

## **New York City Department of Sanitation**

### **NOTICE OF ADOPTION OF FINAL RULES GOVERNING RECYCLING REQUIREMENTS FOR ENTITIES THAT RECEIVE PRIVATE CARTER COLLECTION**

**NOTICE IS HEREBY GIVEN** in accordance with the requirements of Section 1043 of the New York City Charter and pursuant to the authority vested in the Commissioner of the Department of Sanitation by sections 753 of the New York City Charter and section 16-306 of the New York City Administrative Code that the Department adopts the following rules governing recycling requirements for entities that receive private carter collection. The Department published a Notice of Opportunity to Comment on the proposed rules in the *City Record* on September 8, 2015. On October 22, 2015 the Department held a public hearing on the proposed rules.

#### **Statement of Basis and Purpose of Rule**

Businesses in New York City are required to recycle in accordance with the Department of Sanitation's commercial recycling rules promulgated pursuant to Local Law No. 87 of 1992, which amended §16-306 of the Administrative Code. Private carters, which collect and dispose of putrescible and non-putrescible waste from commercial waste generators, must recycle designated recyclable materials, including paper, cardboard, metal, glass and plastic.

These rules revise the City's current commercial recycling rules to simplify the requirements, and make them easier for businesses to understand. Currently, not all businesses are required to recycle the same materials. Eliminating the distinction and applying the same rules for all businesses will facilitate greater recycling participation and make recycling easier for the business community. In addition, allowing all designated recyclable materials including metal, glass, plastic, paper and cardboard to be placed in the same bag or bin by the business generator ("single stream recycling") and prohibiting private carters from placing any source separated recyclables material with refuse in the same compartment of a waste hauling truck, will help make commercial recycling easier and can significantly increase the diversion of recyclables.

These rules:

- Amend §1-01 by adding, amending and removing relevant definitions;
- Make technical amendments to §1-02 (collection service), §1-08 (residential recycling) and §1-09 (agency and institutional recycling);
- Designate a standard set of recyclable materials that all businesses that receive private-carter collection are required to recycle, including but not limited to, metal, glass, plastic, paper and cardboard, consistent with the requirements for New York City residents;
- Prohibit the commingling of any designated recyclable materials with solid waste;
- Allow private carters, in addition to separate pick-up of designated recyclable materials, to utilize single stream collection and recycling or the co-collection of recyclables;
- Require any generator of private carter collected waste to post a sign identifying: 1) its private carter(s); 2) by type, each designated recyclable material that will be collected by

each private carter, and; 3) if such private carter will be utilizing single stream collection and recycling or co-collection of recyclables;

- Provide implementation and notice requirements for owners, net lessees, or persons-in-charge who arrange for private carter collection, and set forth recycling requirements for their tenants and occupants;
- Set forth responsibilities of operators of non-putrescible and putrescible solid waste transfer stations; and
- Provide for the enforcement of such rules in accordance with the New York City Administrative Code.

DSNY's authority for these rules is found in sections 753 and 1043(a) of the New York City Charter and section 16-306 of the New York City Administrative Code.

New material is underlined.

[Deleted material is in brackets.]

"Shall" and "must" denote mandatory requirements and may be used interchangeably in the rules of this department, unless otherwise specified or unless the context clearly indicates otherwise.

Section 1. The definitions as set forth in section 1-01 of Title 16 of the Rules of the City of New York are amended, and new definitions are added, in alphabetical order, to read as follows:

#### §1-01 Definitions

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**Beverage [Cartons] cartons.** "Beverage cartons" means coated cardboard cartons or boxes, including milk and juice cartons or boxes, gable-top cartons and aseptic packages.

**Bulk [Metal] metal.** "Bulk metal" means metal items that are too heavy or large to lift or fit into recycling containers, including large metal appliances.

**Bulk [Plastic] plastic.** "Bulk plastic" means rigid plastic items that are too heavy or large to lift or fit into recycling containers.

**Bulk waste.** "Bulk waste" includes large glass, metal, rigid plastic, ceramic, porcelain and/or wood items, including, but not limited to, furniture such as chairs, tables and desks; household appliances such as refrigerators, freezers, stoves, washing machines, dishwashers; hot water tanks; and trash compactors; sinks; corrugated roofing; aluminum siding; storm window and door frames; sewer pipes; brass fittings; copper pipes and fittings; and scrap lumber.

**City agency or agency.** "City agency or agency" means all city mayoral and non-mayoral agencies. Excluded from the definition of city agency or agency are city-owned buildings, including residential units within buildings, that are leased to entities other than New York City governmental entities. A city-owned building, or part of a building, that is leased for residential purposes shall be covered by [§1-09 (recycling rules for residential buildings)] §1-08 (residential collection service of designated recyclable materials). A city-owned building, or part of a building, that is leased for non-residential purposes shall be covered by §1-10 (recycling of private-carter collected waste) [a yet to be numbered section of the Department rules governing recycling of private-carter collected waste] unless such building is leased to a facility or organization that qualifies as an institution as defined in this section.

**Co-collection of recyclables.** "Co-collection of recyclables" means a system in which designated recyclable metal, glass and plastic and designated recyclable paper that have been previously source separated and set out by a generator are collected at the same time and placed in a single compartment of a waste hauling truck. Such designated recyclable materials must be kept separate from solid waste and organic waste and delivered directly to a recycling processing facility that is designed to receive, separate and process for reuse or sale designated recyclable metal, glass and plastic, and designated recyclable paper, collected in a single compartment of a waste hauling truck. "Co-collection of recyclables" does not include any system in which designated recyclable metal, glass and plastic and designated recyclable paper that have been source separated and set out by a generator are collected at the same time but placed in separate compartments of the same waste hauling truck.

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**Commissioner.** "Commissioner" means the Commissioner of the Department or his/her representative.

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**Construction [waste] and demolition debris.** "Construction [waste] and demolition debris" means [construction waste shall include] non-putrescible waste materials resulting from building demolition, construction, alteration and excavation, including, but not limited to materials such as dirt, earth, plaster, concrete, rock, rubble, slag, ashes, tree stumps, roots and waste timber and lumber.

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**Department.** "Department" means the Department of Sanitation or its agents or contractors.

**Designated recyclable [glass,] metal, glass and plastic.** "Designated recyclable [glass,] metal, glass and plastic" includes: metal cans; containers made of glass; [metal cans;] beverage cartons; rigid plastics; bulk plastic; aluminum foil and aluminum foil products; bulk metal and metal items, as such term is defined in this section.

**Designated recyclable materials.** "Designated recyclable materials" are materials [means solid waste] that the Commissioner has designated as recyclable pursuant to §§16-305, 16-306, 16-306.1, 16-307, 16-308 and 16-314 of the [Administrative Code] administrative code of the [City] city of New York. The materials designated as recyclable under these sections may vary from section to section.

**Designated recyclable paper.** "Designated recyclable paper" includes: high grade office paper; newspaper; magazines; catalogs; phone books; corrugated cardboard; and mixed paper, as such term is defined in this section.

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**Film plastic.** (1) "Film plastic" means non-rigid plastic items composed of a sheet of plastic material used to wrap or cover other items, or used in packaging.

(2) Examples of "film plastic" include, but are not limited to:

(i) Carry-out grocery or shopping bags, sleeves for newspapers and circulars, dry cleaning bags, and garbage bags;

(ii) Items used in packaging, such as plastic wrap, wrappers, bubble wrap, shrink or stretch wrap or other wrapping;

(iii) Food bags designed to store, refrigerate or freeze food and liquids, and household storage bags used to store household items; and

(iv) Any plastic label, bag, film, safety seal, or flexible inner or outer wrap that is used to cover or contain a product or a rigid plastic.

**Flexible plastic.** "Flexible plastic" means non-rigid, non-film plastic items that may be manipulated into a shape different from their original form. Such items may consist of multiple layers of material, such as plastic and metal, giving a metallic appearance. Examples of flexible plastic items may include, but are not limited to, single-serve squeezable pouches holding food or drink, tubes for toothpaste, gels, cosmetics, or lotions, or pouch-like packaging holding detergents or cleaning products that are squeezable.

**[Food or beverage service establishment.** "Food or beverage service establishment" means any establishment that serves food or beverages that is required to be permitted pursuant to Articles 85, 87, 88, or 89 of the New York City Health Code, including but not limited to a delicatessen, caterer, cafeteria, or restaurant, or any beverage service establishment required to be licensed pursuant to section 100 of the New York State Alcoholic Beverage Control Law that sells beverages for on-premises consumption, including but not limited to a bar or tavern.]

**Generator of private carter-collected waste.** "Generator of private carter-collected waste" or "generator" means any owner, net lessee, lessee, agent or occupant of a premises that generates solid waste or recyclable materials that is collected by a private carter.

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**High grade office paper.** "High grade office paper" includes: white bond paper, including, but not limited to, typing paper, letterhead and copier paper; computer printout; and computer tab cards; and manila folders]. Carbon paper and envelopes are not included in the definition of high grade office paper.

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**Institution.** "Institution" includes non-profit organizations and other facilities or organizations[, except those described in subdivision c of this section,] receiving Department collection service or free dump privileges at Department solid waste disposal facilities. Excluded from the definition of institutions are college or university owned residential apartment buildings that are

located outside of the college's or university's campus. Such buildings shall be covered by recycling rules for residential buildings.

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**Metal items.** "Metal items" means items that are more than fifty percent metal, including, but not limited to, large metal appliances, such as stoves, ovens and dishwashers; small metal appliances, such as toasters and irons; metal utensils, pots and pans; wire hangers; metal cabinets; metal pencil sharpeners or staplers; metal furniture; window screens; metal lighting fixtures; metal tools; metal boxes, such as tool and mail boxes; nuts and bolts; lawn mowers; bicycles; and metal toys.

**Mixed [Paper] paper.** "Mixed paper" includes: junk mail, smooth cardboard, such as cereal and shoe boxes and cardboard tubes from paper towels; white and colored paper; manila folders; envelopes, including plastic window envelopes; paper bags; paper or cardboard cartons and trays, such as egg cartons and produce trays; and soft-cover books. Such term does not include plastic or wax coated paper; carbon paper, or hard-cover books.

**[Non-designated materials.** "Non-designated materials" means solid waste that the Commissioner has not designated as recyclable pursuant to §§16-304, 16-305, 16-306, 16-307 or 16-314 of the Administrative Code of the City of New York.]

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**[Post-collection separation.** "Post-collection separation" means the dividing of solid waste into some or all of its component parts after the point of collection.]

**Private carter.** "Private carter" means any person required to be licensed or permitted pursuant to [Subchapter eighteen of Chapter two of] Title [twenty] 16A of the [Administrative Code] administrative code of the [City] city of New York.

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**Recyclable materials.** "Recyclable materials" means [solid waste] materials that may be separated, collected, processed, marketed and returned to the economy in the form of raw

materials or products, including but not limited to, types of metal, glass, paper, rigid plastic, food waste, tires and yard waste.

**Recycled or recycling.** "Recycled" or "recycling" means any process by which recyclable materials are separated, collected, processed, marketed and returned to the economy in the form of raw materials or products.

**Recycler.** "Recycler" means any person who lawfully collects, accepts, or otherwise processes recyclable materials who is not required to be licensed or [permitted] registered pursuant to [Subchapter 18 of Chapter 2 of] Title [20] 16-A of the [New York City Administrative Code] administrative code of the city of New York.

**Recycling processing facility.** "Recycling Processing Facility" means a facility that is registered or permitted by the New York State of Department of Environmental Conservation and/or the department at which: 1) designated recyclables, other than organic waste, are delivered separately from solid waste; or, 2) source-separated designated recyclables, other than organic waste, are processed for the purpose of reuse or sale.

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**[Residential generator of private carter-collected waste.** "Residential generator of private carter-collected waste" means any owner, net lessee, lessee, agent or occupant of a premises, or portion of a premises, used for residential purposes that generates solid waste that is collected by a private carter.]

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**Rigid plastic.** (1) "Rigid plastic" means any item that: (i) is composed predominantly of plastic resin; (ii) has a relatively inflexible fixed shape or form; and (iii) is capable of maintaining its shape or form, whether empty or full, under normal usage, independent of any product that it contains or other external support.

(2) Examples of rigid plastic items may include, but are not limited to: bottles, jars, jugs, fruit cups, pudding cups, yogurt cups, other dairy cups, dairy tubs, pails, "clamshell" or other take-out containers, boxes, bulk items, baskets, buckets, crates, beverage bottle carriers, flower or other gardening pots, toys, bulky housewares, small and large household appliances, furniture and decorations, single-use plates, cups, bowls, platters, and cutlery, trays that have sidewalls

designed to contain a product in the tray, lids, caps, handles and hinges, and any durable plastic packaging that holds a food, household product, or consumer product for sale, re-sale or reuse.

(3) Notwithstanding paragraph (1) of this definition, the term "rigid plastic" does not include the following:

(i) "Foam" items, including expanded polystyrene, expanded polypropylene or other "foam" containers, boxes, insulated coolers, toys, trays or single-use plates and cups;

(ii) Flexible plastic;

(iii) Film plastic;

(iv) Cigarette lighters and butane gas lighters;

(v) Cassette and VHS tapes;

(vi) Pens and markers;

(vii) Three-ring binders;

(viii) Umbrellas;

(ix) Garden hoses;

(x) Luggage;

(xi) Sponges; and

(xii) Sports balls, including, but not limited to, basketballs, bowling balls, soccer balls, footballs, or yoga balls.

**Single stream collection and recycling.** "Single stream collection and recycling" means a system in which designated recyclable metal, glass and plastic, and designated recyclable paper, are placed in the same bags or bins by the generator. Such bags and/or the contents of such bins are placed into one waste hauling truck, separate from solid waste and organic waste, and are delivered directly to a recycling processing facility. Such recycling processing facility must be designed to receive, separate and process for reuse or sale commingled loads of designated recyclable metal, glass and plastic, and designated recyclable paper.

**Solid waste.** "Solid waste" means all putrescible and non- putrescible materials or substances, except as described in paragraph [(2)] (3) of this [subsection] definition, that are discarded or rejected, 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, [waste collected by any person required to be licensed or permitted pursuant to Subchapter eighteen of Chapter two of Title



twenty of the Administrative Code of the city of New York,] industrial and commercial waste, rubbish, tires, ashes, contained gaseous material, incinerator residue, construction and demolition debris that is not designated as recyclable pursuant to this chapter, discarded automobiles and offal. [Such term shall include recyclable materials, as defined in §1-101 of chapter one of title sixteen.]

(1) A material is discarded [or rejected if it is] if it is abandoned by being:

[(i) spent, useless, worthless or in excess to the owners at the time of such discard or rejection;

(ii)] (i) disposed of;

[(iii)] (ii) burned or incinerated, including material being burned as a fuel for the purpose of recovering useable energy; or

[(iv)] (iii) accumulated, stored or physically, chemically or biologically treated (other than burned or incinerated) instead of or before being disposed of.

(2) A material is disposed of if it is discharged, deposited, injected, dumped, spilled, leaked, or placed into or on any land or water so that such material or any constituent thereof may enter the environment or be emitted into the air or discharged into groundwater or surface water.

(3) The following are not solid waste for the purpose of this [subsection] definition:

(i) domestic sewage;

(ii) any mixture of domestic sewage and other waste that passes through a sewer system to a publicly owned treatment works for treatment, except [any material that is introduced into such system in order to avoid the provisions of the Title 16 of the [Administrative Code] administrative code of the [City] city of New York, or of state regulations promulgated to regulate solid waste management facilities] (A) any material that is introduced into such system in order to avoid the

provisions of this chapter or the state regulations promulgated to regulate solid waste management facilities pursuant to part 360 of title 6 of the New York Code, Rules and Regulations or (B) food waste;

(iii) industrial wastewater discharges that are actual point source discharges subject to permits under article 17 of the New York state environmental conservation law; [provided that] industrial wastewaters while they are being collected, stored or treated before discharge and sludges that are generated by industrial wastewater treatment are solid wastes;

(iv) irrigation return flows;

(v) radioactive materials that are source, special nuclear, or by-product material under the federal Atomic Energy Act of 1954, as amended, 42 U.S.C. S 2011, et seq.;

(vi) materials subject to in-situ mining techniques which are not removed from the ground as part of the extraction process;

(vii) hazardous waste as defined in section 27-0901 of the New York state environmental conservation law[, including material containing hazardous waste]; and

(viii) regulated medical waste [as defined in title 15 of article 27 of the New York State environmental conservation law, in title 13 of article 13 of the New York State public health law, or in §16-120.1 of the [Administrative Code] administrative code of the [City] city of New York or any rules and regulations promulgated pursuant to such provisions of law] or other medical waste as described in section 16-120.1 of the administrative code of the city of New York. Nothing in this provision shall omit the requirement to be licensed or registered pursuant to Title 16A of the administrative code of the city of New York.

**Source [Separation] separation.** "Source [Separation] separation" means [the dividing of solid waste into some or all of its component parts] the separation of designated recyclable materials from each other or the separation of designated recyclable materials from solid waste at the point of generation.

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**Yard waste.** "Yard waste" means leaves, grass clippings, garden debris, and vegetative residue that is recognizable as part of a plant or vegetable, small or chipped branches, and similar material.

§2. Subdivision (e) of Section 1-02 of Title 16 of the Rules of the City of New York is amended to read as follows:

(e) Upon the request of any authorized representative of the New York City Department of Housing Preservation and Development, the Commissioner may, in his/her absolute discretion, authorize the collection of construction [waste] and demolition debris, originating from any premise or structure owned or managed by the City of New York, the rehabilitation of which is administered by the New York City Department of Housing Preservation and Development or its contractor.

§3. Paragraphs (4) and (5) of subdivision (h) of Section 1-08 of Title 16 of the Rules of the City of New York is amended to read as follows:

(4) [Non-designated material.] Materials that are not required to be source separated for recycling shall be removed from both curbside and mechanized collection recycling containers and bags prior to recycling collection day.

(5) *Designated recyclable materials.* Designated recyclable materials that have been source separated as required by subdivision (g) of this section shall not be placed out for collection in the same container as [non-designated material] solid waste or organic waste.

§4. Subdivisions (a), (b) and (c) of Section 1-09 of Title 16 of the Rules of the City of New York are amended to read as follows:

(a) *Agency/Institution facility:* For purposes of this section, unless the context clearly indicates otherwise, a "facility within an agency/institution" or a "facility" shall mean a unit, or part of a unit, within an agency/institution that is located in one building or several buildings that operate as an integrated whole.

(b) *Designated recyclable materials.* Pursuant to §16-307 of the [New York City Administrative Code] administrative code of the city of New York, the following materials are designated as recyclable materials: metal cans, metal items, aluminum foil, aluminum foil products, metal components of bulk waste, bulk metal, containers made of glass [containers], beverage cartons,[ and] rigid plastics and bulk plastic (collectively referred to as designated recyclable metal, glass and plastic); and newspaper, magazines, corrugated cardboard, high grade office paper, catalogs, phone books, and mixed paper (collectively referred to as designated recyclable paper) [and bulk waste. The requirement that a specific designated recyclable material be source separated or separated post-collection shall be scheduled as required by subdivision (e) of this section. Implementation schedules for specific designated recyclable materials may vary pursuant to the provisions of subdivision (e).]

(c) *Designation of additional materials.* The Commissioner may require that a facility within an agency/institution source separate, [or separate post-collection,] an additional material for recycling if it is determined by the Commissioner, in consultation with the facility, that the facility generates a [non-designated] recyclable material that has not been designated pursuant to §16-307 of the administrative code of the city of New York in a sufficient quantity to make collection

for recycling reasonably practicable. Thereafter, such additional recyclable[ material] materials shall be considered [a] designated recyclable [material] materials for that facility and shall be subject to the requirements of this section.

§5. Paragraph (4) and the final, undesignated paragraph of subdivision (d) of Section 1-09 of Title 16 of the Rules of the City of New York is amended to read as follows:

(4) the number of employees at each facility, identified as either full-time or part-time employees, and in addition: for schools, the number of students; for jails, the number of inmates; for hospitals, the number of patients; and for shelters, the number of temporary residents, at each facility.

In lieu of submitting information specified in paragraph (4), agencies/institutions may, with Department approval, develop and submit other criteria for estimating the amount of waste generated at a facility. For facilities within agencies/institutions that receive Department collection service, implementation plans shall include, in addition to paragraphs (1), (2), (3) and (4) of this subdivision, the location of the central collection area or areas required in subparagraph (g)(2)(i). For facilities within agencies/institutions that receive private carter service, implementation plans shall include, in addition to paragraphs (1), (2), (3) and (4) of this subdivision, the name of the private carter or private carters, [and whether designated recyclable materials will be source separated or separated post-collection] and must identify, by type, each designated recyclable material that will be collected by each private carter, and if applicable, whether the private carter will be utilizing single stream collection and recycling or co-collection of recyclables. Each agency/institution shall appoint an agency/institution recycling coordinator who shall be responsible for overseeing the establishment and operation of the agency's/institution's recycling program. Each agency/institution shall submit one plan to the Department for approval within three months of the effective date of this section and shall update such plan within a reasonable time if there are any significant changes, including changes in the information required to be supplied under paragraphs (3) and (4) of this subdivision.

§6. Paragraph (1) of subdivision (h) of Section 1-09 of Title 16 of the Rules of the City of New York is amended to read as follows:

(1) Recycling programs in facilities in agencies/institutions that receive private carter collection service shall provide for source separation [or post-collection separation of designated recyclable materials from non-designated materials, unless the private carter receives free dump privileges at Department solid waste disposal facilities, in which case recycling programs shall provide for source separation] of designated recyclable [material] materials from [non-designated material] solid waste and organic waste, if applicable.

§7. Paragraph (1) of subdivision (j) of Section 1-09 of Title 16 of the Rules of the City of New York is amended to read as follows:

(1) Recycling programs in facilities within institutions that provide their own collection service and receive free dump privileges at Department solid waste disposal facilities shall provide for source separation of designated recyclable materials from [non-designated materials] solid waste and organic waste, if applicable.

§8. Section 1-10 of Chapter 1 of Title 16 of the Rules of the City of New York, relating to the recycling of private carter collected waste, is REPEALED and a new section 1-10 is added, to read as follows:

**§1-10 Recycling of Private Carter-collected Waste.**

**(a) Designated recyclable materials.**

(1) Pursuant to §16-306 of the administrative code of the city of New York, the following materials are designated as recyclable materials for purposes of this section:

(i) metal cans, metal items, aluminum foil, aluminum foil products, metal components of bulk waste, bulk metal, containers made of glass, beverage cartons, rigid plastics and bulk plastic (collectively referred to as designated recyclable metal, glass and plastic);

(ii) high grade office paper, newspaper, magazines, catalogs, phone books, mixed paper and corrugated cardboard (collectively referred to as designated recyclable paper);

(iii) textiles generated by establishments whose solid waste during any monthly period is comprised of at least 10% textiles;

(iv) yard waste generated by establishments whose solid waste during any monthly period is comprised of at least 10% yard waste;

(v) construction and demolition waste generated by entities that exclusively engage in an activity that generates construction waste during the ordinary course of business, except that such construction waste shall exclude plaster, wall coverings, drywall, roofing shingles and glass window panes; and

(vi) organic waste, if designated as a recyclable material pursuant to section 16-306.1 of the administrative code of the City of New York;

(2) Notwithstanding paragraph (1) of this subdivision, if there exists any amount of paint, solvents, or hazardous substances contained in a designated recyclable container, such container must not be deemed a designated recyclable material. Instead, such containers must be disposed of in accordance with applicable local, state or federal law.

**(b) General source separation, set-out and collection requirements for private carter-collected waste.**

(1) Generators of private carter-collected waste must source separate the materials designated in subdivision (a) as follows:

(i) Designated recyclable paper must be tied and bundled securely, or placed out separately for collection in transparent or translucent bags, or labeled bins;

(ii) Designated recyclable metal, glass, and plastic must be placed out together, for collection in transparent or translucent bags or labeled bins, provided that bulk metal and bulk plastic items that do not fit in transparent or translucent bags or labeled bins may be placed out separately;

(iii) Yard waste must be placed out separately for collection from all other designated recyclable materials and solid waste, and must be disposed of in accordance with section 16-308 of the administrative code of the City of New York;

(iv) Textiles must be placed out separately for collection from all other designated recyclable materials, solid waste and organic waste; and

(v) Construction and demolition debris must be placed out separately for collection from all other designated recyclable materials, solid waste and organic waste.

(2) Designated recyclable metal, glass and plastic, which may be commingled together, must not be placed in the same bags with designated recyclable paper. The provisions of this paragraph will not apply if such materials are collected pursuant to single stream collection and recycling as allowed by paragraph (3) of subdivision (c) of this section.

(3) Any materials that have special collection requirements pursuant to applicable local, state or federal law must be disposed of accordingly, and must not be commingled with solid waste, designated recyclable materials or organic waste.

**(c) Commingling of solid waste with designated recyclable materials.**

(1) The commingling of any designated recyclable materials with solid waste is prohibited.

(2) The commingling of organic waste that has been designated pursuant to section 16-306.1 of the administrative code of the City of New York, with solid waste or other designated recyclable materials is prohibited.

(3) Notwithstanding the source separation provisions of subdivision (b) of this section, a generator of private-carter collected waste may commingle designated metal, glass, and plastic with designated recyclable paper if:

(i) his or her private carter has furnished information to the business integrity commission of its ability to use either single stream collection and recycling, or co-collection of recyclables; or

(ii) a generator obtains a registration from the business integrity commission pursuant to paragraph (b) of section 16-505 of the administrative code of the city of New York, to transport its own designated recyclable materials to a central holding location under the control of the

generator, from which such designated recyclable materials will be collected by a private carter, who has furnished information to the business integrity commission of its ability to use either single stream collection and recycling, or co-collection of recyclables, or delivered by the generator directly to a recycler.

**(d) Generator requirements.** (1) All generators of private carter-collected waste must ensure that the separation of materials as set forth in subdivisions (b) and (c) of this section is maintained prior to the collection of such materials by a private carter or recycler. However, such requirements do not apply if single stream collection and recycling is used by a private carter or recycler pursuant to paragraph (3) of subdivision (c) of this section. All generators of private carter-collected waste must ensure that designated recyclable materials as set forth in subdivision (a) of this section are kept separate from solid waste and organic waste, if designated pursuant to section 16-306.1 of the administrative code of the city of New York.

(2) As required by section 16-116 of the administrative code of the city of New York, generators must post a sign identifying each private carter approved to provide collection and/or recycling services for such generators. Such sign must use lettering of a conspicuous size and be prominently displayed by attaching it to a window near the principal or service entrance of the generator's premises so as to be easily visible from outside such premises. Such sign must also identify, by type, each designated recyclable material that will be collected by each private carter and, if applicable, whether the private carter will be using single stream collection and recycling or co-collection of recyclables.

**(e) Implementation and notice requirements.**

(1) Owners, net lessees or persons-in-charge of a premises who arrange for the collection of solid waste. The owner, net lessee or person-in-charge of a premises who arranges for the collection by a private carter or recycler of solid waste or designated recyclable materials generated by such premises must:

(i) arrange with a private carter or recycler for the recycling, reuse or sale for reuse of designated recyclable materials in accordance with subdivisions (b) and (c) of this section, except where such materials are managed pursuant to the returnable container act, also known



as the bottle bill, found in title 10 of article 27 of the environmental conservation law. This provision will not apply if an establishment obtains a registration issued by the business integrity commission pursuant to subdivision b of section 16-505 of the administrative code of the city of New York.

(ii) Notify his or her tenants, occupants, and/or employees, at least annually, in writing, of applicable source separation requirements, including what materials are required to be source separated and how to source separate such materials. A copy of such notification shall be submitted to the Department upon request within five business days of such request either by postal mail or electronic mail to the Department.

(iii) Post and maintain one or more signs in maintenance areas where refuse and recycling are collected and/or stored, which describe what materials are required to be source separated and collection procedures for such materials; and

(iv) Post and maintain one or more such signs in public areas where designated recyclable materials that are required to be source separated are routinely generated, provide containers for, or otherwise provide for the separate collection of, such materials.

(2) *Tenants or occupants.* Tenants or occupants of premises that generate private carter-collected waste must, at a minimum:

(i) source separate materials in accordance with subdivisions (b) and (c) of this section, except where such materials are managed pursuant to the returnable container act, also known as the bottle bill, found in title 10 of article 27 of the environmental conservation law;

(ii) notify their employees, customers, clients, or others lawfully on the premises of applicable source separation requirements by posting and maintaining one or more signs that set forth what materials are required to be source separated and how to source separate such materials.

(3) Any sign posted pursuant to this paragraph must be posted in a common area or areas routinely visited by such employees, customers, clients, and/or others lawfully on the premises.

(4) Containers for the collection of designated recyclable materials to be used by customers, clients, or others lawfully on the premises must be labeled to indicate what materials may be properly placed therein.

(5) Nothing in this subdivision will preclude a tenant or occupant from instituting his or her own source separation program in accordance with the provisions of subdivision (c) or (d) of this section.

**(f) Responsibilities of operators of non-putrescible and putrescible solid waste transfer stations.** Operators of non-putrescible and putrescible solid waste transfer stations must:

(1) remove any translucent plastic bags containing source separated designated recyclable metal, glass and plastic that are intended for recycling, reuse, or sale for reuse, or transfer to a recycling processing facility; and

(2) maintain any separated designated recyclable paper materials apart from all other solid waste and other designated recyclable materials before their transfer to another location.

**(g) Enforcement and compliance.** (1) The Commissioner reserves the right to conduct lawful inspections at reasonable times to ensure compliance with this section. Such inspections may include, but need not be limited to:

(i) inspections of solid waste and/or designated recyclable materials placed out for collection by a generator to determine whether such materials have been placed out for collection in accordance with subdivisions (b), (c) and (d) of this section;

(ii) inspections of solid waste brought to Department solid waste disposal facilities;

(iii) inspections of non-putrescible and putrescible solid waste transfer stations; and

(iv) inspections of any other facilities required to be registered or licensed by the department.

(2) Any person who violates any provision of this section will be liable for civil penalties as provided for under section 16-324 of the administrative code of the city of New York. Section 16-324 provides for a civil penalty in the amount of \$100 for the first violation, \$200 for the second violation committed on a different day within a period of twelve months, and \$400 for the third and each subsequent violation committed on a different day within a period of twelve months. Any person who receives four or more violations that were committed on different days within a period of six months shall be classified as a persistent violator and would be subject to the additional penalties as set forth in section 16-324 of the administrative code of the city of New York. In addition, operators of non-putrescible or putrescible solid waste transfer stations will be liable for civil penalties as provided for in section 16-133(a)(2) of the administrative code of the city of New York and rules promulgated thereunder. Section 16-133(a)(2) provides for a civil penalty in the amount of \$2,500 to \$10,000 for the first violation, \$5,000 to \$10,000 for the second violation committed within a three year period, and \$10,000 for a third and each subsequent violation committed within a three year period.

(h) Severability. The provisions of these Rules shall be severable and if any word, phrase, clause, sentence, paragraph, subsection or section of these Rules, or the applicability thereof to any person or circumstance, shall be held invalid, the remainder of these Rules and the application thereof shall not be affected thereby.

§9. This rule shall take effect on August 1, 2016 and the Department shall not issue any violations pursuant to this rule until August 1, 2017, provided however, section 1 shall take effect thirty days after the final rule is published in the City Record.

