

**THE WESTCHESTER COUNTY
SOURCE SEPARATION LAW**

Westchester County adopted its Source Separation Law on July 20, 1992.

The law is titled source separation, as it requires various recyclable materials to be separated from the garbage, by each and every waste generator, as each individual is the source of the generation of waste.

Following is the full text of the law. If there are any questions, feel free to contact the Westchester County Recycling Hotline at (914) 813-5420.

Chapter 825 SOURCE SEPARATION*

*Cross references: Solid Waste Agency, Ch. 463; solid waste and recyclables collection licensing, Ch. 826.

Statutory references--Mandatory source separation, General Municipal Law, § 120-aa; state solid waste management, Environmental Conservation Law, Art. 27.

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ARTICLE I. SHORT TITLE AND STATEMENT OF PURPOSE

Sec. 825.01. Short title.

This shall be known as the "Westchester County Source Separation Law."
(Added by L.L. No. 14-1992)

Sec. 825.11. Purposes.

The purpose of this chapter is to promote the general health, welfare and safety of citizens of Westchester County, to protect the environment and to manage the solid waste stream in Westchester County. This legislation is intended to implement existing state solid waste management policy, as declared in Title 1 of Article 27 of the New York State Environmental Conservation Law, under which the county has been designated as the official planning unit for all the solid waste generated and collected within its borders. This chapter is an essential element of Westchester County's state-approved solid waste management plan. The reporting requirements of this chapter will permit the county to have informational feedback to assess the effectiveness of its state-approved solid waste management plan and to develop any necessary future solid waste management options. In addition, this chapter is for the purpose of reducing the need to dispose of solid waste generated in this county through incineration or landfilling by maximization of recycling and to comply with New York State General Municipal Law section 120-aa.
(Added by L.L. No. 14-1992)

ARTICLE II. APPLICABILITY

Sec. 825.20. Applicability.

This chapter shall apply to every waste generator, hauler, recyclables broker and municipality within the County of Westchester.
(Added by L.L. No. 14-1992)

ARTICLE III. DEFINITIONS

Sec. 825.30. Definitions.

Unless otherwise expressly stated or unless the context or subject matter specifically requires a different meaning, the meanings of the following terms which are used in this chapter shall be as follows:

1. County means the County of Westchester.
2. Commissioner means the Commissioner of Environmental Facilities of the County of Westchester or his duly authorized representative.

3. Construction and demolition debris or (C&D) means uncontaminated solid waste resulting from the construction, remodeling, repair and demolition of structures and roads, and uncontaminated solid waste consisting of vegetation resulting from land clearing and grubbing, utility line maintenance and seasonal and storm-related cleanup. Such waste includes, but is not limited to, bricks, concrete and other masonry materials, soil, rock, wood, wall coverings, plaster, drywall, plumbing fixtures, non-asbestos insulation, roofing shingles, asphaltic pavement, glass, plastics that are not sealed in a manner that conceals other wastes, electrical wiring and components containing no hazardous liquids, and metals that are incidental to any of the above.
4. Hauler means any person, excluding municipalities, the county and any county district, including, but not limited to, Refuse Disposal District No. 1 and all county sewer and water districts, who, for a fee or other consideration, collects, stores, transfers, transports or disposes of solid waste, recyclables or construction and demolition debris that is generated or originated within the county or brought within the boundaries of the county for disposal, storage, transfer or processing.
5. Municipality shall mean the towns, villages and cities located within Westchester County.
6. Person shall mean any individual, firm, company, association, society, corporation, partnership, co-partnership, joint-stock company, trust, estate, governmental entity or any other legal entity or legal representatives, agents or assigns. The masculine gender shall include the feminine, the singular shall include the plural, where indicated by context.
7. Recycle means any method, technique or process utilized to separate, process, modify, convert, treat or otherwise prepare solid waste so that its component materials or substances may be beneficially used or reused.
8. Recyclables means the following materials:
 - (a) Class A: Residential recyclables.
 - i. Newsprint: Newspapers as purchased, including any glossy inserts.
 - ii. Glass: Glass jars, bottles and containers of clear, green or amber (brown) color, used to store food or beverages only, which must be empty and rinsed clean. This term excludes ceramics, window or automobile glass, mirrors and light bulbs.
 - iii. Metals: All ferrous and nonferrous food and beverage containers, including steel, aluminum and bimetal, which shall be empty and rinsed clean.
 - iv. Bulk metals: Large metal fixtures and appliances, including white goods such as washing machines, refrigerators, etc. This term excludes metal containers utilized to store flammable or volatile chemical materials, such as fuel tanks.

- v. Plastics: All HDPE or PET type plastics [coded 1 or 2], including food, beverage, detergent and shampoo containers, which shall be empty and rinsed clean. This term excludes all plastic film, plastic bags, vinyl, rigid plastic (e.g., toys) and plastic foam materials.
 - vi. Yard waste: Leaves collected during the fall only.
 - vii. Vehicular batteries: Lead-acid batteries used in automobiles and heavy equipment; excludes household batteries (e.g., for flashlights, radios, cameras, etc.).
 - viii. Used motor oil: The type used in gasoline and diesel vehicle and equipment engines, delivered in an uncontaminated container.
- (b) Class B: Nonresidential recyclables.
- i. Newsprint: Newspapers as purchased, including any glossy inserts.
 - ii. Corrugated cardboard: Non-wax-coated corrugated cardboard containers, which must be cleaned of excessive amounts of contaminants such as adhesives, metals and plastics. This term excludes gray cardboard such as cereal boxes, tissue boxes, paper towel rolls or any other noncorrugated material.
 - iii. High-grade paper: Includes high quality paper such as letterhead, copier paper, typing paper, tablet sheets, computer printout paper, and all paper of similar quality. This term shall not include carbon paper, self-carbonizing paper, coated or glossy paper, envelopes with windows or adhesive labels.
 - iv. Bulk metals: Large metal fixtures and appliances, including white goods such as washing machines, refrigerators, etc. This term excludes metal containers utilized to store flammable or volatile chemical materials, such as fuel tanks.
 - v. Vehicular batteries: Lead-acid batteries used in automobiles and heavy equipment; excludes household batteries (e.g., for flashlights, radios, cameras, etc.).
 - vi. Used motor oil: The type used in gasoline and diesel vehicle and equipment engines, delivered in an uncontaminated container.

In addition to the above, the following categories of materials shall be considered nonresidential recyclables for all food and beverage industries (e.g., restaurants, cafeterias, taverns):

- vii. Glass: Glass jars, bottles and containers of clear, green or amber (brown) color, used to store food or beverages only, which must be empty and rinsed clean. This term excludes ceramics, window or automobile glass, mirrors and light bulbs.
- viii. Metals: All ferrous and nonferrous food and beverage containers, including steel, aluminum and bimetal, which shall be empty and rinsed clean.

- ix. Plastics: All HDPE or PET type plastics [coded 1 or 2], including food, beverage, detergent and shampoo containers, which shall be empty and rinsed clean. This term excludes all plastic film, plastic bags, vinyl, rigid plastic (e.g., toys) and plastic foam materials.
- 9. Recyclables broker means any person, excluding municipalities, the county and any county district, including but not limited to Refuse Disposal District No. 1 and all county sewer and water districts, who, for a fee or other consideration, collects, picks up, separates, processes, markets, transports, stores or otherwise handles recyclables exclusively, if those recyclables were generated or originated within the county or brought within the boundaries of the county for disposal, storage, transfer or processing, excluding those persons who are required to accept beverage containers under § 27-1007 of the New York State Environmental Conservation Law or persons who redeem containers under said law, and those persons who are required to accept used motor oil and vehicular batteries free of charge for recycling under applicable state law, provided that this exclusion shall only apply to the aforementioned activities which are governed by state law. A recyclables broker may collect, separate, process, store, transport or otherwise handle solid waste contaminants that are collected with recyclables, provided that the recyclables broker has taken reasonable precautions to prevent the introduction of such contaminants.
- 10. Separate collection means that any municipality, hauler or recyclables broker who collects, transports or stores solid waste or recyclables shall keep source-separated recyclables separate from solid waste during collection, transportation and storage, except for recyclables that are mixed with solid waste in construction and demolition debris and identifiable bagged recyclables mixed with bagged solid waste, provided that recyclables are later separated for recycling.
- 11. Solid waste means all putrescible and nonputrescible materials or substances, except as described in Paragraph 4 of 6 NYCRR 360-1.2(a) and/or regulated under 6 NYCRR 364, that are discarded or rejected as being spent, useless, worthless or in excess to their owners at the time of such discard or rejection, including but not limited to garbage, refuse, commercial waste, rubbish, ashes, incinerator residue and construction and demolition debris. "Solid waste" shall not be understood to include recyclables as defined in this chapter.
- 12. Source separation means the segregation of recyclables from solid waste at the point of generation for separate collection, sale or other disposition.
- 13. Waste generator means any person who produces or is responsible for solid waste or recyclables in Westchester County requiring disposal.
- 14. Residential waste generator means a waste generator who resides in a single- or multifamily dwelling, whose waste is generated from household functions such as cooking, cleaning, etc.

15. Nonresidential waste generator shall mean all waste generators other than residential waste generators.

ARTICLE IV. PROVISIONS APPLICABLE TO WASTE GENERATORS

Sec. 825.40. Provisions applicable to waste generators.

1. Every waste generator in Westchester County shall be responsible for the source separation of solid waste and recyclables at the point of generation. Residential waste generators shall source-separate Class A residential recyclables as set forth in the definition of recyclables in section 825.30 of this chapter. Nonresidential waste generators shall source-separate Class B nonresidential recyclable as set forth in the definition of recyclables in section 825.30 of this chapter. Waste generators shall source-separate additional materials designated as recyclables by a local municipality pursuant to § 120-aa of the General Municipal Law, if that municipality provides or causes to be provided collection of such materials for the waste generator or a location within that municipality for delivery of such materials by the waste generator. Waste generators shall not be required to source-separate recyclables contained in construction and demolition debris, provided that such debris is brought to a facility where recyclables can be separated from the nonrecyclable solid waste. All waste generators shall commence source separation on September 1, 1992.
2. Each waste generator shall provide for the removal of those separated recyclables which the waste generator is required to source-separate pursuant to subsection 1. above from the property on which they are generated either through service provided by a municipality, by a hauler or a recyclables broker, or by taking these materials directly to a recyclables transfer, storage or processing location. Used motor oil shall be delivered by private individuals to service stations required to accept this material free of charge in accordance with New York State Environmental Conservation Law § 23-2307. Used vehicular batteries shall be delivered by private individuals to retailers who sell such batteries and who are required to accept such batteries for recycling free of charge in accordance with New York State Environmental Conservation Law § 27-1701 or to scrap recycling facilities which accept this type of used battery for recycling.
3. Each waste generator shall be required to prepare those recyclables which the waste generator is required to source-separate pursuant to subsection 1. above in the manner prescribed in the definition of recyclables in section 825.30 of this chapter, or if no particular manner of preparation is specified for a specific recyclable material in said definition of recyclables, then according to any ordinance, regulation or rule of the municipality that provides recyclables collection services to that waste generator, or if such collection services are provided by a hauler or recyclables broker, then according to the directions of the hauler or recyclables broker. If a waste generator utilizes direct haul, recyclables

shall be prepared in the manner prescribed by the recyclables transfer, storage or processing facility to which the waste generator delivers such materials.

4. Every waste generator shall be obligated to insure that those recyclables which the waste generator is required to source-separate pursuant to subsection 1. above are placed in the location designated for recyclables collection by the municipality in which the waste generator is located. If no such ordinance exists or is applicable, but the waste generator utilizes a hauler or recyclables broker to collect its recyclables, then the waste generator shall place its recyclables in any location designated by the hauler or recyclables broker for recyclables collection.
5. In the case of multi-tenant buildings, the owner of such building is responsible to provide the following: appropriate container(s) to hold source-separated materials for the entire building separate from the container(s) where the building's solid waste is stored; a mechanism for disposal of source-separated recyclables, unless municipal collection is provided; and an educational program for tenants on the manner in which source-separated materials are to be prepared for collection.
6. Nothing in this chapter shall be construed to prohibit private composting of garden and yard waste by a waste generator on the waste generator's own property.
7. Exempt: waste generators who are unable to comply with the requirements of this section for good cause shown (e.g., old age, mental or physical infirmity, etc.). Exemptions shall be granted solely at the discretion of the commissioner. A person who applies for an exemption may be required by the commissioner to supply documentation of the reason(s) supporting the application. Said person shall be required to simultaneously file a copy of the request for exemption, along with all supporting documentation submitted to the commissioner with the municipality in which the said person is located. The municipality shall have the right to submit written objections to the commissioner regarding a request for exemption by a person within that municipality's jurisdiction within twenty (20) days of receipt of its copy of an exemption request. The commissioner shall consider a municipality's objections prior to making his determination. The commissioner shall advise the municipality of his determination when rendered. The commissioner shall maintain and regularly update a list of such exempt waste generators, which shall be made available to the officials charged with enforcing the terms of this chapter.

(Added by L.L. No. 14-1992)

Sec. 825.41. Mercury disposal prohibitions and source separation.

- (a) Definitions.
 - i. Authorized recycling facility shall mean any of the recycling facilities on the list of authorized facilities furnished by the Department, the County Department of Health or the County Department of Weights and Measure.

- ii. Manometer or mercury gauge shall mean an instrument containing mercury used to measure the pressure of gas.
 - iii. Mercury barometer means a mercury-containing instrument used to measure atmospheric (or barometric) pressure.
 - iv. Mercury thermometer means a non-digital instrument containing mercury that is used to measure temperature.
 - v. Mercury thermostat means a non-electronic device, containing one or more mercury tilt switches, that regulates temperature in an enclosed area by controlling heating, cooling or ventilation equipment.
 - vi. Silent wall switch means a mercury-containing light switch, manufactured prior to 1991, mounted on a wall which does not make an audible "click" sound when activated.
 - vii. Household chemical waste collection program shall mean any municipal program designed for the purpose of collecting source separated products containing mercury for proper disposal apart from the conventional waste stream.
- (b) Mercury disposal prohibitions. A person may not knowingly dispose of a mercury barometer, mercury gauge or manometer, mercury thermometer, mercury thermostat or silent wall switch, in:
- i. Solid waste;
 - ii. Wastewater disposal systems, including home septic systems; or
 - iii. A landfill, incinerator or other solid waste disposal facility, except an authorized recycling facility or a household chemical waste collection program.
- (c) Source separation.
- i. Every waste generator in Westchester County shall separate mercury barometers, mercury gauges or manometers, mercury thermometers, mercury thermostats or silent wall switches from solid waste at the point of generation.
 - ii. After proper separation of mercury barometers, mercury gauges or manometers, mercury thermometers, mercury thermostats or silent wall switches, each person who discards that waste shall deliver that waste to a recycling facility that is legally authorized and permitted to accept that waste pursuant to this section. Residential waste generators may additionally deliver that waste to a household chemical waste collection program.
 - iii. The Department shall make available a regularly-updated listing of authorized recycling facilities on the official website of the county.
(Added by L.L. No. 8-2003, § 2)

ARTICLE V. PROVISIONS APPLICABLE TO HAULERS AND RECYCLABLES BROKERS

Sec. 825.50. Provisions applicable to haulers and recyclables brokers.

1. Haulers and recyclables brokers shall provide regular, reliable and separate collection of recyclables to any customer to whom they provide recyclables collection services.
2. Haulers and recyclables brokers shall deliver any recyclables that they have collected or picked up to a recyclables transfer, storage or processing facility. In the event that a market for a particular recyclable or class of recyclables collapses or that delivery to a transfer, storage or processing facility would create a severe economic hardship to a hauler or recyclables broker, the commissioner may, in his sole discretion, grant a temporary waiver to the requirements of this subsection, only upon a written application for waiver from the hauler or recyclables broker setting forth with specificity the facts and reasons in support of such application. Waivers shall be for a specific period of time and shall be rescinded earlier, if the commissioner, in his sole discretion, determines that the reasons for granting the waiver no longer exist.
(Added by L.L. No. 14-1992)

ARTICLE VI. PROVISIONS APPLICABLE TO MUNICIPALITIES

Sec. 825.60. Provisions applicable to municipalities.

1. For the purposes of fulfilling its responsibilities as the designated "planning unit" under the authority of New York State Environmental Conservation Law § 27-0107, the county must coordinate and analyze the recycling efforts of all the municipalities within its borders to see that the recycling goals for the entire county, as set forth in the county's state-approved solid waste management plan, are met. The commissioner shall prepare an annual report on the recycling programs of Westchester's municipalities, based on information obtained under the reporting requirements of this section and any other relevant information available to him, to assess the effectiveness of the municipalities' recycling programs in meeting the county's state-approved solid waste management plan recycling goals and to suggest any measures that may need to be taken, if the plan's recycling goals are not being met.
2. Each municipality within the county shall provide, or cause to be provided, the regular, reliable and separate collection of recyclables from those waste generators to which the municipality provides, or causes to be provided, solid waste collection services. Each such municipality shall furnish the commissioner with a plan to provide, or cause to be provided, such separate collection and recycling of recyclables, on a form to be provided by the commissioner. Such plan shall include, but not be limited to:

- (a) a written schedule for the collection and delivery of recyclables, including frequency of collection, and the identification of the marketplace for collected recyclables;
- (b) a separate and distinct section setting forth a plan for the collection and disposition of recyclable yard waste;
- (c) a report on reduction and reuse techniques to be implemented by the municipality, including public education efforts.

All such plans shall be submitted to the commissioner for his review and use in the manner set forth herein. Municipalities shall submit their plans to the commissioner by September 30, 1992. The commissioner shall transmit the required form for municipal plans to each municipality in the county by certified mail, return receipt requested.

- 3. Each municipality within the county shall furnish annual recycling reports to the commissioner documenting the types and quantities of recyclables which were collected and recycled by that municipality either through municipal or contract collection in the previous year and identifying the tonnages of each recyclable material delivered to each particular recyclables broker or other market for recyclables. There shall be a separate section in the report for yard waste that was collected and recycled in the prior year. In addition, after a municipality's recycling goals are set pursuant to subsection 5.a. of this section, subsequent annual recycling reports shall contain a municipal recycling plan update that addresses the municipality's progress or lack of progress in meeting its annual recycling goals, and any revisions to its municipal recycling plan necessary to achieve its annual recycling goals that the municipality intends to make and the proposed timetable for implementing any such revisions. The annual recycling report must be submitted on or before March 1 of each year. The commissioner shall provide forms for these reports to each municipality on or before January 15 of each year. Municipalities utilizing the county's materials recovery facility are exempt from reporting on the tonnages of those recyclables which are being delivered by the municipality to said facility. However, any municipality utilizing the materials recovery facility, who is not meeting its recycling goals set pursuant to subsection 5.a. of this section, shall still be required to address how it intends to improve the collection rate of materials delivered to the materials recovery facility in its recycling plan update.
- 4. For the purposes of this section, municipalities shall not be required to plan for or report on the recycling of used motor oil and vehicular batteries.
- 5. With respect to the plans and reports filed pursuant to subsections 2. and 3. above, the role of the commissioner shall be as follows:
 - a. Commencing with the date of adoption of this chapter and concluding no later than the end of calendar year 1993, the commissioner shall review, evaluate and comment upon the municipal plans and annual reports that he

receives during this period and shall establish annual recycling goals for each municipality that shall be substantially in accordance with the recycling goals set forth in the county's state-approved solid waste management plan for the planning period covered by the county's state-approved solid waste management plan. The commissioner shall confer with and accept comment from each municipality prior to setting the municipality's annual recycling goals. A municipality's recycling plan goals may only be revised if necessitated by a state-approved amendment to the county's solid waste management plan. Enforcement of such revised goals pursuant to subsection 5.c. below shall not occur until a municipality has been given a reasonable time to amend and implement its recycling plan to meet such revised goals.

- b. In the event that the annual recycling reports filed by municipalities in 1994, pursuant to subsection 3. above, indicate that a given municipality has not reached its past recycling goals set pursuant to subsection 5.a. above, then by June 1, 1994, the commissioner shall review, evaluate and comment upon said municipality's annual recycling report for the purpose of assisting said municipality in reaching its annual recycling goals. By August 1, 1994, such noncomplying municipalities shall advise the commissioner in writing of the revisions to its recycling plan which it has implemented or intends to implement to achieve compliance with its annual recycling goals and a proposed timetable for implementation, unless the municipality presents evidence to the commissioner demonstrating current compliance with its recycling goals and that it can reasonably be expected to meet its future recycling goals. The revisions to a noncomplying municipality's recycling plan shall be reasonably designed to bring that municipality into compliance with its past annual recycling goals and also shall be reasonably designed to meet its future annual recycling goals. If a noncomplying municipality either fails to submit such a revised plan to the commissioner or fails to demonstrate to the commissioner that it is now in compliance with its municipal recycling goals and can reasonably be expected to meet its future recycling goals, then, by September 1 of that year, the commissioner may find that municipality in violation of this subsection 5.b., subject to the procedures of section 825.80 of this chapter.
- c. In the event that the annual recycling reports filed by municipalities in or after the year 1995, pursuant to subsection 3. above, indicate that a given municipality is not meeting its annual recycling goals and has not implemented measures reasonably designed to reach its recycling goals, then, by June 1 of that year, the commissioner shall review, evaluate and comment upon said noncomplying municipality's annual recycling report and any municipal recycling plan revisions contained in said report. By August 1 of that year, the noncomplying municipality shall submit a plan to the commissioner reasonably designed to reach its recycling goals,

unless the municipality presents evidence to the commissioner demonstrating current compliance with its recycling goals and that it can reasonably be expected to meet its future recycling goals. By October 1 of that year, the commissioner and the noncomplying municipality must concur upon said noncomplying municipality's plan to achieve compliance, unless the commissioner has determined that evidence submitted by said municipality demonstrates current compliance with its recycling goals and the reasonable expectation that this municipality will meet its future annual recycling goals on or before September 1 of that year. However, in the event that the commissioner does not issue such a determination of compliance and the commissioner and the noncomplying municipality fail to agree upon such a revised recycling plan by October 1 of that year, then the commissioner may find the municipality to be in violation of this subsection, subject to the procedures set forth in section 825.80 of this chapter, if the commissioner either demonstrates that the municipality's recycling plan is not reasonably designed to achieve compliance with that municipality's current and future recycling goals established pursuant to subsection 5.a. of this section or that the municipality has not taken the necessary steps to implement its recycling plan and if the commissioner also demonstrates that one or both of these factors is the primary cause for the municipality's failure to meet its recycling goals.

(Added by L.L. No. 14-1992)

ARTICLE VII. NONRESIDENTIAL WASTE GENERATOR PLAN REQUIREMENTS

Sec. 825.70. Nonresidential waste generator plans.

1. Except for municipalities, all nonresidential waste generators who own a building or buildings commonly containing more than 100 employees, patients or students during a 24-hour period, including but not limited to commercial establishments, institutions and school districts ("reporting nonresidential waste generators"), shall be required to provide the following plan to the commissioner:
 - (a) a plan to provide for source separation of nonresidential recyclables;
 - (b) a written schedule for the collection by or delivery of source-separated nonresidential recyclables to a recyclables broker or other market for recyclables, which shall include identification of the recyclables broker or market, collection mechanism and anticipated volumes of materials.
2. The commissioner shall provide the required form for such plan to all reporting nonresidential generators.

3. Reporting nonresidential generators shall submit their proposed plan by October 31, 1992.
4. In the event that a commercial establishment, institution or school district utilizes more than one location, only one plan need be submitted, provided that such plan identifies activities at each location, unless such location's plan is prepared by a building owner pursuant to subsection 5. below, in which case only the owner's name need be identified.
5. In the event that a commercial establishment, institution or school district is located within a multi-tenant building and there are over 100 employees in such building, it shall be the responsibility of the owner of such building to comply with this section.
(Added by L.L. No. 14-1992)

ARTICLE VIII. PENALTIES AND ENFORCEMENT

Sec. 825.80. Penalties and enforcement.

1. Any person found guilty in a court of competent jurisdiction of failure to comply with any applicable provisions of this chapter or with any emergency regulation of the commissioner duly issued under this chapter shall be guilty of an offense punishable as follows:
 - a. For the first violation, a warning or a fine up to \$250.00.
 - b. For the second violation, a fine of up to \$500.00;
 - c. For the third violation, a fine of up to \$750.00;
 - d. For the fourth and succeeding violations, a fine of up to \$1,000.00.
2. In lieu of, or in addition to, the criminal enforcement provisions and penalties of subsection 1. above, each such compliance violation shall be subject to a civil penalty as follows:
 - a. For the first violation, a warning or a fine up to \$250.00;
 - b. For the second violation, a warning or a fine of up to \$500.00;
 - c. For the third violation, a warning or a fine of up to \$750.00;
 - d. For the fourth and succeeding violations, a warning or a fine of up to \$1,000.00. Each day of a continuing violation shall constitute a separate violation and shall be subject to a separate fine and/or civil penalty.
3. In addition to any other penalties prescribed in this section, the County Attorney may maintain an action in a court of competent jurisdiction to compel compliance with or restrain by injunction any violation of the provisions of this chapter or of the regulations of the commissioner duly issued pursuant to this chapter.
4. Except for warnings, which may be issued by any police officer or duly appointed county or municipal enforcement officer, the civil penalties recited in subsection 2. of this section shall only be imposed either by a court of competent jurisdiction

or by the commissioner, without first resorting to the courts, pursuant to the following administrative hearing procedure:

- a. Upon the issuance of a notice of violation and hearing, the commissioner shall cause to be held a hearing before a hearing officer selected by the commissioner, unless a person charged with such violation admits liability by returning the notice of violation with payment of the proposed penalty and by signing the admission of liability on said notice.
- b. A formal hearing shall be on due and adequate notice to the party concerned and shall be set down for a date certain. A notice of violation and hearing shall be served by the commissioner upon the alleged violator by certified mail, return receipt requested or by personal service. "Personal service" shall be defined as set forth in the New York State Civil Practice Law and Rules.
- c. A notice of violation and hearing shall include notification of the following:
 - i. The time and place of the hearing;
 - ii. A list of all alleged violations complained of, with specific reference to the provisions and sections of the law, rule or regulation involved, and a summary of the alleged facts supporting each alleged violation;
 - iii. The respondent's right to present evidence;
 - iv. The respondent's right to examine and cross-examine witnesses;
 - v. The respondent's right to be represented by counsel;
 - vi. That respondent's failure to appear shall constitute a default by the respondent, and that the hearing may proceed in the respondent's absence and a determination made based solely upon evidence submitted by the commissioner; and
 - vii. That respondent may waive his or her right to such hearing by signing an admission of liability on the notice of violation and hearing and by remitting payment of the assessed penalty.
- d. The hearing officer may grant an adjournment upon request of any party to the proceeding, provided that an adjournment shall not be for an indefinite period of time, but shall be set down for a date certain.
 - i. If an adjournment is requested in advance of the hearing date, such request shall be presented to the hearing officer, in writing, and shall specify the reason for such request.
 - ii. In considering an application for adjournment of a hearing, the hearing officer shall consider whether the purpose of the hearing will be affected or defeated by the granting of such adjournment.

- e. To aid in the administration of this chapter, the commissioner, or any hearing officer designated by him or her in a particular proceeding, may issue subpoenas in the commissioner's name requiring the attendance and giving of testimony by witnesses and the production of books, papers and other evidence for any hearing or proceeding conducted under this section. Service of such subpoena(s), enforcement of obedience thereto, and punishment for disobedience thereof, shall be had as and in the manner provided by the New York State Civil Practice Law and Rules relating to the enforcement of any subpoena issued by a board or committee.
 - i. It shall be the responsibility of the party requesting the issuance of a subpoena to effect service thereof.
 - ii. The hearing officer may add a party to the proceeding upon due and adequate notice to both the party to be added and the parties named in the proceedings.
- f. On the return date of a hearing, the hearing officer shall note the appearances of the persons attending the hearing. Witnesses shall be sworn and testimony shall be recorded either by a certified stenographer or by use of an electronic recording device.
- g. All hearings shall be open to the public. Testimony shall be transcribed upon the request of any interested party. The party requesting the transcript shall pay the costs and expenses in connection therewith.
- h. The hearing officer shall not be bound by the strict rules of evidence in the conduct of a hearing, but his or her findings of fact shall be founded upon a fair preponderance of the evidence presented at the hearing. The hearing officer shall admit and consider any evidence of mitigation offered by the alleged violator.
- i. After the conclusion of a formal hearing, the hearing officer shall prepare and issue a report containing a summary of the evidence, findings of fact, conclusions of law and recommendation(s) to the commissioner.
- j. The recommendations of the hearing officer may include but shall not be limited to the appropriate penalty in the event the commissioner finds a violation has occurred, or the submission of a recommendation that a stipulation of settlement be incorporated in a commissioner's decision and order.
- k. Upon the conclusion of a formal hearing and after consideration of the hearing officer's report and recommendations and any evidence of mitigation, the commissioner shall make a decision based on a fair preponderance of the evidence and shall execute an order carrying such decision into effect.

- l. The order of the commissioner may include, but shall not be limited to, the assessment of civil penalties, as provided by this chapter; the approval of a stipulation of settlement which shall include, but not be limited to, a plan and schedule to remedy the condition which caused the violation, if such measures are necessary and appropriate to correct the violation; and suspended penalties.
 - m. If the commissioner determines that the hearing record is not sufficient to make a final determination, the commissioner may direct a rehearing or require the taking of additional evidence and may rescind or affirm, in whole or in part, a prior determination after such hearing.
 - n. The commissioner shall cause to be served upon the respondent, copies of the hearing officer's report and the commissioner's final determination and order. Service shall be made in the manner prescribed for the service of a notice of hearing.
5. Where any violation of this chapter causes an expense to the county or to a municipality enforcing this chapter pursuant to subsection 6. below, such expense may, in the discretion of the commissioner, be separately collected by a civil suit against the violator, brought by the County Attorney in the name of the county in a court of competent jurisdiction.
6. Municipalities may enforce this chapter within their jurisdiction against waste generators, haulers and recyclables brokers. A municipality that chooses to enforce this chapter shall designate a local enforcement official who shall have all the powers of the commissioner and the County Attorney related to enforcement under this section. If a municipality enforces a violation of this chapter and undertakes the entire enforcement of a particular offense and/or civil violation of this chapter, then 100 percent of the fines collected in that enforcement proceeding shall be retained by the enforcing municipality. Municipalities may not enforce this chapter against any person against whom the county has already proceeded for the same or substantially similar violation or violations.
(Added by L.L. No. 14-1992)

ARTICLE IX. EMERGENCY RULEMAKING AUTHORITY AND PROCEDURES

Sec. 825.90. Emergency rulemaking authority and procedures.

1. In the event of an emergency which affects the life, safety, health, environment or welfare of the citizens of this county and circumstances require prompt action to remedy the emergency, the commissioner may promulgate emergency regulations without the approval of the Board of Legislators, which shall be published in their full text immediately, in one or more newspapers of general circulation designated

by the Clerk of the Board of Legislators for this purpose and filed with the Clerk of the Board of Legislators. An emergency regulation shall expire at either the end of the emergency or 45 days after publication, whichever comes first. An emergency regulation may only be extended beyond 45 days with the approval of the majority of the Board of Legislators.

2. A compilation of all emergency regulations promulgated pursuant to this section shall be maintained in the office of the commissioner and shall be available for inspection by any interested party during regular business hours.
(Added by L.L. No. 14-1992)

ARTICLE X. ADMINISTRATION

Sec. 825.101. Administration.

The Westchester County Source Separation Law shall be administered and enforced by the commissioner. Enforcement by municipalities is also authorized under the limitations set forth in section 825.80, subsection 6., of this chapter.

(Added by L.L. No. 14-1992)

ARTICLE XI. SEVERABILITY

Sec. 825.110. Severability.

If any provision of this chapter or application to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this chapter which can be given effect without regard to the invalid provision or application and to this end the provisions of this chapter are declared to be severable.

(Added by L.L. No. 14-1992)