

DUTCHESS COUNTY SOLID WASTE
MATERIALS MANAGEMENT AND LICENSING
RULES AND REGULATIONS

For the Management of Solid Waste Generated Within the County of Dutchess as authorized by
Section 12.03 of the Administrative Code of the County of Dutchess.

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A. Purpose. The purpose of these rules and regulations is to:

1. Effectuate the management on a county-wide basis of all Solid Waste generated within or coming in from outside the County of Dutchess in order to protect the public health and safety, to improve the environment by control of air, water and land pollution, to ensure that Solid Waste generated or to be disposed of within the County is Disposed of or Recycled in an environmentally safe and sound manner, to implement the County's state-approved Local Solid Waste Management Plan, *Rethinking Waste*, to carry out the expressed policy of the State of New York to displace competition with regulation or monopoly public service.;
2. Effectuate the mandatory Source Separation of Recyclable Materials to recover and reuse Recyclable Materials so as to conserve natural resources, reduce the impact of the cost of Solid Waste Disposal, ensure safe and efficient processing of Solid Waste, help maximally reduce the quantity of Solid Waste that must be Disposed of, and to comply with New York State General Municipal Law Section 120-aa, and;

Carry out the expressed policy of the Dutchess County Legislature to take steps to discourage or prevent the infiltration of the Solid Waste hauling industry by undesirable or possible criminal elements.

B. Definitions. As used in these rules and regulations, unless the context otherwise requires:

1. **"APPLICANT"** shall mean a Person submitting an application for a Solid Waste Disposal License pursuant to these rules and regulations.
2. **"COMPOSTING"** shall mean a controlled decomposition process which turns organic residuals, such as food scraps, biosolids and yard waste into a beneficial soil amendment.

3. **"CONSTRUCTION AND DEMOLITION DEBRIS (C&D)"** shall mean materials generated during the construction, renovation, and demolition of structures, buildings, roads, and bridges. C&D debris includes, but is not limited to, bulky, heavy materials, such as concrete, wood, metals, glass, and salvaged building components.
4. **"COUNTY OF DUTCHESS"** shall mean the entire County of Dutchess as constituted and existing under the Laws of the State of New York.
5. **"DEPUTY COMMISSIONER"** shall mean the Deputy Commissioner of the Dutchess County Department of Planning and Development, Division of Solid Waste Management.
6. **"DISPOSAL OF SOLID WASTE"** or **"DISPOSAL"** or **"DISPOSE"** shall mean collecting, transporting, storing, disposing, transferring, processing or delivering Solid Waste, including Recyclables, to a Solid Waste Management-Resource Recovery Facility.
7. **"ECONOMIC MARKET"** shall mean instances when the full avoided costs of proper collection, transportation and disposal of source separated materials are equal to or greater than the cost of collection, transportation and sale of said materials less the amount received from the sale of said material.
8. **"ELECTRONIC WASTE OR E-WASTE"** shall mean all electronic waste, such as surplus, obsolete, broken, or discarded electrical or electronic devices, including but not limited to televisions, computer monitors, computer peripherals, electronic office equipment, telephones, and electronic entertainment devices.
9. **"EMERGENCY"** shall mean a situation when certain Solid Waste Management-Resource Recovery Facility(ies) in the County are not in operation, are unable to operate at normal capacity, or are otherwise unable to function pursuant to normal operating procedures as may

be determined by the Deputy Commissioner, or when conditions exist which may endanger the health or safety of the public or pose a significant risk of harm to the environment.

10. **"GENERATOR"** shall mean any Person that produces Solid Waste, including Recyclable materials.

11. **"HAULER"** shall mean any Person, other than a Municipality, who Disposes of Solid Waste and is required to have a Solid Waste Disposal License issued by the Deputy Commissioner. Haulers include Persons who:

- a) Have Solid Waste collection routes;
- b) Provide body mounts, including roll-off containers, dumpsters, trailers, and any other container in conjunction with the Disposal of Solid Waste;
- c) Provide for the Disposal of Solid Waste, such as a Hauler whose business is to Dispose of Solid Waste from residential, commercial, construction or industrial sites;

12. **"HAULER/EXEMPT"** refers to Persons whose Disposal of Solid Waste is solely limited to the Disposal of one of the materials listed below and is exempt from the Solid Waste Disposal License requirement:

a) New York State Department of Environmental Conservation (DEC) regulated waste Solid Waste transporters covered under New York State Part 364 Waste Transporter Permits and as may be amended from time to time. Regulated waste includes:

- residential septage
- residential raw sewage or portable toilet waste
- non-residential raw sewage or sewage contaminated waste
- sewage sludge (biosolids)

- water treatment plant residuals
- grease trap waste
- waste oil, yellow grease or oil, or petroleum contaminated soil
- waste tires
- asbestos waste
- low level radioactive waste (LLRW)
- low level radioactive waste mixed with hazardous waste
hazardous industrial/commercial waste
- regulated medical waste or other biohazard waste
- other industrial/commercial waste (e.g., including but not limited to oil & gas well
drilling fluids, pharmaceutical waste, rendering waste, waste from household
hazardous waste collection events)

b) Haulers of Solid Waste which has been collected from a site(s) outside of the County of Dutchess and is intended for Disposal at a site(s) outside the County.

13. **"HOUSEHOLD HAZARDOUS WASTE"** shall mean leftover household products that contain corrosive, toxic, ignitable or reactive ingredients such as cleaners, oils or pesticides.

14. **"LICENSE"** shall mean the Dutchess County Solid Waste Disposal License.

15. **"LICENSEE"** shall mean a Hauler who holds a Dutchess County Solid Waste Disposal license.

16. **"MULTI-DOMICILE BUILDING"** shall mean a building or structure that is designed to house several different occupants in separate housing units. The most common example of multi-domicile housing is an apartment building. Duplexes, quadruplexes, and townhomes

are also multi-domicile housing. The entire building or structure may be owned by an individual, as is the case with condominiums, or by individuals who have purchased units.

17. **"MULTI-TENANT BUILDING"** shall mean a group of commercial establishments managed as a single entity; each occupied and operated by a tenant or renter of such premises.

18. **"MUNICIPALITY"** shall mean any county, city, town, village, school district, improvement district (or a county, city, town or village acting on behalf of an improvement district), public authority, public corporation, municipal corporation or political subdivision.

19. **"PERSON"** shall mean any natural person, individual, partnership, co-partnership, association, owner or manager of a business, commercial or industrial establishment, joint venture, corporation, trust, estate or any other legal entity recognized by the laws of the State of New York inclusive of a Municipality or any other Waste Generator.

20. **"PRINCIPAL"** shall mean, as to an Applicant which is a sole proprietorship, the proprietor; a corporation, every officer and director and every stockholder holding ten percent or more of the outstanding shares of the corporation; a partnership, all the partners; and if another type of business entity, the chief operating officer or chief executive officer, irrespective of organizational title, and all persons or entities having an ownership interest of ten percent or more in the Applicant; and with respect to all business entities, all other persons participating directly or indirectly in the control of such entity. Where a partner or stockholder holding ten percent or more of the outstanding shares of a corporation is itself a partnership, or a corporation, a "principal" shall also include the partners of such partnership, or the officers, directors, and stockholders holding ten percent or more of the outstanding shares of such corporation, as is appropriate. For the purposes of this chapter:

a. An individual shall be considered to hold stock in a corporation where such stock is owned directly or indirectly by or for:

I. such individual;

II. the spouse of such individual other than a spouse who is legally separated from such individual pursuant to a judicial decree or an agreement cognizable under the laws of the state in which such individual is domiciled;

III. the children, grandchildren and parents of such individual; and

IV. a corporation in which any of such individual in the aggregate owns fifty percent or more in value of the stock of such corporation;

b. A partnership shall be considered to hold stock in a corporation where such stock is owned, directly or indirectly, by or for a partner in such partnership; and

c. A corporation shall be considered to hold stock in a corporation that is an Applicant as defined in this section where such corporation holds fifty percent or more in value of the stock of a third corporation that holds stock in the Applicant corporation.

21. **"RECYCLERS"** shall mean those who deal with recyclable material both as collectors, separators and marketers. This definition shall include not-for-profit corporations and charitable corporations which collect recyclables for fund raising purposes.

22. **"RECYCLING"** or **"RECYCLED"** or **"RECYCLABLE"** shall mean any process by which materials, are collected, separated or processed and returned to the economic mainstream in the form of raw materials or products.

23. **"RECYCLABLE MATERIAL"** shall mean material that can be recovered and turned into a new product. Recyclable materials include:

a. All paper;

b. All cardboard;

- c. All glass, excluding ceramics, window or automobile glass, mirrors and light bulbs;
- d. All plastic;
- e. All metals;
- f. All bulk metals, excluding metal containers utilized to store flammable or volatile chemical materials, such as fuel tanks;
- g. All recoverable Construction and Demolition debris, such as uncontaminated concrete, asphalt, asphalt shingles, gypsum wallboard, wood, and metals;
- h. Electronic waste or Ewaste;
- i. All garden and yard waste, such as grass clippings, leaves, and cuttings from shrubs, hedges, trees, brush and garden debris;
- j. All food waste;
- k. Textiles.

24. **"REGULATED RECYCLABLE MATERIALS"** shall mean materials designated by the Deputy Commissioner to be Source Separated by all Persons and include, but are not limited to:

- a. All paper and cardboard;
- b. All glass, excluding ceramics, window or automobile glass, mirrors and light bulbs;
- c. All plastic, excluding plastic bags, plastic film and Styrofoam®;
- d. All metals, excluding scrap metal; and
- e. Any other materials as may be designated by the Deputy Commissioner.

25. **"RRA"** shall mean the Dutchess County Resource Recovery Agency created under Chapter 675 of the Laws of 1982 of the State of New York, as amended.

26. **"SOLID WASTE"** shall mean any discarded materials. Solid wastes can be solid, liquid, semi-solid or containerized gaseous material. This includes durable goods, non-durable goods, recyclable materials, containers and packaging, food wastes and yard trimmings, and miscellaneous inorganic wastes generated.
27. **"SOLID WASTE MANAGEMENT-RESOURCE RECOVERY FACILITY"** shall mean any facility, plant, works, systems, building, structure, improvement, machinery, equipment, fixture or other real or personal property which is used, occupied or employed for the collecting, receiving, transporting, transfer, storage, processing or Disposal of Solid Waste or the recovery by any means of any material or energy product or resource therefrom including, but not limited to, Recycling Centers, transfer stations, baling facilities, rail haul or maritime facilities, collection vehicles, processing systems, resource recovery facilities, steam and electric generating and transmission facilities, including auxiliary facilities to supplement or temporarily replace such generating facilities, steam distribution facilities, sanitary landfills, plants and facilities for compacting, composting or pyrolyzation of solid wastes, incinerators and other solid waste disposal, reduction or conversion facilities and resource recovery equipment and disposal equipment as defined in subdivisions four and five of Section 51-0903 of the Environmental Conservation Law of the State of New York.
28. **"SOURCE SEPARATION"** means the segregation of Recyclable Materials from Solid Waste at the point of generation by the Generator for the purposes of Recycling.
29. **"STATE"** shall mean the State of New York.
30. **"UNCONTAMINATED"** shall mean free of materials that are not Recyclable or free of materials that, if present, either reduce the value of a Recyclable material or render it unrecyclable.
31. **"YARD WASTE"** shall mean grass clippings, leaves, and cuttings from shrubs, hedges, trees, brush and garden debris.

32. **"VEHICLE"** means any motor vehicle, trailer, water vessel, railroad car, airplane or other device for transporting Solid Waste.

33. **"WASTE GENERATOR"** means any Person who generates Solid Waste.

C. General Powers – Deputy Commissioner

1. The Deputy Commissioner shall recommend for adoption by the County Legislature rules and regulations for the handling, hauling and disposal of Solid Waste within the County of Dutchess and affixing penalties for the violation thereof. The Deputy Commissioner is authorized to amend these rules and regulations consistent with the policy established through these Rules and Regulations but is not authorized to decrease or increase any fines or penalties or the amounts thereof for any violations of these rules and regulations without specific authorization and approval from the County Legislature. The Deputy Commissioner shall consult with the Dutchess County Resource Recovery Agency in the development of these rules and regulations to ensure compatibility.

2. Whenever the Deputy Commissioner is empowered to or charged with the responsibility to do or perform an act, a designee may perform such act in the Deputy Commissioner's place.

3. The Deputy Commissioner is authorized to:

a. Require that all Haulers of Solid Waste be licensed per the requirements of these regulations.

b. Issue subpoenas.

c. Administer oaths to witnesses.

d. Prescribe and impose penalties for violation of these rules and regulations.

e. Authorize necessary action to alleviate emergencies and/or public nuisances in the event that a Person, Hauler, or Municipality fails to respond to such situations.

- f. Change issued license conditions, such as designated facilities, quantities to be Disposed, and vehicular specifications in situations of emergency or other situations as may be warranted to fulfill the Deputy Commissioner's obligations.
- g. Randomly inspect and monitor vehicles and inspect the Licensee's premises and equipment for the purpose of ascertaining compliance with these rules and regulations.
- h. In addition to the administrative enforcement proceedings referred to herein, maintain and defend actions in law or equity in any court of competent jurisdiction.

D. Use of Disposal Facilities.

No Person, Hauler or Municipality shall Dispose of Hazardous Waste, as defined in New York State Department of Environmental Conservation regulations, at any Solid Waste Management Resource Recovery Facility in the County.

E. Source Separation Provisions.

1. All Haulers operating in the County of Dutchess must provide collection services for both Solid Waste and Regulated Recycling for all Persons.
2. Every Waste Generator in Dutchess County shall be responsible for the Source Separation of Solid Waste and Regulated Recyclables Materials at the point of generation. 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.
3. Each Waste Generator shall provide for the removal of those separated Regulated Recyclables which the Waste Generator is required to Source Separate pursuant to subsection "2" above from the property on which they are generated either through service provided by a Municipality or by a Licensed Hauler, or by taking these materials directly to a Recyclables

transfer, storage or processing location. Recyclables shall not be disposed of at the facility operated by the RRA.

4. Each Waste Generator shall be required to prepare those Regulated Recyclables which the Waste Generator is required to Source Separate pursuant to subsection "2". above, 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, then according to the directions of the Hauler. 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.

5. In the case of Multi-Tenant buildings or Multi-Domicile buildings and complexes, the owner or manager of such building is responsible to provide the following: appropriate container(s) either directly or indirectly through their hauler to hold Source Separated Regulated Recyclable Materials for the entire building(s) separate from the container(s) where the building's non-Regulated Recyclable Solid Waste is stored and a mechanism for Disposal of Source Separated Regulated Recyclable Materials. In cases where a condominium association exists, the condominium association shall be responsible for provision and maintenance of the Recycling container(s). It shall be the tenant's responsibility to separate designated Regulated Recyclable Materials from the Solid Waste and deposit the Regulated Recyclable Materials in the container(s) provided.

6. Nothing in this chapter shall be construed to prohibit private composting of garden, yard, and food scrap waste by a Waste Generator on the Waste Generator's own property.

F. Solid Waste Disposal Licensing of Haulers.

1. It is unlawful for any Hauler to Dispose of any Solid Waste unless such Hauler is licensed in accordance with the provisions of these regulations.

2. All Haulers of Solid Waste who seek to Dispose of Solid Waste within the County of Dutchess shall apply to the Deputy Commissioner for a License. Applications shall be submitted on forms prescribed by the Deputy Commissioner. Applicants must be able to comply with these Rules and Regulations. An application and all accompanying documentation shall be deemed to be submitted under oath, subject to penalties of perjury.

3. The Deputy Commissioner shall charge a licensing fee as provided for in the adopted annual budget of the County of Dutchess.

4. The term of the license will be two years, from February 1 to January 31 biennially.

5. The fee for a License is based on the number of power units used to Dispose of Solid Waste. For the purposes of these regulations, a power unit is defined as the control and pulling vehicle.

6. If during the term of the license the number of power units change, causing an increase in the licensing fee, the Hauler is required to pay the pro-rated difference based on the monetary change and the number of months remaining on the biennial license. Fees will not be refunded for a decrease in the number of power units.

7. Vehicle Permit Stickers:

- a) Will be issued with the License, based on the number of power units of the Hauler;
- b) Vehicle permit stickers for licensed Haulers are valid for one year;
- c) All power units must have a current and valid vehicle permit sticker affixed to the left side of the power unit.

8. On vehicles where the engine and body mount are not on the same chassis, the body mount must have a business name and contact number. Body mounts include roll-off containers, dumpsters, trailers and any other container used to Dispose of Solid Waste. Both the power unit and the body mount must have a business name and contact number of the Licensee.

9. Annual MSW Report:

a) An Annual MSW Report Form is required by January 31st every year and will reflect collection data from January 1 to December 31 of the previous year. The annual report will allow the County of Dutchess to properly gauge the volume and nature of its solid waste stream, including where waste is Disposed of and the volume of Recyclables recovered. The report will allow the County of Dutchess to evaluate the effectiveness of its Solid Waste Management Plan and comply with annual reporting requirements of the New York State Department of Environmental Conservation;

b) Any Hauler who fails to provide a completed Annual MSW Report Form by January 31st of each year will be subject to a civil penalty of up to \$500.00 and the loss of the License.

10. No Applicant or Licensee which has been denied a license or has had its license revoked may reapply within six months of the denial or revocation.

11. All materials submitted on an application, the disclosure of which would in Applicant's opinion constitute an unwarranted invasion of personal privacy or result in substantial injury to the competitive position of the Applicant shall be marked "Proposal Confidential" prior to submission to the Deputy Commissioner. If a Freedom of Information request for such materials is received by the Deputy Commissioner, the Applicant/Licensee will be notified of the request. If such materials are proposed to be released by the Deputy Commissioner, the Applicant/Licensee will be mailed notice five days before such release. The Deputy Commissioner makes no representation that materials submitted as "Proposal Confidential" will not be disclosed pursuant to the Freedom of Information Law. Applicants and Licensees are further advised that the Deputy Commissioner will, without notice to them, comply with all subpoenas and process, and will forward all information received or gathered to the appropriate authorities.

12. All of the Applicant's drivers must be properly licensed and all vehicles must be registered with the appropriate Motor Vehicles Department and properly insured.

13. All applicants must be able to comply with the Insurance requirements as outlined in the License application.

14. Each Applicant shall provide the Deputy Commissioner with a business address with the understanding that this address shall be used by the Deputy Commissioner for the purpose of serving process and notices upon the Applicant. It shall be the responsibility of the Applicant to advise the Deputy Commissioner in writing of any change in address and the Deputy Commissioner shall not be responsible for the improper service of process and notices due to Applicant's failure to mention an updated address where notices may be delivered and legal process served.

15. By applying, the Applicant and each of its Principals authorizes the Deputy Commissioner to independently investigate their character and fitness, which authorization includes the authority to obtain copies of all relevant records, whether otherwise privileged or not, and to obtain copies of all criminal history, legal and administrative records. An Applicant and each of its Principals shall execute and deliver to the Deputy Commissioner all necessary consents and waivers needed to conduct such investigations and obtain such records. The independent investigation will be conducted by a private investigative firm under contract with the County of Dutchess. The Applicant shall submit a check for the cost of the private investigation with its application.

16. Where, as a result of the investigation of an Applicant, it appears that an employee of the Applicant may not qualify for a License, or that further investigation is warranted, the Deputy Commissioner may conduct an additional investigation of such employee and may require, if necessary, that the Applicant and such employee provide information updating, supplementing or explaining information previously submitted;

17. A supplemental investigation may be required in the event the independent investigative report indicates issues or concerns that need to be investigated further. If a supplemental investigation is deemed necessary by the Deputy Commissioner, the Applicant is responsible for paying the cost of such investigation prior to the commencement of the supplemental private investigation.

18. The Applicant and all Principals shall be fingerprinted as per instructions found in the License application.

19. In the case of an Applicant which is managed, operated or otherwise affiliated with another entity, fingerprinting and disclosure under this section may also be required of any persons who have direct management supervisory responsibility for the operations or performance of the Applicant.

20. The Applicant is responsible for all costs associated with the application fee, background investigation fee, supplemental investigation fee, and fingerprinting fee.

21. Applications are not deemed complete until all fees and expenses have been paid and all necessary materials submitted.

22. The license and the privileges granted are exclusively personal in nature and are not transferable without the consent of the Deputy Commissioner. The Licensee may not assign, convey, sell, transfer (including but not limited to an attempt to the transfer of the license pursuant to a sale or transfer of all or a part of the Licensee's assets) or otherwise dispose of the license without such consent. Any attempted transfer of the license or any rights granted without the express written consent of the Deputy Commissioner is void. Any such assignment shall not relieve the Licensee of its obligations hereunder.

G. Refusal to Issue a Solid Waste Disposal License.

The Deputy Commissioner may, after notice and the opportunity to be heard, refuse to issue a License to an Applicant who fails to meet the criteria for licensing under these rules. Such notice shall specify the reasons for such refusal. The license application fee will be forfeited, and no refund given for fingerprinting and private investigation fees expended. In making such determination, the Deputy Commissioner may consider, but is not limited to:

1. Failure to provide all the information and/or documentation required by the Deputy Commissioner pursuant to these rules or who has otherwise failed to demonstrate eligibility for such license under these rules and regulations within sixty days of initial application;
2. Failure by such Applicant and/or its Principals to provide complete or truthful information and/or answers to questions asked in connection with the application;
3. A pending indictment or criminal action against such Applicant or any of its Principals for a crime which under this subdivision would provide a basis for the refusal of such license, or a pending civil or administrative action to which such Applicant or any of its Principals is a party and which directly relates to the Applicant's ability to conduct the business or perform the work for which the license is sought, in which cases the Deputy Commissioner may defer consideration of an application until any pending matter has been concluded, and/or a decision has been reached by the court or administrative tribunal before which such action is pending;
4. Conviction of such Applicant or any of its Principals for a crime which, considering the factors set forth in section seven hundred fifty-three of the NYS Correction Law, would provide a basis under such law for the refusal of such license;

5. A finding of liability in a civil or administrative action that bears a direct relationship to the Applicant or any of its Principals' ability to perform or to conduct the business for which the license is sought;
6. Conviction of a racketeering activity, including but not limited to the offenses listed in subdivision one of section nineteen hundred sixty-one of the Racketeer Influenced and Corrupt Organizations statute (18 U.S.C. Section 1961 et seq) or of an offense listed in subdivision one of section 460.10 of the NYS Penal Law, as such statutes may be amended from time to time, or the equivalent offense under the laws of any other jurisdiction;
7. Having been a Principal within the previous ten (10) years from date of application in a predecessor waste business, where the Deputy Commissioner would be authorized to deny a license to such predecessor business pursuant to this subdivision;
8. Failure to pay any tax, fine, penalty, or fee related to the Applicant's business for which liability has been admitted by the person liable therefore, or for which judgment or a lien has been entered by a court or administrative agency or tribunal of competent jurisdiction.
9. Applicant was previously issued a Dutchess County Solid Waste Disposal License pursuant to these rules and regulations and such license was revoked within ten (10) years of date of application;
10. Applicant was denied or had a license revoked within the previous ten (10) years from the date of application in another jurisdiction;
11. Applicant employs any person, or engages as an agent, any person whom the Deputy Commissioner has determined is unqualified to hold a license following a background investigation conducted pursuant to these rules and regulations.

12. Applicant has been determined to have committed any of the acts which would be a basis for the suspension or revocation of a license pursuant to these rules.

H. Licensee Changes.

1. A Licensee shall inform the Deputy Commissioner **within five (5) business days** of all changes as listed below:

- a) The addition or deletion of a vehicle;
- b) Insurance carrier or coverage changes.

2. A Licensee shall inform the Deputy Commissioner **within twenty (20) business days** of all changes as listed below:

- a) Changes in ownership of the Licensee;
- b) The addition or deletion of any Principal;
- c) Change in corporate status;
- d) All arrests and or criminal convictions of Licensee and any Principal of the Licensee;
- e) All liens, suits and administrative proceedings relating to the operation of the Licensee's business; or
- f) Any other material change in the information submitted on the application for a license.

3. If notification of change, as outlined above, is not received within the time frame stated the License may be subject to suspension.

4. Changes in ownership of a Licensee requires a new application, background investigation and fingerprinting of the new Principal(s). The addition of a new Principal(s) requires the completion of Section H, Disclosure Information for Principals & Applicants of the License application, a background investigation and fingerprinting of the new Principal(s).

5. If after review, and after notice and the opportunity to be heard, the Deputy Commissioner determines that such new Principal fails to meet the criteria for licensing under these rules the License may be suspended or revoked unless such new Principal divests his or her interest, or discontinues his or her involvement in the business of such Licensee, as the case may be.

I. Solid Waste Disposal License Renewals.

1. The license term is from February 1st to January 31th biennially.
2. Licensed Haulers are required to submit the following for license renewal by January 1st prior to the expiration of the License term;
 - a) Solid Waste Disposal Relicensing Affidavit;
 - b) Details of any changes, per Section "H" above, if applicable;
 - c) Licensing fee as provided for in the adopted annual budget of the County of Dutchess;
 - d) Vehicle Information Form. The number of vehicle permit stickers issued and the fee is dependent on the number of power unit vehicles listed;
 - e) Renewal Checklist.
3. A License or the required vehicle permit stickers will not be issued until payment and all required documents have been received and approved by the Deputy Commissioner.
4. If the affidavit indicates any changes as listed in Section H above, a background investigation and fingerprinting may be required.
5. Licensed Haulers are required to fill out a full application and have a private investigation conducted, at the Licensee's expense, every third renewal.

J. Revocation, Suspension or Denial of Renewal of a Solid Waste Disposal License:

The Deputy Commissioner may, after notice and the opportunity to be heard, suspend, revoke or deny renewal of a license and notify the Solid Waste Management-Resource Recovery Facilities located in Dutchess County of such suspension, revocation or denial if a Hauler:

1. Does not comply with these Rules and Regulations;
2. Is found to have submitted a false or materially incomplete application;
3. If facts are disclosed, whether they existed before or after the License was issued, which would have warranted a refusal to issue a license;
4. Has an outstanding balance of \$2,500 or more for tipping fee charges due to the Dutchess County Resource Recovery Agency for a period exceeding six (6) months. The suspension will be lifted upon notification that the outstanding balance has been paid in full. Failure to pay the outstanding balance within three (3) months of the suspension will lead to a revocation of the License; or
5. Failure to pay any tax, fine, penalty, or fee related to the Applicant's business for a period exceeding six (6) months, for which liability has been admitted by the person liable, or for which judgment or a lien has been entered by a court or administrative agency or tribunal of competent jurisdiction. The suspension will be lifted upon notification that the tax, fine, penalty, or fee has been paid in full. Failure to pay the tax, fine, penalty, or fee within three (3) months of the suspension will lead to a revocation of the License.
6. Failure to pay any civil penalty due to the County of Dutchess prior to the January 1st deadline for License renewal.

K. Vehicle and Container Requirements.

1. Collection and transport vehicles shall conform to New York State Vehicle and Traffic Law as described for a motor vehicle and to New York State Department of Environmental Conservation waste transporter specifications.
2. All Recyclables collection containers, bins, and dumpsters shall be clearly labeled as to the type of material the container, bin, or dumpster accepts.
3. All collection containers, bins, or dumpsters shall be easily accessible to residents, employees and Haulers.

L. Enforcement

Formal Hearings

1. The Deputy Commissioner may hold a formal hearing on any application, complaint, circumstances, or alleged violation of these rules and regulations.
2. A formal hearing shall be on due and adequate notice to the person, persons or entity concerned and shall be set down for a day certain, unless a person charged with a violation of these rules and regulations admits liability by returning the Notice of Violation with payment of the proposed penalty and by signing the admission of liability on said notice.
3. All hearings conducted shall follow the prescriptions of Article 3 of the New York State Administration Procedure Act and the local rules set forth below.
4. The Notice of Hearing shall set forth:
 - (a) The time and place of the hearing
 - (b) The purpose of the hearing
 - (c) The charges and violations complained of, with specific reference to provisions and sections these rules and regulations.
 - (d) The right to present evidence
 - (e) The right to examine and cross-examine witnesses
 - (f) The right to be represented by counsel
5. All adjudicatory hearings held hereunder shall be closed and conducted in private unless the respondent elects for the hearing to be open and conducted in public.
6. On the return day of the hearing:
 - (a) The hearing officer shall note the appearance of the persons attending the hearing.
 - (b) Witnesses shall be sworn and testimony shall be recorded.
7. The hearing officer shall thereafter prepare findings of fact, conclusions of law, and recommendations upon which the Deputy Commissioner shall make a formal order setting forth the determination, conditions, if any, to be complied with and civil penalties, if any.

8. The Order of the Deputy Commissioner, following a formal hearing, shall be filed in the office of the Division of Solid Waste Management and served on the Respondent.

9. Nothing herein contained shall preclude the Deputy Commissioner from taking any action in addition to the formal hearing herein provided for, as may be prescribed by law, nor shall the Deputy Commissioner be precluded from taking such other action by virtue of the order made pursuant to this Section.

10. Prior to adjudication, the Deputy Commissioner may settle any charges of a violation of these rules and regulations on such terms and conditions acceptable to the Deputy Commissioner.

Service of Order and/or Notice of Hearing

Unless otherwise expressly provided by law, service of an order and/or notice of hearing shall be made as follows:

1. Enclosing the order and/or notice in a post-paid envelope directed to the person or persons concerned at the address last known to the Division of Solid Waste Management and depositing such envelope at a United States Post Office or in a mail box or mail chute maintained by the United States Post Office; or
2. Leaving the order and/or notice with the person concerned; or, if the person is not an individual, with a member of the partnership or other group concerned or with an officer of the corporation or person in charge of the office or premises; or
3. Posting the order and/or notice at the entrance door of the office of the respondent.

Hearing appearances

1. At any hearing conducted pursuant to these rules and regulations, any party to the proceedings may appear personally and with counsel and shall be given the opportunity to produce evidence and witnesses and to cross-examine witnesses.
2. At any formal hearing conducted pursuant to these rules and regulations, if a party shall appear without counsel, the hearing officer shall advise such party of his right to counsel; and that, if he desires to proceed without counsel, he may call witnesses, cross-examine witnesses and produce evidence in his behalf.
3. Appearances shall be noted on the official record of Hearings.

Hearing adjournments

1. The hearing officer may grant adjournments upon request of any party to the proceedings, provided that an adjournment shall not be for an indefinite period of time but shall be set down for a day certain.
2. If an adjournment is requested in advance of the hearing date, such request shall be submitted to the hearing officer in writing and shall specify the reason for such request.
3. In considering an application for adjournment, the hearing officer shall consider whether the purpose of the hearing will be affected or defeated by the granting of such adjournment.

Subpoenas

The Deputy Commissioner or the designated hearing officer may issue subpoenas upon request of any party to the proceedings of any formal hearing set down by the Deputy Commissioner.

Hearing Procedures

1. The hearing officer shall not be bound by the rules of evidence in the conduct of a hearing but the determination shall be founded upon sufficient factual evidence to sustain it.
2. Proof may be adduced with respect to ongoing violations occurring up to and through the date of the hearing, when these violations are sufficiently similar to those charged to put the Licensee on notice of the nature of the violation.
3. Upon the conclusion of a hearing, the Deputy Commissioner shall take such action upon such findings, determinations and recommendations as he/she deems proper and shall execute an order carrying such findings and determinations into effect.
4. The action of the Deputy Commissioner may include the assessment of civil penalties
5. An order of suspension or revocation of a Solid Waste Disposal License may contain such provisions as to renewal or reinstatement as the Deputy Commissioner may direct.
6. The Deputy Commissioner may direct a re-hearing or require the taking of additional evidence and may rescind or affirm a prior determination after such re-hearing.
7. The record of a formal hearing including the testimony of witnesses shall be made available to all parties for examination at the office of the Division of Solid Waste Management.
8. Copies of the record of a formal hearing including a transcript of the testimony of witness(es) may be purchased at the rate per page covering the cost thereof.

Administrative penalties for violation

1. Any Person who violates any provision of these rules and regulations pertaining to the licensing of Haulers shall be subject to the imposition of a civil penalty by the Deputy Commissioner as follows:

- (a) For the first violation, up to 500.00.
- (b) For the second violation, up to \$1000.00.
- (c) For a third and succeeding violations, up to \$2000.00.

2. Any person who violates any provision of these rules and regulations pertaining to Source Separation of Recyclables shall be subject to the imposition of a civil penalty by the Deputy Commissioner as follows:

- (a) For the first violation, up to \$250.00.
- (b) For the second violation, up to \$500.00.
- (c) For the third violation and succeeding violations, up to \$1,000.00.

3. The civil penalty provided for in this Section may be sued for and recovered by the Deputy Commissioner in the proper court of jurisdiction in addition to any other expenses incurred by the County.

4. Each day or a part of a day on which a violation or failure continues shall constitute a separate violation.

Enforcement other than by prosecution

1. The Deputy Commissioner of his/her designee may seek to obtain voluntary compliance with these rules and regulations by way of notice, warning or educational means in the first instance.

2. This Section shall not be construed to require that such non-compulsory methods must be employed or attempted before proceeding by way of compulsory or other legally prescribed procedures.

M. Intermunicipal Agreements.

The Deputy Commissioner may enter into intermunicipal agreements with those municipalities having control over Solid Waste collection, that is, those offering municipal collection or private collection through municipal contracts. Intermunicipal agreements will obligate involved municipalities to deliver any amount of waste allocated by the Deputy Commissioner to designated facilities.

N. Survival.

If any portion of these rules and regulations are held by a court of competent jurisdiction to be unconstitutional or invalid to the extent that they are not held unconstitutional or invalid, they shall continue in full force and effect.

Dutchess County Division of Solid Waste Management

These rules and regulations become effective August 5, 2014