

## Chapter 304: SOLID WASTE

### Article II: Recycling

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#### Chapter 304: SOLID WASTE Article II: Recycling

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§ 304-6\_Short title.

This article shall be known as the "Ulster County Mandatory Source Separation and Recycling Law."

§ 304-7\_Findings; legislative intent.

The Ulster County Legislature finds that:

A.

The County faces an increasing threat to its environmental and economic well-being from the solid waste disposal crisis.

B.

The solid waste disposal crisis is exacerbated by people discarding in landfills a significant amount of material that can be recycled.

C.

The State Legislature, in order to resolve the solid waste disposal crisis, delegated to the Agency extensive authority, responsibility, and power to plan, construct, operate, maintain, and finance projects for the management of the County's solid waste stream.

D.

The County Legislature, in order to resolve the solid waste disposal crisis, established the Agency as the planning unit to prepare a Solid Waste Management Plan (the plan) for the County and approved the plan.

E.

Maximizing waste reduction, reuse, and recycling ensures the attainment of not only the state's recycling goals as set forth in the 1988 Solid Waste Management Act, but also the County's recycling goals as set forth in the plan.

F.

In order to implement the plan and maximize reduction, reuse, and recycling, the County wishes to adopt this Mandatory Source Separation and Recycling Law.

G.

The Mandatory Source Separation and Recycling Law should, in part, address the solid waste disposal crisis by removing regulated recyclable materials from the solid waste stream, thereby reducing the required capacity of existing and proposed landfills; decreasing the flow of solid waste to landfills; increasing the life expectancy of existing and future landfills; reducing the cost of solid waste disposal; aiding in the conservation of valuable resources; preserving the health, safety and welfare of the public; and preserving the environmental quality of Ulster County.

H.

The Mandatory Source Separation and Recycling Law is consistent with the plan because the purpose of this article is to:

1. Source separate all regulated recyclable materials, as defined in § 304-9, from the solid waste stream in Ulster County;
2. Separate regulated recyclable materials into designated recyclable categories before such materials enter the Municipal Recycling System;
3. Account for all regulated recyclable materials through reporting requirements so that the County may measure its progress in attaining the state and County recycling goals;
4. Direct the flow of regulated recyclable materials so as to:
  - (a) Ensure that such materials are not disposed of in a landfill or incinerator, but recycled; and
  - (b) Ensure the success of the plan which the state has mandated and to which the County has committed a substantial amount of public funds.
5. Ensure that separate regulated recyclable materials are properly and economically aggregated, processed, and sold or delivered to recycling markets;
6. Secure long-term, stable, and environmentally appropriate markets for the County and its municipalities to survive periods of market downturns; and

7. Ensure that education and technical assistance are provided to all persons in the County on source separation and recycling.

I.

The Mandatory Source Separation and Recycling Law will be implemented by the Ulster County Resource Recovery Agency because the Agency has been delegated the authority and responsibility to manage the solid waste stream and has been established as the planning unit for the County.

J.

The Mandatory Source Separation and Recycling Law seeks to maximize recycling by:

1. Maintaining a partnership effort between the Agency and private sector;
2. Ensuring that a sufficient amount of regulated recyclable materials enters the County's Municipal Recycling System to result in a cost-effective, successful operation.
3. Having the Municipal Recycling System serve as the market of last resort; and
4. Ensuring that private-sector recycling, which contributes to both County and state recycling goals, is in accordance with the County Solid Waste Management Plan<sup>iii</sup> and Article 27 of the Environmental Conservation Law.

[1]:

*Editor's Note: See Art. III, Solid Waste Management, of this chapter.*

§ 304-8\_Statutory authority.

This article adopted pursuant to § 120-aa of the General Municipal Law, § 10 of the Municipal Home Rule Law, § 2050-t, Subdivision (3), of the Public Authorities Law, and Article 27 of the Environmental Conservation Law.

§ 304-9\_Definitions.

As used in this article, the following terms shall have the following meanings:

**AGENCY**

The Ulster County Resource Recovery Agency created under Chapter 936 of the Laws of 1986 of the state, as amended.<sup>iii</sup>

**CATALOG**

A publication, such as a book, pamphlet, or magazine, created for the purposes of advertising or sales as specified by the Agency in the rules and regulations.

**CHARITABLE ORGANIZATION**

Any charitable organization registered under Article 7-A of the Executive Law.

**COMMERCIAL SECTOR**

Businesses, industries, and manufacturing enterprises operating for profit.

**COMMINGLED PAPER**

The process of mixing various categories of recyclable paper as specified by the Agency in the rules and regulations. See also "mixed paper."

**COMMINGLED RECYCLING**

The process of mixing various regulated recyclables as specified by the Agency in the rules and regulations.

**COMPOSTING**

The process of aerobic, thermophilic decomposition by microbial degradation of solid organic constituents of solid waste to produce a stable, humus-like material called "compost."

**COMPOSTING FACILITY**

A solid waste management facility used to provide aerobic, thermophilic decomposition by microbial degradation of solid organic constituents of solid waste to produce a stable, humus-like material.

**COMPUTER PAPER**

Clean, untreated or uncoated, white sulphite or sulphate papers, with or without colored stripes, manufactured for use in computer printers, which may or may not be imprinted with impact (nonlaser) or laser printing, as

specified by the Agency in the rules and regulations; excluding, however, ground-wood computer printout or other contamination.

### **CONSTRUCTION AND DEMOLITION DEBRIS or C&D**

Uncontaminated solid waste resulting from the construction, remodeling, repair and demolition of utilities, structures and roads; and uncontaminated solid waste resulting from land clearing. Such waste includes but is not limited to bricks, concrete and other masonry materials, soil, rock, wood (including painted, treated and coated wood and wood products), land-clearing debris, wall coverings, plaster, drywall, plumbing fixtures, nonasbestos insulation, roofing shingles and other roof coverings, asphaltic pavement, glass, plastics that are not sealed in a manner that conceals other wastes, empty buckets 10 gallons or less in size and having no more than one inch of residue remaining on the bottom, electrical wiring and components containing no hazardous liquids, and pipe and metals that are incidental to any of the above.

### **CONTAMINATION**

The inclusion of substance(s) or condition(s) that render the otherwise recyclable or compostable materials, including regulated recyclable materials and yard waste, less marketable as specified by the rules and regulations.

### **CORRUGATED CARDBOARD**

All clean, dry, brown paperboard, referred to in industry as "old corrugated cardboard." This includes boxes, cartons or other containers or dividers made of either kraft, test liner or jute, with a center fluting between layers, commonly used for packing, mailing, shipping or containerizing goods, merchandise or other material, or other cardboard as specified by the Agency in the rules and regulations; excluding, however, noncardboard materials, plastic, foam, or wax-coated or soiled cardboard.

### **COUNTY**

The entire County of Ulster as constituted and existing under the laws of the state.

### **DESIGNATED RECYCLABLE CATEGORIES**

The categories into which the regulated recyclable materials shall be separated as designated by the Agency through rules and regulations.

### **ECONOMIC MARKET**

Instances in which 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 material less the amount received from the sale of said material per Subdivision 2 of § 120-aa of New York State General Municipal Law.

### **ELECTRONIC WASTE or E-WASTE**

Any 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 as specified by the Agency in the rules and regulations.

### **GENERATOR**

Any person or legal entity that produces solid waste, including regulated recyclable materials requiring off-site disposal.

### **GLASS**

All clean, empty glass containers made from silica or sand, soda ash and limestone, which are transparent or translucent, and are commonly used for the packaging or bottling of various products. These containers shall include all clear or colored glass bottles, jars, and jugs, as specified by the Agency in the rules and regulations; excluding, however, pottery or ceramics, lead-based glass (such as crystal), plate glass, window or auto pane, mirrors, light bulbs, heat-resistant glass or ovenware, thermopane, laboratory glass, safety glass, or other contaminated glass.

### **HAULER**

Any person engaged in the business or activity of collecting, storing, and transporting regulated recyclable materials.

### **HOUSEHOLD HAZARDOUS WASTE**

Household products that contain corrosive, toxic, ignitable, or reactive ingredients, including but not limited to pesticides, oil-based paints, solvents and certain batteries as specified by the Agency in the rules and regulations.

### **INSTITUTIONAL SECTOR**

Private or public organizations, such as schools, hospitals, prisons, religious establishments, and not-for-profit organizations, whose purpose is to provide for the public welfare.

### **MAGAZINE**

A periodical containing a collection of articles, stories, pictures or other features.

### **MANDATORY SOURCE SEPARATION AND RECYCLING LAW**

Local Law No. 8-1991, passed by the Ulster County Legislature on December 31, 1991, and all subsequent revisions approved by the Legislature.

### **MARKET**

A business which buys, sells, or accepts recyclable materials, including regulated recyclable materials, or compost for the purpose of reuse as a product or in the manufacturing of new products.

### **MATERIALS RECOVERY FACILITY or MRF**

A facility that accepts recyclable commingled materials that have already been separated at the source from municipal solid waste generated by either residential or commercial sources. Material is sorted to specifications, then baled, shredded, crushed, or otherwise prepared for shipment to market. Materials recovery facilities are either dual stream or single stream. A dual-stream MRF is where source-separated recyclables are delivered in a mixed-container stream (typically glass, ferrous metal, aluminum and other nonferrous metals, and PET [No. 1] and HDPE [No.2] plastics) and a mixed-fiber stream (including cardboard, newspaper, magazines, office paper, junk mail, etc.) Single stream is an MRF that accepts and processes all recyclable materials mixed together, both mixed container and mixed fiber.

### **METAL CANS**

Clean, empty metal containers made of aluminum or tin-plated or zinc-plated steel, which are commonly used for packaging food, beverages or other products, as specified by the Agency in the rules and regulations and are free of food, beverage or other contamination.

### **MIXED PAPER**

Various categories of recyclable paper, including but not limited to white and colored paper used in printers, photocopiers and fax machines, white and colored ledger paper, carbonless copy paper, construction paper, office paper, undeliverable mail, mailed promotional letters/advertisements/circulars, magazines, catalogs, envelopes, newspaper, paperboard, soft-cover books, and hard-cover books with the cover removed as specified by the Agency in the rules and regulations.

### **MULTIFAMILY DWELLING GENERATOR**

Solid waste generated from apartment complexes, condominium complexes, cooperative apartment complexes, recreational vehicle or trailer parks, hotels, motels, bungalow or resort colonies, or campgrounds.

### **MUNICIPAL RECYCLING DROPOFF CENTERS (also known as "transfer stations")**

Sites or areas designated by municipalities and registered or permitted by the New York State Department of Environmental Conservation as collection points for regulated recyclable materials.

### **MUNICIPAL RECYCLING SYSTEM (formerly known as the "Satellite Aggregation Center System")**

The entire County system as set forth in the County's Solid Waste Management Plan for maximizing reduction, reuse and recycling, including but not limited to purchasing any and all equipment, constructing and permitting two satellite aggregation centers, establishing a transportation network for regulated recyclable materials, securing long-term, stable markets for the County and its municipalities, and educating the public on how to maximize reduction, reuse and recycling of the solid waste stream.

### **MUNICIPAL YARD WASTE COMPOSTING FACILITY**

Site(s) or area(s) designated by municipalities for the purpose of composting yard waste.

### **NEWSPAPER**

All clean, dry paper commonly referred to as "newspapers" or "newsprint," not sunburned, and free from paper other than news or other contamination, and containing not more than the normal percentage of rotogravure and colored sections, as specified by the Agency in the rules and regulations.

## **NOT-FOR-PROFIT ORGANIZATION**

Any corporation organized according to the New York State Not-for-Profit Corporation Law.

## **OFFICE PAPER**

Clean, white or colored ledger, bond, writing, copier or other paper, with or without printing or writing, but free of glossy, treated, coated or padded stock, carbon, plastic, or other contamination, as specified by the Agency in the rules and regulations.

## **PAPERBOARD**

Clean, flat, pressed, uncorrugated, stiff paper as specified by the Agency in the rules and regulations. Paperboard is also known as thin cardboard or greyboard and is used in products such as cereal boxes. Paperboard cannot be plastic or wax coated.

## **PERSON**

Any natural person, individual, partnership, copartnership, association, owner or manager of a business, commercial or industrial establishment, joint venture, corporation, trust, estate, institution, not-for-profit organization or any other legal entity, including a municipality or any other waste generator.

## **PHARMACEUTICAL WASTE**

Waste containing pharmaceutical substances, including expired, unused, spilt, and contaminated pharmaceutical products, drugs, vaccines, and sera that are no longer required and need to be disposed of appropriately. The category also includes discarded items used in the handling of pharmaceuticals, such as bottles or boxes with residues, gloves, masks, connecting tubing, and drug vials.

## **PLASTIC**

All clean, empty containers made of the plastic resins specified by the Agency in the rules and regulations, including but not limited to plastic bottles or jugs having contained spring water, various beverages or foods, and excluding contamination.

## **RECYCLABLE MATERIAL**

Any solid waste that exhibits the potential to be returned to the economic resource stream in the form of raw materials to be used in place of virgin materials in the manufacture of new products.

## **RECYCLABLES HANDLING AND RECOVERY FACILITY**

A solid waste management facility, properly permitted under the New York State Department of Environmental Conservation rules and regulations, other than collection and transfer vehicles, at which recyclables are separated from the solid waste stream, or at which previously separated recyclables are collected.

## **RECYCLING OVERSIGHT COMMITTEE**

The committee established and appointed pursuant to the Recycling Law.

## **REGULATED RECYCLABLE MATERIAL**

Includes newspaper, mixed paper, glass bottles, jugs and jars, metal cans, plastic, corrugated cardboard, paperboard, and any other materials as may be designated by the Agency in accordance with this article.

## **RESIDENTIAL GENERATOR**

Solid waste generated from single- or multiple-family dwellings and other residential sources.

## **SELF HAULER**

Any person who hauls or transports the regulated recyclable material it generates.

## **SOLID WASTE**

All materials or substances discarded or rejected within the County of Ulster as being spent, useless, worthless, or in excess to the owners at the time of such discard or rejection, including, but not limited to garbage, refuse, industrial and commercial waste, sludges from air or water pollution control facilities or water supply treatment facilities, rubbish, ashes, contained gaseous materials, incinerator residue, demolition and construction debris and offal, but not including sewage and other highly diluted water-carried materials or substances and those in gaseous form, source, special nuclear or by-product material within the meaning of the Atomic Energy Act of 1954, as amended, and waste which appears on the list of hazardous waste promulgated by the Commissioner of Environmental Conservation pursuant to § 27-0903 of the Environmental Conservation Law.

## **SOLID WASTE MANAGEMENT FACILITY**

Any facility, plant, works, system, building, structure, improvement, machinery, equipment, fixture or other real or personal property which is to be used, occupied or employed for or is incidental to the collecting, receiving,

transporting, storage, processing or disposal of solid waste as more fully defined in Public Authorities Law § 2050-b, Subdivision (16).

### **TRANSFER STATION**

The location designated by each municipality and registered or permitted by the New York State Department of Environmental Conservation as a municipal dropoff center for regulated recyclable materials, solid waste or yard waste.

### **ULSTER COUNTY RESOURCE RECOVERY AGENCY**

The Agency established pursuant to Chapter 936 of the Session Laws of 1986 and is referred to herein as "the Agency."<sup>[2]</sup>

### **YARD WASTE**

Grass clippings, leaves, twigs, branches, lawn and garden wastes, weeds, brush, shrubbery clippings, clean wood and clean pallets as specified by the Agency in the rules and regulations, excluding treated, painted or glued wood, construction and demolition wood, or other debris.

[1]:

*Editor's Note: See Public Authorities Law § 2050-a et seq.*

[2]:

*Editor's Note: See Public Authorities Law § 2050-a et seq.*

### **§ 304-10 Administration.**

This article shall be put into effect, administered, and enforced by the Agency. In order to carry out this responsibility, the Agency, acting consistently with the purposes of this article, shall be empowered to do the following:

A.

Execute contracts.

B.

Establish, revise, amend, and repeal standards, practices, and procedures for the proper preparation, separation, collection, and disposal of regulated recyclable materials.

C.

Establish, revise, amend, and repeal rules and regulations as it shall deem reasonable, necessary and proper to carry out the responsibilities and requirements of this article pursuant to § 304-11.

D.

Designate solid waste management facilities within Ulster County, which may receive, aggregate, or process regulated recyclable materials or compost yard waste.

E.

Direct the flow of regulated recyclable materials to solid waste management facilities that receive, aggregate, or process regulated recyclable materials or compost yard waste.

F.

Add regulated recyclable materials to the solid waste stream based on market availability, technology and other factors subject to § 304-30.

G.

Alter or delete regulated recyclable materials to be removed from the solid waste stream based on market availability, technology and other factors subject to approval by a majority vote of the Recycling Oversight Committee.

H.

Establish reporting procedures to account for all recyclable materials, including regulated recyclable materials and yard waste, in the County.

I.

Secure long-term, stable markets for the recycling of regulated recyclable materials and sell or otherwise market the regulated recyclable materials.

J.

Investigate violations of this article through the subpoena power of the hearing officer and others, issue warnings, seek civil and criminal penalties from the independent administrative hearing officer or in a court of competent jurisdiction, issue temporary cease-and-desist orders, enter into consent agreements, and pursue the collection of penalties in accordance with §§ 304-24, 304-25, 304-26, 304-27, 304-28, and 304-29.

§ 304-11 Procedure for establishing rules and regulations.

When specified in this article, the Agency may, from time to time, promulgate rules and regulations consistent with the provisions of this article in order to effectuate the purposes hereof. This procedure for rule making shall be as follows:

A.

The Executive Director must prepare and submit proposed rules and regulations to the Agency, the community, the appropriate committee of the County Legislature, the County Executive and the Recycling Oversight Committee.

B.

The Agency may authorize notification of a hearing in the official newspaper of the County, as designated by the County Legislature.

C.

The notice shall be published at least 30 days prior to the public hearing and shall:

(1)

Cite the statutory authority under which the rules and regulations are proposed;

(2)

Give the date, time, and place of the public hearing;

(3)

State the proposed rules and regulations or a synopsis thereof;

(4)

Give the name and address of the Agency representative to whom written comments may be submitted. The express terms of the proposed rules and regulations shall be available to the public on the date such notice is first given pursuant to this subsection.

D.

The Executive Director shall conduct a public hearing and, upon request of the appropriate committee of the County Legislature, appear before that committee in public session to discuss the proposed rule making.

E.

The Executive Director shall prepare the record of the public hearing and a document responding to the comments received at the public hearing.

F.

The record of public comment and the response document shall be made available for public review and submitted to the Agency.

G.

The Agency shall make such changes and modifications in response to public comment as it deems appropriate and shall adopt the final rules and regulations by resolution.

H.

The Executive Director shall publish the final rules and regulations, or a synopsis thereof, in the same manner as the proposed rules and regulations, no less than 10 days after the Agency adopts the final rules and regulations. The final rules and regulations shall take effect 20 days after publication.

I.

The Agency shall post any changes to the rules and regulations, in addition to the full local law, at all designated transfer stations and online.

§ 304-12 Program established.

A program is hereby established within Ulster County for the mandatory source separation of regulated recyclable materials from the solid waste stream. Regulated recyclable materials established under this article shall, as defined in § 304-9, include the following: glass, metal cans, plastics, newspaper, corrugated cardboard, paperboard, and mixed paper. All persons shall separate regulated recyclable materials from solid waste before either setting out solid waste for collection pursuant to lawful procedure or disposing of it in an authorized solid waste management facility.

§ 304-13 Preparation and separation of regulated recyclable materials.

A.

Upon the effective date of this article, all persons in the County shall separate regulated recyclable materials from solid waste for the purposed of collection and recycling.

B.

The Agency, from time to time, may promulgate rules and regulations pursuant to § 304-11, specifying requirements for preparation and separation of regulated recyclable materials. The Agency will provide such rules and regulations to be posted online and at all designated transfer stations.

C.

All persons shall prepare and separate regulated recyclable materials in accordance with the rules and regulations.

§ 304-14 Preparation and separation of regulated recyclable materials at multifamily dwellings.

A.

All residents of multifamily dwellings must source separate regulated recyclable materials from solid waste according to § 304-13 and the rules and regulations promulgated thereunder, and deposit the regulated recyclable materials in the receptacles and/or collection area(s) provided therefor by the lessor, owner, or manager.

B.

Lessors, owners, or managers of multifamily dwellings must establish a program which facilitates the multifamily resident to source separate regulated recyclable materials, which must include providing, in a neat and sanitary condition, receptacles and/or collection area(s) to receive all regulated recyclable materials generated by residents of the multifamily dwelling. In cases where a condominium association exists, the condominium association shall be responsible for provision and maintenance of the receptacles and/or collection area(s).

C.

By March 1, 1992, and every year thereafter, lessors, owners, or managers of all multifamily dwellings of five units or more shall submit to the Agency for approval a Multifamily Dwelling Recycling Plan implementing Subsection B. Such a plan shall include:

1. Location of multifamily dwelling and number of units;
2. Collection system for regulated recyclable materials once the residents have deposited such materials in the receptacles and/or collection area(s);
3. Provisions for publicizing the recycling program; and
4. Implementation date of September 1, 1992.

D.

The Agency, from time to time, may promulgate rules and regulations pursuant to § 304-11 for additional information and implementation of the Multifamily Dwelling Recycling Plan.

E.

All multifamily residents, lessors, owners, or managers shall report as required pursuant to § 304-21.

§ 304-15 Commercial and institutional sector recycling.

A.

All commercial and institutional sector generators shall prepare and separate regulated recyclable materials according to § 304-13 and the rules and regulations promulgated thereunder.

B.

All commercial and institutional sector generators of 10 employees or more shall submit a Commercial/Institutional Solid Waste Reduction and Recycling Plan to the Executive Director. The plan will remain on file with the Agency. All commercial and institutional sector generators shall submit revisions as applicable. Such a plan shall include:

1. Organization identification, including a general description of the business, its location and type of operation and the number of employees;
2. Waste composition analysis, including an identification of the amounts of recyclable and nonrecyclable materials in their solid waste stream;
3. Waste reduction and recycling practices, including an identification of waste reduction efforts, present recycling, potential recycling, and waste exchanges; and
4. Waste disposal for residual waste, including an identification of materials in the organization's waste stream that will not be reduced or recycled, and disposal methods.

C.

The Agency, from time to time, may promulgate rules and regulations pursuant to § 304-11 for additional information and implementation of the Commercial/Institutional Solid Waste Reduction and Recycling Plan.

D.

All commercial and institutional sector generators shall report as required in Section 16.

§ 304-16 Private disposal of regulated recyclable materials.

A.

Nothing shall prevent any commercial sector generators of regulated recyclable materials from directly selling to markets the regulated recyclable materials they generate so long as:

1. All costs of separating, preparing, processing, transporting and marketing such materials are directly and fully absorbed by the generators and no public funds contribute to such separation, preparation, processing, transporting or marketing;
2. A minimum of 30 days' written notice of intent to directly sell or to cease directly selling regulated recyclable materials is provided to the Agency prior to implementing such option; and
3. The generators comply with all reporting requirements of this article and the rules and regulations promulgated hereunder.

B.

Private not-for-profit or charitable organizations may receive donations of regulated recyclable materials from generators as part of an announced fund-raising event, provided that they request and receive the prior written approval of the Executive Director of the Agency.

§ 304-17 Collection and disposal of regulated recyclable materials.

A.

No person shall collect or dispose of regulated recyclable materials except as directed by the Agency pursuant to this article and the rules and regulations promulgated pursuant to § 304-11 or, if the Agency has not acted, the municipality.

B.  
All solid waste management facilities, whether public or private, shall provide adequate facilities for the acceptance of regulated recyclable materials.

C.  
The Agency is authorized to promulgate rules and regulations pursuant to § 304-11 regulating the collection and disposal of regulated recyclable materials.

§ 304-18 Collection and disposal of regulated recyclable materials by haulers.

A.  
No hauler shall collect, transport, or dispose of regulated recyclable materials except as directed by the Agency pursuant to this article and the rules and regulations promulgated pursuant to § 304-11.

B.  
The Agency is authorized to promulgate rules and regulations pursuant to § 304-11 regulating collection, transportation, and disposal of regulated recyclable materials by haulers.

C.  
All haulers shall collect, transport, maintain, and dispose of regulated recyclable materials separated from the solid waste stream and in a condition specified in the rules and regulations promulgated pursuant to § 304-11.

D.  
Source-separated regulated recyclable materials shall be transported and delivered only to a solid waste management facility designated by the Agency that receives, aggregates or processes regulated recyclable materials. If no facility is designated, the hauler may deliver the regulated recyclable materials to a recycling facility or market of its choice.

E.  
All haulers shall report as required pursuant to § 304-21.

§ 304-19 Preparation, separation and disposal of yard waste.

A.  
All persons shall separate yard waste from solid waste for the purposes of collection and composting.

B.  
Each municipality within the County may provide, or obtain rights in, a yard waste composting facility for the disposal of yard waste.

C.  
Yard waste may be composted at a composting facility designated by the municipality or at a solid waste management facility that receives and composts yard waste as may from time to time be designated by the Agency. If no facility is designated, the hauler of yard waste may deliver the yard waste to a private composting facility.

D.  
This section shall not prohibit private composting or on-site disposal of yard waste by any person in compliance with any existing law.

E.  
The Agency may, from time to time, promulgate rules and regulations pursuant to § 304-11 for the preparation, separation, collection, and disposal of yard waste.

F.  
All yard waste shall be prepared, separated, collected and disposed of according to the rules and regulations.

§ 304-20\_Ownership, direction and control of regulated recyclable materials.

A.  
Except as set forth in § 304-16, once regulated recyclable materials are set out for collection, placed in Agency containers, or deposited in the municipal recycling dropoff centers or municipal recycling system, all such materials become the property of the County, and the Agency shall direct and control the processing, transporting and marketing of that property.

B.  
The County does not assume ownership of improperly prepared regulated recyclable materials, including those in an improper condition, container, or location.

C.  
Improperly prepared regulated recyclable materials must be removed by the generators and properly prepared and separated according to this article.

§ 304-21\_Reporting requirements.

A.  
All persons shall report information as designated by the rules and regulations promulgated by the Agency pursuant to § 304-11.

B.  
The Agency may, from time to time, pursuant to § 304-11, promulgate rules and regulations requiring the reporting on regulated recyclable materials, recyclable materials being studied as possible regulated recyclable materials, regulated recyclable materials directly sold or donated pursuant to § 304-16, categories of solid waste as designated by the Agency or any other information needed to further the purposes of this article, including information needed to study possible economic markets, track flow of regulated recyclable materials, or monitor progress in meeting the state and County recycling goals.

§ 304-22\_County household recycling containers.

It shall be a violation for any person to:

A.  
Remove a County recycling container from the County;

B.  
Take, without authorization, a County recycling container;

C.  
Dispose of a County recycling container other than by returning such container to the issuing municipality; and

D.  
Use such container for other than the temporary storage of regulated recyclable materials.

§ 304-23\_Unlawful acts.

It shall be unlawful for:

A.  
Any person to fail to separate, prepare for collection, collect, transport, or dispose of regulated recyclable materials or yard waste in accordance with this article or any rules and regulations promulgated pursuant to § 304-11.

B.  
Any person to dispose of any solid waste generated in Ulster County unless such regulated recyclable materials have been removed from such solid waste.

- C.  
Any person to place regulated recyclable materials at other than a designated location.
- D.  
Any person to alter regulated recyclable materials or fail to maintain these materials in the condition specified by the Agency in the rules and regulations.
- E.  
Any person to dispose of or cause to be disposed of regulated recyclable materials or yard waste in a landfill, incinerator, or any other solid waste disposal facility.
- F.  
Any hauler to collect, transport, store, or deliver regulated recyclable materials that contain solid waste.
- G.  
Any hauler to deliver regulated recyclable materials to a solid waste management facility not designated by the Agency.
- H.  
Any solid waste management facility to accept solid waste unless the regulated recyclable materials are separated therefrom.
- I.  
Any person not authorized under this article to remove regulated recyclable materials once set out for collection or brought to a municipal recycling dropoff center or municipal recycling system.
- J.  
Any person to fail to report as required by this article or the rules and regulations.
- K.  
Any person to knowingly make a false material statement or representation in any report required under this article.
- L.  
Any person to violate, cause, or assist in the violation of any provision herein.

§ 304-24 Enforcement.

- A.  
The Agency, acting through the Executive Director, is delegated the authority and responsibility to enforce this article by investigating possible violations through the subpoena power of the independent administrative hearing officer provided for hereunder and the courts; seeking civil or criminal penalties for violations of this article or the rules and regulations promulgated pursuant to this article in a court of competent jurisdiction or from the independent administrative hearing officer provided for hereunder; issuing temporary cease-and-desist orders; and collecting penalties pursuant to this article.
- B.  
The Agency shall employ a dedicated Recycling Compliance Officer(s) who will also act as Recycling Educator. The duties of the Recycling Compliance Officer(s) shall include:
1. Coordination of efforts to educate the public and private sector as to the standing recycling/source separation laws and regulations,
  2. The responsibility for answering and recording all complaints regarding possible violations of this article, and
  3. Inspection of sites to determine compliance with this article. The Recycling Compliance Officer will report at least quarterly to the Recycling Oversight Committee. The Recycling Compliance Officer will report monthly to the Agency Board.

C.

The Executive Director may issue written warnings that include educational material on how to properly comply with this article.

D.  
The Ulster County Health Department shall issue licenses to haulers to collect and transport regulated recyclable materials pursuant to the Sanitary Code and its rules and regulations. The Agency, acting through the Executive Director, may include provisions in the hauler's license as provided by the Sanitary Code and its rules and regulations and may seek enforcement of the Sanitary Code or its rules and regulations.

E.  
Notwithstanding anything in this article or in the Ulster County Sanitary Code to the contrary, no hauler shall be issued a license pursuant to the Sanitary Code to collect, transport, and/or dispose of solid waste unless the hauler also collects and transports regulated recyclable materials in accordance with this article.

F.  
Notwithstanding anything in this section to the contrary, this article may be enforced by the Sheriff of the County or any police agency of the state or any municipality of the County.

§ 304-25\_Independent Administrative Hearing Officer; assessment of civil penalty.

A.  
An independent Administrative Hearing Officer is hereby created, established and authorized to issue orders assessing civil penalties for violations of this article.

B.  
The Officer shall be appointed by the County Legislature to serve at the pleasure of the County Legislature.

C.  
The Executive Director and/or the Recycling Compliance Officer(s) as complainant may institute a proceeding with the Officer, seeking an order assessing civil penalties for the violation of this article.

D.  
The Officer has the authority to require the attendance of witnesses or the production of documentary evidence by subpoena.

E.  
Before issuing an order assessing a civil penalty, the Officer shall give to the person to be assessed such penalty written notice of the proposed order and an opportunity to request a hearing on the proposed order.

F.  
The written notice shall include, at a minimum:

1. A concise statement of the factual basis for the violation;
2. The amount of the civil penalty that is proposed to be assessed;
3. The provisions of this article alleged to have been violated;
4. The right to request a hearing on the material facts and/or the amount of the civil penalty; and
5. A copy of the rules of the hearing procedures.

G.  
The hearing shall provide a reasonable opportunity to be heard, cross-examine witnesses, and present evidence free from interference, coercion, restraint, discrimination, or reprisal, and the respondent shall have the right to be represented by a person of his/her choice at any stage of the hearing and proceedings.

H.  
If the respondent fails to appear at the hearing without good cause being shown and the Executive Director presents a prima facie case against the respondent, the respondent may be found in default. The motion for default and a proposed

default order shall be served by the officer on all parties, and the defaulting party shall have 20 days from service to reply to the motion. The proposed default order may be set aside for good cause shown in accordance with the Civil Practice Law and Rules. Default by the complainant shall result in the dismissal of the complaint with prejudice.

I.

In determining the amount of the civil penalty, the Officer, in accordance with § **304-26**, shall consider the seriousness of the violation(s); any history of such violations; good-faith efforts to comply with the applicable requirements; the number of individual generators the violator employs, services, represents, or is otherwise responsible for; the economic impact (benefit or harm) resulting from the violation(s); the economic impact of the penalty; the Executive Director's recommendation for a penalty; and such other factors as justice may require. Civil penalties shall constitute a judgment as that term is defined in the Civil Practice Law and Rules, which may be enforced in accordance with that statute.

J.

The Officer may establish rules for discovery, administration and implementation of this section, and procedures for conducting hearings and other proceedings.

K.

Any person against whom a civil penalty is assessed under this section may obtain judicial review of such assessment.

#### § 304-26\_Penalties for offenses.

A.

Criminal penalties. Any person who violates this article shall be guilty of a violation and subject to a fine not to exceed \$1,000 per day per violation and/or up to five days' imprisonment.

B.

Civil penalties. Any person who violates this article shall be liable to pay a civil penalty. If a decision of liability is made by a hearing officer or a court competent jurisdiction, a civil penalty shall be assessed of not more than \$1,000 per day per violation and/or suspension or revocation of collection or disposal privileges in conjunction with solid waste and/or regulated recyclable materials disposed within the County, and/or any other just and equitable remedies available at law.

C.

Each and every act prohibited hereunder shall be deemed a separate violation of this article.

D.

All fines and penalties shall become due and payable to the Agency.

#### § 304-27\_Recovery of assessed penalties; nonpayment penalty.

If any person fails to pay an assessment of a civil penalty, the Agency may bring a civil action in an appropriate court to recover the amount assessed (plus interest) at currently prevailing rates from the date of the final order or the date of the final judgment, as the case may be. Such person shall be required to pay, in addition to such amount and interest, attorneys' fees and costs for collection proceedings and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be in an amount equal to 20% of the aggregate amount of such person's penalties and nonpayment penalties which are unpaid as of the beginning of such quarter.

#### § 304-28\_Consent agreement and order.

A.

The Executive Director and respondent or defendant may confer concerning settlement.

B.

The Executive Director and respondent or defendant shall forward a written consent agreement and a proposed consent order to the hearing officer or District Attorney or court of competent jurisdiction, as the case may be, whenever settlement or compromise is proposed.

C.

The consent agreement shall state that, for the purpose of the proceeding, the respondent:

1. Admits the jurisdictional allegations of the complaint;
2. Admits the facts stipulated in the consent agreement or neither admits nor denies specific factual allegations contained in the complaint; and
3. Consents to the assessment of the stated penalty.

D.

The consent agreement shall include any and all terms of the agreement and shall be signed by all parties or their representatives.

E.

No settlement or consent agreement shall dispose of any proceeding without a consent order from the hearing officer or court of competent jurisdiction. In preparing such an order, the hearing officer or court may require that the parties to the settlement appear before him/her to answer inquires relating to the consent agreement or order. All settlements are due and payable to the Agency.

§ 304-29 Temporary cease-and-desist order.

A.

Upon receipt of evidence that an emergency exists, the Agency, acting through the Executive Director, may issue a temporary cease-and-desist order immediately suspending and restraining such activity causing or contributing to the emergency before the holding of a hearing.

B.

The person suspended or restrained shall have an opportunity to have an expedited hearing within five days of the Agency order before the hearing officer on the question of whether an emergency exists.

C.

If the hearing officer determines that such an emergency exists, he/she shall schedule a full hearing to be held in accordance with § 304-25 at least 20 days after the expedited hearing. If the hearing officer determines that an emergency does not exist, he/she shall annul the Agency order.

D.

The Agency order shall be in effect pending the completion of the expedited and full hearing, whatever the case may be.

§ 304-30 Addition or removal of regulated recyclable materials.

A.

In addition to the regulated recyclable materials defined in § 304-9, the Agency, subject to § 304-31, shall be authorized to designate regulated recyclable materials to be separated from other solid waste.

B.

In addition to the regulated recyclable materials defined in § 304-9, the Agency, subject to § 304-31, shall be authorized to remove previously designated regulated recyclable materials from the list of regulated recyclable materials subject to the approval of the Recycling Oversight Committee.

C.

If removal of the regulated recyclable material is based upon the lack of an economic market for the material in accordance with § 120-aa of the General Municipal Law, the Agency shall conduct such studies as it deems necessary and proper to establish the lack of an economic market and shall state specifically, in the notice of its action removing the regulated recyclable material, the grounds for its action and all studies upon which its determination is based.

D.

Such designation or removal shall be made in writing, shall be published in the Environmental News Bulletin and the official newspapers of the County as designated by the County Legislature, and shall take effect 30 days after such publication.

§ 304-31\_Recycling Oversight Committee.

A.

Creation; purpose; membership.

1. Creation and purpose. A Recycling Oversight Committee, consisting of one member of the Agency designated by the Agency Board to serve as a nonvoting, ex officio member and not more than 11 voting members to be appointed by the County Legislature, is hereby created and established for the following purposes:
  - (a) Advising the Agency on the addition of materials to the definition of “regulated recyclable materials”;
  - (b) Approving the removal of materials from the definition of “regulated recyclable materials”;
  - (c) Advising the Agency and the County Legislature on the progress made towards meeting the percent reduction goals established in the Solid Waste Management Act of 1988 and the plan;
  - (d) Advising the Agency on the adoption, repeal or amendment of rules and regulations provided for in § 304-11 of this article; and
  - (e) Such other matters as the Agency may suggest.
2. Membership.
3. (a) The members of the Recycling Oversight Committee to be appointed by the County Legislature shall consist of an appointee from the following:
  - [1] Town Supervisor's Association;
  - [2] City of Kingston;
  - [3] Community and Environmental Affairs Committee of the Ulster County Legislature;
  - [4] Ulster County Environmental Management Council;
  - [5] Commercial Waste Hauling Industry;
  - [6] Municipal Recycling Coordinators;
  - [7] Commercial or institutional sector;
  - [8] Multifamily dwelling interest.(b) Additionally, the County Legislature shall appoint three at-large community members with interest and concern, which may include students but shall not include members that fall into previously mentioned categories.

B.

The appointments in Subsection A(1) of this section, other than the Agency appointment, shall be for a three-year term from the date of appointment. Should a member no longer be eligible to serve due to a change in his/her employment status, appointed or elected status, or interest, that member shall serve until the point that he/she is replaced by the County Legislature. Should a member fail to attend at least 50% of the Committee's calendar meetings, that member is eligible for replacement by the County Legislature. Replacement members shall serve out the original member's term. The Chairman shall be elected by the members of the Recycling Oversight Committee at its first regular meeting, and the Committee shall adopt operating bylaws as it deems appropriate.

C.

The Committee shall meet at least quarterly, and the majority of the members shall constitute a quorum. Any recommendation issued by the Committee shall be approved by a majority of its membership.

D.

The Agency shall request and receive the recommendation of the Committee before it orders the addition of any material for designation as a regulated recyclable material, except that if such recommendation is not received within 30 days after written request by the Agency, it may act without such recommendation. The Agency shall request and receive the approval of the Committee before it orders the removal of any material from designation as a regulated recyclable material, except that, if such approval is not received within 90 days after written request by the Agency, it may act without such approval.

§ 304-32\_Effect on other laws.

A.  
Pursuant to Section 1 of Chapter 936 of the Laws of 1986 of the State of New York,<sup>1</sup> this article shall take precedence over and supersede any inconsistent provisions of any local law enacted by any municipality within the County.

[1]:

*Editor's Note: See Public Authorities Law § 2050-a.*

B.  
A municipality may adopt and enforce its own local law which, at a minimum, must be procedurally and substantively as comprehensive as this article.