

TO: BOARD OF LEGISLATORS
COUNTY OF WESTCHESTER

Your Committee recommends adoption of “A LOCAL LAW amending Chapter 825 of the Laws of Westchester County entitled the “Westchester County Source Separation Law” to improve recycling, reduction and waste programs in the County of Westchester.”

Your Committee is informed that this proposed Local Law will: (1) require separate containers for waste and recyclables in public places; (2) specify and clarify that separate disposal is required for certain items in accordance with state law; (3) expand the language regarding food composting; (3) amend the list of mandatory curbside recyclables to include cartons; (4) require reporting by municipalities, haulers, and recyclers directly to the County Department of Environmental Facilities; and (5) clarify and revise language in certain sections and definitions to reflect actual County recycling operations.

Your Committee is further informed that the ease of recycling directly corresponds to increased compliance with recycling requirements. If a waste receptacle is available without a corresponding container for recyclables, an individual is more likely to dispose of the recyclable as waste. Although the current Source Separation Law requires nonresidential waste generators to separate recyclables for curbside collection, in practice and due to health concerns, separation of waste post disposal is extremely unlikely to occur. In addition, recycling rules vary based upon location and hauler, meaning that without containers and proper signage, consumers may not be

aware of proper recycling methods in stores and other businesses. Therefore, this amendment to the law will require separate containers for waste and recyclables in public places.

Your Committee acknowledges that when recyclables are improperly disposed as waste at transfer stations or end use management facilities, there is no mechanism to remove the recyclables from the waste stream, resulting in disposal where recycling may have been possible. Moreover, the number of fines issued to businesses and haulers for the comingling of recyclables with waste may be reduced where proper containers and signage are required and available to the public, due to consumers properly recycling in the first instance.

Your Committee is aware that according to the County's 2019-2020 Food Waste Study, approximately 22% of residential waste is food, which can be managed through composting and/or digestion, rather than as household waste. Although the current Source Separation Law specifically assures residents that garden and yard waste may be composted at home, it is silent on home composting. This amendment specifically states that there is no prohibition against the private composting of food or participation in a program for food recycling.

Your Committee further acknowledges that the County Department of Environmental Facilities, Refuse & Recycling (Solid Waste) Division, as the State-designated Solid Waste Management Planning Agency for Refuse Disposal District #1, established a carton recycling program in 2016. Since that time, carton recycling has become the standard for residential collection programs in Westchester County and therefore the law was amended to specify that cartons are considered a mandatory curbside recyclable.

Your Committee recognizes that the County Department of Environmental Facilities, Refuse & Recycling (Solid Waste) Division gathers recycling and waste data from municipalities, haulers, and recyclers in order to prepare and submit reports required by the State and for program planning. The ability of the County Department of Environmental Facilities to gather data directly from municipalities, haulers, and recyclers as will be required under the proposed law, is imperative to comply with State law and to continue to improve recycling, reduction, and waste programs in the County.

Your Committee is advised that certain materials, such as Lithium-Ion Batteries, Freon-containing devices, and mercury-containing items can be dangerous if disposed in household waste. State law already requires proper and safe disposal techniques for these items and the amendment being requested with respect to disposal of special wastes would make the County's law consistent with State law.

Your Committee notes that the intent of the amendments to Chapter 825 of the Laws of Westchester County is to increase recycling in the County to maintain and improve the health of the environment and benefit the health, safety, and welfare of County residents.

Your Committee is further advised that persons seeking to report a violation of the recycling requirements set forth in Chapter 825 of the Laws of Westchester County may do so either by submission of a Recycling Complaint through the Department of Environmental

Facilities website (environment.westchestergov.com), or by calling the Recycling HelpLine at 914-813-5425.

Your Committee is informed by the Department of Planning that the proposed amendment is not an "Action" as defined in 6 NYCRR Part 617, the implementing regulations of the New York State Environmental Quality Review Act ("SEQRA"). The County's Department of Planning has prepared a memorandum dated January 12, 2023, which is on file with the Clerk of the Board of Legislators. Your Committee concurs with the conclusion of that memorandum.

In light of all of the foregoing, your Committee recommends passage of this Local Law.

Dated: March 18, 2024
White Plains, New York

 Margaret A. Cijio  Colin J. O'M  David Jash Legislation	 Nancy Bauer  Nancy Bauer  David Jash Public Works & Transportation	 Nancy Bauer  Nancy Bauer  David Jash Parks & Environment
--	---	--

Dated: March 18, 2024
White Plains, New York

The following members attended the meeting remotely and approved this item out of Committee with an affirmative vote. Their electronic signature was authorized and is below.

Emiljana Ulag

COMMITTEE ON

Legislation

0 1 2 3

SDK-6-27-23

FISCAL IMPACT STATEMENT

SUBJECT: Updates to Source Separation Law

NO FISCAL IMPACT PROJECTED

OPERATING BUDGET IMPACT

To Be Completed by Submitting Department and Reviewed by Budget

SECTION A - FUND

GENERAL FUND

AIRPORT FUND

SPECIAL DISTRICTS FUND

SECTION B - EXPENSES AND REVENUES

Total Current Year Expense _____

Total Current Year Revenue \$ _____ -

Source of Funds (check one): Current Appropriations Transfer of Existing Appropriations

Additional Appropriations

Other (explain)

Identify Accounts: _____

Potential Related Operating Budget Expenses: Annual Amount 0.00

Describe: This is for an amendments to the source separation law, no impact on the operating

Potential Related Operating Budget Revenues: Annual Amount 0

Describe: _____

Anticipated Savings to County and/or Impact on Department Operations:

Current Year: N/A

Next Four Years: N/A

Prepared by: Melissa-Jean Rotini

Title: Assistant Commissioner


Department: Environmental Facilities

Date: January 8, 2024

Reviewed By: 
Budget Director

Date: 1/11/24

TO: George Latimer, County Executive
Kenneth Jenkins, Deputy County Executive
John Nonna, County Attorney

FROM: David Kvinge, AICP, RLA, CFM 
Assistant Commissioner

DATE: January 8, 2024

SUBJECT: **ACTIVITIES NOT SUBJECT TO STATE ENVIRONMENTAL QUALITY REVIEW**

As required by the New York State Environmental Quality Review Act and its implementing regulations 6 NYCRR Part 617 ("SEQR"), the Board of Legislators ("BOL") is the body that must assess the environmental significance of all actions that the BOL has discretion to approve, fund or directly undertake. The Planning Department has historically conducted the necessary environmental review for the BOL to undertake its responsibility under SEQR. Additionally, contracts going before the Board of Acquisition and Contracts ("BAC") must be reviewed for conformance with SEQR.

Pursuant to Section 617.2(b) of SEQR, "Actions" are defined as:

- (1) projects or physical activities, such as construction or other activities that may affect the environment by changing the use, appearance or condition of any natural resource or structure, that:
 - (i) are directly undertaken by an agency; or
 - (ii) involve funding by an agency; or
 - (iii) require one or more new or modified approvals from an agency or agencies;
- (2) agency planning and policy making activities that may affect the environment and commit the agency to a definite course of future decisions;
- (3) adoption of agency rules, regulations and procedures, including local laws, codes, ordinances, executive orders and resolutions that may affect the environment; and
- (4) any combinations of the above.

As has been done in prior years, the Planning Department, in an attempt to streamline the process for SEQR review and related document preparation for the BOL and BAC, has created a list of categories of activities that do not meet the definition of an "action" as defined in SEQR. This list (attached) references activities that are routine and which do not change the use, appearance or condition of any natural resource or structure, nor do they involve policies or regulations that may affect the environment. The creation of this list in no way eliminates the BOL's or BAC's responsibilities under SEQR. Rather, it establishes a workflow for items that are routine and do not, under the law, require environmental review.

Accordingly, the Planning Department advises that no environmental review is required and no SEQR documentation is necessary for submission with BOL legislation or with resolutions or contracts requiring BAC approval regarding activities on the attached list.

County departments and agencies may reference this memorandum in the legislation in order to document compliance with SEQR for actions listed herein. This memorandum should be considered in effect until rescinded or replaced, with replacements typically occurring annually in mid-January. As such, this memorandum should be kept on file with the Clerk of the Board of Legislators. Legislation should include a statement similar to the following: "The proposed project does not meet the definition of an action under New York State Environmental Quality Review Act and its implementing regulations 6 NYCRR Part 617. Please refer to the memorandum from the Department of Planning dated January 8, 2024, which is on file with the Clerk of the Board of Legislators."

This memorandum will be distributed to all Commissioners as part of County operations.

Please contact me if you have any questions.

Att.

cc: Malika Vanderberg, Clerk and Chief Administrative Officer to the Board of Legislators
Joan McDonald, Director of Operations
Andrew Ferris, Chief of Staff
Steve Bass, Director of Intergovernmental Relations
Paula Friedman, Assistant to the County Executive
Stacey Dolgin-Kmetz, Chief Deputy County Attorney
Tami Altschiller, Assistant Chief Deputy County Attorney
Blanca Lopez, Commissioner, Department of Planning

**ACTIVITIES THAT DO NOT MEET THE DEFINITION OF AN “ACTION”
PURSUANT TO SEQR AND ARE, CONSEQUENTLY, NOT SUBJECT TO SEQR**

1. **BUDGETS AND AMENDMENTS**

- Municipal budgets and amendments to them – The budgeting process merely sets aside funds without a commitment to their expenditure. Operating expenditures are typically for government-related activities that would also not meet the definition of an action. Even the establishment of the Capital Budget is not subject to SEQR because many of the capital projects are usually not definitive enough with respect to potential impacts to be reviewable at the time the budget is adopted. However, any subsequent authorization, such as bonding, to undertake a particular capital project is an action that requires SEQR compliance before it may be approved.
- The transfer of funds within the County operating and capital budgets for the purpose of balancing accounts – It is understood that these actions are purely budgetary, where accounts with excess funds are moved to accounts with existing or anticipated deficits. It is further understood that the activities covered by these accounts have either already occurred or been reviewed in accordance with SEQR, are Type II actions or actions that are not subject to SEQR, or are actions that will require future approval prior to being undertaken, at which time further SEQR review may be appropriate.
- Rescissions or reduction of bond acts to cancel unspent funds.

2. **SERVICES**

- Consultant services – Contracts or agreements that provide for administrative services, training, reports for Boards and Commissions, but not including studies or design of physical improvements, which has been listed under SEQR as Type II.
- Social Services – Actions or agreements that provide services to persons in need, such as employment assistance, family/domestic intervention and respite care.
- Youth services – Actions or agreements that provide for youth services, such as a Resource Allocation Plan, Invest-in-Kids Program, after-school programs, camp programs and head-start programs.
- Senior programs & services – Actions or agreements that provide for services to seniors, such as provision of information/education, home care, nutrition & transportation assistance, caregiver support, and acceptance of federal and state grants providing for such services (e.g., OAA Title III grants and NYSOFA grants, including CSE, CSI, CRC, EISEP, NYSTP, WIN & NSIP).
- Public Safety services – programs that promote public safety, such as STOP-DWI and Police Night Out; intermunicipal agreements (IMAs) for shared training, equipment and response to emergencies, including E-911; acceptance and administration of grants for law enforcement programs (e.g., JAG).
- Fire services – Fire district IMAs for shared training, equipment and response to emergencies.
- Legal services – Contracts for outside counsel, litigation or associated monetary settlements and collections.

- Medical Services – Contracts with medical providers for medical examinations, testing, vaccinations or medical treatment of County employees or the public.
- Mental Health Services – Contracts with agencies to provide treatment, services or education related to mental health.

3. PERSONNEL MATTERS

- Actions related to employment or employees.
- Contracts for temporary staff assistance.
- Legislation pertaining to establishment and membership of boards and commissions.

4. FINANCES

- Tax Anticipation Notes.
- Bond acts to finance tax certiorari payments.
- Banking contracts/agreements for money management services.
- Mortgage tax receipts disbursements (County Clerk).
- Refinancing of affordable housing mortgages.
- Payment in Lieu of Taxes (PILOT) agreements.

5. LAWS

- New laws or amendments of existing laws that regulate the sale or use of products for the protection of public health.
- New laws or amendments of existing laws that regulate businesses for the protection of consumers.
- Pertaining to consumer protection, not including professional licensing, which have been classified as Type II.
- Pertaining to animal welfare, excluding regulations involving habitat management.
- Pertaining to public safety.
- Pertaining to taxation, such as establishment of new taxes or tax exemptions.
- Pertaining to establishment or modification of fees.
- Pertaining to notices, publications and record keeping.
- Pertaining to hiring or contracting procedures.
- Pertaining to the functioning of County government, such as term limits, board appointments, etc. that do not impact the environment.

6. MISCELLANEOUS

- Amendments to existing agreements for changes in name or consultants.
- Education/training programs, contracts for clinical instruction.
- Prisoner Transport IMAs.
- Tourism Promotion Agency designation.
- Software licenses.

- IMAs for temporary housing in existing facilities (homeless, inmate, troubled youths, domestic violence victims).
- Naming or renaming of streets, buildings, parks or other public facilities.

WCDP
JAN 2024

A LOCAL LAW amending Chapter 825 of the Laws of Westchester County entitled the "Westchester County Source Separation Law" to improve recycling, reduction and waste programs in the County of Westchester.

BE IT ENACTED by the County Board of the County of Westchester as follows:

Section 1. Chapter 825 of the Laws of Westchester County is amended to read as follows:

Chapter 825

ARTICLE I. - SHORT TITLE AND STATEMENT OF PURPOSE

Sec. 825.01. - Short title.

This shall be known as the "Westchester County Source Separation Law."

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 promotes ~~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.

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.

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 shall means the County of Westchester.
2. Commissioner shall means the Commissioner of Environmental Facilities of the County of Westchester or ~~their~~his/her duly authorized designee~~representative~~.
3. Construction and ~~d~~Demolition ~~d~~Debris or (C&D) has the same meaning as ~~means in Laws of Westchester County § 826-a.200(8). uncontaminated Solid Waste resulting from the construction, remodeling, repair, and/or 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 where such materials are unable to be processed as Yard Waste excluding vegetative waste. 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.~~

~~3.4.~~ **Department** shall mean the County of Westchester County Department of Environmental Facilities.

~~4.5.~~ **Electronic Waste** shall mean waste items, such as computers, computer peripherals, televisions, small scale servers, small electronic equipment, and wireless telephones.

~~5.6.~~ **Food Scrap** shall mean all inedible food, trimmings from the preparation of food, food-soiled paper, edible food that is not donated, and food processing waste. Food Scrap does not include used cooking oil, yellow grease, or any food which is subject to a recall or seizure due to the presence of pathogens.

~~7.~~ **Food Waste** shall mean all food-based putrescible materials or substances that are discarded or rejected as being spent, useless, worthless or in excess to the owners at the time of such discard or rejection.

~~6.8.~~ **Hauler** shall mean 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 Ssolid wWaste, rRecyclables, eConstruction and Ddemolition dDebris that is generated or originated within the County or brought within the boundaries of the County for disposal, storage, transfer, or processing.

~~7.9.~~ **Household Hazardous Wastes (HHW)** are materials found in residential wastes that would be regulated as hazardous wastes if they were generated outside of a household. These household wastes can be flammable, toxic, corrosive, or reactive and can be dangerous if handled improperly.

~~8.10.~~ **Municipality** shall mean any of the towns, villages, and cities located within Westchester County.

~~9.11.~~ **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.

~~10-12.~~ **Rechargeable Batteries** shall mean any battery included in New York State Environmental Conservation Law § 27-1803, and any other law or regulation related to rechargeable battery recycling.

~~11-13.~~ **Recycle** shall 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.

~~12-14.~~ **Recyclables** shall means the following materials:

- (a) Newsprint: Newspapers as purchased, including any glossy inserts.
- (b) 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 intact windows or adhesive labels. Residential waste generators are permitted to commingle high-grade paper with newsprint; however, nonresidential waste generators are required to separate high-grade paper from newsprint.
- (c) Glass: Glass jars, bottles, and containers of clear, green or amber (brown) color, used to store food or beverages only, which ~~must~~shall be empty and rinsed clean. This term excludes ceramics, window or automobile glass, mirrors, and light bulbs.
- (d) Metals: All ferrous and nonferrous food and beverage containers, including steel, aluminum, and bimetal, which shall be empty and rinsed clean.
- (e) Bulk metals: Large metal fixtures and appliances, including white goods such as washing machines, refrigerators (after Freon has been removed), etc. This term excludes metal containers utilized to store flammable or volatile chemical materials, such as fuel tanks.
- (f) Plastics: All plastics with resin identification codes 1 through 7, including food, beverage, detergent, and shampoo containers and caps, which shall be empty and rinsed clean. This term excludes all plastic film (e.g., dry cleaning bags, and

packaging materials), plastic bags, vinyl, all large rigid plastics (e.g., toys, pools, and furniture), non-coded small rigid plastics (e.g., toys, clothing hangers, tableware, and utensils), plastic foam materials (e.g., hot beverage cups, trays, and packaging materials), containers that held potentially hazardous materials (e.g., motor oil, solvents, and pesticides), and building materials (e.g., piping, and bathroom and kitchen fixtures).

- (g) Yard Wwaste: Leaves collected during the fall only.
- (h) ~~Vehicle~~Lead-Acid Vehicle ~~b~~Batteries: ~~Lead-acid batteries~~Batteries used in automobiles and heavy equipment as defined in New York State Environmental Conservation Law § 27-1701; excludes single use non-lithium ion household batteries (e.g., for flashlights, radios, cameras, etc.).
- (i) Used Mmotor Ooil: The type used in gasoline and diesel vehicle and equipment engines, delivered in an uncontaminated container, as defined in New York State Environmental Conservation Law § 23-2307.
- (j) Cardboard including corrugated cardboard containers, which must be cleaned of excessive amounts of contaminants such as adhesives, metals and plastics; cereal boxes, tissue boxes, paper towel rolls, or any other noncorrugated materials made from cardboard.
- (j) Cartons: Food or beverage container including gable-top containers, typically made of waxed paperboard or paperboard lined with plastic and/or aluminum, and typically used as a container for milk, juice, broth, and/or soup.

~~13-15.~~ Recyclables Broker shall 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 Lead-Acid Vehicular Batteries, paint, or any other material accepted -free of charge for recycling under applicable state law, whether or not the State program includes a fee collected at the time of product purchase, provided that this exclusion shall only apply to ~~the aforementioned activities which that~~ are governed by state or county 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.

14.16. Separate Collection shall 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.

15.17. Solid Waste shall means all putrescible and nonputrescible materials or substances 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.

16.18. Source Separation shall means the segregation of Recyclables from Solid Waste at the point of waste generation for separate collection, sale, or other disposition.

17.19. Waste Generator shall means any person within Westchester County who produces or is responsible for Solid Waste or Recyclables ~~in Westchester County~~ requiring disposal.

18.20. Residential Waste Generator shall means a Waste Generator who resides in a single- or multifamily dwelling within Westchester County, whose waste is generated from household functions, ~~such as including, but not limited to~~ cooking, or cleaning, etc.

19.21. ~~_____~~ Nonresidential wWaste Ggenerator shall mean all waste generators other than Rresidential Wwaste gGenerators.

~~16. Food waste means all food-based putrescible materials or substances that are discarded or rejected as being spent, useless, worthless or in excess to the owners at the time of such discard or rejection.~~

ARTICLE IV. - PROVISIONS APPLICABLE TO WASTE GENERATORS

Sec. 825.40. - Provisions applicable to wWaste Ggenerators.

1. Every wWaste Ggenerator in Westchester County shall be responsible for the source separation of sSolid wWaste and Rrecyclables at the point of generation. Waste gGenerators shall source-separate additional materials designated as Rrecyclables by a local Mmunicipality pursuant to § 120-aa of the General Municipal Law, if that mMunicipality provides or causes to be provided collection of such materials for the Wwaste gGenerator, or a location within that Mmunicipality for delivery of such materials by the wWaste Ggenerator. With respect to Household Hazardous Materials, Electronic Waste, Lithium-Ion Batteries, Freon and/or Mercury Containing items, and any other material regulated by State law requiring special disposal, Waste Generators shall source separate those materials and ensure safe and proper disposal. Waste Ggenerators shall not be required to source-separate Rrecyclables contained in Cconstruction and Ddemolition dDebris, provided that such debris is brought to a facility where Rrecyclables can be separated from the nonrecyclable Ssolid Wwaste. All waste generators shall commence source separation on September 1, 1992.
2. Each Wwaste gGenerator shall provide for the removal of those separated Rrecyclables ~~which that~~ the Wwaste Ggenerator is required to source-separate pursuant to subsection 1- above from the property on which they are generated either through service provided by a Mmunicipality, by a Hhauler or a Rrecyclables bBroker, or by taking these materials directly to a Rrecyclables transfer, storage, or processing location. Materials that are subject to State, County, or Local Law allowing for recycling free of charge (whether or not a fee is assessed at the time of product purchase or by tax) shall be Used motor oil shall be delivered by private individuals to appropriate those designated recycling locations. 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 Rrecyclables ~~which that~~ the Wwaste Generator is required to source-separate pursuant to subsection 1-~~above~~ in the manner prescribed in the definition of ~~r~~Recyclables in section 825.30 of this chapter, or if no particular manner of preparation is specified for a specific ~~r~~Recyclable material in said definition of Recyclables, then according to any ordinance, regulation, or rule of the County Refuse Disposal District, or the entity providing Recyclables collection services 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 Wwaste Generator utilizes direct haul, Recyclables shall be prepared in the manner prescribed by the Recyclables transfer, storage or processing facility to which the Wwaste Generator delivers such materials.
4. Every Wwaste Generator shall be obligated to ensure that those Recyclables ~~which that~~ the ~~w~~Waste Generator is required to source-separate pursuant to subsection 1-~~above~~ are placed in the location designated for Recyclables collection by the Hauler municipality in which the waste generator is located. If no such ordinance exists or is applicable, but the waste generator utilizes a hauler or r or Recyclables bBroker ~~to collecting its Solid Waste and R~~ecyclables, ~~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 Wwaste is stored; a mechanism for disposal of source-separated Recyclables, unless ~~m~~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 food, garden, and yard waste by a Waste gGenerator on the wWaste gGenerator's own property, or to engage in a County, municipal, or private recycling program for those materials.
7. Exemption: wWaste gGenerators who are unable to comply with the requirements of this section for good cause shown (e.g., old age, or mental or physical infirmity, etc.). Exemptions shall be granted solely at the discretion of the Ceommissioner. A person who applies for an exemption may be required by the Ceommissioner 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 Ceommissioner with the Mmunicipality in which the said person is located. The mMunicipality shall have the right to submit written objections to the Ceommissioner regarding a request for exemption by a person within that mMunicipality's jurisdiction within twenty (20) days of receipt of its copy of an exemption request. The eComissioner shall consider a mMunicipality's objections prior to making ahis determination. The Ceommissioner shall advise the mMunicipality of histe determination when rendered. ~~The cComissioner shall maintain and regularly update a list of such exempt wWaste Ggenerators, which shall be made available to the officials charged with enforcing the terms of this chapter.~~

Sec. 825.41. - Mercury Ddisposal pProhibitions and Ssource sSeparation.

(a) Definitions.

- i. **Authorized Rrecycling Ffacility** shall mean any ~~of the recycling facility licensed and or permitted to operate in Westchester County pursuant to all applicable laws, rules and regulations~~ ies on the list of authorized facilities furnished by the Department, the County Department of Health or the County Department of Weights and Measure Consumer Protection.
- ii. **Manometer or mMercury gGauge** shall mean an instrument containing mercury used to measure the pressure of gas.

- iii. **Mercury ~~b~~Barometer** shall means a mercury-containing instrument used to measure atmospheric (or barometric) pressure.
- iv. **Mercury ~~T~~hermometer** shall means a non-digital instrument containing mercury that is used to measure temperature.
- v. **Mercury ~~T~~hermostat** shall 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 ~~w~~Wall ~~S~~witch** shall 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 ~~Hazardouse~~chemical ~~W~~waste ~~C~~ollection ~~P~~rogram** shall mean any municipal program designed for the purpose of collecting source separated products, including those containing mercury, for proper disposal apart from the conventional waste stream, whether permanent or periodic, including but not limited to the Household Material Recovery Facility (H-MRF).

(b) **Mercury ~~D~~isposal ~~P~~rohibitions.** A person may not knowingly dispose of a ~~M~~ercury ~~B~~arometer, ~~M~~ercury ~~G~~auge or ~~M~~anometer, ~~M~~ercury ~~T~~hermometer, ~~M~~ercury ~~T~~hermostat or ~~S~~ilent ~~W~~all ~~S~~witch, in:

- i. Solid ~~w~~Waste;
- ii. Wastewater disposal systems, including home septic systems; or
- iii. A landfill, incinerator, waste-to-energy facility, or other solid waste disposal facility, except an ~~a~~Authorized ~~R~~ecycling ~~F~~acility or a ~~H~~ousehold ~~Hazardouse~~chemical ~~W~~waste ~~C~~ollection ~~P~~rogram.

(c) **Source ~~S~~eparation.**

- i. Every ~~w~~Waste ~~G~~enerator in Westchester County shall separate ~~m~~Mercury ~~B~~arometers, ~~M~~ercury ~~G~~auges or ~~M~~anometers, ~~mercury~~—Mercury thermometers~~Thermometers~~, ~~mercury~~—Mercury thermostats~~Thermostats~~, and ~~er~~

~~silent~~ ~~Silent wall~~ ~~Wall switches~~ ~~Switches~~ from ~~s~~Solid ~~W~~waste at the point of generation.

- ii. After proper separation of ~~M~~ercury barometers, ~~M~~ercury ~~G~~auges or ~~M~~anometers, ~~M~~ercury ~~T~~hermometers, ~~M~~ercury ~~T~~hermostats or ~~S~~ilent ~~W~~all ~~S~~witches, each person who discards that waste shall deliver that waste to an Authorized ~~r~~Recycling ~~F~~acility that is legally authorized and permitted to accept that waste pursuant to this section. Residential ~~W~~waste ~~G~~enerators may additionally deliver that waste to a ~~H~~ousehold ~~H~~azardous~~chemical~~ ~~W~~waste ~~C~~ollection ~~P~~rogram.
- iii. ~~The Department shall make available a regularly updated listing of authorized recycling facilities on the official website of the County.~~

Sec. 825.45. - Unauthorized Confiscation of Certain Recyclables.

Except for authorized employees or agents of a ~~m~~Municipality; or authorized employees or agents of ~~H~~aulers or ~~r~~Recyclables ~~b~~rokers licensed by the Westchester County Solid Waste Commission utilized by a ~~W~~waste ~~G~~enerator to collect ~~r~~Recyclables pursuant to a written service contract required by section 826-a.402 of the Laws of Westchester County, it shall be unlawful for any person to remove and transport by motor vehicle any amount of ~~r~~Recyclable paper, cardboard, and/or commingled plastic/glass/metals/cartons that have been placed in the location designated for ~~R~~ecyclables collection for collection or removal by such ~~M~~municipality or licensed ~~H~~auler or ~~R~~ecyclables ~~b~~roker. This section shall not apply to individuals who~~the~~ ~~remove~~~~al~~ or transport ~~o~~ff~~it~~ems intended to be re-used by the individual for personal, non-commercial, use: (1) cardboard, if for personal use; and (2) bulk metals or other types of used household/consumer goods.

ARTICLE V. - PROVISIONS APPLICABLE TO HAULERS AND RECYCLABLES BROKERS

Sec. 825.50. - Provisions applicable to Haulers and Recyclables brokers.

1. Haulers and ~~r~~Recyclables ~~b~~Brokers shall provide regular, reliable, and separate collection of ~~r~~Recyclables to any customer to whom they provide ~~r~~Recyclables collection services.
2. Haulers and ~~R~~recyclables ~~b~~Brokers shall deliver any ~~R~~recyclables that they have collected or picked up to a ~~R~~recyclables transfer, storage, or processing facility. In the event that a market for a particular ~~r~~Recyclable or class of ~~r~~Recyclables collapses or that delivery to a transfer, storage, or processing facility would create a severe economic hardship to a ~~H~~hauler or ~~r~~Recyclables ~~B~~roker, the ~~e~~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 ~~H~~hauler or ~~R~~recyclables ~~b~~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 ~~C~~ommissioner, ~~in his sole discretion,~~ determines that the reasons for granting the waiver no longer exist.
3. Each Hauler and Recyclables Broker shall furnish an annual report regarding its collection activities by the deadline provided by the Department. Such report shall be on the form provided by the Department and shall include, but not be limited to: quantities of all Solid Waste and/or Recyclables hauled in the preceding calendar year and the end disposal location of the material. Notwithstanding the foregoing, each Municipality within Refuse Disposal District #1 shall provide written notification to the Department of any changes to the hauling plan for the Municipality.

ARTICLE VI. - PROVISIONS APPLICABLE TO MUNICIPALITIES

Sec. 825.60. - Provisions ~~A~~pplicable to ~~m~~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~~ shall coordinate and analyze the recycling efforts of all the ~~m~~Municipalities ~~within its borders~~ to ~~see-ensure~~ that the recycling goals for the entire County, as set forth in the County's ~~state-~~approved ~~s~~Solid ~~W~~waste ~~m~~Management ~~p~~Plan, are met. ~~The C~~ommissioner ~~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 M~~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 Mmunicipality within the County shall provide, or cause to be provided, the regular, reliable, and separate collection of Rrecyclables from those Wwaste gGenerators to which the Mmunicipality provides, or causes to be provided, Ssolid Wwaste collection services.

~~(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 such mMunicipality shall furnish a response to the request for an annual report regarding its collection activities by the deadline provided by the Department. At minimum, each Municipality shall provide information related to the types and quantities of Recyclables collected and recycled, including yard waste, during the prior year; whether the materials were collected through municipal or contract collection; the tonnages of each recyclable material delivered to each particular recyclables broker or other market for recyclables. Notwithstanding the foregoing, each Municipality within Refuse Disposal District #1 shall not be required to report the tonnages of those recyclables which are being delivered to a Refuse Disposal District #1 Facility. In addition, each Municipality shall provide written notification to the Commissioner or a his designee of any changes to the hauling plan for the Municipality. ~~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:~~

4. If upon review of the annual reports submitted by the Municipalities, the Commissioner, in his sole discretion, determines that the waste management and/or recycling percentages for the District and/or County fall below the goals of the County's Solid Waste Management Plan and/or the State waste management goals, a Municipality or Municipalities may be required to submit a plan for increasing participation in recycling efforts and/or addressing waste management goals. The Department shall review plans submitted and work with the Municipality to assist in education and participation rates.
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.~~

e. ~~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.~~

ARTICLE VII. - NONRESIDENTIAL WASTE GENERATOR PLAN REQUIREMENTS

Sec. 825.70. - Nonresidential Waste Generator Plans.

1. Except for Mmunicipalities, all Nonresidential Waste Generators who own a or operate 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 ("~~R~~reporting ~~N~~nonresidential ~~W~~waste ~~G~~generators"), shall be required to establish a Source Separation Plan that includes ~~provide the following plan to the commissioner:~~

- (a) A plan to provide for Ssource sSeparation of Rrecyclables; and
- (b) A written schedule for the collection by or delivery of Ssource-Separated Recyclables, which shall include identification of the Hauler, 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:~~

~~23. Reporting nonresidential waste generators shall submit their current source separation plan to the commissioner no later than October 1, 2008. New reporting nonresidential waste generators must submit their plan within six (6) months of the commencement of operations in Westchester County. All reporting Nonresidential Waste Generators have a continuing obligation to update such plan as necessary and submit to the plan to the Department upon request. of the Department. every three (3) years. The Commissioner also has the authority to require an update of the plan as s/he or she deems necessary.~~

~~34. In the event that a commercial establishment, institution, or school district utilizes more than one location, only one Source Separation Plan ~~plan~~ need be developed~~submitted in accordance with subsection 3 above,~~ provided that such plan identifies activities at each location, unless such location's Source Separation Plan~~plan~~ is prepared by a building owner pursuant to ~~subsection 5. below,~~ in which case only the owner's name need be identified.~~

~~45. 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.~~

Sec. 825.70-A.-Nonresidential Waste Generator Source Separation.

1. Every Nonresidential Waste Generator with areas open to the public or visitors shall have separate disposal receptacles for Solid Waste and for Recycling that are clearly marked and identifiable. All such separate disposal receptacles shall be placed in close proximity to each other and shall be available on each floor, in each area, and in any food service area accessible to the public and/or visitors.
2. The separate disposal receptacles for Recycling shall be either single stream (pulp/paper and comingled/bottles/cans/cartons together) or dual stream (separate disposal receptacles for pulp/paper and separate disposal receptacles for comingled bottles/can/cartons), based upon the Nonresidential Waste Generator's Source Separation Plan to manage recyclables.
3. Nonresidential Waste Generators may determine the size, shape, material, and color of any separate disposal receptacle, so long as the receptacles are clearly marked and identifiable so as to avoid the improper mixing of Solid Waste and Recyclables. The Department shall make available to any Nonresidential Waste Generator signage files for the clear demarcation of the separate disposal receptacles.
4. Nonresidential Waste Generators (their lessee, assigns, operators, managers, etc.) shall comply with reasonable requests for access made by the Department or its Solid Waste Inspectors during the performance of inspections of areas referenced in this section.

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 eChapter or with any emergency regulation of the Ccommissioner duly issued under this Cchapter shall be guilty of an offense punishable as follows:
 - a. For the first violation, a warning or a fine up to \$100.00;
 - 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 \$100.00;
 - 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 Cehapter or of ~~the~~ regulations of the Ceommissioner duly issued pursuant to this Cehapter.
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 Ceommissioner, 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 Ceommissioner shall cause to be held a hearing before a hearing officer selected by the Ceommissioner, 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 Ceommissioner 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 a 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 a respondent may waive ~~their~~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 ~~the Commissioner~~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. Prior to the commencement of the hearing, the hearing officer may conduct a settlement conference. Should the Department and the respondent reach a settlement of which the hearing officer approves, the hearing officer shall dispense with the hearing and shall issue a report and recommendation to the Commissioner that the settlement be approved.
- 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 the 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 recommendations(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 the Department enter into a stipulation of settlement upon agreement by all parties to the proceeding~~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, or issue a stipulation of settlement upon agreement of all parties to the proceeding.
 - l. The order of the eCommissioner may include, but shall not be limited to, the assessment of civil penalties, as provided by this chapter; the issuance of the approval of a stipulation of settlement, which has been agreed to by all parties to the proceeding and which shall include, but not be limited to, a plan and schedule to remedy the condition which that 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 or Stipulation of Settlement. 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 mMunicipality enforcing this chapter pursuant to subsection 6: bBelow, 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 Mmunicipality that chooses to enforce this Chapter shall designate in writing to the Commissioner the a local enforcement official, who shall have all the powers of the Commissioner and the County Attorney related to enforcement under this section, and shall provide quarterly reports of all enforcement activity. If a Mmunicipality 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 Mmunicipality. Municipalities may not enforce this Chapter against any person against whom the County has already proceeded against for the same or substantially similar violation or violations.

ARTICLE IX. - EMERGENCY RULEMAKING AUTHORITY AND PROCEDURES

Sec. 825.90. - Emergency rulemaking authority and procedures.

1. In the event of an emergency ~~which~~that 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 on the Department's website. Notification of the emergency declaration having been issued will be sent to the Clerk of the Board of Legislators, 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.

ARTICLE X. - ADMINISTRATION

Sec. 825.101. - Administration.

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

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.~~

If any clause, sentence, paragraph, subdivision, section or part of this chapter or the application to any person or circumstance be adjudged by any court of competent jurisdiction invalid or unconstitutional, that order or judgment will not affect, impair or invalidate the remainder thereof but will be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this chapter, or its application to the person or circumstance directly involved in the controversy in which that order or judgment is rendered.

§2. This Local Law shall take effect immediately.