Department pursuant to § 6001(c)(6), § 6003 (a)(4), and
81 § 6025 of Title 7 of the Delaware Code; and (ii) the licensing requirements of the Authority adopted
82 pursuant to § 6404 (6) of Title 7 of the Delaware Code. Quarterly (by the 15th of January, April, July and
83 October) the Authority shall submit to the Department the names and addresses of the transporters subject
84 to the provisions of 7 Del. C. 6404(6) and the total solid waste tonnage that each transporter delivered to
85 each DSWA facility. The Department, via its transporter permit program, shall be responsible for
86 identifying the generators and transporters of solid waste which do not use the Authority's facilities, and
87 shall make an assessment for the tonnage of solid waste generated and/or disposed in Delaware.

88 (c) Any Local Governments subject to the assessment established under this § 6044 shall be entitled to seek
89 and obtain an exemption from the assessment upon demonstration to the satisfaction of the Secretary that
90 the Local Government has adopted a program which has achieved a recovery rate of 30 percent of the
91 total residential solid waste which would otherwise be land disposed by the Local Government. The
92 exemption shall be valid so long as the 30 percent recovery rate is being achieved on an annual basis.

93 (d) The assessment shall become effective three (3) months from the date of enactment and the Department
94 shall collect the assessment from transporters and/or generators after the initial assessment on a quarterly
95 basis utilizing forms and procedures developed by the Department. Payment of assessments shall be due
96 within 30 days of the end of the quarter (The 30th of January, April, July and October), and any late
97 payment shall bear interest at the rate of 1.5% per month. The Department shall provide an annual report
98 to the Authority and the Recycling Public Advisory Council setting forth the amounts collected from each
99 transporter and/or generator and any delinquencies. The Authority and the Department shall cooperate in
100 maintaining an accurate list of active transporters and/or generators subject to the assessment. The
101 Department shall be entitled to seek collection of any assessments due to the Department through civil
102 action or may seek to impose on the transporter and/or generator the sanctions specified for violation of a
103 permit condition as set forth in § 6005 of Title 7 of the Delaware Code.

104 (e) The Department shall commence the Local Governments Recycling Grants and Private Sector Initiatives
105 Programs in calendar year 2008 and offer the Programs at least annually thereafter until December 31,
106 2015. One year prior to the termination date, the Department in consultation with the Recycling Public
107 Advisory Council and pursuant to the solicitation of commentary by grant eligible stakeholders), shall
108 report on the status of the Programs and make recommendations to the Governor and General Assembly

on whether and how the Program should be reauthorized. The assessment shall terminate as of December 31, 2015 unless reauthorized by enabling legislation.

(f) The Recycling Public Advisory Council, pursuant to solicitation of commentary by grant eligible stakeholders, shall make recommendations annually to the Department regarding the programmatic priorities for awarding grant funds under §6043 of this Title. The Recycling Public Advisory Council shall provide recommendations regarding the categories and priorities for grants that reflect an informed and representative view of the most urgent and important areas where grant funding will provide the most benefit to the State of Delaware balancing current needs with those of future generations.

(g) The Department shall review all applications and requests for funding from the Delaware Recycling Fund and award funding grants taking into consideration the Recycling Public Advisory Council recommendations. In those cases where the Department's funding decisions differ significantly from the Recycling Public Advisory Council recommendations, the Department shall report to the Recycling Public Advisory Council the justification for such differences.

(h) The Authority shall not be entitled to receive any grants from the Delaware Recycling Fund.

(i) The Recycling Public Advisory Council and the Department shall publish annually by November 1st of each year a report on all actions and activities involving the Delaware Recycling Fund and the status of recycling activities in Delaware as they relate to attainment of the goals established under 7 Del C. §6046(a).

(j) The monies provided from the Delaware Recycling Fund shall be subject to independent audit and the recipient of any such funding shall agree to the audit and cooperate with the auditor as a condition of receiving funding.

§6045. Residential Curbside Recycling Programs

Residential Curbside Recycling Programs eligible for receiving funding from the Delaware Recycling Fund shall provide that persons who participate in the curbside recycling program separate in single stream or multi-stream at least paper materials (including at a minimum corrugated cardboard), aluminum materials, steel materials, organic yard waste and plastics materials deemed capable of being recycled from other municipal solid waste generated at their homes, apartments and other residential establishments and to store such materials until collection. Nothing shall be deemed to impair the ownership of separated materials by the person who generated them unless and until such materials are placed at curbside or similar location for collection by the Local Government or other collector.”.

139 Section 3. Amend § 6451, Title 7 of the Delaware Code, by inserting therein the following new paragraphs:

140 “(6) ‘Single stream’ means a system in which all fibers (at a minimum paper, corrugated cardboard etc.) and
141 containers (at a minimum plastic and metal) are mixed together for collection into one container instead
142 of being sorted into separate commodities and multiple containers. (7) ‘Organic yard waste’ means plant
143 material resulting from lawn maintenance and other horticultural gardening and landscaping activities and
144 includes grass, leaves, prunings, brush, shrubs, garden material, Christmas trees and tree limbs up to 4
145 inches in diameter.”

146 Section 4. Amend § 6452(2), Title 7 of the Delaware Code, by inserting the words “and single stream materials”
147 immediately after the word “materials” as it appears therein.

148 Section 5. Amend § 6452, Title 7 of the Delaware Code, by striking the word “and” at the end of paragraph (9)
149 thereof; by striking the period as it appears at the end of paragraph (10) thereof and substituting in lieu thereof a semi-
150 colon; and by inserting therein the following new subsections:

151 “(11) The implementation of a single-stream source separated recycling system that balances the need for drop-
152 off recycling centers with public and private sector implementation and expansion of curbside recycling
153 programs; provided, however, that where a municipal government implements mandatory curbside
154 recycling within its jurisdiction, the Authority may remove the drop off sites located within the same
155 jurisdiction; and

156 (12) The development of recycling centers for organic yard wastes on Authority controlled and publicly
157 controlled lands if necessary in the event private organic yard waste recycling efforts are unable to
158 provide this service at a level capable of managing all of the organic yard waste which is generated.”

159 Section 6. Amend Chapter 64, Title 7 of the Delaware Code, by striking § 6454 thereof in its entirety and by
160 substituting in lieu thereof the following:

161 “§6454. Recycling Centers.

162 (a) The Authority shall establish organic yard waste recycling centers on lands owned or controlled by the
163 Authority or other public entity if needed to supplement organic yard waste recycling facilities operated
164 by the private sector. The Authority shall be entitled to impose a tipping fee or other service charge to
165 cover the capital and operating costs of Authority recycling centers which handle organic yard waste.

166 (b) Implementation of efficient and cost-effective recycling programs will require that Delaware have access
167 to processing facilities capable of processing single and/or multiple-stream recyclables. Where the private
168 sector has developed extensive recyclables processing capability and unique programs that provide

169 incentives to the general public to recycle that are not available to Delaware residents, the Department
170 and the Authority shall encourage and work with the private sector to establish private facilities for
171 recyclables and recycling incentive programs in Delaware. If, the private sector does not provide sufficient
172 private facilities for recyclables, as determined by the Department and the Authority, then the Authority
173 shall accept at no cost and process or provide for the processing of single stream recyclable materials
174 comprised of paper materials, aluminum materials, steel materials and plastic materials. Additional
175 materials may be accepted at the single-stream recycling center subject to the approval of the Authority.
176 The Authority shall receive recyclable materials for transfer to the processing facility at locations
177 designated by the Authority. It shall be the responsibility of the Authority to ensure that processing
178 and/or transfer facilities for managing single-stream collected recyclables are in operation in each
179 County. It shall also be the responsibility of the Authority to transport or arrange for the transport of
180 recyclables from transfer stations or landfills at which they choose to accept recyclable materials to a
181 processing facility. Municipal and private collectors shall not be required to use the Authority's recycling
182 centers. The revenues derived from the sale of recyclable materials and the Authority's revenue stream
183 resulting from the elimination of drop off recycling centers under the provisions of this Act shall be used
184 to offset the Authority's costs of transporting, receiving, processing and marketing recyclable materials."

185 Section 7. Amend Chapter 64, Title 7 of the Delaware Code, by striking § 6455 thereof in its entirety and substituting
186 in lieu thereof the following:

187 "§6455. Public Education and Promotion of Recycling, Composting and other Waste Reduction Programs.

188 The Authority, in cooperation and consultation with the Department, shall initiate and conduct public outreach
189 and education programs on the operation of its residential curbside recycling, drop off and organic yard waste
190 programs, as well as continuing education on the purposes and value of source separated recycling and resources
191 recovery. The intent of these educational programs shall be to maximize the diversion and recovery of household
192 recyclables and organic yard waste, whether it was generated by the commercial or residential sector. Such
193 program may be conducted in conjunction with similar efforts of private industry, municipalities, public interest
194 groups and the Department. The program may include the use of public advertising."

195 Section 8. Amend Chapter 64, Title 7 of the Delaware Code, by inserting therein the following new Sections:

196 "§ 6461. Residential Curbside Recycling Programs.

197 (a) *Establishment.* The Authority shall establish and implement a statewide residential multi-stream and/or
198 single stream source separation and collection program for recyclable materials in accordance with this

199 section. This shall include provisions encouraging and facilitating the development of flexible private
200 and municipal systems for source separating recyclables, collecting source separated recyclables,
201 processing source separated recyclables and marketing source-separated recyclables.

202 (b) *Notice.* The Authority shall establish a comprehensive and sustained public information and education
203 program addressing recycling program features and requirements. As a part of this program, the
204 Authority shall, at least 30 days prior to the initiation of the recycling program and thereafter, provide
205 notification to all affected residents of the requirements of any residential curbside collection program.

206 (c) *Implementation.*

207 (1) In the absence of private or municipal participation, in whole or in part, in the collection,
208 transportation, processing, and marketing of multi-stream and/or single stream source separated
209 recyclable materials, the Authority shall make such services available statewide through a multi-
210 stream and/or single stream drop off sites and by offering a subscription multi-stream and/or
211 single stream curbside recycling service, directly or through contract with others. The Authority
212 may utilize its own personnel and resources but preference should be given to contracting with
213 the private sector if cost effective, to provide this service consistent with the provisions of 7 Del.
214 C. 6401(b)(4).

215 (2) Nothing contained herein shall be construed to prevent any person from collecting, transporting,
216 processing, and marketing source separated recyclable materials in competition with
217 municipalities or the Authority, provided that the requirements of this Subchapter are satisfied.”.

218 Section 9. Amend Chapter 60, Title 7 of the Delaware Code, by inserting therein the following new Section:

219 “§ 6046. Minimum Recovery Rates.

220 (a) It is the intent of the General Assembly that the program implemented pursuant to this Subchapter reduce
221 the amounts of municipal solid waste, which is comprised of residential and commercial solid waste
222 (including organic yard waste), currently deposited or capable of being deposited in landfills in this State
223 by recovering from such municipal solid waste recyclable materials at the recovery levels specified
224 below. The Department and the Recycling Public Advisory Council shall report annually on the recovery
225 rates of solid waste by identifying all public and private recycling efforts which reduce the amounts of
226 municipal solid waste generated. Any person engaged in recycling or resource recovery of source
227 separated solid waste generated in the State shall file with the Department an annual statement which
228 contains the information required by the Department to determine and report on the recovery rate. It

shall be a goal to achieve recovery rates of municipal solid waste according to the following schedule:

Time in which Recovery Rates are achieved	Total Residential Solid Waste Recovered	Total Commercial Solid Waste Recovered
January 1, 2008	20%	_____
January 1, 2009	25%	_____
January 1, 2010	30%	50%

230

The goal for recovery of municipal solid waste (residential solid waste and commercial solid waste)

231

shall be 51% to be attained by January 1, 2015.

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- (b) Notwithstanding any provisions or definition to the contrary contained in this Chapter, for purposes of satisfying the minimum recovery rates set forth in subsection (a) above recyclable materials shall be those paper, aluminum, metal, and plastic materials and other municipal solid waste which is source separated and collected for recycling, and recycling for purposes of the program established hereunder shall mean the process by which discarded municipal solid waste materials are separated and used as raw materials, products or replacement of products, or put to other beneficial use, including the reuse of organic yard waste, but does not include the burning of materials.”.

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SYNOPSIS

This Act establishes a framework for a statewide residential curbside recycling system and provides the opportunity for local communities, municipalities, counties and private sector entities to establish residential curbside recycling programs. It addresses the elements of a recycling system, including separation, collection, and processing of recyclables, while leaving the existing trash collection system intact. It provides for the establishment of transfer and processing facilities to which single stream recyclables can be delivered. If not provided by the private sector, the processing of the recyclables will be provided at no cost by DSWA. They will be designed to accept recyclables collected in a multi-stream and/or single-stream collection systems. In assuming additional recycling responsibilities DSWA will incur additional costs which need to be absorbed in its budget. DSWA projects a \$10.4M deficit for FY 07 for its current recycling programs.

This Act establishes a Recycling Fund to help pay for various aspects of the recycling system. The source of funding will be a \$3 per ton assessment on all solid waste (excluding recyclables) collected and/or disposed of in Delaware. Thus, those who collect solid waste in Delaware and dispose of it out of state will also pay the assessment to support the Delaware recycling initiatives. The fund will be administered by DNREC and used to help municipalities with start-up costs, fund private sector initiatives, support an education and outreach program and fund an assessment of the potential for increased commercial waste recycling. DSWA is not eligible to receive any monies from the Recycling Fund.

The Act provides for the development of yard waste management facilities to handle such materials. Development of private facilities will be encouraged; however, if these do not materialize, DSWA will manage the yard waste on its property or other public property. DSWA is entitled to charge a tipping fee at these facilities sufficient to cover the costs of operation.

The Act establishes recycling goals for both residential and commercial solid waste and involves the Recycling Public Advisory Council, whose role will be to advise DNREC and DSWA on various aspects of recycling and to report annually on the state of recycling and progress made toward the established goals.



SPONSOR: Rep. Valihura

HOUSE OF REPRESENTATIVES
144th GENERAL ASSEMBLY

HOUSE AMENDMENT NO. 1
TO
HOUSE BILL NO. 159

1 AMEND House Bill No. 159 by deleting the phrase "solid waste" as it appears on lines 78 and 86 and replacing it
2 on each line with the phrase "municipal solid waste and construction and demolition debris".

SYNOPSIS

This Amendment clarifies that the surcharge would be placed on municipal solid waste and construction and demolition waste only and not industrial process waste.



SPONSOR: Rep. Valihura

HOUSE OF REPRESENTATIVES
144th GENERAL ASSEMBLY

HOUSE AMENDMENT NO. 3

TO

HOUSE BILL NO. 159

1 AMEND House Bill No. 159 by striking the number "30" on line 90 and replacing it with "10".

2 FURTHER AMEND House Bill No. 159 by adding the following after the phrase "Local Government" on line 91:

3 "In order to maintain the exemption, the local government must achieve a 20 percent recovery rate the following
4 year and a 30 percent recovery rate the third year and thereafter."

5 FURTHER AMEND House Bill No. 159 by deleting the phrase "three (3) months from the date of enactment" on
6 line 93 and replacing it with "January 1, 2009".

SYNOPSIS

This Amendment allows a local government that disposes of municipal solid waste to seek an exemption from the \$3 per ton charge upon demonstration that it has achieved a recycling recovery rate of 10 percent initially and increasing to 20 percent the following year and 30 percent in years thereafter. The Amendment also delays the start of the assessment until January 1, 2009.



SPONSOR: Rep. Wagner & Rep. Stone

HOUSE OF REPRESENTATIVES
144th GENERAL ASSEMBLY

HOUSE AMENDMENT NO. 5

TO

HOUSE BILL NO. 159

1 AMEND House Bill No. 159 by striking lines 88 through 92 in their entirety and replacing thereto with the
2 following:

3 “(c) Any local government subject to the assessment established under § 6044 shall be entitled to any
4 exemption from the assessment upon demonstration to the satisfaction of the Secretary that it has established a curbside
5 recycling program and offered such program to all of its residents by January 1, 2009. After January 1, 2009, any local
6 government subject to the assessment established under § 6044 shall be entitled to seek an exemption from the assessment
7 upon demonstration to the satisfaction of the Secretary that it has achieved a recovery rate of 10 percent of the total
8 residential solid waste which would otherwise be land disposed by the local government. In order to maintain the
9 exemption, the local government must achieve a 20 percent recovery rate the following year and a 30 percent recovery rate
10 thereafter.”.

SYNOPSIS

This Amendment exempts any local government from the \$3 per ton assessment if it has offered all of its residents participation in a curbside recycling program by January 1, 2009, and allows local governments that establish a curbside recycling program after January 1, 2009 a mechanism to achieve a fee exemption based on the achievement of certain diversion rates.