



Waste Container Lot, Junk Yard and Recycling Facilities Regulations

Preamble. The unregulated establishment, maintenance and operation of container storage lots, junk yards and recycling facilities within the City of Boston may present a threat to the public health and safety for the following reasons:

- Site assignment pursuant to M.G.L. c. 111, § 150A is the means by which local boards of health regulate solid waste facilities and their impacts.
- Certain container storage lots, junk yards, and recycling facilities have been exempted by the Massachusetts Department of Environmental Protection from site assignment as solid waste facilities, and thereby from local control by means of M.G.L. c. 111, § 150A.
- Unregulated container storage lots, junk yards, and recycling facilities in Boston may create hazardous waste, dust, adverse nuisance, public health, and environmental impacts, and facilitate breeding of insects and rodents, resulting in hazardous health conditions and complaints from nearby neighborhoods.
- The Police Department and Fire Department require permits to operate junk yards, however such permits only protect the public safety from fire hazards and the sale of stolen cars, car parts, and building materials, not the public health.
- No board of health permits are currently required to operate container storage lots, junk yards, or recycling facilities in Boston leaving such facilities unregulated with respect to public health impacts.

Section 2.01. Definitions and Guidelines. The Boston Public Health Commission (BPHC) may issue guidelines for the implementation of these regulations, including but not limited to definitions of terms as used in these regulations and in the guidelines. Applicants and permit holders are presumed to have knowledge of these regulations and guidelines. In the event of a conflict between these regulations and the guidelines, as either may be amended, the regulations shall control.

Section 2.02. Scope and Exceptions.

Scope. These regulations are applicable in Boston to all proposed and existing waste or recyclable materials container storage lots, junk yards, and recycling facilities.

Exceptions. These regulations do not apply to facility activities regulated by the Commission through a site assignment pursuant to M.G.L. c. 111, §§ 150A & 150B. The following activities also do not require Installation and Operation Permits, provided that the activities do not allow unpermitted discharge of pollutants, and incorporate good management practices that result in no public nuisance or other threat to public health or safety:

- a. Containers at Department of Public Works sites.
- b. Containers at the location of waste generation.
- c. Containers in hospitals, health centers and laboratory infectious waste storage areas.
- d. Residential disposal of wood wastes.
- e. Wood chipping and shredding operations.
- f. Hazardous Waste Facilities governed by 310 CMR 30.000.
- g. Waste Water Treatment Residuals Facilities governed by M.G.L. c. 83, § 6 and 314 CMR 12.00.
- h. Temporary solid waste or recyclable materials vehicle layovers for refueling or emergency repairs.

- i. Manufacturing and industrial operations which temporarily store and/or utilize pre-sorted recyclable materials
- j. Bottle Bill drop-off centers.
- k. Recycling operations at the location of generation.
- l. Backyard composting or agricultural waste composting if related to “agriculture” or “farming” as defined by M.G.L. c. 128, § 1A.
- m. Lots for the storage of emptied containers associated with facilities or activities exempted pursuant to this section; provided, however, that any such lot also 1) has a valid use and occupancy permit issued by the Inspectional Services Department and otherwise is a lawful use under the Boston Zoning Code and all other applicable state or local laws and regulations 2) is under common ownership or substantial control of the owner or operator of the exempted facility, and 3) is included within the existing property line of the exempted facility.
- n. Sealed containers in actual shipment at rail yards.

Section 2.03. Design, Operation Plan, Installation Permit and Operation Permit Approval. No person shall construct or significantly modify a container storage lot, junk yard or recycling facility without an Installation Permit, issued by the BPHC. No person shall operate, use or maintain a container storage lot, junk yard or recycling facility without a valid Operation Permit. An Installation Permit is transferable with prior written approval of the BPHC. An Operation Permit is operator specific and non-transferable. The BPHC may issue temporary permits for community recycling events.

Section 2.04. Application for Installation Permit and Site Suitability Criteria. Application for an Installation Permit shall be on a form determined by the BPHC and shall state that the applicant consents to reasonable compliance and records inspections as described in Section 2.11. The Installation Permit application shall include the facility’s written design and Proposed Operation Plan. The BPHC shall grant an Installation Permit if the BPHC determines that the facility complies with these regulations and guidelines and that the facility will not result in an adverse impact on the public health and safety. In so determining, the BPHC shall consider the following site suitability criteria:

- a. Proximity to agricultural lands.
- b. Traffic and access to the site.
- c. Potential air quality impact.
- d. Potential for creation of nuisances.
- e. Facility size.
- f. Proximity to sensitive receptors including, but not limited to, schools, community gardens, parks, playgrounds, day care facilities, health care facilities, nursing homes, and residences.
- g. Presence of other potential nuisance sources and evaluation of the cumulative impacts on public health and safety.

2.05. Proposed Operation Plan. The applicant shall include as part of the Installation Permit Application the proposed operation plan, which shall include but not be limited to information regarding:

- a. Equipment appropriateness and adequacy.
- b. Weighing facilities.
- c. Fire protection.
- d. Traffic and access.
- e. Unloading procedures and container emptying process.
- f. Control of wind-blown litter.
- g. Screening and/or fencing.
- h. Prohibition of open burning.
- i. Handling of solid wastes, special wastes, hazardous wastes, recyclable materials, junk and hazardous materials recycling, including storage, location and volume limitations.
- j. Processing of bulky recyclables.
- k. Dust, noise, and odor control.
- l. Insect and rodent control.

- m. Presence of nearby sensitive land uses.
- n. Presence on the site of other potential nuisance sources and evaluation of cumulative impacts from the site on public health and safety.
- o. Accident prevention.
- p. Supervision of operations.
- q. Operational recordkeeping.
- r. Emergency contingency plans.
- s. Other measures to reduce the adverse impact on public health and safety.
- t. Temporary solid waste or recyclable materials vehicle or container layovers for transportation the next day to a processing or disposal facility. Such layovers shall be permitted provided the following conditions are met: (1) solid wastes or recyclable materials shall remain inside the vehicle or in a covered container, shall not be handled, in any way, and shall not be released to the environment during the temporary layover; (2) layover vehicles or containers shall not be on site between 9:00 A.M. and 3:00 P.M. of any business day; (3) the owner or operator of the facility shall maintain a daily log available for inspection by the BPHC documenting the entry time and departure time of each vehicle and container by number; (4) vehicle or container layovers shall occur only on paved areas of the facility or inside buildings on site; (5) the facility is enclosed by a fence providing shielded view from the street of at least eight (8) feet in height, with a gated entrance closed and locked during non-business hours; and (6) the owner or operator of the facility shall designate an area on site for the temporary layover of vehicles and containers which area shall not be within 250 feet of sensitive receptors.

2.06. Installation Permits - Miscellaneous. Installation Permits shall be maintained on site at all times. An Installation Permit shall expire one (1) year from the date of issuance unless extended for an additional six (6) months. Any six (6) month extension may be granted for good cause shown by the applicant, upon application to the BPHC and its approval, but the BPHC shall not grant more than two (2) six (6) month extensions for any permit.

2.07. Application for Operation Permit.

- A. Application for an Operation Permit shall be made by existing and proposed waste container lots, junk yards, and recycling facilities on a form determined by the BPHC and shall state that the applicant consents to reasonable compliance and records inspections as described in Section 2.11. The Operation Permit application shall include the facility's Proposed Operation Plan.
- B. The Operation Permit application shall also include evidence of an existing insurance policy, bond or other financial instrument or means approved by the BPHC, in a form acceptable to the BPHC, to provide financial assurance to pay the cost of closure of the entire facility. The cost of closure shall be based on a current closure cost estimate, to be submitted by the applicant and approved, rejected or amended by the BPHC upon inspection of the proposed or existing facility.
- C. The BPHC shall grant an Operation Permit, after a site inspection, if the BPHC determines that the existing or proposed facility complies with these regulations, guidelines and proposed Operation Plan and will not be injurious to public health and safety. The BPHC may impose reasonable conditions on an Operation Permit, including reasonable modifications on a proposed Operation Plan, to mitigate any potential adverse impact on public health and safety.

2.08. Operation Permits - Miscellaneous. Operation Permits shall be maintained on site at all times. An Operation Permit shall expire one (1) year from date of issuance. An Operation Permit shall be renewed, upon timely completion of a Renewal Application on a form determined by the BPHC, unless the BPHC finds that the facility: has operated or is operating in violation of its Operation Plan ; is or has been in violation of these regulations or guidelines; is creating a nuisance and constitutes a threat to the public health; or, is or has been in violation of any state or local laws or regulations. The BPHC may consider all relevant and credible information on file, including pending complaints, in making such

determination. The BPHC may temporarily renew an Operation Permit pending determination of the finding.

2.09. Operations, General Requirements. Waste container lots, junk yards, and recycling facilities shall be operated in compliance with these regulations, guidelines, the Operation Plan and Operation Permit at all times. All such permits shall contain the following conditions:

- a. All containers and enclosed areas used for storage of waste or recyclable materials, and surrounding areas, shall be clearly identified and maintained in a sanitary condition.
- b. Accumulated waste or recyclable materials shall be maintained in accordance with the facility's Operation Plan.
- c. Waste or recyclable materials shall not be processed or stored at locations other than those specified in the approved Operation Plan and shall not exceed the plan-specified storage limits.
- d. Incidental refuse shall not be accumulated.
- e. Solid waste and recyclable containers shall be emptied of waste residues and recyclable materials prior to being placed into storage. Cleaning shall be performed in accordance with the Operation Plans. "Emptied" means that, as to any type of container, regardless of the contents, the contents has been dumped out and there is no visible, odoriferous or putrescent material remaining.

2.10. Closure. A facility planning to cease operations must submit and receive approval for an Operation and Closure Plan at least six months prior to the date the facility will stop accepting materials; in the case of an unplanned closure with less than six months notice, the facility must immediately stop accepting materials and submit a Closure Plan within ten (10) days.

2.11. Right of Entry. To the extent permitted by law, including but not limited to 105 CMR 400.100, owners or operators shall authorize Boston Public Health Commission, Inspectional Services Department, Fire Department, Police Department, Code Enforcement, and the Boston Water and Sewer Commission agents and employees, to enter, examine or survey the premises at any reasonable time for the purpose of compliance inspections, whether or not there is prior evidence of non-compliance. Agents may examine any records related to the installation, maintenance, operation and testing of the facility.

2.12. General Enforcement.

A. Non-Emergency Orders to Show Cause

1. These regulations may be enforced by the Boston Public Health Commission, Inspectional Services Department, Fire Department, Police Department, Code Enforcement, and the Boston Water and Sewer Commission, except that only the Boston Public Health Commission may grant, deny, revoke, suspend or modify permits or variances of these regulations.
2. The grounds on which the BPHC may deny renewal, revoke, suspend, or modify any permit issued pursuant to these regulations include, but are not limited to:
 - a. Refusal to permit an agent of the BPHC or other government official to reasonably inspect the facility and any records pertaining to the operation of the facility;
 - b. Interference with an agent of the BPHC or other government official in the performance of his or her duty, directly or indirectly related to these regulations;
 - c. A criminal conviction of the permit holder relating to the operation of the facility;
 - d. Failure of the permit holder to submit any required documents within the time specified.
 - e. Failure to pay the required permit fees or assessed fines or penalties;
 - f. A determination that the facility presents a nuisance or may cause an adverse impact on the public health or safety;

public health and safety and without nullifying or substantially derogating from the intent or purpose of these regulations. Any variance granted shall be in writing. Any variance may be subject to such qualification, revocation, suspension, or expiration as the BPHC expresses in its grant. No variance granted shall be construed to authorize non-compliance with any other law, ordinance, or regulation. Unless otherwise provided by the BPHC, facility closure or failure to maintain any necessary permit for six (6) months shall extinguish the variance.

- B. A variance application shall be in writing and shall state the specific variance sought and the reasons therefor, and it shall include the requisite fee. The applicant shall submit evidence that copies of the request for a variance have been submitted to the Inspectional Services Department and the Boston Water and Sewer Commission. The request shall contain all the information needed to assure the BPHC that, despite the issuance of a variance, the public health and safety will be protected. Notice of the hearing shall be given by the BPHC, at the applicant's expense (prepaid), at least ten (10) days prior thereto, by certified mail to all abutters of the property upon which the facility is located and by publication in a newspaper of general circulation. The notice shall include a statement of the variance sought and the reasons therefor. Any grant or denial of a variance shall be in writing and shall contain a brief statement of the reasons for approving or denying the variance. No work shall be done under any variance for an Installation Permit until thirty (30) days elapse after its issuance, unless the BPHC certifies in writing that an emergency exists.
- C. A variance may otherwise be revoked, modified or suspended, in whole or in part, only after the holder thereof has been notified in writing and has been given an opportunity to be heard (except for an emergency order or suspension), pursuant to these regulations.

2.15. Public Hearings

- A. Installation Permits and Variances: The BPHC shall conduct a public hearing prior to issuance of an Installation Permit or a Variance. No application for an Installation Permit or a Variance shall be deemed complete until the applicant provides notice of such application (in a form approved in advance by the BPHC) to abutters and the applicant publishes such notice in a newspaper of general circulation and a neighborhood newspaper, as specified by the BPHC.
- B. Operation Permits: The BPHC shall conduct a public hearing prior to issuance or renewal of an Operation Permit if a facility has had five (5) or more citations in the one (1) year immediately preceding the renewal application.
- C. Notice of Public Hearing: Not more than twenty (20) days and not less than ten (10) days prior to the public hearing, the applicant shall provide notice of the hearing (in a form approved in advance by the BPHC) to abutters and shall publish the notice in a newspaper of general circulation and a neighborhood newspaper, as specified by the BPHC. The BPHC shall also provide notice of such application and such public hearing to any individual or entity which has requested receipt of such notice within the calendar year of the hearing.

Section 2.16. Permit Denial - Administrative Appeal. Any appeal of denial of a permit, or appeal of conditions attached thereto, shall be in writing and filed within thirty (30) days of the date of the BPHC action appealed. The BPHC shall adjudicate such appeal through its Standard Hearing Procedure.

Section 2.17. Severability. If any chapter, section, paragraph, sentence, clause, phrase, or word of these regulations shall be declared invalid for any reason whatsoever, that decision shall not affect any other portion of these regulations, which shall remain in full force and effect; and to this end the provisions of these regulations are hereby declared severable.

Section 2.18. Transitional Rule. An "existing facility" is a facility operating in compliance with all applicable site use laws, regulations and ordinances on August 20, 1998 and not substantially modified

thereafter. No later than three (3) months after the effective date of these regulations, existing facilities shall file a complete application for an Operation Permit. No later than six (6) months after the effective date of these regulations, existing facilities shall be in full compliance therewith, unless otherwise ordered by the BPHC for good cause shown by the applicant. Not later than three (3) months after granting of an Operation Permit, an existing facility shall operate in full compliance with its Operation Plan and Operation Permit. An existing facility shall be deemed to have an Installation Permit.

Section 2.19. Effective Date. These regulations are effective as of December 17, 1998.

Authority. These regulations are promulgated pursuant to M.G.L. c. 111, §§ 31, 122-127, 143 and App. §§ 2-6(b), 2-7(a)(1) and 2-7(a)(15).

**For further information, contact:
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Guidelines for the Operation of Waste Container Lot, Junkyard and Recycling Facilities

Introduction. The following guidelines are issued pursuant to Section 2.01 of the Boston Public Health Commission Regulation titled "Waster Container Lot, Junk Yard and Recycling Facilities."

1. Definitions. The following words when used herein, except as otherwise required by the context, shall have the following meaning:

- **Adverse Impact:** means an injurious impact that is significant in relation to the public health, safety, or environmental interest being protected.
- **Agricultural Waste:** means discarded organic materials produced from the raising of plants and animals as part of agronomic, horticultural or silvicultural operations, including, but not limited to, animal manure, bedding materials, plant stalks, leaves, other vegetative matter and discarded by products from the on farm processing of fruits and vegetables.
- **Applicant:** means the person named in the application as the owner of a property interest in the site or the operator of the proposed facility where the owner has entered into an agreement with an operator at the time the application is filed.
- **Area of Critical Environmental Concern (ACEC):** means an area designated by the Secretary of the Executive Office of Environmental Affairs pursuant to 301 CMR 12.00: Areas of Critical Environmental Concern.
- **Asphalt, Brick, and Concrete Rubble:** means rubble that contains only weathered (cured) asphalt, clay bricks and attached mortar normally used in construction, or concrete that may contain rebar. The rubble shall not be coated or impregnated with any substance.
- **Backyard Composting:** means the composting of organic solid waste, such as grass clippings, leaves or brush generated by a homeowner or tenant of a single or multi family residential unit or an apartment complex unit, where composting occurs at that dwelling place.
- **Board of Health:** means the Boston Public Health Commission or its authorized agent.
- **Compostable Material:** means an organic material, excluding waste water treatment residuals, that has the potential to be composted, which is pre sorted and not contaminated by significant amounts of toxic substances.
- **Commission:** means the Boston Public Health Commission.
- **Composting:** means a process of accelerated biodegradation and stabilization of organic material under controlled conditions yielding a product which can safely be used.
- **Construction and Demolition Waste:** means the waste building materials and rubble resulting from the construction, remodeling, repair or demolition of buildings, pavements, roads or other

structures. Construction and demolition waste includes but is not limited to, concrete, bricks, lumber, masonry, road paving materials, rebar and plaster.

- Disposal: means the final dumping, landfilling or placement of waste into or on any land or water or the incineration of waste.
- Downgradient: means
 - a. in reference to surface water, the direction perpendicular to lines of equal elevation over a distance in which elevation continuously decreases, measured from the point or area in question; or
 - b. in reference to groundwater, the direction perpendicular to lines of equipotential over a distance in which total head continuously decreases, measured from the point or area in question.
- Dumpster: means container for solid wastes, recyclable materials, or junk that is customarily moved and emptied using heavy equipment.
- Emptied Container: means that, as to any type of container, regardless of the contents, the contents has been dumped out and there is no visible, odoriferous or putrescent material remaining.
- Expand a Site: means to move a facility's operation to a previously unpermitted site that is contiguous to the original site or to modify a facility's operations causing it to exceed any capacity or total volume limit stated in its current permit or operation plan.
- Facility: means a site or works, and other appurtenances thereto, which is or will be used as a waste container lot, junk yard or recycling facility, including all land, structures and improvements thereon.
- Handling Area: means an area used for dumpster storage or the transfer, storage, processing or treatment of solid waste, junk, or recyclable materials, including weigh stations or on-site access roads.
- Infectious Waste: means "Infectious Waste or Physically Dangerous Medical or Biological Waste" as defined in 105 CMR 480.000, Department of Public Health, State Sanitary Code and includes: blood and blood products; pathological waste; cultures and stocks of infectious agents and associated biologicals; contaminated animal carcasses, body parts and bedding; sharps; and biotechnological by product effluents.
- Interim Wellhead Protection Area (IWPA): means an area extending to a ½ mile radius from a public water supply wellhead which is intended to protect the wellhead pending the delineation of its Zone II.
- Junk: means old or scrap recyclable copper, brass, rope, rags, batteries, paper, rubber, debris, asphalt, brick, and concrete rubble, or junked, dismantled, or wrecked automobiles, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material, or recyclable materials.
- Junkyard: means an establishment or place of business which is maintained, operated, or used for recycling, storing, keeping, buying, selling, or processing junk.
- Landfill: means a waste facility or part of a waste facility established in accordance with a valid site assignment for the disposal of solid waste into or on land.
- MADEP: means the Massachusetts Department of Environmental Protection.
- MADEP Report on Suitability: means the report issued by the MADEP pursuant to M.G.L. c. 111, § 150A, stating whether a site proposed for a solid waste management facility in an application for a site assignment is suitable.
- Operator: means any person who has care, charge or control of a facility subject to these regulations, including without limitation, an agent, lessee of the owner or an independent contractor.
- Person(s): means any individual, partnership, association, firm, company, corporation, department, agency, group, public body (including a city, town, district, county, authority, state, federal, or other governmental unit) or any other entity responsible in any way for an activity subject to these regulations.
- Post Consumer Recyclables: means the following materials which have served their intended end use and have been pre sorted:
 - a. containers, films and wraps and other forms of packaging made from metal, glass, plastic or paper; and

- b. newspaper, office paper, cardboard and other grades of paper.
- Potential Private Water Supply: means a Class I aquifer as defined at 314 CMR 6.03: Ground Water Quality Standards, as may be amended, capable of yielding water of sufficient quality and quantity which is located under a parcel of land that at the time of the earlier of the following two filings, the Site Assignment Application or, where applicable, the Massachusetts Environmental Policy Act Environmental Notification Form, is:
 - a. zoned residential or commercial;
 - b. not served by a public water supply; and
 - c. (c) subject to a subdivision plan or a building permit application approved by the appropriate municipal authority.
- Potential Public Water Supply: means a drinking water source which, at the time of the earlier of the following two filings, the Site Assignment Application, or where applicable, the Massachusetts Environmental Policy Act Environmental Notification Form, has been determined to be capable of yielding water of sufficient quality and quantity for future development as a public water supply, and either:
 - a. has been designated and received MADEP approval under the "Guidelines and Policies for Public Water Systems", as amended; or
 - b. has had the necessary documentation submitted on its behalf for determination as a Potential Public Water Supply as defined by the MADEP's Division of Water Supply.
- Pre Sort: means to segregate a material for reuse, recycling or composting by preventing the material from being commingled with solid waste at the point of generation or to separate and recover the material from solid waste at a processing facility. Pre sorting does not require the recovery or separation of non recyclable components that are integral to a recyclable product (e.g. insulation or electronic components in white goods).
- Private Water Supply: means a well used as a source of drinking water supplying a non public water system with any volume of groundwater from any source.
- Processing: means the use of any method, technique or process to reduce the volume or alter the physical characteristics of solid waste or recyclable or compostable materials through any means, including, without limitation, separating, baling, shredding, crushing or reworking.
- Public Water Supply: means a source of drinking water supplying a public water system as defined in 310 CMR 22.00, as may be amended.
- Recyclable or Recyclable Material: means a material or junk that has the potential to be recycled and which is pre sorted and not contaminated by significant amounts of non-recyclable substances.
- Recycle: means to recover materials or by products which are:
 - a. reused; or
 - b. (b) used as an ingredient or a feedstock in an industrial or manufacturing process to make a marketable product; or
 - c. (c) used in a particular function or application as an effective substitute for a commercial product or commodity.
- "Recycle" does not mean to recover energy from the combustion of a material.
- Recycling Drop Off Center: means a location where pre sorted post consumer recyclables are deposited by the generators of the recyclables for collection and transfer to a facility for processing or directly to a market.
- Residue: means all waste remaining after treatment or processing and includes, without limitation, ash, material which is processed for recycling or composting but is unmarketable or speculatively accumulated due to its inferior quality and other solid waste which is not recovered. Non recyclable material which is integral to a pre sorted recyclable product shall not constitute residue for the purpose of calculating residue generation rates.
- Roll-off Container: means a metal container with rails for solid wastes or recyclable materials that is customarily moved and emptied using heavy equipment such as but not limited to roll-off hoist equipped trucks.
- Site Assignment: means a determination by a board of health or, in the case of state-owned land, by the MADEP, as specified in M.G.L. c. 111, § 150A, designating an area of land for one or more solid waste uses or activities.

- Sludge: means the accumulated solids and/or semisolids deposited or removed by the processing and/or treatment of gasses, water or other fluids.
- Sole Source Aquifer: means an aquifer so designated by the U.S. Environmental Protection Agency, or by the MADEP under the authority of a state program as may be established, that supplies 50% or more of the drinking water for the aquifer service area, and the volume of water which could be supplied by alternative sources is insufficient to replace the petitioned aquifer should it become contaminated.
- Solid Waste: means useless, unwanted or discarded solid, liquid or contained gaseous material resulting from industrial, commercial, mining, agricultural, municipal or household activities that is abandoned by being disposed or incinerated or is stored, treated or transferred pending such disposal, incineration or other treatment, but does not include:
 - a. hazardous wastes as defined and regulated pursuant to 310 CMR 30.000;
 - b. sludge or septage which is land applied in compliance with 310 CMR 32.00;
 - c. waste water treatment facility residuals and sludge ash from either publicly or privately owned waste water treatment facilities that treat only sewage, which is treated and/or disposed at a site regulated pursuant to M.G.L. c. 83, §§ 6 & 7 and/or M.G.L. c. 21, §§ 26 through 53 and the regulations promulgated thereunder, unless the waste water treatment residuals and/or sludge ash are co disposed with solid waste;
 - d. (d) septage and sewage as defined and regulated pursuant to 314 CMR 5.00, as may be amended, and regulated pursuant to either M.G.L. c. 21, §§ 26 through 53 or 310 CMR 15.00, as may be amended, provided that 310 CMR 16.00 does apply to solid waste management facilities which co dispose septage and sewage with solid waste;
 - e. ash produced from the combustion of coal when reused as prescribed pursuant to M.G.L. c. 111, § 150A;
 - f. solid or dissolved materials in irrigation return flows;
 - g. source, special nuclear or by product material as defined by the Atomic Energy Act of 1954, as amended;
 - h. those materials and by products generated from and reused within an original manufacturing process; and
 - i. compostable or recyclable materials when composted or recycled in an operation not required to be assigned pursuant to 310 CMR 16.05(2) through (5).
- Speculative Accumulation: means the accumulation or storage of a recyclable or compostable material when the recycling or composting of the material is not now, or cannot reasonably be expected to be, occurring. Speculative accumulation shall be deemed to be occurring when:
 - a. the material cannot feasibly be recycled or composted; or
 - b. less than 75% by weight or volume as appropriate of the recyclable or compostable material is utilized, sold or transferred off site in a manner which does not constitute disposal or handling pending disposal within a time frame to be determined by the MADEP.
- Storage: means the temporary containment of recyclable materials in a manner which does not constitute disposal or speculative accumulation.
- Storage Facility: means a facility where recyclable materials are temporarily stored in a manner not constituting recycling.
- Transfer Station: means a handling facility where solid waste is brought, stored and transferred from one vehicle or container to another vehicle or container for transport off-site to a solid waste treatment, processing or disposal facility.
- Treatment: means the use of any method, technique or process to change the chemical, or biological character or composition of any solid or hazardous waste; to neutralize such waste; to render such waste safer to transport, store or dispose; or make such waste amenable to recovery, storage or volume reduction.
- Upgradient: means:
 - a. in reference to surface water, the direction perpendicular to lines of equal elevation over a distance in which elevation continuously increases, measured from the point or area in question; or

- b. in reference to groundwater, the direction perpendicular to lines of equipotential over a distance in which total head continuously increases, measured from the point or area in question.
 - Waste Container Lot: means a location for the storage or repair of empty or loaded dumpsters, roll-off containers, and other solid waste, junk, or recyclable material containers, whether located on vehicles, on the ground, or within a building.
 - Wood Waste: means discarded material consisting of trees, stumps and brush, including but not limited to sawdust, chips, shavings and bark. Wood waste does not include new or used lumber or wood from construction and demolition waste and does not include wood pieces or particles containing or likely to contain asbestos, or chemical preservatives such as creosote or pentachlorophenol, or paints, stains or other coatings.
 - Yard Waste: means deciduous and coniferous seasonal deposition (e.g., leaves), grass clippings, weeds, hedge clippings, garden materials and brush.
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2. Conditionally Exempt Operations. The following recycling operations or activities do not require a permit provided the operation incorporates good management practices, is carried out in a manner that prevents an unpermitted discharge of pollutants to air, water or other natural resources of the Commonwealth and results in no public nuisance or negative health impact:

- a. Containers at the Department of Public Works. Dumpsters, roll offs, or other temporary storage containers located at, and used exclusively for the solid waste or recyclable materials generated and collected by the Boston Department of Public Works;
- b. Containers at the Location of Waste Generation. Dumpsters, roll offs, or other temporary storage containers located at, and used exclusively for the collection of solid waste or recyclable materials generated by a residence, school, recreational area, industrial or commercial establishment, farm, construction site, demolition site or prison; and
- c. Hospitals, Health Centers and Laboratory Infectious Waste Storage Areas. Hospitals, licensed health centers, medical laboratories and biotechnology companies which accept for storage, pending off-site treatment or disposal, infectious waste generated on-site by the hospital, medical laboratory or biotechnology company, or infectious waste generated off-site, provided:
 - 1. the hospital, health center, biotechnology company or laboratory has sufficient properly designed and operated infectious waste storage areas and manages all infectious waste in compliance with the Regulations for Storage and Disposal of Infectious or Physically Dangerous Medical or Biological Waste, State Sanitary Code Chapter VIII, 105 CMR 480.000; and
 - 2. the hospital, health center, biotechnology company or medical laboratory accepts and stores off-site generated infectious waste with on-site generated infectious waste only as follows:
 - A. Hospitals and Health Centers. Collects and stores infectious waste generated off-site from hospitals, health centers or clinics which the hospitals owns, or from hospitals, health centers, clinics or physicians with whom the hospital or health center has a professional affiliation for the provision of medical services.
 - B. Medical Laboratories. Collects and stores infectious waste generated off-site from laboratories it operates, or generated off-site by customers to whom the laboratory provides laboratory services and only to the extent that the infectious waste collected from such customers and stored does not, on a daily basis, exceed the amount of infectious waste generated on-site from the laboratory's own laboratory activities.
 - C. Biotechnology Companies. Collects and stores infectious waste generated off-site from the company's biotechnology operations conducted at buildings owned or leased by the company.

- D. the infectious waste storage area would not otherwise require a site assignment or solid waste management facility permit pursuant to 310 CMR 16.00 and 310 CMR 19.000, respectively.
- d. Residential Disposal of Wood Wastes. Disposal of wood wastes at a single family residence or farm where the wood wastes are generated and disposed within the boundaries of such residence or farm;
- e. Wood Chipping and Shredding Operations. Wood chipping and wood shredding operations at the site of generation when:
 - 1. only brush, stumps, lumber ends and trimmings, wood pallets, bark, wood chips, shavings, slash and other clean wood, which are not mixed with other solid wastes, are processed;
 - 2. no wood containing or likely to contain asbestos, glues, or chemical preservatives such as creosote, pentachlorophenol, paints, stains or other coatings is processed;
 - 3. at least thirty (30) days prior to commencement of operations, the operator notifies the Commission, using a form supplied by the Commission.
- f. Hazardous Waste Facilities. Facilities that manage only hazardous wastes or which are processing only recyclable materials regulated pursuant to 310 CMR 30.000;
- g. Waste Water Treatment Residuals Facilities. Facilities which manage waste water treatment plant residuals subject to the siting process pursuant to M.G.L. c. 83, § 6 and regulated pursuant to 314 CMR 12.00;
- h. Temporary Solid Waste or Recyclable Materials Vehicle and Container Layover. Commercial truck stops and repair facilities where trucks, trailers and other materials handling and transfer equipment including those containing enclosed loads of solid waste or recyclable materials are occasionally parked for refueling or emergency repair while en-route to a solid waste management or recycling facility or other destination. This exemption shall not apply to locations without site assignment where waste or waste loaded containers are unloaded from vehicles. This exemption shall not apply to locations where recyclable materials or recyclable material loaded containers are unloaded from vehicles. This exemption shall not apply to sites where an operator's trucks or containers with waste or recyclable materials are routinely parked or garaged as part of a solid waste or recycling business. Solid waste or recyclable material containers shall not be stored or placed into service on city streets and sidewalks without applicable permits from the Boston Department of Public Works.
- i. Manufacturing and Industrial Operations. The following classes of manufacturing or industrial operations which temporarily store and/or utilize pre sorted recyclable materials in the manufacturing or industrial process, including:
 - 1. paper mills, including de inking plants and paperboard manufacturers;
 - 2. steel mills;
 - 3. aluminum smelting operations and mills;
 - 4. glass manufacturing plants;
 - 5. plastic manufacturing plants;
 - 6. tire re capping plants;
 - 7. de tinning plants;
 - 8. asphalt batching plants;
- j. Bottle Bill Drop Off Centers. Bottle Bill drop-off centers which are an accessory supporting a retail beverage business. This exemption shall not apply to Bottle Drop-off Centers whose primary business is the collection of bottles with an incidental retail sales of beverages.
- k. Recycling Operations at the Location of Generation. Operations involving processing, transferring or temporarily storing recyclables at the site of original generation provided that:
 - 1. there is no speculative accumulation of any material. Speculative accumulation shall be presumed to occur if materials, whether in their as received, in process or processed condition, are stored for more than thirty (30) days from the date of their receipt at the

recycling operation. This time limit may be exceeded in the case of storage of a processed material pending accumulation of a transportable load (one full truck load).

2. accurate records are maintained and certified reports are submitted every ninety (90) days for the first year of operation and once a year thereafter which provide information to enable the Commission to determine that the operation has complied with exemption conditions.
 - l. Composting Operations. The following composting operations and activities do not require a permit provided the operation incorporates good management practice, is carried out in a manner that prevents an unpermitted discharge of pollutants to air, water or other natural resources of the Commonwealth and results in no public nuisance:
 - m. Backyard Composting. The composting of organic vegetative solid waste, such as grass clippings, leaves or brush generated by a homeowner or tenant of a single or multi family residential unit or an apartment complex unit, where composting occurs at that dwelling place.
 - n. Agricultural Waste Composting. A composting operation for agricultural wastes, when located on a farm engaged in "agriculture" or "farming" as defined in M.G.L. c. 128, § 1A. Such composting operation may utilize only the following compostable materials, provided the operation is registered with and complies with policies of the Department of Food and Agriculture:
 - A. leaf and yard waste;
 - B. wood wastes;
 - C. clean shells and bones;
 - D. non agricultural sources of manures and animal bedding materials.
 - E. not more than ten tons per day of compostable material composed of generator pre sorted produce, and/or generator pre sorted vegetative residues from food or beverage processing that consists solely of materials from plants, (e.g., husks, leaves, skins, sediments and roots) and other plant by products from fruit or vegetable canning, freezing or preserving operations; and
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3. Temporary Permits for Community Recycling Events

- a. The Commission may issue a Temporary Recycling Permit in lieu of an Installation Permit and an Annual Permit to Operate for sites used by government and non-profit groups holding community recycling events.
 - b. Temporary Recycling Permits shall be site, date, and time specific and shall not exceed one (1) day.
 - c. Provisions applicable to an Installation Permit and an Annual Use Permit shall not apply to applications for Temporary Permits.
 - d. Applicants shall demonstrate through the application for the operation of a temporary recycling event that the event will not adversely impact on the public health, public safety, or the environment.
 - e. The event operator shall provide sealable containers or vehicles into which the recyclable material shall be placed immediately on its receipt.
 - f. The event operator shall prevent releases of the recyclable material to the environment and any other nuisances or threats to the public health, public safety, and the environment.
 - g. By the time of the expiration of the temporary permit, the event operator shall have removed all recyclable materials from the event site and cleaned up any materials related to the event restoring the site to a clean and sanitary condition.
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4. Application for Installation Permit - Criteria

- a. Site Suitability Criteria. The following Site Suitability Criteria shall apply to all facilities.

1. Agricultural Lands. No site shall be determined to be suitable or be permitted as a facility if within five hundred (500) feet of active farmland or a community garden provided that such garden existed prior to the date of the completed application.
2. Traffic and Access to the Site. No site shall be determined to be suitable or be permitted as a facility where traffic impacts from the facility operation would constitute a danger to the public health, taking into consideration the following factors:
 - A. traffic congestion;
 - B. pedestrian and vehicular safety;
 - C. road configurations;
 - D. alternate routes; and
 - E. vehicle emissions
3. Potential Air Quality Impacts. No site shall be determined to be suitable or be permitted as a facility where the anticipated emissions from the facility would not meet required state and federal air quality standards or criteria or would otherwise constitute a danger to the public health, taking into consideration:
 - A. the concentration and dispersion of emissions
 - B. the number and proximity of sensitive receptors; and
 - C. the attainment status of the area.
4. Potential for the Creation of Nuisances. No site shall be determined to be suitable or be permitted as a facility where the establishment or operation of the facility would result in nuisance conditions which would constitute a danger to the public health, taking into consideration the following factors:
 - A. noise;
 - B. litter;
 - C. vermin such as rodents and insects;
 - D. odors;
 - E. bird-related nuisances;
 - F. the cumulative impacts of the facility and other nuisance sources; and
 - G. other nuisance problems.
5. Size of Facility. No site shall be determined to be suitable or be permitted as a facility if the size of the proposed site is insufficient to properly operate and maintain the proposed facility. In making this determination, the distance of the material handling area or storage area from the property boundary shall be taken into account.
6. Proximity to Sensitive Receptors. No site shall be determined to be suitable or be permitted as a facility if there is a reasonable likelihood that it will cause an adverse impact on sensitive receptors including, but not limited to, schools, community gardens, parks, playgrounds, day care facilities, health care facilities, nursing homes, and residences, provided, if the facility is not otherwise causing a nuisance, that such receptors existed prior to the date of the completed application.
7. Maximum Facility to Land/Population Ratio. There shall be a rebuttable presumption that no facility except a recycling drop off center shall be installed after August 20, 1998 in any neighborhood where the ratio of the aggregate fraction of post-1980 and currently existing city transfer stations, container lots, and recycling facilities in that neighborhood exceeds the average of the fraction of neighborhood land area and the fraction of the city's resident population living in that neighborhood by a factor of 2.0 or more.

$$\frac{[(\text{No. of post-1980 and current transfer stations, container lots, and recycling facilities in neighborhood}) / (\text{No. of post-1980 and current transfer stations, container lots, and recycling facilities in Boston})]}{[(\text{neighborhood land area} / \text{city land area} + \text{neighborhood population} / \text{city population}) / 2]} < 2.0.$$

Facility lists and neighborhood population and land area data can be obtained by clicking [here](#), or from the [Office of Environmental Health](#).

- b. No site shall be determined to be suitable as a facility where:
 - 1. a materials handling area would be within the Interim Wellhead Protection Area (IWPA) or a Zone II of an existing public water supply well or a potential public water supply, unless necessary restrictions are imposed to minimize the risk of an adverse impact to the groundwater; and either:
 - A. the proponent can demonstrate to the satisfaction of the Commission that the facility cannot reasonably be sited outside the IWPA or Zone II; or
 - B. there would be a net environmental benefit to the groundwater by siting the facility within the Zone II or the IWPA where the site has been previously used for similar activities.
 - 2. the materials handling area would be less than five hundred (500) feet upgradient of a surface drinking water supply as defined by groundwater flow or surface water drainage;
 - 3. the materials handling area would be less than five hundred (500) feet downgradient of a surface drinking water supply as defined by groundwater flow or surface water drainage;
 - 4. the materials handling area would be within five hundred (500) feet of an existing or potential private water supply well.
 - 5. the maximum high groundwater table would be within two (2) feet of the ground surface in areas where materials handling is to occur unless it is demonstrated that a two foot separation can be designed to the satisfaction of the Commission; or
 - 6. the materials handling area would be within five hundred (500) feet of a sensitive receptor, included but not limited to, an occupied residential dwelling, prison, health care facility, nursing home, lower educational institution, children's preschool, park , or playground, provided, however, that the applicant may show a valid option to purchase the restricted area, the exercise of which shall be a condition of any permit.
- c. Copies of the completed Application for Installation Permit will be furnished by the applicant to the Inspectional Services Department, Fire Department, and Boston Water and Sewer Commission. The Installation Permit is required in addition to Inspectional Services Department Building Permits. It is the responsibility of the applicant to consult the Inspectional Services Department, Fire Department and Boston Water and Sewer Commission to determine if additional permits, requirements, or conditions apply to installation or operation of the facility.
- d. Each Application for an Installation Permit shall at a minimum, incorporate provisions addressing all requirements of these regulations including the following:
 - 1. the property owner's name, address, and telephone number.
 - 2. the operator's name, address and telephone number.
 - 3. the contractor's name and proof of valid state registration.
 - 4. a plan with a specified scale, signed by a registered surveyor or engineer, showing the location of the proposed facility in relation to existing above or below ground structures.
 - 5. a description and detailed map indicating the location of visible prior and current land uses within six hundred (600) feet of the proposed location including but not limited to the following:
 - A. existing and proposed building structures;
 - B. parks, schools, health care facilities, residences, and nursing homes;
 - C. fuel storage tanks, excluding those that meet the following three criteria: they are i) less than two hundred and eighty (280) gallons, ii) above ground and iii) used for residential purposes
 - D. private and public ways;
 - E. utility rights-of-way; and
 - F. any other potential sources of pollution;
 - 6. proof that all owners of any property abutting the applicant's property have been notified of the applicant's intention to construct a facility.
 - 7. proof that the proposed location meets any MADEP criteria for facility siting.
 - 8. proof that the proposed location meets any ISD/BZA criteria for facility siting.

9. the permit fee required by Section 2.13.

5. Operation Plan - Equipment

- a. The operator shall provide the necessary, appropriate type and size equipment for the proper operation of the facility in accordance with good engineering practice and in compliance with the applicable regulations and these guidelines. As any processing unit for which a replacement is not readily available within one units(1) business day, the processing unit shall be in duplicate with each unit capable of handling the expected design tons per day. However, only one processing unit shall be satisfactory, where:
 1. the facility will handle under one hundred and fifty (150) tons per day; or,
 2. adequate facilities to continue operation and/or an alternate method to handle all incoming material in a sanitary manner approved by the BPHC in the event of a failure or breakdown is provided.
- b. The operator shall make provisions for the routine maintenance of equipment to assure satisfactory performance capability for the various operations of the facility.
- c. The operator shall provide at the site suitable protection for all equipment and necessary service supplies used in connection with the facility.

6. Operation Plan - Weighing Facilities. The operator should make provision on a continuous or intermittent basis for the weighing or measuring of materials delivered to the facility. Scales or other measuring devices may be required by the Commission.

7. Operation Plan - Fire Protection. The operator shall take suitable measures for the prevention and control of fires at the facility by complying with at least the following:

- a. Make available at the facility an adequate supply of water under pressure with sufficient fire hose, and building sprinkler systems, if sprinklers are required by the fire department;
- b. Hot loads shall not be accepted at the facility;
- c. Arrange for the fire department to provide emergency service whenever called; and
- d. Mount detachable fire extinguishers, maintained in working order, on all vehicles and in all buildings.

8. Operation Plan - Traffic and Access to Facilities. Traffic control, including hours of operation, shall be addressed and shall include the following:

- a. The operator shall provide and maintain in good repair access roads at the facility. Such access roads shall be paved to minimize dust and designed and constructed so that traffic will flow smoothly and will not be interrupted by inclement weather.
 - b. The operator shall limit access to the facility to such periods of time as an attendant is on duty and to those persons authorized to use the facility.
 - c. The operator shall prominently post at the entrance to the facility the hours of operation and all limitations and conditions of access.
 - d. The operator shall provide suitable barrier or fencing and gates to limit unauthorized persons from access to the facility and for the gate to be open only when an attendant or equipment operator is on duty. The gate shall be closed and locked at all other times.
 - e. The operator shall sweep and wash access roads and facility operational areas whenever necessary to control dust generation.
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9. Operation Plan - Unloading and Containing Emptying Procedure. The operator shall provide for continuous supervised unloading of materials from incoming vehicles and shall post appropriate signs or other means to indicate clearly where incoming vehicles are to unload by direction of the attendant or equipment operator on duty. Such procedures shall be described in the Operation Plan.

10. Operation Plan - Control of Wind blown Litter.

- a. The operator shall have a detailed Litter Control Program.
 - b. The operator shall take effective measures to prevent the scattering of wind blown litter.
 - c. Wherever feasible, materials shall be unloaded, processed, and stored indoors to prevent the wind scattering of litter.
 - d. The operator shall provide for routine maintenance and general cleanliness of the entire facility. Such provisions are to be detailed on the engineering plans or written operating procedures.
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11. Operation Plan - Screening and/or Fencing.

- a. The Operation Plan shall contain provisions to protect junk and recyclable materials from precipitation runoff and wind scatter through indoor unloading, processing, and storage wherever feasible.
 - b. The facility shall be suitably screened by a building, aesthetically inoffensive fencing, landscaping, or other approved methods, to shield adjoining properties from adverse impacts.
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12. Operation Plan - Open Burning. No open burning of any refuse, including brush, wood or diseased trees shall be permitted at the facility at any time of the year.

13. Operation Plan - Solid Wastes, Special Wastes, Hazardous Wastes, and Hazardous Materials Recycling.

- a. Solid, special, hazardous wastes and hazardous materials shall not be received at the facility except when approved in writing by the Commission under such conditions as the Commission may reasonably require. Approval shall be requested within the Application for Installation Permit or Operation Permit, as applicable.
 - b. Provisions for the safe recovery and processing of residual waste materials present in recyclable materials shall be incorporated into the Operation Plan (i.g. waste oil, gasoline, antifreeze, etc. from car wrecks).
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14. Operation Plan - Processing of Bulky Recyclables and Other Special Recyclable Materials

- a. If necessary to protect public health, the Commission may specify the maximum size of large, heavy, or bulky items to be accepted for recycling at the facility and may prohibit altogether the receipt, processing, and storage of certain items.
 - b. If brush is accepted at the facility, provisions should be made for the brush to be received in bundles no larger in size than can be handled in an acceptable and sanitary manner by the specific equipment. Brush should not be allowed to accumulate beyond forty-eight (48) hours after deposition at the facility.
 - c. Approval to process bulky recyclables shall be requested within the Application for Installation Permit or Operation Permit, as applicable.
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15. Operation Plan - Dust Control Planning

- a. The operator shall provide a detailed Dust Control Program in the Operation Plan.
- b. Wherever feasible, materials shall be unloaded, processed, and stored indoors to prevent the wind scattering of dust.
- c. Facility operational areas shall be paved or covered with material approved by the BPHC.
- d. The operator shall undertake suitable and effective measures to control dust at the site, the access road, and any other areas related or under control of the facility operator.

16. Operation Plan - Insect and Rodent Control and Planning

- a. The Operation Plan shall provide a detailed Insect and Rodent Control Program which will cause routine facility operations to be carried out promptly in a systematic manner and shall provide for preventative measures to maintain conditions unfavorable for the production of insects and rodents.
- b. The Commission requires a routine program for the control and elimination of insects and rodents at the facility site. The operator shall cause supplemental control measures, including but not limited to the use of effective insecticides and rodenticides, to be implemented when necessary.
- c. The application of pesticides shall be made only by a pesticide operator licensed by the Massachusetts Pesticide Board.
- d. The operator shall maintain the services of a pesticide

17. Operation Plan - Accident Prevention Planning

- a. All employees shall be instructed in the principles of first aid and safety and in the specific operational procedure necessary to prevent accidents.
- b. The operator shall provide and maintain adequate first aid supplies at the site at all times. The operator shall maintain written records of employee training received.

18. Operation Plan - Supervision of Operation

- a. The operator of the facility shall be under the overall supervision and direction of an engineer or other person qualified and experienced in handling the types of materials and equipment used at the facility.
- b. The operator of the facility shall be knowledgeable of these regulations, and of the general operating procedure and plans as prescribed by the design engineer.
- c. The operator shall be required to demonstrate familiarity and capability to operate equipment at the facility.

19. Operation Plan - Operational Records and Plan Execution. The facility operator shall maintain a daily log to record operational information, including the type and quantity of materials received, the equipment, maintenance performed, personnel used, and any deviations made from the approved plan and specifications submitted to the Commission.

20. Operation Plan - Emergency Contingency Plan

- a. An emergency contingency plan, approved by the Commission, providing for an alternative disposal method in the event of mechanical breakdown or other cause preventing the normal operation of the subject facility, shall be filed with the Commission and implemented whenever needed as conditions of health and public safety may require. Whenever the emergency plan is implemented the Commission shall immediately be notified.

- b. The Emergency Contingency Plan shall incorporate Material Safety Data Sheets for all hazardous materials at the facility.
- c. The Emergency Contingency Plan shall establish provisions for addressing foreseeable releases of hazardous materials on site. Such provisions shall comply with the Massachusetts Contingency Plan, 310 CMR 40.000.

21. Operation Plan - Temporary Vehicle and Container Layovers

The Operation Plan shall set forth procedures for compliance with Regulation sec. 2.06(t), including but not limited to specification of vehicle and container layovers, their locations on site, their contents, the maximum number allowed at any one time, the days of the week on-site, the times of the day on-site, and the maximum duration of layover.

22. Closure

- a. The owner and/or operator shall notify the Commission no later than six (6) months prior to the date that the facility will stop accepting materials.
- b. Closure activities shall be carried out in compliance with all applicable regulations and the permit.
- c. A facility shall be deemed closed on the date of the Commission's written determination that the closure of the facility has been completed in accordance with the final closure plan.
- d. An owner or operator of a proposed facility shall prepare and submit to the Commission, as a part of the permit application a written estimate, unadjusted for time, inflation, return on invested funds, or other purely financial factors, of the cost of a third party closing. This estimate shall be based upon the closure plans for the facility and equal the cost of closing the facility at that point in the facility's active life when the manner and extent of its operations would make closure and post closure most expensive.