
APPENDIX A

NYSDEC REQUIREMENTS VS. DCRRA LSWMP

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Appendix A - DEC Requirements for Draft Dutchess Co. LSWMP Table of Contents	RRA draft Table of Contents	Comments
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<p>General Information A Local SWM Plan must: (1) take into account the State SWM policy/hierarchy (ECL 27-0106) (2) provide for the management of all SW in the PU (3) cover at least a 10-year period (10-year plan is usually the best scope) (4) reflect and employ sound principles of SWM, natural resources conservation, energy production, and employment-creating opportunities</p>		
	<p>Introduction Green the system Level the Playing Field Optimize Waste-to-Energy</p>	<p>Keep pages 1-3 (6-9 in PDF file) & 1st 2 lines on page 4 (10 of PDF) and call it “Background” or “History”. Add short intro to new plan – perhaps referencing 8/16/10 Working Group report. Note 9 in letter accompanying report): “Long-term Dutchess County must look to make the RRA self-sufficient and solvent, and if by 2014 it is not, sale of the WTE facility should be considered.”</p>
<p>Chapter 1 - Planning Unit description 1.1 size 1.2 municipalities, agencies, and authorities in PU 1.3 population 1.4 significant circumstances, such as major population centers, State or federal parks, seasonal usage, large or significant industries, etc. <i>(Check the original Local SWM Plan for data and sources. Did anybody leave the Planning Unit?)</i></p>	<p>Chapter 1 - Dutchess County Planning Unit description 1.1 Planning Unit Size and Location 1.2 Planning Unit Constituent Municipalities 1.3 Planning Unit Unique Conditions 1.4 Informational Maps for Dutchess County 1.5 Changes to Planning Unit</p>	<p>Probably OK, if data is confirmed. Need better graphics.</p>
<p>Chapter 2 - SW quantity and types (including recyclables) 2.1 quantity of SW generated 2.1.1 residential 2.1.2 commercial and industrial 2.1.3 institutional 2.1.4 construction and demolition debris 2.2 quantity of recyclables generated 2.2.1 residential 2.2.2 commercial and industrial</p>	<p>Chapter 2 - Solid Waste Quantity and Type</p>	<p>Data needs checked. Information is inadequate. Even though total generation had to be extrapolated from other data, should have charts with break-down according to categories in first column. E-waste and CFLs are not discussed in the RRA draft.</p>

Appendix A - DEC Requirements for Draft Dutchess Co. LSWMP Table of Contents	RRA draft Table of Contents	Comments
<p>2.2.3 institutional 2.2.4 construction and demolition debris <i>(Use existing waste assessments from others, or review/revise the original SWM Plan waste assessment. – Don't forget about new streams such as e-waste and CFLs)</i></p>		
<p>Chapter 3 - Existing program description <i>(Possible information sources: DEC, SWANA, ISRI, Yellow pages)</i> 3.1 SWM facility inventory proposed or existing SWM facilities used for, or have capacity to manage SW generated in the PU, and from outside the PU 1. expected life 2. current operating status</p>	<p>Chapter 3 - Existing program description 3.2 SWM Facility Inventory 3.4 Resource Recovery Facility 3.4.1 Background 3.4.2 Operations Including Tonnage Shortfalls 3.4.3 Energy Markets 3.4.4 Ash Disposal 3.5 Landfills 3.5.1 Municipal Solid Waste Landfills 3.5.2 Construction and Demolition Landfills 3.5.3 Ash Landfill</p>	<p>DEC's sample TOC seems to be logical. This chapter in RRA's draft is out of order. This needs untangled and re-written</p>
<p>3.2 existing efforts to recover recyclables 3.2.1 existing municipal, commercial, industrial and private efforts to recover recyclables. <i>(Data must include quantity and types of recyclables recovered, and a description of recyclables recovery programs used. – Surveys may be necessary for some of the commercial data.)</i> 3.2.2 Quantity and type of recyclables that could potentially be recovered 3.2.2.1 Composition <i>(i.e., quantity and characteristics)</i> of the SW presently generated and projections for future 3.2.2.2 types of SW contained in the</p>	<p>3.3 Recycling Facilities and Programs 3.3.1 DCRRRA Materials Recovery Facility 3.3.2 Private and Out-of-County MRFs 3.3.3 Yard Wastes and Organics Composting 3.3.4 HHW 3.3.5 Pharmaceuticals and Other "Product Stewardship" Wastes 3.3.6 County Activities</p>	<p>Needs rewritten</p>

Appendix A - DEC Requirements for Draft Dutchess Co. LSWMP Table of Contents	RRA draft Table of Contents	Comments
<p>waste stream</p> <p>3.2.2.3 strategies to achieve a reduction in SW destined for disposal</p> <p>3.2.2.3.1 residential source separation/collection, intermediate processing</p> <p>3.2.2.3.2 industrial/commercial recycling recovery</p> <p>3.2.2.3.3 composting,</p> <p>3.2.2.3.4 public education efforts</p> <p><i>(Begin with current programs. Review the original Plan)</i></p>		
<p>3.3 markets for recovered recyclables</p> <p>3.3.1 current markets for recyclables</p> <p>3.3.2 potential markets for recyclables</p> <p>3.3.3 processing needed to assure market acceptance</p> <p>3.3.4 market services available for assistance</p> <p>3.3.5 restrictions to market development</p> <p><i>(Start with www.empire.state.ny.us/recycle)</i></p>	<p>3.5.4 Current and Future Market Restrictions</p>	<p>Appears to be missing 3.3.1 through 3.3.5 of DEC's list.</p>
<p>Chapter 4 - Future PU projections and SW changes</p> <p>4.1 future population; waste generation; changes to the planning unit; special conditions that may affect any of these characteristics</p> <p>4.2 projections of changes to the waste stream; effects of the changes on the current and proposed management practices in the PU</p> <p><i>(A chart with notes works well here. What is going on in the area? Look at products in use today — they will be disposed of tomorrow.)</i></p>	<p>Chapter 4 - Future Planning Unit Projections and Solid Waste Changes</p> <p>4.1 Anticipated Changes to the Dutchess County Planning Unit</p> <p>4.1.1 Expected Residential Development</p> <p>4.1.2 Planned Commercial Development</p> <p>4.1.3 Planned Industrial Development</p> <p>4.2 Special Conditions</p> <p>4.3 Projections of Changes to the Waste Stream</p> <p>4.4 Waste and Recyclables Projections</p> <p>4.5 Anticipated Effects of the Changes</p>	<p>Data needs checked, especially waste and recyclables projections.</p> <p>Note – 4.3 (page 72 – page 79 of PDF) states that the County plans to re-implement flow control. I believe that is incorrect, especially in regards to recyclables. Same section and page: “It is estimated that over 10,000 tons, of the estimated 24,000 tons of recyclable materials, are currently handled outside the County. A single stream facility would handle all recyclables generated within the County.... It is anticipated the recycling rate could be increased over 50%.” Is this to over 50% recycling, or 50% increase over current rate? This is really lame. –</p>

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		<p>The Plan also projects 6,000 tons could be diverted for composting, which is 9% of compostables available (food and vegetative waste only)</p> <p><i>In 11/29/10 version – all references to flow control were removed or softened throughout the document so that it is mentioned as a possible option rather than a plan. In this chapter 4, the need to improve the web site was also added.</i></p>
<p>Chapter 5 - Technology Evaluation 5.1 storage, treatment, disposal of solid waste <i>(evaluation of the various technologies for storage, treatment, and disposal of solid waste within the PU)</i></p> <p>5.1.1 sizing of SWM facilities, based on projected quantities and composition of the SW and waste generation minimization/recyclables recovery efforts</p> <p>5.1.2 costs of the various alternatives</p> <p>5.1.3 environmental, economic and social impacts of each technology <i>(Critical if newly planned facilities are anticipated during the planning period. Consider emerging technologies such as digestion, gasification.)</i></p>	<p>Chapter 5 - Technology Evaluation 5.1 Current Technologies Used by DCRRA for Dutchess County 5.2 Capacity and sizing of SWM Facilities 5.3 Technology Options and Costs</p>	<p>Much appears to be missing.</p> <p>Section 5.1, Municipal Solid Waste, Recycling, and HHW – These sections can be used, but may need some additional info.</p> <p>Needs another subsection with <u>evaluation</u> of the various technologies for storage, treatment, and disposal of solid waste within the PU</p> <p>Section 5.2, Capacity and sizing of SWM Facilities – needs work</p> <p>Section 5.3, Technology Options and Costs – this probably needs completely re-written. Some of the info can be used, however.</p>
<p>5.2 alternative recovery programs</p> <p>5.2.1 alternative source separation /recyclables recovery programs considered</p> <p>5.2.2 the proposed program</p> <p>5.2.3 reasons for selection of the proposed program</p> <p>5.2.4 relationship between size and capacity of disposal facilities and size and capacity of recyclables recovery program</p>	<p>5.3.1 Recycling</p> <p>5.3.2 Organics</p> <p>5.3.3 Construction and Demolition Debris Processing</p> <p>5.3.4 Emerging Technologies</p> <p>5.3.5 Waste-to-Energy</p> <p>5.4 Collection Options</p> <p>5.4.1 Public collection</p> <p>5.4.2 Pay As You Throw (PAYT)</p>	<p><i>[Move section 5.2 to chapter 7]</i></p> <p>Much appears to be missing. This probably needs to be completely rewritten.</p>

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<p>5.2.5 procedures for implementation of the recovery program</p> <ul style="list-style-type: none"> 5.2.5.1 plan and scope of operation 5.2.5.2 equipment to be used 5.2.5.3 collection arrangements 5.2.5.4 processing and storage procedures 5.2.5.5 market agreements 5.2.5.6 funding sources 5.2.5.7 the entity responsible for program operation and management 5.2.5.8 the availability of staff for implementation <p>5.2.6 implementation schedule coordinated with milestone dates for progressively increasing percentages of the waste stream that will be recovered as recyclables</p> <p>5.2.7 actions to maximize development and enhancement of markets</p> <p>5.2.8 specific public relations and education programs to be undertaken <i>(Should be combined with other sections. Should be combined with overall implementation schedule. Enforcement should be integrated with public education programs)</i></p>		
<p>5.3 analysis of the costs of the system</p> <ul style="list-style-type: none"> 5.3.1 capital investments 5.3.2 insurance 5.3.3 operation 5.3.4 maintenance 5.3.5 administration 5.3.6 financing 5.3.6.1 financing mechanisms that will meet the anticipated costs <p><i>(Consider PAYT/Quantity-based user fees)</i></p>		<p>This whole section appears to be missing. The costs in the RRA draft appear to be appropriate in DEC's listing, 5.1.2 "costs of the various alternatives", but there is no analysis as outlined by DEC.</p>

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<i>Should be combined with other sections/chapters)</i>		
<p>5.4 neighboring jurisdiction impacts</p> <p>5.4.1 measures used to secure participation of neighboring jurisdictions</p> <p>5.4.2 any limitations which the plan's implementation would impose on the neighboring jurisdictions' SWM programs</p> <p>5.4.3 effects of including the jurisdiction in the plan, including additional viable alternatives</p> <p><i>(Plan should include results of phone or mail contacts with the neighboring jurisdictions.)</i></p>	<p>5.5 Neighboring Jurisdiction Impacts</p> <p>5.5.1 Neighboring Planning Units</p> <p>5.5.2 Measures to Secure Neighboring Jurisdiction Participation</p> <p>5.5.3 Limitations on Neighboring Planning Units</p> <p>5.6 Comprehensive Recycling Analysis</p>	<p>This is inadequate. 5.5.2 just says they maintain regular contact.</p> <p><i>In 11/29/10 version, this was expanded slightly to note that the RRA will “expand its outreach and coordination with neighboring planning units” to address a number of solid waste issues, including single stream recycling and a regional approach.</i></p> <p>Section 5.6 is not comprehensive, and I don't know why it is in this chapter.</p>
<p>Chapter 6 - Integrated system selection</p> <p>6.1 management of each of the various types of waste to be treated, stored, or disposed.</p> <p>6.1.1 RRA</p> <p>6.1.2 County</p> <p>6.1.3 Private Sector</p> <p>6.1.3.1 how waste stream to be managed by private sector will be managed if the private sector does not adequately manage this waste stream</p> <p>6.1.3.2 how the private sector is to be notified of the responsibility for management of a specific waste stream</p> <p>6.1.3.3 (if this is proposed by the PU) how the PU will provide technical, administrative and financial assistance to the private sector in meeting this responsibility</p> <p><i>(Should be coordinated with other sections / chapters especially recycling recovery programs)</i></p>	<p>Chapter 6 - Integrated System Selection</p> <p>6.1 Overall Assessment and Program Goals</p> <p>6.2 Program Goals</p> <p>A. Green the system</p> <p>B. Level the Playing Field</p> <p>C. Optimize Waste-to-Energy</p> <p>6.2.1 Program Administration: Flow Control as a Means to apply Integrated Waste Management Principles on a County-wide Basis</p> <p>6.2.1.1 User Fee</p> <p>6.2.2 Management of Source Separated Recyclables</p> <p>6.2.2.1 Assessment of Current Infrastructure</p> <p>6.2.2.2 Single Stream Processing</p> <p>6.2.2.3 Impact of the Proposed Recyclables Recovery Effort on Existing Recyclables Recovery Programs</p> <p>6.3 Yard Waste and Organics Composting</p> <p>6.4 Disposal of Non-Recyclable Materials: Waste-to-Energy and Landfills</p> <p>6.4.1 Comparative Environmental Impacts of Waste-to-Energy and Landfills</p>	<p>This needs to be rewritten.</p> <p><i>In 11/29/10 version added a new section, “Summary of New Recycling Initiatives and Programs” (list of 17 initiatives). Throughout the 11/29/10 document, priorities were changed to put recycling and reduction before increasing capacity at the RRF.</i></p>

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	<p>6.4.2 Resource Recovery Facility Assessment</p> <p>6.4.3 Resource Recovery Facility Recommended Improvements</p> <p>6.4.4 Landfills Available for Interim or Permanent Use</p> <p>6.4.4.1 For MSW</p> <p>6.4.4.2 For Ash</p> <p>6.4.4.3 For Construction and Demolition Debris</p> <p>6.4.5 Transfer Capacity</p> <p>6.5 Summary of Needed Facility Improvements</p> <p>6.6 Collection Arrangements</p> <p>6.7 Market Agreements</p> <p>6.8 Funding Sources</p> <p>6.9 Entity Responsible for Implementation</p> <p>6.10 Availability of Staff for Implementation</p> <p>6.11 Alternatives if Private Sector Management is not Functioning Adequately</p> <p>6.12 Relationship Between Private Sector Management and the Planning Unit</p>	
<p>Chapter 7 - Implementation Schedule (with integrated recovery goals)</p> <p>7.1 timetable for implementing the integrated system</p> <p>7.1.1 Closure of existing inadequate SWMFs or schedule for bringing them into conformance with requirements</p> <p>7.1.2 identification of major events and milestones to achieve implementation</p> <p><i>Move 5.2 here</i></p> <p>Note: According to DEC, this section is REALLY IMPORTANT</p> <p><i>(Recycling program schedule is best integrated</i></p>	<p>Chapter 7 - Implementation Schedule</p> <p>7.1 Prevention-source Reduction</p> <p>7.2 Recycling</p> <p>7.3 Organics Recovery</p> <p>7.4 Energy Recovery</p> <p>7.5 Transfer and Disposal</p> <p>7.6 Administrative/Legal/Financial</p>	<p>DEC noted that “this section is REALLY IMPORTANT” and it appears sorely lacking.</p>

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<p><i>with this section/chapter)</i></p> <p>Chapter 8 - New Laws and regulations / Legal/institutional analysis</p> <p>8.1 identification of any: new local laws, ordinances, regulations, amendments to existing local laws, ordinances, or regulations</p> <p>8.2 Legal/institutional analysis</p> <p> 8.2.1 identification of the laws, rules, regulations, or ordinances which could cause constraints to the selected recovery program</p> <p> 8.2.2 schedule and description of local laws or ordinances to implement the selected recovery program and to develop and enhance markets</p> <p><i>(Revisit Flow Control, Districting, Hauler licensing. Consider plastic bag and e-waste local legislation. Should be combined with other sections/chapters. Consider hauler licensing and reporting, Districting, PAYT/Quantity-based user fees) [Also procurement of recycled products]</i></p>	<p>Chapter 8 - New Laws & Regulations Legal/Institutional Analysis</p> <p>8.1 Legal Constraints to the Selected Recovery Program</p> <p>8.2 Schedule and Descriptions of Regulations Needed to Implement Programs</p> <p> 8.2.1 Local Law to Establish a Solid Waste User Fee</p> <p> 8.2.2 Flow Control Amendment</p> <p>8.3 Analysis of Use in the LSWMP</p> <p> 8.3.1 Incentive Based Pricing (PAYT)</p> <p> 8.3.2 Hauler Licensing</p>	<p>This is RAA's agenda, not an appropriate analysis.</p>
<p>Chapter 9 - Interim SWM measures – identification of measures to manage each of the various types of SW to be treated, stored, or disposed of within the PU, until the integrated system is completely implemented</p> <p><i>(Likely not applicable to most PUs with mature SW/Recycling programs)</i></p>	<p>Chapter 9 - Interim Solid Waste Measures</p>	<p>This should be either re-written or omitted.</p> <p>RRA has one paragraph stating that it is a fully functional system and will have permanent improvements, but no interim measures.</p>

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<p>Chapter 10 - Export certification of capacity – certification of disposal capacity when exporting waste out of the P U.</p> <p>(Note: If exportation for less than 5 years is proposed, the PU must certify capacity for disposal or treatment for that entire time period. – When exportation for 5 or more years is proposed, the PU must certify a minimum 5 years of capacity for disposal or treatment)</p> <p><i>(If the PU exports waste to another PU or State, get letters from 2-3 waste destination facilities, plus permits from out-of-State destinations.)</i></p>	<p>Chapter 10 - Export Certification</p>	<p>States that only ash residue, for use as daily cover, is currently exported. The required letter and permit from that facility is missing.</p> <p>This may need rewritten</p> <p><i>Update: According to NYSDEC, letter and permit is not required from facility taking ash residue.</i></p>
<p>Chapter 11 - Administrative Structure and Financial Mechanisms – identification of the administrative structure that will be responsible for implementing EACH element of the integrated system and for operating the various portions of the integrated system</p> <p>Note: According to DEC, this is a critical section for multi-municipal PUs with or without Authority status</p> <p><i>(Include considerations of hauler licensing and enforcement in this section.)</i></p>	<p>Chapter 11 - Administrative Structure</p> <p>11.1 Responsibilities</p> <p> 11.1.1 Implementation of Each Element of the Integrated System</p> <p> 11.1.2 Operating the Various Portions of the Integrated system</p> <p>11.2 Organizational Chart</p>	<p>This is also considered very important by DEC, and, from my understanding, is also important to the County. It is sorely lacking.</p>
<p>Chapter 12 - Future actions to further the SWM hierarchy</p> <p>12.1 scope of existing or new recovery programs</p> <p>12.2 determination that facilities are properly sized, taking into account the potential for recovery and expanding the service area</p> <p>12.3 other program enhancement to promote recovery</p> <p>12.4 procurement practices to use recycled</p>	<p>Chapter 12 - Future Actions to Further the SWM Hierarchy</p> <p>12.1 Prevention-Source Reduction</p> <p>12.2 Recycling</p> <p>12.3 Energy Recovery</p> <p>12.4 Procurement Practices</p>	<p>This needs rewritten.</p>

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<p>products <i>(Include: Buy Recycled efforts to be undertaken by the PU; State/federal legislation that should be supported; Other actions beyond the immediate control of the PU or beyond the term of the local Plan)</i></p>		
<p>Appendix A - Public comment summary This is to be an accounting, to the maximum extent practicable, for the comments and views expressed by concerned governmental, environmental, commercial, and industrial interests, the public and neighboring jurisdictions. <i>(Use website to further publicize the Plan and solicit public comments. – This can be an Appendix to the final iteration of the Plan)</i></p>		<p>This presumably is to be added after all the public comments are in. <i>Update: Was added to 11/29/10 version.</i></p>
<p>Other Chapters or Appendices as needed (surveys, background data, etc)</p>	<p>Appendix B – draft legislation to implement flow control.</p>	<p>Apparently the County is not keen on flow control. <i>This was deleted from 11/29/10 version.</i></p>

APPENDIX B
2008 DUTCHESS COUNTY RECYCLING REPORT

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2008	COM- MINGLED	NEWS- PAPER	MIXED PAPER	OFFICE PAPER	COR- RUGATED CARD- BOARD	TOTAL TONS
MUNICIPAL						
Amenia	30.01	9.38				39.39
Beacon City					5.00	5.00
DCRRA	11.08		24.70			35.78
Town of Dover	16.69	8.86	13.05		5.20	43.80
Town of Clinton	62.55		30.79			93.34
LaGrange, Town	55.84		38.05			93.89
Town of Milan	47.17		20.80			67.97
Pawling, Town	132.69		122.25		52.93	307.87
Pawling, Village	34.87	17.34			25.06	77.27
Pleasant Valley	106.50	104.40	81.99		58.60	351.49
Pine Plains						0.00
Poughkeepsie, City	520.71		789.17		49.91	1,359.79
Pok City Schools	0.94			0.75	18.23	19.92
Poughkeepsie Twn						0.00
Red Hook Town	75.00	91.00	75.00		46.00	287.00
Red Hook Village	61.42		69.63		22.74	153.79
Rhinebeck, Town	81.45		133.31		14.74	229.50
Rhinebeck, Village	32.81	64.48				97.29
Stanford, Town	57.41	54.23				111.64
Tivoli, Village	58.74	54.94				113.68
Unionvale	98.41		126.97		42.01	267.39
Wappingers, Town	41.55	79.54			21.97	143.06
Wappingers, Village	61.92	52.26				114.18
Town of Washington	30.84		84.20			115.04
PRIVATE CARTER						
Hudson Baylor	2,200.99					2,200.99
Liberta Bros. Inc.						0.00
LaMela Sanitation					881.81	881.81
Royal Carting	5,564.65	6,275.96	41.72		4,975.86	16,858.19
Taylor Recycling						0.00
Waste Mgmt.	455.84		427.90		1,041.32	1,925.06
INDIVIDUAL BUSINESS						
Advanced Recovery						0.00
American Lamp						0.00
Casings, Inc.						0.00
Darling International						0.00
Deep Green of NY						0.00
Dutchess Ag Society	1.20		2.68			3.88
Don Stevens Tire						0.00
Effron & Son						0.00
Duffy Layton						0.00
ESMI of New York						0.00
IBM Fishkill	22.70		103.00		120.40	246.10
IBM Pok	8.91		130.79		437.21	576.91
RCT						0.00
Gap Distribution				12.60	1,162.00	1,174.60
Greenway Topsoil						0.00
McEnroe Org Farm						0.00
Northeast Lamp						0.00
Recycle Depot					525.02	525.02
Raymour & Flannigan					17.00	17.00
Shop & Stop					1,546.56	1,546.56
Tri County Muni Was						0.00
Prison-Green Haven	11.99				57.55	69.54
Price Chopper	87.50			2.50	278.34	368.34
Bard						0.00
Vaz Co						0.00
						0.00
Total Year to Date	9,972.38	6,812.39	2,316.00	15.85	11,405.46	30,522.08

2008					TOTAL
	TIRES IN TONS	TIRES BY COUNT	C&D	CON- CRETE	TONS
MUNICIPAL					
Amenia					0.00
Beacon City	12.00		551.97		563.97
DCRRA					0.00
Town of Dover					0.00
Town of Clinton					0.00
LaGrange, Town			1.61		1.61
Town of Milan					0.00
Pawling, Town					0.00
Pawling, Village					0.00
Pleasant Valley			444.92		444.92
Pine Plains					0.00
Poughkeepsie, City		310 tires	89.58		89.58
Pok City Schools					0.00
Poughkeepsie Twn		1,132 tires	847.80		847.80
Red Hook Town					0.00
Red Hook Village					0.00
Rhinebeck, Town	1.94				1.94
Rhinebeck, Village					0.00
Stanford, Town	8.83				8.83
Tivoli, Village					0.00
Unionvale	2.50				2.50
Wappingers, Town	25.16		60.56		85.72
Wappingers, Village					0.00
Town of Washington	6.80				6.80
PRIVATE CARTER					
Hudson Baylor					0.00
Liberta Bros. Inc.			1,078.46		1,078.46
LaMela Sanitation	115.10		6,752.51	1,564.19	8,431.80
Royal Carting	185.43		18,007.00	2,730.87	20,923.30
Taylor Recycling			2,025.87	546.99	2,572.86
Waste Mgmt.					0.00
INDIVIDUAL BUSINESS					
Advanced Recovery					0.00
American Lamp					0.00
Casings, Inc.	1,236.71				1,236.71
Darling International					0.00
Deep Green of NY					0.00
Dutchess Ag Society		75 tires	18.22		18.22
Don Stevens Tire					0.00
Effron & Son					0.00
Duffy Layton					0.00
ESMI of New York					0.00
IBM Fishkill			500.00	345.30	845.30
IBM Pok			244.35	252.22	496.57
RCT				37,703.64	37,703.64
Gap Distribution					0.00
Greenway Topsoil				580.00	580.00
McEnroe Org Farm					0.00
Northeast Lamp					0.00
Recycle Depot	804.00		15,744.00	180.00	16,728.00
Raymour & Flannigan					0.00
Shop & Stop					0.00
Tri County Muni Was					0.00
Prison-Green Haven					0.00
Price Chopper					0.00
Bard					0.00
Vaz Co					0.00
					0.00
Total Year to Date	2,398.47		46,366.85	43,903.21	92,668.53

2008	SCRAP		TOTAL
	METAL	APPLIANCES	TONS
MUNICIPAL			
Amenia			0.00
Beacon City	118.06	59.03	177.09
DCRRA			0.00
Town of Dover			0.00
Town of Clinton	3.20		3.20
LaGrange, Town	18.14		18.14
Town of Milan	13.11		13.11
Pawling, Town	124.59		124.59
Pawling, Village			0.00
Pleasant Valley	96.87		96.87
Pine Plains	120.00	55.00	175.00
Poughkeepsie, City	41.75		41.75
Pok City Schools	11.00		11.00
Poughkeepsie Twn	150.79		150.79
Red Hook Town	33.00		33.00
Red Hook Village			0.00
Rhinebeck, Town	8.81		8.81
Rhinebeck, Village	4.00		4.00
Stanford, Town			0.00
Tivoli, Village			0.00
Unionvale	87.65		87.65
Wappingers, Town	219.10		219.10
Wappingers, Village			0.00
Town of Washington		62.50	62.50
PRIVATE CARTER			
Hudson Baylor			0.00
Liberta Bros. Inc.			0.00
LaMela Sanitation	1,626.37		1,626.37
Royal Carting	1,476.53		1,476.53
Taylor Recycling	61.92		61.92
Waste Mgmt.	12.10		12.10
INDIVIDUAL BUSINESS			
Advanced Recovery			0.00
American Lamp			0.00
Casings, Inc.			0.00
Darling International			0.00
Deep Green of NY			0.00
Dutchess Ag Society	60yd		0.00
Don Stevens Tire			0.00
Effron & Son	16,400.00		16,400.00
Duffy Layton			0.00
ESMI of New York			0.00
IBM Fishkill	677.70		677.70
IBM Pok	758.97		758.97
RCT			0.00
Gap Distribution	30.00		30.00
Greenway Topsoil			0.00
McEnroe Org Farm			0.00
Northeast Lamp			0.00
Recycle Depot	960.00		960.00
Raymour & Flannigan			0.00
Shop & Stop			0.00
Tri County Muni Was			0.00
Prison-Green Haven			0.00
Price Chopper			0.00
Bard			0.00
Vaz Co			0.00
			0.00
Total Year to Date	23,053.66	176.53	23,230.19

2008	YARD-WASTE			TOTAL
	WOOD	FOOD	COMPOST	
MUNICIPAL				
Amenia				0.00
Beacon City				0.00
DCRRA				0.00
Town of Dover				0.00
Town of Clinton				0.00
LaGrange, Town				0.00
Town of Milan				0.00
Pawling, Town				0.00
Pawling, Village				0.00
Pleasant Valley				0.00
Pine Plains				0.00
Poughkeepsie, City			1,017.47	1,017.47
Pok City Schools				0.00
Poughkeepsie Twn	416.00			416.00
Red Hook Town				0.00
Red Hook Village				0.00
Rhinebeck, Town				0.00
Rhinebeck, Village	117.00			117.00
Stanford, Town				0.00
Tivoli, Village				0.00
Unionvale				0.00
Wappingers, Town	317.93			317.93
Wappingers, Village				0.00
Town of Washington	125.00			125.00
PRIVATE CARTER				
Hudson Baylor				0.00
Liberta Bros. Inc.		696.00		696.00
LaMela Sanitation	357.86			357.86
Royal Carting	348.77	75.32	216.23	640.32
Taylor Recycling	116.87			116.87
Waste Mgmt.				0.00
INDIVIDUAL BUSINESS				
Advanced Recovery				0.00
American Lamp				0.00
Casings, Inc.				0.00
Darling International				0.00
Deep Green of NY				0.00
Dutchess Ag Society				0.00
Don Stevens Tire				0.00
Effron & Son				0.00
Duffy Layton	10,781.00			10,781.00
ESMI of New York				0.00
IBM Fishkill	385.70	934.00		1,319.70
IBM Pok	356.51			356.51
RCT				0.00
Gap Distribution				0.00
Greenway Topsoil	5,631.00	215.00		5,846.00
McEnroe Org Farm	1,770.00	3,228.00		4,998.00
Northeast Lamp				0.00
Recycle Depot	1,416.20			1,416.20
Raymour & Flannigan				0.00
Shop & Stop				0.00
Tri County Muni Was			25.40	25.40
Prison-Green Haven		190.02		190.02
Price Chopper	57.50			57.50
Bard			205.00	205.00
Vaz Co				0.00
				0.00
Total Year to Date	22,197.34	5,338.34	1,464.10	28,999.78

2008	ELEC- TRONICS	FREON	BATTERIES	SLUDGE	MOTOR OIL	FLUOR- ESCENTS	ANTI- FREEZE	TOTAL TONS
MUNICIPAL								
Amenia								0.00
Beacon City								0.00
DCRRA								0.00
Town of Dover								0.00
Town of Clinton								0.00
LaGrange, Town								0.00
Town of Milan								0.00
Pawling, Town								0.00
Pawling, Village								0.00
Pleasant Valley								0.00
Pine Plains								0.00
Poughkeepsie, City	29.30	157unit				316		29.30
Pok City Schools						0.41		0.41
Poughkeepsie Twn	3.90							3.90
Red Hook Town		26.00						26.00
Red Hook Village								0.00
Rhinebeck, Town								0.00
Rhinebeck, Village								0.00
Stanford, Town								0.00
Tivoli, Village								0.00
Unionvale	7.28	0.20			14.40	0.30		22.18
Wappingers, Town								0.00
Wappingers, Village								0.00
Town of Washington					4.00			4.00
PRIVATE CARTER								
Hudson Baylor								0.00
Liberta Bros. Inc.								0.00
LaMela Sanitation								0.00
Royal Carting	239.00	678unit		267.46	6848gal			506.46
Taylor Recycling								0.00
Waste Mgmt.								0.00
INDIVIDUAL BUSINESS								
Advanced Recovery	67.30							67.30
American Lamp	8.50					8.10		16.60
Casings, Inc.								0.00
Darling International								0.00
Deep Green of NY								0.00
Dutchess Ag Society						20bulbs		0.00
Don Stevens Tire								0.00
Effron & Son					865 gal			0.00
Duffy Layton				3,619.00				3,619.00
ESMI of New York								0.00
IBM Fishkill			2.50			2.30		4.80
IBM Pok	58.15							58.15
RCT								0.00
Gap Distribution	8.50		204.00		110gal	0.68		213.18
Greenway Topsoil								0.00
McEnroe Org Farm								0.00
Northeast Lamp	27.13					5.67		32.80
Recycle Depot								0.00
Raymour & Flannigan								0.00
Shop & Stop								0.00
Tri County Muni Was				200.40				200.40
Prison-Green Haven								0.00
Price Chopper								0.00
Bard								0.00
Vaz Co					63,000g		2,775 gallons	0.00
								0.00
Total Year to Date	449.06	26.20	206.50	4,086.86	18.40	17.46	0.00	4,804.48

2008	FURN- ITURE	FILM	COOKING OIL	ANIMAL RENDERINGS	TOTAL TONS
MUNICIPAL					
Amenia					0.00
Beacon City	621.90				621.90
DCRRA					0.00
Town of Dover					0.00
Town of Clinton					0.00
LaGrange, Town					0.00
Town of Milan					0.00
Pawling, Town					0.00
Pawling, Village					0.00
Pleasant Valley					0.00
Pine Plains					0.00
Poughkeepsie, City					0.00
Pok City Schools					0.00
Poughkeepsie Twn					0.00
Red Hook Town					0.00
Red Hook Village					0.00
Rhinebeck, Town					0.00
Rhinebeck, Village					0.00
Stanford, Town					0.00
Tivoli, Village					0.00
Unionvale					0.00
Wappingers, Town	656.10				656.10
Wappingers, Village					0.00
Town of Washington					0.00
PRIVATE CARTER					
Hudson Baylor					0.00
Liberta Bros. Inc.					0.00
LaMela Sanitation					0.00
Royal Carting					0.00
Taylor Recycling					0.00
Waste Mgmt.					0.00
INDIVIDUAL BUSINESS					
Advanced Recovery					0.00
American Lamp					0.00
Casings, Inc.					0.00
Darling International			388.06	496.46	884.52
Deep Green of NY					0.00
Dutchess Ag Society		1000gal			0.00
Don Stevens Tire					0.00
Effron & Son					0.00
Duffy Layton					0.00
ESMI of New York					0.00
IBM Fishkill	96.90				96.90
IBM Pok	214.19				214.19
RCT					0.00
Gap Distribution					0.00
Greenway Topsoil					0.00
McEnroe Org Farm					0.00
Northeast Lamp					0.00
Recycle Depot					0.00
Raymour & Flannigan		8.00			8.00
Shop & Stop		8.93			8.93
Tri County Muni Was					0.00
Prison-Green Haven					0.00
Price Chopper		3.28			3.28
Bard					0.00
Vaz Co					0.00
					0.00
Total Year to Date	1,589.09	20.21	388.06	496.46	2,493.82

Dutchess County Estimated Recycling Rate, 2008

2008	Total Tons	MSW Tons
RECYCLING		
Commingled & Fiber	30,522	30,522
Scrap Metal & Appliances	23,230	4,404
C&D, Tires & Concrete	92,669	-
Compost Materials ¹	29,000	29,000
Compost Materials ²	27,204	-
HHW ³	4,804	718
<u>Other ⁴</u>	<u>2,494</u>	<u>1,997</u>
TOTAL	209,923	66,640

¹ Yard Waste, Food Waste & Compost

² Manure & Subsoil

³ Includes sludges, electronics, and a variety of households hazardous wastes

⁴ Furniture, Film, Cooking Oil & Animal Renderings

MSW processed by RRA	142,844	142,844.00
Recycling processed by MRF	10,630	10,630.00
Reported Disposal (DEC)	224,870	224,870
MSW + Reported Recycling	434,793	291,510
2008 recycling rate	48.3%	22.9%

APPENDIX C

WASTE-TO-ENERGY (WTE) BENCHMARKING

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**BRISTOL RESOURCE RECOVERY FACILITY, BRISTOL RESOURCE
RECOVERY FACILITY OPERATING COMMITTEE (BRRFOC),
BRISTOL CT**

When Plant Started Operations: 1988

Population Served: 310,495

Technology: Mass Burn— Zurn Boilers and Martin Grates

Waste Processed:

Annual-Tons Per Year: 198,086
Per Day- Tons Per Day: 543

Air Pollution Control Technology:

Type	When Installed
Dry Scrubber	1988
Baghouse	1988
SNCR	2001
Dry Sorbent Injection	2001
CEMS	1995

Owner: Covanta Bristol Inc.

Operator: Covanta Bristol Inc.

Waste Stream/Wasteshed:

Category	Percent of Waste
14 Member Contracted Communities	93.4%
Spot Market-Short Term Commercial	6.6%

Annual Operating Costs: \$14,845,964 (includes ash handling and pass-throughs)—BRRFOC
Financial Statements, 6/30/2010

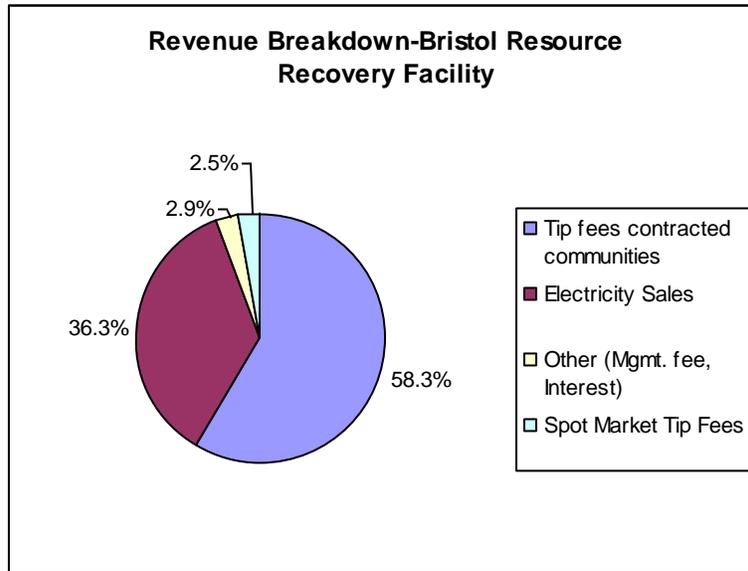
Annual Debt Service: \$5,952,650

FY 2010 (ended 6/30/2010) WTE Cost/Ton = \$105.00

Tip Fees: \$65.50/ton

Total FY 2010 Plant Revenues: \$21,133,799

How is Facility Funded:



Notes:

The Bristol Resource Recovery Operating Committee is an inter-community structure created in 1985 by agreement between the towns and cities of Bristol and New Britain and the towns of Berlin, Burlington, Plainville, Plymouth, Southington and Washington, which was amended to include the towns of Wolcott, Warren, Hartland, Branford, Seymour, and Prospect. The contracting communities, under the terms of the Agreement, have committed to deliver to the waste-to-energy facility minimum tonnages of acceptable waste on an annualized basis and to pay the requisite tip fee for this waste. Each town has voting shares depending on the proportion of waste sent to the WTE facility. The 25 year contract with Covanta expires by 2014 and is in the process of being renegotiated. Excess plant revenues go towards a reserve fund, which is used to maintain stable tip fees. Tip fees for member communities have remained stable over the last decade; in fact, as of FY 2011 they have been reduced \$1.00/per ton. Standard and Poor's has recently (September 2010) upgraded its rating of BRRFOC's outstanding revenue refinancing bond debt from A+ to AA due to its long history of competitive tip fees and stability of its member towns.

Dutchess County Resource Recovery Facility

When Plant Started Operations: 1989

Population Served: 298,745

Technology: Mass Burn - 2 O'Connor rotary waterwall combustors, reversed drum grate

Waste Processed:

Annual-Tons Per Year: 150,641
Per Day- Tons Per Day: 456

Air Pollution Control Technology:

Type	When Installed
Spray Dry Absorber	2005
Fabric Filter	1986
Carbon Injection	2005
Continuous Emission Monitor	1986/1996/2005 (with upgrades)
Combustion Controls	1986

Owner: Dutchess County Resource Recovery Agency

Operator: Covanta Energy

Waste Stream/Wasteshed:

Category	Percent of Waste
Municipalities	10%
Contracts with major hauler	85%
Other haulers	5%

Annual Operating Costs: \$14,146,215 (including ash and residual handling/disposal)

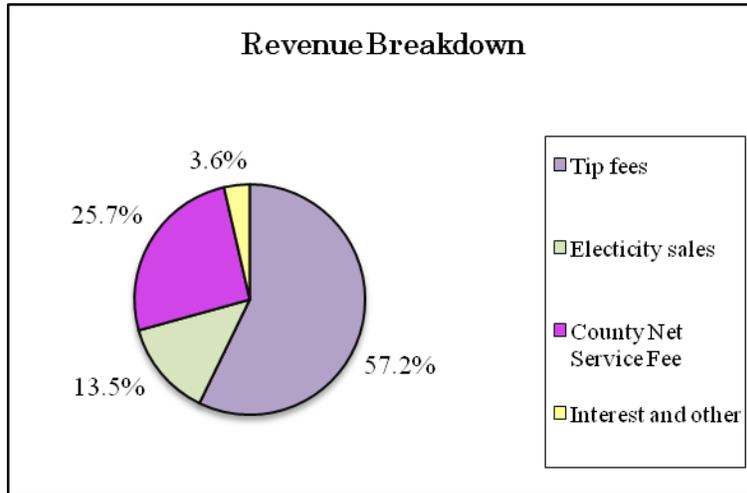
Annual Debt Service: \$4,532,096

FY 2009 WTE Cost/Ton = \$124.00 total operating cost per ton
Of that, taxpayers pay \$32.83 per ton through Net Service Fee

Tip Fees: Gate rate: \$80.00 per ton
Contract waste rate: \$74.00 per ton

Total FY 2009 Plant Revenues: \$19,265,276

How is Facility Funded:



<u>Source</u>	<u>Amount</u>	<u>Percent</u>
Tip fees	\$11,019,285	57.2%
Electricity sales	\$ 2,596,053	13.5%
County Net Service Fee	\$ 4,946,199	25.7%
Interest and other	\$ 703,739	3.6%
<u>Total</u>	\$19,265,276	100.0%

Notes:

There were no metal sales revenues in 2009, as all revenue went to the contractor. Due to a new metals contract, revenue from metal sales in 2010 is anticipated to be \$1 million.

Total budgeted expenditures for 2009 of \$21,444,208 were allocated as follows: operations and residue disposal, \$14,146,215.00, or 67%; debt service, \$4,532,096.00 or 21 %; operation of the MRF, the HHW program, and all other system management, \$2,765,897.00, or 12%.

Annual debt service is for two Agency bond issues. \$3.8 million of the annual debt service payment is for repayment of the original RRF bonds, which will be retired on January 1, 2014. The 2005 bond issue for the implementation of air pollution control improvements mandated by the Clean Air Act will be approximately \$1.66 million per year as of January 2014.

Agency revenue from tipping fees has decreased in recent years as delivered tonnage has decreased, and the County Net Service Fee payments have correspondingly increased.

<u>Year</u>	<u>Tonnage received</u>	<u>Tip fees received</u>	<u>County Net Service Fee</u>
2005	152,802	\$11.8 million	\$1.24 million
2006	154,020	\$12.1 million	\$2.12 million
2007	144,473	\$11.4 million	\$2.92 million
2008	142,844	\$10.5 million	\$3.49 million
2009	150,641	\$11.2 million	\$4.90 million

ECOMAINE, PORTLAND MAINE

When Plant Started Operations: 1988

Technology: Mass Burn—L & C Steinmuller Boilers and Grates

Waste Processed:

Annual-Tons Per Year: 185, 655
Per Day- Tons Per Day: 507

Air Pollution Control Technology:

Type	When Installed
ESP	1988
Dry Scrubber	1988
SNCR	1999
Carbon Injection	2001
CEMS	1995
CO2 Monitor	2009

Owner: Ecomaine (formerly Regional Waste Systems). This is a non-profit waste management company owned and operated by 21 municipalities in southern Maine, including Portland, South Portland, Cape Elizabeth, Scarborough.

Operator: Ecomaine

Waste Stream/Wasteshed:

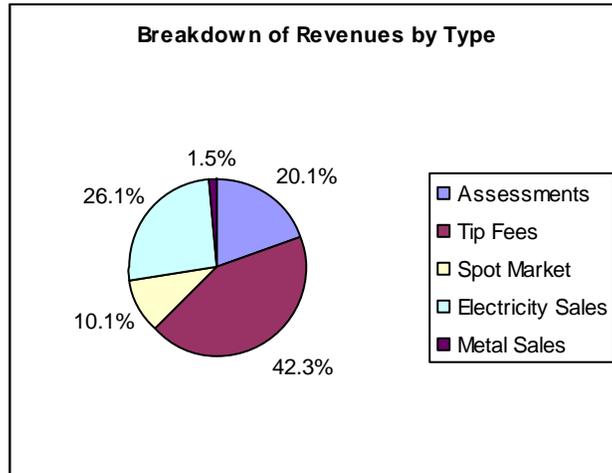
Category	Percent of Waste
Member or 20 yr Contract	34%
Commercial Haulers – 1-5 yr contract	31%
Spot Market	35%

Annual Operating Costs: \$10,000,966 (includes ashfill)

Annual Debt Service: \$8,135,000

Total Revenues: \$23,325,679

How is Facility Funded:



Notes:

21 member communities are owners of Ecomaine and its facilities, which include the WTE plant, ashfill, MRF, household hazardous drop center as well as various trucks and all equipment needed to run these facilities. These 21 communities, which provide about 61% of the waste, pay both a tip fee of \$88.00/ton and an assessment which averages about \$35.00 per ton, but varies by community. Other communities which signed up later but are under long term contract pay about \$78.00/ton tip fee. The spot market has been in the \$40 to \$60 range. Existing debt will be paid off by 2014. Assessments also cover costs of the recycling facility, overhead, etc.

MACARTHUR RENEWABLE ENERGY FACILITY, TOWN OF ISLIP, NEW YORK

When Plant Started Operations: 1990

Population Served: 330,000

Technology: Mass Burn— Deltak Boiler, Westinghouse/O'Connor Grates

Waste Processed:

Annual-Tons Per Year: 158,892
Per Day- Tons Per Day: 435

Air Pollution Control Technology:

Type	When Installed
Wet Scrubber	2004
Baghouse	1990
Dry Sorbent Injection	2004
CEMS	1996

Owner: Islip Resource Recovery Agency

Operator: Covanta Renewable Energy Inc.

Waste Stream/Wasteshed:

Category	Percent of Waste
Town of Islip-Public and Franchise Collection	94.1%
Commercial Establishments--Condition Of License	5.9%

Annual Operating Costs: \$14,593,845 (includes ash handling and pass-throughs)—Islip RRA
Financial Statement 12/31/2009

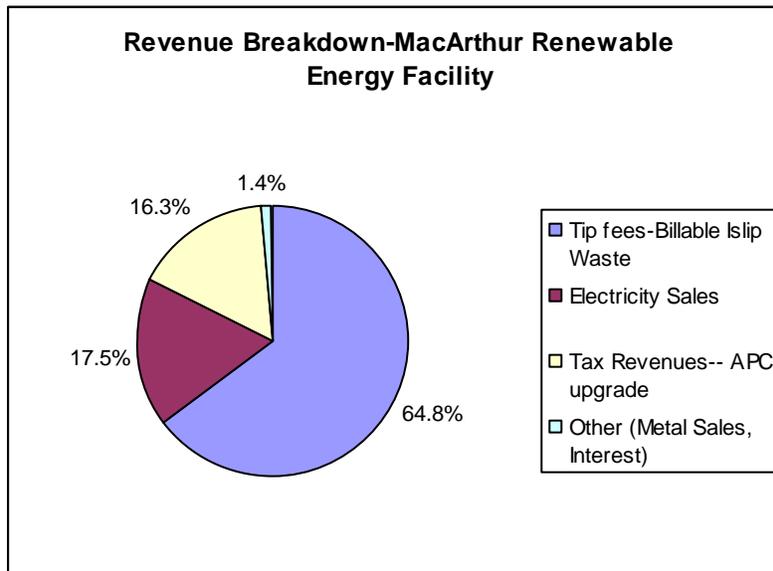
Annual Debt Service: \$5,872, 278-Town of Islip Financial Statement 12/31/2009

CY 2009 (ended 12/31/2009) WTE Cost/Ton = \$128.81

Tip Fees: \$85.00/ton paid on incoming commercial processible waste.

Total CY 2009 Apportioned WTE Plant Revenues: \$22,233,339

How is Facility Funded:



Notes:

The plant is owned by the Islip Resource Recovery Agency, which is an enterprise fund and a component part of the Town of Islip. It has responsibility for the Waste to Energy facility, a MRF, a yard waste composting facility, a clean fill and a non-operating landfill, which is in the midst of being closed under a state consent order. All activities are essentially funded by a dedicated ad valorem tax, which has two components: 1) solid waste collection and disposal (\$472.80/housing unit) and 2) Federal EPA Clean Air Act upgrade (\$44.75/unit). These taxes pay for refuse collection and disposal for residential units within the Town of Islip. Haulers serving commercial establishments must take processible waste to the WTE facility as a condition of their hauling license. They pay a \$85/ton tip fee. The Town pays franchised refuse haulers directly and remits to the IRRA “tip fee” monies for the WTE facility, as well as the MRF, C&D landfill, and yard waste composting facilities. In addition, the IRRA also receives monies for debt service, landfill closure costs and other miscellaneous expenses. All these monies are allocated from the dedicated taxes that are collected. The IRRA remits back to the Town about \$10,000,000 to pay for administrative fees and to help fund the operations of the various solid waste facilities, other than the WTE plant.

The original WTE operating contract began in 1990, between Montenay Islip Inc. (later became Veolia Environmental Services) and the IRRA for twenty years with a renewal option for five years. The current operations agreement runs through March 2015. In August 2009, Covanta acquired this and other plants from Veolia. The operations agreement has continued under Covanta.

WASTE TO ENERGY FACILITY (WTEF), MARION COUNTY, OREGON

When Plant Started Operations: 1986

Technology: Mass Burn— Zurn Boilers and Martin Grates

Waste Processed:

Annual-Tons Per Year: 182, 716
Per Day- Tons Per Day: 501

Air Pollution Control Technology:

Type	When Installed
Dry Scrubber	1986
Baghouse	1986
SNCR	1998
Dry Sorbant Injection	1998
CEMS	1994

Owner: Covanta Energy Inc.

Operator: Covanta Energy Inc.

Waste Stream/Wasteshed:

Category	Percent of Waste
Franchised Residential and Commercial Haulers—Marion County	90%
Spot Market-On call from Portland	10%

Annual Operating Costs: \$9,293,291(includes ashfill plus fee to Covanta) –Actual FY2009-Marion County FY2011 Budget by Department

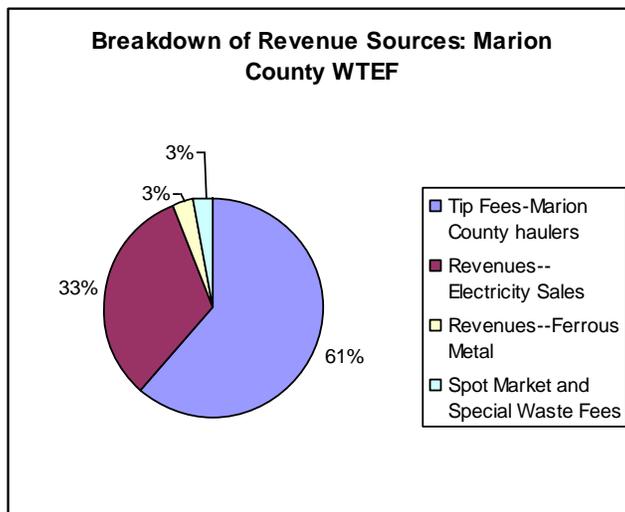
Annual Debt Service: No debt service—Paid off in 2008

FY 2009 (ended 6/30/2009) WTE Cost/Ton = \$50.86

Tip Fees: \$67.45/ton

Total FY 2009 Plant Revenues: \$16,975,136

How is Facility Funded:



Notes:

Plant services residences and commercial establishments in Marion County. In addition, about 11,000 to 12,000 tons per year are taken from nearby Portland and Linn County on a contractual basis. On an annual basis the county generates an additional 55,000 tons of MSW per year, which is trucked to an out of county landfill for disposal, since the WTEF is at capacity. The tip fee, which is set at \$67.45 is paid for solid waste disposal at all county facilities, i.e. transfer stations and the WTEF. This fee has held steady since 1992. Of that amount, about \$48.28/ton was paid to Covanta in FY2009 to operate the WTEF. The remaining monies go towards the ashfill, overhead, landfill closure, event recycling, recycling education, hazardous waste pickup and disposal and other activities of the Environmental Services Department. Debt service as of 2008 was \$4,200,000 or about \$23.00 per ton. When it was paid off, the Department had the option of lowering tip fees. It decided not to lower tip fees, but to put excess funds in a reserve. The contract with Covanta terminates in 2014. The county is in negotiations with Covanta currently, but it is anticipated that costs will rise in the future and that the air pollution control system will have to be upgraded. There is some discussion about expanding this facility to accommodate all the MSW of Marion County.

Summary of WTE Facilities Benchmarked

Name of Facility	MacArthur - Islip, NY	Dutchess County RRF	Bristol RRF- Bristol, CT	Ecomaine - Portland, Maine	WTE Facility, Marion, Oregon
Owner/Operator	Islip Resource Recovery Agency/ Covanta Renewable Energy, Inc.	Dutchess County RRA/ Covanta Energy	Covanta Bristol Inc./ Covanta Bristol Inc.	Ecomaine/ Ecomaine	Covanta Energy Inc./ Covanta Energy Inc.
Public, Private?	Public/Private	Public/Private	Private	Public	Private
Year Started Operations	1990	1989	1988	1988	1986
Tons Per Year	158,892	150,641	198,086	185,655	182,716
Tons Per Day	435	456	543	507	501
Annual Operating Cost	\$14,593,845	\$14,146,215	\$14,845,964	\$10,000,966	\$9,293,291
Operating Cost Per Ton	\$128.81	\$124.00	\$105.00	\$53.87	\$50.86
Annual Debt Service	\$5,872,278	\$4,532,096	\$5,952,650	\$8,135,000	None - paid off 2008
Total 2009 Plant Revenues	\$22,233,339	\$19,265,276	\$21,133,799	\$22,325,679	\$16,975,136
% Tipping Fee Revenues	64.8%	57.2%	58.3%	42.3%	61.0%
% Electricity Revenues	17.5%	13.5%	36.3%	26.1%	33.0%
% Assessments, Net Service Fees	16.3%	25.7%		20.1%	
% Metal Sales	(included with interest)	0.0%		1.5%	3.0%
% Interest, Spot Markets, etc.	1.4%	3.7%	5.4%	10.1%	3.0%
Tipping Fee (Gate)	\$85.00	\$80.00	\$65.50	\$88.00 *	\$67.45
Tipping Fee (Contract Waste)		\$74.00		\$78.00	
Other				* Plus assessment which averages \$35 per ton	
Total Operating Less Debt Service	\$16,361,061	\$14,733,180	\$15,181,149	\$14,190,679	\$16,975,136
Operating Cost/Ton (excl. impact of debt service)	\$102.97	\$97.80	\$76.64	\$76.44	\$92.90

APPENDIX D
LOCAL LAW NO. 1-1984 AND NO. 4-1990

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LOCAL LAW NO. 1 1984

A LOCAL LAW PROVIDING FOR THE MANAGEMENT
OF SOLID WASTE GENERATED WITHIN THE
COUNTY OF DUTCHESS

BE IT ENACTED by the Legislature of the County of Dutchess as follows:

SECTION 1. Short Title. This local law shall be known and may be cited as the solid waste management law.

SECTION 2. Purposes. This local law is adopted pursuant to Chapter 675 of the Laws of 1982 of the State of New York for the purpose of (1) effectuating the management on a county-wide basis of all solid waste generated within or coming into from outside of the County of Dutchess in order to protect the public health and safety and to improve the environment by control of air, water and land pollution, and (2) carrying out the expressed policy of the State to displace competition with regulation or monopoly public service.

SECTION 3. Definitions. As used or referred to in this local law, unless the context otherwise requires:

1. "Agency" shall mean the Dutchess County Resource Recovery Agency created under Chapter 675 of the Laws of 1982 of the State of New York.

2. "Commissioner of Solid Waste Management" shall mean the Commissioner of Solid Waste Management of the County of Dutchess.

3. "County of Dutchess" shall mean the entire County of Dutchess as constituted and existing under the Laws of the State of New York.

4. "Disposal of Solid Waste" shall mean the transporting or delivery of solid waste to a solid waste facility.

5. "Municipality" shall mean any county, city, town, village, improvement district (or a county, city, town or village acting on behalf of an improvement district), public corporation, municipal corporation, political subdivision, government agency, department or bureau of the state or federal government.

6. "Person" shall mean any natural person, individual, partnership, co-partnership, association, joint venture, corporation form, trust, estate or any other legal entity inclusive of a "municipality."

7. "Solid Waste" shall mean all materials or substances discarded or rejected within the County of Dutchess 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 material, 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, special nuclear or by-product material within the meaning of the United States 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 Section 27-0903 of the Environmental Conservation Law of the State of New York.

8. "Solid Waste Management-Resource Recovery Facility" shall mean 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 the collecting, receiving, transporting, storage, processing or disposal of solid waste or the recovery by any means of any material or energy product or resource therefrom including, but not limited to, recycling centers, transfer stations, baling facilities, rail haul or maritime facilities, collection vehicles, processing systems, resource recovery facilities, steam and electric generating and transmission facilities, including auxiliary facilities to supplement or temporarily replace such generating facilities, steam distribution facilities, sanitary landfills, plants and facilities for compacting, composting or pyrolyzation of solid wastes, incinerators and other solid waste disposal, reduction or conversion facilities and resource recovery equipment and disposal equipment as defined in subdivisions four and five of Section 51-0903 of the Environmental Conservation Law of the State of New York.

SECTION 4. Disposal of Solid Waste. The Commissioner of Solid Waste Management is hereby authorized and directed to designate in writing, from time to time, one or more solid waste management-resource recovery facilities to be used for the disposal of solid waste generated within the County of Dutchess, which designation may include a determination that a particular solid waste management-resource recovery facility shall be the only facility used for the disposal of solid waste generated within all of, or a described area within, the County of Dutchess or by a particular person or persons. In making any such designation the Commissioner of Solid Waste Management shall give due consideration to the capacity of any facility so designated, the size and population of the area or person or persons to be served and such other factors as shall enable the Commissioner of Solid Waste Management to determine that the public interest is served by such designation. No person shall dispose of solid waste generated within or coming into from outside of the County of Dutchess, except at a solid waste management-resource recovery facility designated by the Commissioner of Solid Waste Management in accordance with this Section. The Commissioner of Solid Waste Management is hereby authorized and directed to promulgate such rules and regulations as he shall determine to be necessary to effectuate the purposes of this local law, including the requirement that all private haulers of solid waste be licensed by the Commissioner of Solid Waste Management. All acts and proceedings taken by the Commissioner of Solid Waste Management pursuant to this local law shall, in all respects, be consistent with the Environmental Conservation Law and other applicable laws and rules and regulations promulgated pursuant thereto.

SECTION 5. Enforcement. It shall be the responsibility of the Commissioner of Solid Waste Management, in consultation with the County Attorney, to enforce the provisions of this local law and all rules, regulations and designations made pursuant thereto. Such enforcement shall be by such legal or equitable proceedings, including without limitation a proceeding for specific performance, brought in the name of the County of Dutchess as may be provided or authorized by law.

SECTION 6. Penalties. Any person who violates this local law shall be guilty of an offense and subject to a fine of not more than Five Hundred

Dollars (\$500.00) and/or imprisonment for not more than fifteen (15) days and/or suspension or revocation of collecting, receiving, transporting and/or disposing privileges in conjunction with solid waste within the County of Dutchess. Each and every act of disposal committed which is prohibited by Section 4 hereof shall constitute a separate violation of this local law.

SECTION 7. Priority. Pursuant to Section 1 of Chapter 675 of the Laws of 1982 of the State of New York, this local law takes precedence over and shall supercede any inconsistent provisions of any local law enacted by any municipality within the County of Dutchess.

SECTION 8. Separability. If any section, provision, or part thereof, in this local law, or the application thereof to any person or circumstances, is adjudged invalid or unconstitutional by a court of competent jurisdiction, then such adjudication shall not affect the validity of the remainder of the local law or the validity of the local law as a whole or any sections, provisions, or part thereof, not so adjudged invalid or unconstitutional and the application of the local law or any section, provision or part thereof, to other persons or circumstances shall not be affected by said adjudication.

SECTION 9. Effective Date. This local law shall take effect immediately.

RESOLUTION NO. 339 1983

RE: LOCAL LAW NO. 1 OF 1984; A LOCAL
LAW PROVIDING FOR THE MANAGEMENT OF
SOLID WASTE GENERATED WITHIN THE
COUNTY OF DUTCHESS

Government Services Committee

COMMUNITY SERVICES COMMITTEE

offers the following

and moves its adoption:

RESOLVED, that the County Legislature of the
County of Dutchess does hereby adopt Local Law No.
of 1983 which is being presented herewith.

CA-236-83
SJW:ld
8/22/83

APPROVED

Lucille P. Pattison

LUCILLE P. PATTISON
County Executive

Date 1/16, 1984

STATE OF NEW YORK)
COUNTY OF DUTCHESS)

This is to certify that I, the undersigned, Clerk of the Legislature of the County of Dutchess, have compared the foregoing resolution with the original resolution now on file in the office of said clerk, and which was adopted by said Legislature on the 14 day of December, 1983, and that the same is a true and correct transcript of said original resolution and of the whole thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of said Legislature this 19 day

DEC 29 1983

Patricia J. McQuinn
Deputy CLERK OF THE LEGISLATURE

LOCAL LAW NO. 4 OF 1990

A LOCAL LAW PROVIDING FOR THE MANDATORY COLLECTION AND DISPOSITION OF
RECYCLABLES IN DUTCHESS COUNTY

BE IT ENACTED by the County Legislature of the County of Dutchess,
State of New York, as follows:

Section 1. Purpose.

Whereas, the conservation, recovery, and reuse of recyclable materials is now a necessity in order to conserve natural resources, reduce the impact of the ever increasing cost of solid waste disposal, ensure safe processing of solid waste, help maximally reduce the quantity of solid waste that must be disposed of and preserve capacity at the solid waste management/resource recovery facilities, it is the intent of the Dutchess County Legislature to establish a resource recovery system which includes the mandatory separation of recyclable material from solid waste in the county.

The purpose of this local law of the County of Dutchess is to regulate as a proper governmental function, the separation of recyclable material from the solid waste by persons within the county.

Section 2. Statutory Authority for Local Law.

This local law is adopted pursuant to Section 10 of the Municipal Home Rule Law, (Section 2047-t(3) of the Public Authorities Law) and Local Law #1 of 1984, it being the intent of this Legislature that both Local Laws should provide a comprehensive regulation of the solid waste stream in the county. Nothing in this local law shall be deemed to conflict with or supersede Local Law #1 of 1984.

Section 3. Definitions.

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

"Agency" shall mean the Dutchess County Resource Recovery Agency created under Chapter 675 of the Laws of 1982 of the State.

"Aluminum Products" shall mean uncontaminated aluminum packaging, such as pie plates and frozen dinner trays.

"Cans" shall mean containers comprised of aluminum, tin, steel, or a combination thereof, which contain or formerly contained only food and/or beverage substances.

"Cardboard" shall mean all corrugated cardboard normally used for packing, mailing, shipping or containerizing goods, merchandise or other material, but excluding plastic, foam or wax-coated or soiled cardboard.

"Commingled" shall mean source separated, non-putrescible, non-contaminated recyclable materials that have been placed in the same container.

"Commissioner" shall mean the Commissioner of Solid Waste Management of the County.

"County" shall mean the entire County of Dutchess as constituted and existing under the Laws of the State.

"Economic Markets" shall mean 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 materials less the amount received from the sale of said material.

"Garbage" shall mean putrescible animal, fish, fowl, fruit or vegetable waste incident to and resulting from the use, preparation, cooking and consumption of food.

"Glass" shall mean all products made from silica or sand, soda ash and limestone, the product being transparent or translucent and being used for the packaging or bottling of various matter and all other material commonly known as glass excluding, however, ceramics, light bulbs, blue and flat glass and glass commonly known as window glass.

"Major appliances" shall mean large and/or bulky household appliances (refrigerator, washer, dryer, stove, etc.) ordinarily operated by gas or electric current.

"Municipality" shall mean any county, city, town, village, improvement district (or a county, city, town or village acting on behalf of an improvement district), public benefit corporation, municipal corporation, political subdivision, government agency, department or bureau of the state or federal government.

"Newspaper" shall mean all uncontaminated paper commonly referred to as newsprint and distributed at stated intervals, usually daily or weekly, having printed thereon news and opinion and containing advertisements and other matter of public interest, and shall include supplements, comics and enclosures.

"Office paper" shall mean all bond paper including computer print-outs, stationery, photo copy, and ledger from commercial waste generators.

"Person" shall mean any natural person, individual, partnership, co-partnership, association, owner or manager of a business, commercial or industrial establishment, joint venture, corporation, trust, estate or any other legal entity inclusive of a municipality or any other waste generator.

"Plastic" shall mean all containers made from high density polyethylene or polyethylene terephthalate (PET) including, but not limited to bottles having contained the following products: milk, water, juice, detergent, bleach, antifreeze and soda; or other resins that may be designated as a recyclable material in accordance with this law once economic markets exists.

"Recyclable commercial and industrial by-products" shall include all materials which are by-products of production utilized in production or sale after sale by a commercial enterprise or industrial enterprise.

"Recyclable material" shall mean office paper, cardboard, newspaper, cans, glass, and plastic, aluminum products, tires, major appliances and such

other materials as may be designated by the Commissioner and the Recyclables Oversight Committee in accordance with this law.

"Recyclables Oversight Committee" means the committee established and appointed pursuant to this local law.

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

"Recycling" shall mean any process by which materials, which would otherwise become solid waste, are collected, separated or processed and returned to the economic mainstream in the form of raw materials or products.

"Solid waste" shall mean all materials or substances discarded or rejected within the County of Dutchess 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 material, 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 special nuclear or by-product material within the meaning of the United States 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 Section 27-0903 of the Environmental Conservation Law of the State.

"Solid waste management-resource recovery facility" shall mean 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 the collecting, receiving, transporting, storage, processing or disposal of solid waste or the recovery by any means of any material or energy product or resource therefrom including, but not limited to, recycling centers, transfer stations, baling facilities, rail haul or maritime facilities, collection vehicles, processing systems, resource recovery facilities, steam and electric generating and transmissions facilities, including auxiliary facilities to supplement or temporarily replace such generating facilities, steam distribution facilities, sanitary landfills, plants and facilities for compacting, composting or pyrolyzation of solid wastes, incinerators and other solid waste disposal, reduction or conversion facilities and resource recovery equipment and disposal equipment as defined in subdivisions four and five of Section 51-0903 of the Environmental Conservation Law of the State of New York.

"Source separation" means the segregation of recyclable materials from the solid waste stream at the point of generation for separate collection, sale or other disposition.

"State" shall mean the State of New York.

"Uncontaminated" shall mean free of materials that are not recyclable or free of materials that, if present, either reduce the value of a recyclable material or render it unrecyclable.

"Vehicular tires" shall mean tires from cars and trucks and their casings.

"Yard Waste" shall mean grass clippings, leaves, and cuttings from shrubs, hedges, trees, brush and garden debris.

Section 4. Designation or Removal of Recyclable Materials.

In addition to the recyclable materials defined in Section 3 of this law, the Commissioner, subject to Section 17 of this local law, shall be authorized to designate recyclable materials to be separated from other solid waste or to remove previously designated recyclable materials from the list of recyclable materials.

If removal of the recyclable material is based upon the lack of an economic market for the material in accordance with Section 120-aa of the General Municipal Law, then the Commissioner shall conduct such studies as he deems necessary and proper to establish the lack of an economic market, and shall state specifically in the notice of his action removing the recyclable material and the grounds for his action and shall make all studies upon which his determination is based. Such designation or removal shall be made in writing, published in the Environmental News Bulletin and the official newspapers of the County, and shall take effect thirty (30) days after such publication.

Section 5. Program Established.

A program is hereby established for the mandatory source separation of recyclable materials within the County. All persons shall separate recyclable materials from solid waste before either setting out solid waste for collection pursuant lawful procedure or disposing of it at an authorized solid waste management/resource recovery facility.

Section 6. Preparation, Separation, and Ownership of Recyclable Materials.

(a) The commissioner, from time to time, may promulgate rules and regulations specifying requirements for preparation of recyclable materials. Such rules and regulations shall be promulgated in accordance with Section 16 hereof. All persons shall prepare recyclable materials in accordance with the Commissioner's rules and regulations.

(b) All recyclable materials shall be placed in a separate container or containers.

(c) Once deposited in the containers, all recyclable materials become the property of the county.

Section 7. Recycling of source separated materials.

(a) Upon the effective date of this Local Law after adequate notice has been published, posted and publicized for a garbage and refuse district or for a particular collection area, all persons in the county shall separate recyclable materials for the purposes of collection and recycling. Where permitted by the rules or regulations of a municipality or private hauler, different types of recyclable materials may be commingled.

(b) No person shall dispose of recyclable materials except as directed by the Commissioner pursuant to this Local Law, or if the Commissioner has not acted, the Municipality.

(c) The Commissioner may, from time to time, as required, alter, delete, or add designated recyclables based on market availability, technology or other factors, subject to Section 17 of this law.

(d) Source separated recyclable material placed for collection shall be collected and retained separately from garbage and shall be transported to a solid waste management-resource recovery facility/or facilities as designated by the Commissioner of Solid Waste Management, as more fully set forth herein.

(e) All collectors of designated source separated solid waste shall be responsible for proper collection of recyclable materials that have been separated at the point of generation and the collector of such recyclable materials shall be responsible for transporting such recyclable materials to a designated solid waste management/resource recovery facility as shall be determined by the Commissioner.

(f) All solid waste management/resource recovery facilities, whether municipal or private, shall provide adequate facilities for the acceptance of recyclable materials and further, no such facility or collector shall accept solid waste unless the materials designated by the Commissioner as recyclable materials are separated therefrom.

(g) Nothing in this Local Law shall be deemed to make it unlawful to dispose of recyclables by means of donating them to a recycler.

Section 8. Private Drop-off Program for Multi-Domicile Buildings and Complexes.

(a) There is hereby established a program ("private drop-off program") for the source separation and delivery to a recycling drop-off of recyclable materials from all residents of apartment complexes, condominium complexes, cooperative apartments, hotels, motels, bungalow or resort colonies.

(b) The owner of and manager of every multi domicile building or complex, within the county shall provide and maintain, in a neat and sanitary condition, recycling drop-off(s) to receive all recyclable materials generated by residents of the building or complex. In cases where a condominium association exists, the condominium association shall be responsible for provision and maintenance of the recycling drop-off(s). It shall be the tenant's responsibility to separate designated recyclable materials from the solid waste and deposit the recyclables in the facilities provided by the owner.

(c) The owner or manager of every multi domicile building or complex shall arrange for the collection for recycling of all recyclable materials from said drop-offs.

Section 9. Reporting to Commissioner.

All collectors of recyclables shall be required to keep and maintain records reflecting the tons of recyclable materials collected and to report the results of such collection to the Commissioner on a quarterly basis.

Section 10. Regulated Waste Haulers and Collectors.

Any waste hauler licensed under the provisions of Local Law #1 of 1984 and the Rules and Regulations of the Commissioner of Solid Waste Management shall be subject to the provisions of this Local Law.

Section 11. Designated Solid Waste Management Facilities.

The Commissioner is hereby delegated the authority to designate appropriate solid waste management/resource recovery facilities for the purposes of recyclable materials processing and disposition. A person shall deliver recyclable materials only to a solid waste management/resource recovery facility designated by the Commissioner. However, if no facility is designated, the collector of a particular recyclable material may deliver recyclable material to an appropriate facility.

Section 12. Separation and Collection of Tires and Major Household Appliances.

Deleted.

Section 13. Preparation and Disposal of Residential Yard Waste.

(a) All yard waste shall be separated from solid waste. It shall be unlawful to place such material in a solid waste management-resource recovery facility.

(b) Each city, town and/or village within the county may provide, or obtain rights in, a site for the disposal of residential yard waste.

(c) Yard Waste may be composted at a site or sites designated by the municipality or at a facility as may from time to time be designated by the Commissioner of Solid Waste Management.

(d) This section shall not prohibit private composting, or onsite disposal in compliance with any existing law, of yard waste by any individual.

Section 14. Unlawful Activities; Nuisances.

It shall be unlawful for:

(1) Any person, other than those persons authorized, to collect any recyclable material which has been placed at the curb or roadside for collection or within a recycling drop-off pursuant to this law or to scavenge or remove any articles from any containers.

(2) Any person to violate or to assist in the violation of any provision of this law.

(3) Any person to place or to cause to be placed any material other than a recyclable material in or near a recycling drop-off.

(4) Any person to hinder, to obstruct, to prevent or to interfere with the county or any other authorized persons in the performance of any duty under this local law or in the enforcement of this local law.

(5) Any person to commingle in a landfill or other solid waste management-resource recovery facility, any designated recyclable with solid waste.

(6) Any person to operate a landfill or other solid waste management-resource recovery facility without adequate provisions for the collection of source separated recyclable materials.

(7) Any person to dispose of or place tires, yard waste or household appliances (white goods) in a landfill or other solid waste management-resource recovery facility.

Section 15. Enforcement: Penalties for Persons Violating.

(a) Any person who violates this Local Law shall be guilty of an offense and subject to a fine. Conviction of a first offense provided by this article shall be punishable by a fine of fifty dollars (\$50), and in addition, anyone convicted of a first offense hereunder shall be liable to pay a civil penalty of fifty dollars (\$50). Conviction of a second offense within a year of the first offense shall be punishable by a fine of one hundred dollars (\$100), and in addition anyone convicted of a second offense thereunder shall be liable to pay a civil penalty of one hundred (\$100), and in addition anyone convicted of a subsequent offense thereunder shall be liable to pay a civil penalty of one thousand dollars (\$1000). Where applicable, a person who violates this Local Law may be subject to suspension or revocation of collecting, receiving, transporting and/or disposing privileges in conjunction with solid waste disposed within the county.

(b) Each and every act of disposal committed which is prohibited hereunder shall be deemed a separate violation of this Local Law.

County of Dutchess
Local Law No. 8 of the year 1990

A Local Law Amending Local Law No. 4 of 1990, Providing for the Mandatory Collection and Disposition of Recyclables in Dutchess County.

Be it enacted by the County Legislature of the County of Dutchess as follows:

BE IT ENACTED BY THE COUNTY LEGISLATURE OF THE COUNTY OF DUTCHESS, NEW YORK, AS FOLLOWS:

SECTION 1. The intent of this Local Law shall be to amend Section 15 of Local Law No. 4 of 1990, as follows:

Section 15. Enforcement and Penalties.

(a) All provisions of this local law are enforceable by the Dutchess County Commissioner of Solid Waste or his designees.

(b) Any person who violates this Local Law shall be guilty of an offense and subject to a fine. Conviction of a first offense provided by this article shall be punishable by a warning. Conviction of a second offense within a year of the first offense shall be punishable by a fine of fifty dollars (\$50), and in addition anyone convicted of a second offense thereunder shall be liable to pay a civil penalty of fifty dollars (\$50), and in addition anyone convicted of a subsequent offense thereunder shall be liable to pay a civil penalty of five hundred to one thousand dollars (\$500 - \$1000). Where applicable, a person who violates this Local Law may be subject to suspension or revocation of collecting, receiving, transporting and/or disposing privileges in conjunction with solid waste disposed within the county.

(c) Each and every act of disposal committed which is prohibited hereunder shall be deemed a separate violation of this Local Law.

(d) The Commissioner of Solid Waste or his designees shall enforce all the provisions of this Local Law.

(e) The following shall be excluded from penalties: Infirm, blind, handicapped or otherwise incapable of physically separating materials for recycling, such infirmity to be certified by a medical doctor.

SECTION 2. Local Law No. 4 of 1990 is hereby ratified and confirmed in all other respects.

SECTION 3. This Local Law shall take effect immediately upon full compliance with all the requisite statutes and laws applicable to its adoption and promulgation.

Section 16. Rules and Regulations.

The commissioner may from time to time by resolution promulgate rules and regulations consistent with the provisions of this Local Law in order to effect the purposes thereof. The procedure for rule making shall be as follows:

(a) The proposed rules or synopsis thereof shall be published twice in the official newspapers of the County. Such publications shall contain a notice of public hearing, which shall be held by the Commissioner at a convenient facility open to the public on no less than 30 days notices;

(b) the Commissioner shall prepare the record of the public hearing and shall prepare a document responding to the comments received by the Commissioner at the public hearing. The record of public comment and the response document shall be made available for public review;

(c) the final rules, or synopsis thereof, shall be published in the same manner as the proposed rules no less than 10 days after the response document is made available for public review. The final rules shall take effect 20 days after publication.

Section 17. Recyclables Oversight Committee.

A committee consisting of not more than seven (7) members to be appointed by the Dutchess County Legislature and the County Executive is hereby created and established for the purpose of advising the Commissioner of Solid Waste Management regarding adding or removing materials from the definition of recyclable materials; establishing procedures and operating standards for municipal recyclable material collection points; monitoring the progress toward meeting the percent reduction goals established in the 1988 State Law; and such other matters as the commissioner or committee may suggest. Three members shall be appointed by the County Executive; three members shall be appointed by the County Legislature and one member shall be appointed jointly by the County Executive and County Legislature. The members of the oversight committee shall consist of an appointee from the following:

- (1) Resource Recovery Agency Ad Hoc Recycling Committee;
- (2) Town Supervisor's Association;
- (3) Environmental Committee of the County Legislature;
- (4) Carting Industry;
- (5) Environmental Management Council;
- (6) County Mayor's Association
- (7) Group of Local Recycling Coordinators in the County.

The above mentioned appointments shall be for a three year term from the date of appointment. No member shall serve more than two full three year terms. A chairman shall be elected by the members of the oversight panel at its first regular meeting and the panel shall adopt operating by-laws as they deem appropriate. 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. The commissioner shall request and receive the recommendation and approval of the committee before he orders the removal or the addition of any material from designation as a recyclable material, except that if such recommendation and approval is not received within thirty days after request by the commissioner he may act without such recommendation.

County of Dutchess
Local Law No. 9 of the year 1990

A Local Law Amending Local Law No. 4 of 1990, Providing for the Mandatory
Collection and Disposition of Recycling in Dutchess County.

Be it enacted by the County Legislature of the County of Dutchess as follows:

BE IT ENACTED BY THE COUNTY LEGISLATURE OF THE COUNTY OF DUTCHESS, NEW YORK, AS FOLLOWS:

SECTION 1. The intent of this Local Law shall be to amend Section 17 of Local Law No. 4 of 1990, as follows:

Section 17. Recyclables Oversight Committee.

A committee consisting of not more than seven (7) members to be appointed by the Dutchess County Legislature and the County Executive is hereby created and established for the purpose of advising the Commissioner of Solid Waste Management regarding adding or removing materials from the definition of recyclable materials; establishing procedures and operating standards for municipal recyclable material collection points; monitoring the progress toward meeting the percent reduction goals established in the 1988 State Law; and such other matters as the commissioner or committee may suggest. Three members shall be appointed by the County Executive; three members shall be appointed by the County Legislature and one member shall be appointed jointly by the County Executive and County Legislature. The members of the oversight committee shall consist of an appointee from the following:

- (1) Resource Recovery Agency Ad Hoc Recycling Committee; appointed by the County Executive
- (2) Town Supervisor's Association; appointed by the County Legislature
- (3) Environmental Committee of the County Legislature; appointed by the County Legislature
- (4) Carting Industry; appointed by the County Executive and County Legislature
- (5) Environmental Management Council; appointed by the County Legislature
- (6) County Mayor's Association; appointed by the County Executive
- (7) Group of Local Recycling Coordinators in the County; appointed by the County Executive.

The above mentioned appointments shall be for a three year term from the date of appointment. No member shall serve more than two full three year terms. A chairman shall be elected by the members of the oversight panel at its first regular meeting and the panel shall adopt operating by-laws as they deem appropriate. 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. The commissioner shall request and receive the recommendation and approval of the committee before he orders the removal or the addition of any material from designation as a recyclable material, except that if such recommendation and approval is not received within thirty days after request by the commissioner he may act without such recommendation.

SECTION 2. Local Law No. 4 of 1990 is hereby ratified and confirmed in all other respects.

SECTION 3. This local Law shall take effect immediately upon full compliance with all the requisite statutes and laws applicable to its adoption and promulgation.

County of Dutchess
Local Law No. 2 of the year 1991

A Local Law Amending Local Law No. 4 of 1990 and Amending Local Law No. 9 1990 Providing for the Mandatory Collection and Disposition of Recyclables in Dutchess County.

Be it enacted by the County Legislature of the County of Dutchess as follows:

BE IT ENACTED BY THE COUNTY LEGISLATURE OF THE COUNTY OF DUTCHESS, NEW YORK, AS FOLLOWS:

SECTION 1. The intent of this Local Law shall be to amend Section 17 of Local Law No. 4 of 1990 as amended by Local Law No. 9 of 1990 as follows:

Section 17. Recyclables Oversight Committee.

A committee consisting of not more than nine (9) members to be appointed by the Dutchess County Legislature and the County Executive is hereby created and established for the purpose of advising the Commissioner of Solid Waste Management regarding adding or removing materials from the definition of recyclable materials; establishing procedures and operating standards for municipal recyclable material collection points; monitoring the progress toward meeting the percent reduction goals established in the 1988 State Law; and such other matters as the commissioner or committee may suggest. Four members shall be appointed by the County Executive; four members shall be appointed by the Chairman of the County Legislature; one member shall be appointed jointly by the County Executive and the Chairman of the County Legislature. The members of the Oversight Committee shall consist of an appointee from the following:

- (1) Resource Recovery Agency Ad Hoc Recycling Committee; appointed by the County Executive
- (2) Town Supervisor's Association; appointed by the Chairman of the County Legislature
- (3) Environmental Committee of the County Legislature; appointed by the Chairman of the County Legislature
- (4) Carting Industry; appointed by the County Executive and Chairman of the County Legislature
- (5) Environmental Management Council; appointed by the Chairman of the County Legislature
- (6) County Mayor's Association; appointed by the County Executive
- (7) Group of Local Recycling Coordinators in the County; appointed by the County Executive
- (8) the County Legislature; appointed by the Chairman of the County Legislature
- (9) the general public; appointed by the County Executive

The above mentioned appointments shall be for a three year term from the date of appointment. No member shall serve more than two full three year terms. A chairman shall be elected by the members of the Oversight panel at its first regular meeting and the panel shall adopt operating by-laws as they deem appropriate. 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. The commissioner shall request and receive the recommendation and approval of the Committee before he orders the removal or the addition of any material from designation as a recyclable material, except that if such recommendation and approval is not received within thirty days after request by the commissioner he may act without such recommendation.

SECTION 2. Local Law No. 4 of 1990, as amended by Local Law No. 9 of 1990, is hereby ratified and confirmed in all other respects.

SECTION 3. This Local Law shall take effect immediately upon full compliance with all the requisite statutes and laws applicable to its adoption and promulgation.

Section 18. Separability.

If any section, provision, or part thereof, in this Local Law, or the application thereof to any person or circumstances, is adjudged invalid or unconstitutional by a court of competent jurisdiction, then such adjudication shall not affect the validity of the remainder of the Local Law or the validity of the Local Law as a whole of any sections, provisions, or part thereof, not so adjudged invalid or unconstitutional and the application of the Local Law or any section, provision or part thereof, to other persons or circumstances shall not be affected by said adjudication.

Section 19. Priority.

Pursuant to Section 1 of Chapter 675 of the Laws of 1982 of the State of New York, this local law takes precedence over and shall supersede any inconsistent provisions of any local law enacted by any municipality within the county.

Section 20. Effective Date.

This local law shall be effective throughout the county on January 1, 1991, except that this local law shall not be effective with regard to recyclable materials generated by commercial establishments until July 1, 1991. For the purposes of this section, the term "commercial establishments" means businesses which are operated for profit.

4. (Subject to permissive referendum, and final adoption because no valid petition filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. 4 of 1990 of the County of Dutchess was duly passed by the County Legislature on June 11, 1990 and was approved by the County Executive on: July 5, 1990. Such local law was subject to a permissive referendum and no valid petition requesting such referendum was filed as of August 20, 1990 in accordance with the applicable provisions of law.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19 of the County of , State of New York, having been submitted to the Electors at the General Election of November , 19 , pursuant to the subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and of a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative. (If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 4 above.


Clerk of the Legislative Body

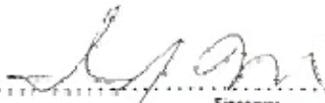
Date: August 20, 1990

(Seal)

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other Authorized Attorney of locality.)

STATE OF NEW YORK
COUNTY OF DUTCHESS

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.


Signature
Ian MacDonald
County Attorney
This

Date: August 20, 1990

County
of ... Dutchess
Witness

APPENDIX E

**DUTCHESS COUNTY CHARTER AND CODE –
SOLID WASTE**

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ARTICLE XVII
DEPARTMENT OF SOLID WASTE MANAGEMENT

Section 17.01. Department of Solid Waste Management; Commissioner; Appointment; Qualifications; Term.

There shall be a Department of Solid Waste Management under the direction of a Commissioner of Solid Waste Management, who shall be appointed by the County Executive, subject to confirmation by the County Legislature. He shall be appointed on the basis of his professional experience and other qualifications for the responsibilities of his office. He shall be directly responsible to, and serve at the pleasure of, the County Executive.

Section 17.02. Powers and Duties.

The Commissioner of Solid Waste Management shall be the chief administrative officer of the department. Except as may otherwise be provided in this Charter, he shall be responsible for the formulation and implementation of a workable program for the collection and sanitary disposal of solid waste in the County, including the integration of both public and private facilities for accepting, hauling, processing, and disposing of solid waste generated within the County. He shall be responsible for the construction and operation of any such facilities owned or managed by the County, shall maintain a continuing physical and economic analysis of the operation, and shall regularly report the same with appropriate recommendations to the County Executive. He shall have all the powers and perform all the duties imposed upon him by law, and shall perform such other and related duties required by the County Executive or County Legislature.

Section 17.03. Solid Waste Management Board.

There shall be within the department an advisory Solid Waste Management Board whose members, except as otherwise provided herein, shall be appointed by the County Legislature. Its membership shall include the Commissioners of Health, Finance, Planning and Development and Public Works. The Board shall consider matters relating to solid waste disposal within the County and shall advise the Commissioner thereon either at his request or upon its own initiative, and from time to time make recommendations to him thereupon.

Section 17.04. Deputy Commissioner and Staff.

The Commissioner of Solid Waste Management shall have the power to appoint such Deputy Commissioners, assistants and employees of his department as shall be authorized by the County Legislature. Except as otherwise provided by this Charter, the Administrative Code or applicable law, all such appointees shall be directly responsible to, and serve at the pleasure of, the Commissioner.

Section 17.05. Acting Commissioner.

The Commissioner of Solid Waste Management, subject to approval by the County Executive, shall designate in writing, and in order of succession, the Deputy Commissioners and assistants who shall be Acting Commissioner of Solid Waste Management in the event of his absence from the County or inability to perform and exercise the powers and duties of his office. Such designation shall be filed with the County Clerk and the Clerk of the County Legislature and may be revoked at any time by the Commissioner filing a new written designation and order of succession. The Acting Commissioner of Solid Waste Management shall have all the powers and perform all the duties of the Commissioner.

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CHARTER AND CODE OF DUTCHESS COUNTY, NEW YORK
ADMINISTRATIVE CODE OF THE DUTCHESS COUNTY GOVERNMENT
ARTICLE XVII DEPARTMENT OF SOLID WASTE MANAGEMENT

ARTICLE XVII
DEPARTMENT OF SOLID WASTE MANAGEMENT

Section 17.01. Commissioner of Solid Waste Management; Powers and Duties.

The Commissioner of Solid Waste Management shall:

- (a) have jurisdiction, direction and control over, administer, maintain, manage and operate all solid waste management facilities required by the County;
- (b) recommend for adoption by the County Legislature regulations for the handling and disposal of solid waste including but not limited to the maintenance of order and safety with respect to and for the utilization of all solid waste management facilities and appurtenances owned by and under the control of the County, and affixing penalties for violation thereof, pursuant to law;

- (c) conduct negotiations with respect to the granting of leases, concessions, licenses and permits for use of solid waste management facilities, lands, structures and appurtenances; and to recommend the appropriate action thereon by the County Legislature. The County Legislature shall not be precluded from acting upon its own initiative upon such matters;
- (d) recommend to the County Legislature for its action, schedules of charges for use of solid waste management facilities, lands, structures and appurtenances. All funds collected or received by the Commissioner in the discharge of his official duties or by the Department of Solid Waste Management shall be deposited by the Commissioner with the Commissioner of Finance and credited by him to the general fund;
- (e) prepare for and upon request by the Commissioner of Finance such reports as will accurately reflect the costs and performance of the functions of the department by necessary or desirable categories;
- (f) be responsible for and have the duty of maintaining liaison with all County, State, and Federal Agencies and for compliance with all rules and regulations of such County, State and Federal Agencies in reference to the operation, maintenance and safety of solid waste facilities; and
- (g) have the power to delegate by designation to one or more persons within his department the specific duties and powers which he has as Commissioner of Solid Waste Management; such designation setting forth the specific powers and duties granted shall be filed with the County Executive and County Clerk; it may be revoked in whole or in part by written notice, filed with the County Executive and County Clerk.

Section 17.02. Deputies, Assistants and Staff.

The Commissioner of Solid Waste Management shall have the power to appoint such Deputy Commissioners, assistants and employees of his department, as shall be authorized by the County Legislature. Such appointment shall be contingent upon the adoption of a County Solid Waste Program by the County Legislature.

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APPENDIX F
WESTCHESTER COUNTY LICENSING LAW

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CHAPTER 826-a
OF THE LAWS OF WESTCHESTER COUNTY

A LOCAL LAW to repeal Chapter 826 of the Laws of Westchester County, the Westchester County Solid Waste and Recyclables Collection Licensing Law, and to amend the Laws of Westchester County to add a new Chapter 826-a so as to implement the Solid Waste Management Act and address the influence and the threat of the influence of organized crime in the Solid Waste and recycling industries operating in Westchester County.

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

Section 1. Chapter 826 of the Laws of Westchester County, enacted by Local Law 15-1992, is hereby repealed in its entirety, effective March 31, 2002

Section 2. The Laws of Westchester County are hereby amended to add a new Chapter 826-a to read as follows:

ARTICLE I.
SHORT TITLE & STATEMENT OF PURPOSE

Section 826-a.100. Short Title.
Section 826-a.101. Purpose.

ARTICLE II.
GENERAL PROVISIONS

Section 826-a.200. Definitions.
Section 826-a.201. Westchester County Solid Waste Commission.
Section 826-a.202. Powers and Duties of the Westchester County Solid Waste Commission.
Section 826-a.203. Executive Director.

**ARTICLE III.
LICENSING AND REGISTRATION REQUIREMENTS**

- Section 826-a.300. License and Registration - Applicability.
- Section 826-a.301. License and Registration - Requirement.
- Section 826-a.302. General License and Registration Application Requirements.
- Section 826-a.303. Application Requirements - Class A, Class B, Class C-2, Class D and Class L Licenses.
- Section 826-a.304. Application Requirements - Class C-1 and Class E Licenses.
- Section 826-a.305. Application Requirements - Solid Waste Broker Registration.
- Section 826-a.306. Fees.

**ARTICLE IV.
STANDARDS FOR DENIAL, SUSPENSION, REVOCATION, NON-RENEWAL,
DENIAL OF MODIFICATION OR OTHER ACTION AGAINST THE
PRIVILEGES OF A LICENSEE OR REGISTRANT**

- Section 826-a.400. Standards for Refusal to Issue a License or Registration.
- Section 826-a.401. Standards for Suspension, Revocation, Non-renewal, Modification or Other Action Against The Privileges of a Licensee or Registrant.
- Section 826-a.402. Conduct of Licensees and Registrants: Record Keeping; Service Contracts; Labeling of Containers; Labeling of Vehicles; Complaints.
- Section 826-a.403. Assignment of service contracts; Subcontracting of services.
- Section 826-a.404. Mergers, Acquisitions & Sales of Licensed or Registered Entities.
- Section 826-a.405. Prohibited Practices.

**ARTICLE V.
REPORTING REQUIREMENTS**

- Section 826-a.500. Reporting Requirements for all Licensees and Registrants.
- Section 826-a.501. Class A Licensee.
- Section 826-a.502. Class B Licensee.
- Section 826-a.503. Class C Licensee.
- Section 826-a.504. Class D and Class L Licensees.
- Section 826-a.505. Class E Licensee.
- Section 826-a.506. Transfer Station/Ultimate Disposal Site Operators.
- Section 826-a.507. Solid Waste Broker.

**ARTICLE VI.
PENALTIES AND ENFORCEMENT**

- Section 826-a.600. License Suspension/Denial of Renewal.
- Section 826-a.601. Violation of License or Registration.
- Section 826-a.602. Right to a Hearing.

**ARTICLE VII.
INDEPENDENT AUDITING AND INDEPENDENT MONITORING**

- Section 826-a.700. Independent Auditing.
- Section 826-a.701. Independent Monitoring.

**ARTICLE VIII.
IMPLEMENTATION**

- Section 826-a.800. Effective Date.
- Section 826-a.801. Implementation – Class C Licensees.
- Section 826-a.802. Implementation - Class A, Class B and Class C-2 Licenses.
- Section 826-a.803. Implementation - Class C-1, Class D and Class E Licenses.
- Section 826-a.804. Implementation - Solid Waste Brokers.
- Section 826-a.805. Implementation - Service Contracts.
- Section 826-a.806. Implementation - Municipal Enforcement.
- Section 826-a.807. Reporting to Board of Legislators.

**ARTICLE IX.
TERM OF LICENSE OR REGISTRATION**

- Section 826-a.900. Term of License.
- Section 826-a.901. Term of Registration.

**ARTICLE X.
CONFIDENTIALITY**

- Section 826-a.1000. Confidentiality of Information.

**ARTICLE XI.
SEVERABILITY**

- Section 826-a.1100. Severability.

ARTICLE I
SHORT TITLE & STATEMENT OF PURPOSE

Section 826-a.100. Short Title.

1. This Chapter shall be known as the “Westchester County Solid Waste and Recyclables Collection Licensing Law.”

Section 826-a.101. Purpose.

The purpose of this Chapter is two-fold.

1. a. The first purpose is to implement existing state Solid Waste management policy, as declared in Title One of Article 27 of the New York State Environmental Conservation Law, pursuant to which the County was designated as the official planning unit, and to develop and implement an integrated, comprehensive and long-term plan to manage all Solid Waste and Recyclables generated and collected within the County’s borders. The requirements outlined in this Chapter are necessary to: (1) enable Westchester County to promote the general health, welfare and safety of the people of Westchester County; (2) ensure that Solid Waste generated within the County is disposed of or recycled in an environmentally safe and sound manner; (3) implement and then evaluate the effectiveness of the County’s State-approved Solid Waste management plan; and (4) to develop any necessary future Solid Waste management options by providing comprehensive and detailed information about non-municipal Solid Waste management and recycling.

- b. The second purpose of this Chapter is to address the influence and the threat of the influence of organized crime in the Solid Waste and recycling industries operating in Westchester County. The Westchester County Board of Legislators has found that organized crime permeates the Solid Waste hauling industry in Westchester County and constitutes a significant problem and matter of public concern within the County. The existence of cartels has produced anti-competitive effects in the industry including, but not limited to, price-fixing; the prevention of new entry into the industry; the existence of unconscionable customer contract terms; and the incidence of corruption. To address this problem and matter of public concern, the Westchester County Board of Legislators has, through this Local Law, sought to, inter alia, expand the license application process; to modify the standard by which licenses for Solid Waste and recycling collection businesses are issued by the County in order to ensure the good character, honesty and integrity of licensees; to institute a registration process for those Solid Waste brokers which may operate in the County; to encourage new entry into the industry; to encourage competition; to regulate and monitor customer contracts for solid waste and recyclables collection; and to expand the penalties for violation of the standards established herein. It is the

intent of the Westchester County Board of Legislators to eliminate the influence of organized crime in the Solid Waste and Recyclables collection industry; and, thereby, eliminate this significant problem and matter of public concern, as referenced above, from Westchester County.

ARTICLE II. GENERAL PROVISIONS

Section 826-a.200. Definitions.

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

1. "Applicant" means any person, as defined herein, who applies for a license or for a registration pursuant to this Chapter or who, after issuance of such a license or registration pursuant to this Chapter, applies for renewal of a license or registration pursuant to this Chapter.
2. "Class A" refers to all haulers except those whose hauling business is limited solely to Class C, Class D, Class E or Class L activities or whose recycling business is limited to Class B activities. Class A Licensees may also conduct Class B, Class C, Class D, Class E and Class L activities.
3. "Class B" refers to Recyclables brokers. Class B Licensees may also conduct Class C, Class D, Class E and Class L activities.
4. "Class C" refers to haulers who exclusively handle construction and demolition debris. With respect to Class C haulers, the following shall apply:
 - a. Class "C-1" shall refer to a business or subsidiary which generates construction and demolition debris, as defined herein, and which, incidental to such business, transports, stores, processes, transfers or disposes of the construction and demolition debris generated by the operations of such business or subsidiary. Those persons who would otherwise qualify as Class "C-1" haulers but who are licensed by the County of Westchester as: (1) electricians pursuant to Article XVII of Chapter 277 of the Laws of Westchester County, and whose business operations are limited exclusively thereto; (2) plumbers pursuant to Article XV of Chapter 277 of the Laws of Westchester

County, whose business operations are limited exclusively thereto; and/or (3) home improvement contractors, including landscapers, pursuant to Article XVI of Chapter 863 of the Laws of Westchester County, whose business operations are limited exclusively to providing home improvements as that term is defined in Section 863.312 of the Laws of Westchester County; and whose licenses are in effect and in good standing pursuant to such authority, shall be exempt from complying with the requirements of this Chapter. Class C-1 Licensees may also conduct Class E activities;

b. Class "C-2" shall refer to all other businesses which otherwise transport, collect, store, transfer, process, or dispose of construction and demolition debris. Class C-2 haulers may also conduct Class C-1, Class D, Class E and Class L activities.

5. "Class D" refers to (i) haulers who collect, store, transport, transfer, process or dispose of garden & yard waste generated, originated or brought within the County where such garden & yard waste was previously generated by a person or entity other than the Applicant/Licensee and/or (ii) haulers who collect, store, transport, transfer, process or dispose of garden & yard waste and which own, lease, or control one or more vehicles having three (3) or more axles which vehicles will be used in the collection, storage, transfer, transportation, processing or disposal of garden & yard waste generated, originated or brought within the County. Class D haulers may also conduct Class L activities.

6-A. "Class E" refers to haulers who exclusively conduct a scrap peddler business.

6-B Class L refers to haulers who exclusively handle seasonal organic waste, including leaves, solely on behalf of the County and/or its local municipalities during the leaf season, which includes the months of October, November, December and January.

7. "Commission" means the Westchester County Solid Waste Commission ("Commission"), or its duly authorized designee.

8. "Construction and Demolition Debris" means uncontaminated Solid Waste resulting from the construction, remodeling, repair and demolition of structures and roads, and uncontaminated Solid Waste consisting of vegetation resulting

from land clearing and grubbing, utility line maintenance and seasonal and storm-related cleanup. Such waste includes, but is not limited to, bricks, concrete and other masonry materials, soil, rock, wood, wall coverings, plaster, drywall, plumbing fixtures, non-asbestos insulation, roofing shingles, asphaltic pavement, glass, plastics that are not sealed in a manner that conceals other wastes, electrical wiring and components containing no hazardous liquids, metals, and trees or tree limbs that are incidental to any of the above.

9. "County" means the County of Westchester.

10. "Hauler" means any person excluding Municipalities, the County and any County district including, but not limited to, Refuse Disposal District No. 1 and all County sewer and water districts, who, for a fee or other consideration, collects, stores, processes, transfers, transports or disposes of Solid Waste, Recyclables or construction and demolition debris that is generated or originated within the County or brought within the boundaries of the County for disposal, storage, transfer or processing.

11. "Licensee" means any person holding a license issued pursuant to this Chapter.

12. "Municipality" shall mean the cities, towns, villages, school districts and fire districts located within the County of Westchester.

13. "Person" shall mean any individual, firm, company, association, society, corporation, partnership, co-partnership, joint-stock company, trust, estate, governmental entity or any other legal entity or legal representatives, agents or assigns thereof. The masculine gender shall include the feminine, and the singular shall include the plural, where indicated by context.

14. "Predecessor Solid Waste Business" shall mean any business or entity engaged in the removal, collection or disposal of Solid Waste in which one or more Principals of the business or entity is also a Principal(s) of the Applicant, or any business or entity which engaged in activities which are now required to be licensed or registered pursuant to this Chapter and which was purchased or otherwise acquired by the Applicant, in the five (5) year period preceding the application.

15. "Principal" means the following: (a.) of a sole proprietorship, the proprietor; (b.) of a corporation, including a limited liability company, every officer and director and every stockholder holding ten percent (10%) or more of the outstanding shares of the corporation; (c.) of a partnership, including a limited liability partnership or a general or special partnership, all the partners; (d.) if another type of business entity, the chief operating officer or chief executive officer, irrespective of organizational title, and all persons or entities having an ownership interest of ten percent (10%) or more; and (e.) with respect to all business entities, all other persons participating directly and indirectly in the control of such business entity. Where a partner or stockholder holding ten percent (10%) or more of the outstanding shares of a corporation is itself a partnership, or a corporation, a "Principal" shall also include the partners of such partnership or the officers, directors and stockholders holding ten percent (10%) or more of the outstanding shares of such corporation, as is appropriate.

For the purposes of this chapter: (a.) an individual shall be considered to hold stock in a corporation where such stock is owned directly or indirectly by or for (i) such individual; (ii) the spouse of such individual (other than a spouse who is legally separated from such individual pursuant to a judicial decree or an agreement cognizable under the laws of the state in which such individual is domiciled); (iii) the children, grandchildren and parents of such individual; and (iv) a corporation in which any of such individual, the spouse, children, grandchildren or parents of such individual in the aggregate own fifty percent (50%) or more in value of the stock of such corporation; (b.) a partnership shall be considered to hold stock in a corporation where such stock is owned, directly or indirectly, by or for a partner in such partnership; and (c.) a corporation shall be considered to hold stock in a corporation that is an Applicant for a license or Licensee as defined in this Section where such corporation holds fifty percent (50%) or more in value of the stock of a third corporation that holds stock in the Applicant or Licensee corporation.

16. "Recyclables" means those materials defined as "Recyclables" under Section 825.30(8) of the Westchester County Source Separation Law.

17. "Recyclables brokers" means any person, excluding Municipalities, the County and any County district including, but not limited to, Refuse Disposal District No. 1 and all County sewer and water districts, who, for a fee or other consideration, collects, separates, processes, markets, stores, transports or otherwise handles Recyclables exclusively, if those Recyclables were generated or originated within the County or brought within the boundaries of the County for disposal, storage, transfer or processing, excluding those persons who are required to accept beverage containers under § 27-1007 of the New York State Environmental Conservation Law, persons who redeem containers under said law and those persons required to accept used motor oil or vehicular batteries free of charge for recycling under applicable state law, provided that this exclusion shall only apply to the aforementioned activities which are governed by state law. A Recyclables broker may collect, separate, process, store, transport or otherwise handle Solid Waste contaminants that are collected with Recyclables, provided that the Recyclables broker has taken reasonable precautions to prevent the introduction of such contaminants into the environment.

18. "Registrant" shall mean any person who obtains registration as a Solid Waste Broker pursuant to this Chapter.

19. "Scrap Peddler" shall mean any person who collects scrap materials for sale to a Recyclables broker using no more than one vehicle for collection and transportation of such materials.

20. "Separate collection" means that any person who collects, transports or stores Solid Waste or Recyclables shall keep source separated Recyclables separate from Solid Waste during collection, transportation and storage, except for Recyclables that are mixed with Solid Waste in construction and demolition debris and identifiable bagged Recyclables mixed with bagged Solid Waste, provided that Recyclables are later separated for recycling.

21. "Service Contract" means any contract entered into by a Licensee or a Registrant, or any person licensed pursuant to the former Chapter 826, and a third party (herein "customer") to conduct any activity for which a license or registration must be issued pursuant to this Chapter.

22. "Solid Waste" means all putrescible and non-putrescible materials or substances, except as described in Paragraph 4 of 6 NYCRR Part 360-1.2(a), and/or regulated under 6 NYCRR Part 364, 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, commercial waste, rubbish, ashes, incinerator residue and construction and demolition debris. "Solid Waste" shall not be understood to include Recyclables as defined in this chapter.

23. "Solid Waste Association" means a person or entity having as a primary purpose the promotion, advancement or self-regulation of businesses that remove, collect or dispose of Solid Waste, including but not limited to a corporation, unincorporated association, partnership, trust or limited liability company, whether or not such entity is organized for profit, not-for-profit, business or non-business purposes.

24. "Solid Waste Broker" means a person or entity who, for a fee, brokers agreements between commercial establishments and providers of Solid Waste removal, collection or disposal services or conducts evaluations or analysis of the waste generated by such commercial establishments in order to recommend cost efficient means of waste disposal or other changes in related business practices, and for whom registration is required.

25. "Source separation" means the segregation of Recyclables from Solid Waste at the point of generation for separate collection, sale or other disposition.

26. "Subsidiary" means a corporation of which over fifty (50.0%) percent of the ownership interest or the number of shares of stock, entitling the holders thereof to vote for the election of directors and trustees, is owned by the Applicant.

27. "Transfer Stations" means those facilities located in Westchester County where Solid Waste, garden and yard waste, Recyclables and Construction and Demolition Debris are received and transported off-site to a destination for final disposal, regardless of whether the materials are processed and regardless of the duration and frequency of operation of such facility.

Section 826-a.201. Westchester County Solid Waste Commission.

1. There shall be a Westchester County Solid Waste Commission which shall implement and administer the Solid Waste and Recyclables Collection Licensing Law. This Commission shall consist of seven (7) members: the Deputy County Executive; the Commissioner of Finance; the Commissioner of Environmental Facilities; the Commissioner of Public Safety; the Director of Consumer Protection; an individual qualified by experience to serve as a representative of the officials of the local Municipalities within Westchester County; and an individual, who shall be appointed as Chair of the Commission, with notable relevant professional experience.
2. Pursuant to § 110.21 of the Westchester County Charter, the County Executive shall appoint, subject to confirmation by the Board of Legislators, those two (2) Commission members, referenced above, who are not ex officio members of the Commission by virtue of their appointment to other Westchester County administrative positions. Those two (2) Commission members shall serve at the pleasure of the County Executive. The County Executive shall make such initial appointments within forty-five (45) days of the Effective Date of this Local Law. No member of the Commission shall be compensated for the services to be provided pursuant hereto, but may be reimbursed for any reasonable expenses that may be personally incurred in the conduct of the official duties of such members, to the extent that funds are appropriated for such purpose.
3. A majority of the Commission shall constitute a quorum for the transaction of business.

Section 826-a.202. Powers and Duties of the Westchester County Solid Waste Commission.

1. The general powers and duties of the Commission shall be to implement and enforce the provisions of this Chapter, which shall include but not be limited to, licensing, registration, regulation of businesses that conduct activities which require a license or registration pursuant to this Chapter.
2. The specific powers and duties of the Commission shall be:
 - a. To issue licenses and registrations for the performance of activities for which a license or registration is required under this Chapter, and to enforce the standards set forth in this Chapter, provided that, unless otherwise specified herein, the Commission may, by resolution, delegate to the Executive Director the authority to make individual determinations with regard to: (i.) the issuance, suspension, modification and revocation of such licenses and registrations; (ii.) background investigations and determinations of fitness with regard to the Principals and employees of Licensees and Registrants; and (iii.) the

appointment of independent auditors and monitors in accordance with the provisions of this Chapter; (iv.) the appointment of employees to perform the duties prescribed in this Chapter; and (v.) such other duties as the Commission deems necessary and efficient to carry out the purposes of this Chapter. Any such delegation to the Executive Director shall be subject to the duty of the Executive Director to make full and complete reports to the Commission on the conduct of all such delegated duties.

The Commission may, in its sole discretion and after preliminary investigation, issue a Permit To Operate to those persons who submitted completed applications for licensure or registration to the Commission after September 30, 2000, but for whom no definitive licensing and/or registration decision has yet been made. The services which a person may be authorized to perform pursuant to such a Permit To Operate shall be limited to those services for which licensure or registration are sought pursuant to the application submitted by such person in accordance with this Chapter. Such a Permit To Operate shall have a nonrenewable one (1) year term, which shall be superseded by any final licensing or registration decision by the Commission. The Permit To Operate shall also terminate immediately upon the withdrawal of the person's application submitted pursuant to this Chapter. Any person issued such a Permit To Operate shall be required to pay to the Commission, in addition to all application and background fees, all annual fees and vehicle fees generally applicable to the class of services, as outlined in this Chapter, which the person will be authorized to provide in Westchester County pursuant to such Permit To Operate. In the event that such a Permit To Operate is terminated prior to its stated expiration date due to the issuance of a denial of the license or registration application; due to failure to comply with the terms of such Permit To Operate; or due to the withdrawal of the permittee's application for licensure or registration, the Permit To Operate shall remain in effect for ninety (90) days after such termination or, for good cause shown, for a term which shall not exceed one hundred eighty (180) days only for purposes of the permittee's performance of its municipal contracts, or until the expiration of the permittee's existing contracts with such municipalities, whichever occurs sooner. In the event that such a Permit To Operate is terminated prior to its stated expiration date due to the issuance of a denial of the license or registration application; due to failure to comply with the terms of such Permit To Operate; or due to withdrawal of the application for licensure or registration, a pro rata refund shall be calculated from the date the permittee discontinues its Westchester County operations in accordance with the provisions of this Chapter.

The Permit To Operate shall take substantially the following form:

**“Westchester County Solid Waste Commission
100 East First Street, 8th Floor
Mount Vernon, New York 10550
(914) 813-6850**

**PERMIT TO OPERATE
PURSUANT TO CHAPTER 826-A OF THE LAWS OF
WESTCHESTER COUNTY**

Pursuant to the authority granted under Section 826-a.202(2)(a) of the Laws of Westchester County, the Westchester County Solid Waste Commission (“Commission”) hereby grants permission to _____, hereinafter the “Permittee,” to operate as a _____, as defined in Chapter 826-a of the Laws of Westchester County (Class/hauler, Solid Waste Broker)

(“Chapter 826-a”), and to operate the named transfer stations: _____

_____ , pending the complete and final review of the Permittee’s application for licensure/registration pursuant to Chapter 826-a, and the issuance of a final determination by the Commission as to same. This Permit To Operate shall be for the term commencing on _____ and terminating upon the sooner of _____, or the date on which the Westchester County Solid Waste Commission issues a final determination as to the Permittee’s application for licensure/registration. It is understood and agreed that any withdrawal of the Permittee’s Chapter 826-a application for licensure or registration shall result in immediate termination of this Permit To Operate, effective on the date of such withdrawal.

The Permittee hereby agrees that it, its officers, and its employees shall abide by all provisions of Chapter 826-a of the Laws of Westchester County in connection with its operations under this Permit To Operate, and, in addition, agrees to be bound by the following terms and conditions:

1. PLEASE TAKE NOTICE: This Permit To Operate is NOT a license or registration to operate as a hauler or solid waste broker pursuant to Chapter 826-a of the Laws of Westchester County, but is issued by the Commission to allow the Permittee to operate in Westchester County while its application for licensure or registration thereunder is being reviewed and while background investigations are undertaken by the Commission pursuant thereto. Therefore, this Permit To Operate shall not operate as a grant of any of the rights or privileges as may be provided to Licensees or Registrants under Article VI of Chapter 826-a of the Laws of Westchester County, such rights being granted only after a final determination by the Commission that Permittee has met the standards of good character, honesty and integrity as specified in Chapter 826-a and has been issued a license or registration pursuant thereto.

2. Any failure of the Permittee to comply with the provisions of Chapter 826-a of the Laws of Westchester County during any term of this Permit To Operate, including, but not limited to, the failure to cooperate with the Commission regarding its review of Permittee’s application, shall be grounds for immediate termination of this Permit To Operate, upon written notice to the Permittee by the Commission.

3. The Permittee hereby acknowledges and agrees that it shall assume any and all business and financial risks associated with its commencement of operations pursuant to this Permit To Operate. Permittee hereby acknowledges and agrees that, despite the issuance of this Permit To Operate, no determination has been made by the Commission in any respect as to the Permittee’s good character, honesty and integrity pursuant to Chapter 826-a of the Laws of Westchester County or Permittee’s fitness to operate in Westchester County pursuant to Chapter 826-a. Permittee acknowledges and agrees that its Permit To Operate in Westchester County as a _____, as defined in _____ (Class/hauler, Solid Waste Broker)

Chapter 826-a may be immediately terminated upon the completion of the review of the Permittee’s application for licensure and/or registration, and the issuance of such a determination by the Commission, or pursuant to the conditions set forth in Section 2, above.

4. The following additional conditions have been imposed upon the Permittee and its operations in Westchester County pursuant to this Permit To Operate:

_____.

5. The Permittee hereby acknowledges and agrees that it is under no obligation to execute this Permit To Operate, and that its refusal to execute same shall have no impact on the Commission's review of Permittee's pending application under Chapter 826-a.

6. The Permittee hereby acknowledges and agrees that, as a condition of this Permit To Operate, it shall comply, at its own expense, with all applicable federal, state and local laws, rules, regulations and ordinances which may be applicable to the Permittee in connection with its performance of the activities for which it has been issued this Permit To Operate hereunder, and, in particular those antitrust or other laws relating to the restraint of trade.

7. The Permittee hereby acknowledges and agrees that, in the event that such a Permit To Operate is terminated prior to its stated expiration date due to the issuance of a denial of the license or registration application; due to failure to comply with the terms of such Permit To Operate; or due to the withdrawal of the Permittee's application for licensure or registration, the Permit To Operate shall remain in effect for ninety (90) days after such termination or, for good cause shown, for a term which shall not exceed one hundred eighty (180) days only for purposes of the Permittee's performance of its municipal contracts, or until the expiration of the Permittee's existing contracts with such municipalities, whichever occurs sooner.

Agreed to on this ____ day of _____, 20__.

PERMITTEE:

Name & Title

On this ____ day of _____, 20__, before me personally came _____
to me known, and known to me to be the _____ of _____,
(Title) (Corporation)
the Permittee described herein and who being by me duly sworn did depose and say that the said
_____ resides at _____ and that s/he
is _____ of said Permittee.

Authorized on this ____ day of _____, 20__.

WESTCHESTER COUNTY SOLID WASTE COMMISSION

Executive Director
Westchester County Solid Waste Commission";

b. To establish and/or modify, as the Commission may in its discretion deem necessary, fees for all licenses and registrations, including all application fees, required under this Chapter. The Commission shall maintain a written record of all proceedings relating to the establishment or modification of fees. The Commission shall set such fees to fund the Commission, its staff, salaries, fringe benefits and all of the Commission's other costs and expenses. With regard to fees for background investigations, the costs assessed by independent contractors and government agencies associated with such investigations shall be charged directly to the Applicant, Licensee or Registrant based on the average cost of such investigation for the standard investigation and based on the actual cost of investigation for all supplemental investigations. With regard to standard background investigations, the Applicant's fee shall be based upon the total number of principals in the entity;

c. To create a database for customers to be known as the Customer Availability Service Hotline ("CASH") which shall serve as a registry for those customers who are seeking to obtain solid waste and recyclables collection services. Each such customer shall be listed on the CASH Registry for a period of thirty (30) days after notifying the Commission of the customer's desire to be listed, and shall be required to re-register with the Commission, every thirty (30) days, in order to maintain its listing on the CASH Registry thereafter. The CASH registry shall be internet accessible;

d. To investigate any matter within the jurisdiction conferred by this Chapter and to have full power to compel the attendance of witnesses, the examination of witnesses, to take testimony under oath of such persons as it may deem necessary in relation to such investigation, to require the production of books, accounts, papers and other evidence relevant to such investigation, to issue subpoenas to compel the attendance of such witnesses, and to issue subpoenas to compel the production of books, records and documents;

e. To initiate actions based upon alleged violations of this Chapter;

f. As the Commission may deem necessary to carry out the purposes of this Chapter, and to establish standards for service and for the regulation and conduct of Licensees and Registrants pursuant to this Chapter;

g. To appoint within the appropriations available therefor, such employees as may be required for the performance of the duties prescribed herein;

h. Subject to all necessary legal approvals, to enter into such agreement(s) on behalf of the County as may be necessary to carry out the purposes of this Chapter, including agreement(s) with the New York State Department of Criminal Justice Services, or any successor organization which may subsequently be charged with the duty of performing the services thereof pursuant to state law ("CJS"), for the processing of background checks and

fingerprinting analysis. Pursuant to any agreement between the County and CJS, the Executive Director shall be required to transmit the fingerprint cards directly to CJS, along with the payment of fees as may be required by the CJS for the processing of such fingerprint cards. Pursuant thereto, the Executive Director, or his designee, is hereby designated as the Commission representative who will be responsible to review the reports issued by the CJS pursuant to its analysis of the fingerprint cards submitted by the Commission;

i. To inform the public of its rights under this law;

j. To provide the Department of Environmental Facilities of the County of Westchester with all information and records which may be necessary to assist the Department of Environmental Facilities in its compliance with Article 27 of the New York Environmental Conservation Law;

k. To refer all evidence of or information concerning violations of any law, rule or regulation by any person licensed or registered under this Chapter, or by any person which has applied for a license or registration under this Chapter, that the Commission has or becomes aware of to the appropriate governmental agency charged with enforcing such law, rule or regulation;

l. As the Commission may deem necessary to carry out the purposes of this Chapter, to conduct lawful inspections to ensure compliance with this Chapter. Such inspections may include, but need not be limited to, the inspection of the facilities of a Licensee or Registrant, and audit of records required to be kept pursuant to this Chapter. Such inspections may also include the accompanying of a Licensee on its collection routes, and the accompanying of a Licensee or Registrant to transfer stations, recycling facilities, and landfills, or when transferring waste to other vehicles. A Licensee shall, upon request by the Commission, provide the Commission with a list of its collection routes and schedules;

m. To issue an annual report of the Commission's activities in the previous year to the County Executive and the Board of Legislators on or before February 15th of the following year, beginning on February 15th of the first full calendar year after the Effective Date;

n. To issue emergency suspension orders immediately suspending, without a prior hearing, a license or registration, where the Commission has obtained clear and convincing evidence that a Licensee or Registrant is conducting its licensed or registered activities in such a manner that has a serious and immediate adverse impact on the life, health, safety environment or welfare of residents of, or property located in, Westchester County; and

o. To take such steps, as the Commission deems appropriate, to determine the accuracy and truth of statements made in the application for a license and/or registration.

Section 826-a.203. Executive Director.

1. The County Executive shall appoint an Executive Director who shall have suitable professional experience. The County Executive shall appoint such Executive Director within forty-five (45) days of the Effective Date of this Local Law, subject to confirmation by the Board of Legislators.

2. The Executive Director's duties shall include all duties specifically delegated to the Executive Director by the Commission. The Executive Director shall direct and manage the activities of any and all such employees as may be appointed by the Commission, and shall be entitled to compensation for his services, which compensation shall be fixed by the Board of Legislators.

**ARTICLE III.
LICENSING AND REGISTRATION REQUIREMENTS**

Section 826-a.300. License and Registration - Applicability.

1. The licensing and registration requirements set forth in this Chapter shall apply to all persons who conduct Class A, Class B, Class C, Class D, Class E or Class L activities in Westchester County and to all persons who intend to operate as Solid Waste Brokers within the County, except where such activities are conducted by the County, a County district or by a Municipality.

Section 826-a.301. License and Registration - Requirement.

1. Notwithstanding any provisions to the contrary and subject to the Implementation procedure outlined in Article VIII, it shall be unlawful for any person to conduct Class A, Class B, Class C, Class D, Class E or Class L activities in Westchester County without having first obtained a license therefor from the Commission pursuant to the provisions of this Chapter.

2. Notwithstanding any provisions to the contrary, commencing September 30, 2000, it shall be unlawful for any person to operate as a Solid Waste Broker unless registered therefor by the Commission pursuant to the provisions of this Chapter.

3. Any license or registration shall be in the nature of a privilege subject to the terms and conditions set forth in this Chapter, and shall not be deemed to create a property interest or right with respect to the persons who conduct Class A, Class B, Class C, Class D, Class E or Class L activities, or who operate as Solid Waste Brokers, in Westchester County. Such licenses and/or registrations are not transferable upon sale or transfer of ownership of a licensed or registered business, except with the prior written approval of the Commission, after submission of a completed license application or registration application by the purchaser or transferee, pursuant to the provisions of this Chapter. The granting of a license or registration shall not operate as an authorization for regionally or wholly-owned subsidiaries of such Licensee and/or Registrant to conduct licensed or registered activities. All such subsidiaries shall be required, in all cases, to apply separately for licensing and/or registration pursuant to the provisions of this Chapter.

4. The Commission shall refuse to issue or renew a license or registration in the event that such issuance or renewal conflicts with or is prohibited by any other applicable provision of Federal or State law. Such denial or non-renewal shall not be subject to the notice and hearing procedures of Section 826-a.602 of this Chapter.

5. a. Notwithstanding any provision of this Chapter to the contrary, any Applicant which holds a valid license or registration issued by the Trade Waste Commission of the City of New York to conduct activities similar to those activities for which the Applicant seeks to obtain or renew a license or registration pursuant to this Chapter, shall be initially relieved from the disclosure obligations to the extent that such disclosure has already been made to the New York City Trade Waste Commission pursuant to such licensing or registration determination, but not the general application requirements, outlined in this Article, and the Commission may determine that the Applicant has met the standards of good character, honesty and integrity necessary to be licensed or registered pursuant to this Chapter based upon the issuance of the license or registration in New York City. This provision shall not apply to an Applicant which is a regional or wholly-owned subsidiary of an entity licensed or registered by the Trade Waste Commission of the City of New York, and such subsidiaries shall, in all cases, be subject to all disclosure requirements as set forth in this Article.

b. In the event that a license or registration to haul solid waste and/or recyclables issued by a licensing authority of any federal, state or local jurisdiction is ever suspended or revoked, or if an application for a license or for the renewal of a license to haul solid waste and/or recyclables is ever denied by a licensing authority of any such jurisdiction, the licensee or registrant shall inform the commission of same within 10 days of receiving notice of such action, and the commission may, at its discretion, immediately take any action available to it pursuant to this chapter.

c. Nothing provided in this subsection shall be intended to relieve any Licensee or Registrant from its ongoing obligation to disclose information as required by this Chapter or as may be required by the Commission, in its discretion, subsequent to the issuance of a license or registration. Such Licensee or Registrant shall also be required to provide the Commission with any and all information necessary to enable the County to comply with its reporting requirements pursuant to Article 27 of the Environmental Conservation Law, as specified by the Commission.

6. To renew a license or registration issued pursuant to this Chapter, an Applicant must submit the appropriate application to the Commission no later than (120) days prior to the expiration of the license or registration. A Licensee or Registrant must comply fully with all application requirements outlined in Article III., hereof, in order to renew such license or registration. Review of each such application for renewal by the Commission shall be based upon a consideration of the standards for issuance of a license or registration as set forth in Section 826-a.400. An expired license or registration shall be deemed to have been extended, if a complete application to renew the license or registration has been timely submitted and has not been acted upon by the Commission, or if a hearing on a determination not to renew the license or registration is pending, until the Commission either grants renewal or denies renewal at the completion of the hearing process set forth in Article VI. of this Chapter.

Section 826-a.302. General License and Registration Application Requirements.

1. a. An Applicant for a Class A, Class B and Class C, Class D, Class E or Class L License or an Applicant for registration as a Solid Waste Broker shall submit an application in writing on a form prescribed by the Commission, along with the required fees. Such application shall contain a letter of certification sworn, and certified under penalty of criminal prosecution that the information disclosed in conjunction with the application is complete and accurate to the best of the Applicant's knowledge and belief and has been prepared based upon a diligent search of all business and other records in its possession or control. Such application shall require the disclosure of information regarding the financial, contractual or employment relationships, if any, which may exist between such Applicant and any business engaged in the collection, removal or disposal of Solid Waste or a Predecessor Solid Waste Business. Any and all such relationships shall be indicated on the license or registration, if any, subsequently issued to such Applicant. Such application shall also require that the Applicant provide a business telephone number and a business address in the County of Westchester where notices may be delivered and legal process may be served, and where records which may be required pursuant to this Chapter or by the Commission shall be maintained, and the name of a person of suitable age and discretion who shall be designated as agent for the service of legal process. The

Applicant shall also specify its Federal or State tax identification number in each application submitted to the Commission. Each Applicant and Principal, and any other party which is required to comply with the disclosure requirements set forth in this Article, shall also be required to provide to the Commission all such releases as may be necessary for the Commission, or its designee, to verify all information disclosed, at the time of application submission.

b. All Applicants, except Applicants for Class “C-1” Licenses, and each Principal thereof, shall submit to fingerprinting and background investigation by the Commission or the Commission’s designee, at the Applicant’s sole cost and expense, and shall execute a written consent to such fingerprinting and criminal background check. At the Commission’s discretion, key employees, contractors and agents of the Applicant which serve the Applicant in a managerial capacity may also be required to submit to fingerprinting and background investigation at the Applicant’s sole cost and expense.

2. Upon the written request of an Applicant, the Commission shall supply the Applicant with appropriate applications for licensing or registration. The Commission shall also supply copies of this law and the County Source Separation Law to the Applicant. Upon submission by the Applicant, the Commission shall determine whether the application submitted is complete. If the Commission determines that the application is incomplete, it shall notify the Applicant in writing and shall list the insufficiencies of the application. If the Applicant does not submit the additional application materials within thirty (30) days of the date of the Commission’s notice of incomplete application, the Commission may deny the application. The Commission shall issue its final written determination as to each application no later than six (6) months after the date on which the Commission deems the application to be complete. Notwithstanding the above, the application process during the first effective year of this Chapter shall be governed by the Implementation procedures which are outlined in Article VIII. hereof.

3. An applicant shall have a continuing obligation to inform the commission within 10 days of any changes in the ownership composition of the applicant; the addition or deletion of any principal; the revocation and/or modification of any license or registration to haul solid waste and/or recyclables granted by the licensing authority of any federal, state or local jurisdiction, or the denial of an application for a license or renewal by a licensing authority of any such jurisdiction ; the arrest or criminal conviction of the applicant or any principal of the applicant; or any other material change in the information submitted on the application for the license or registration, which occurs subsequent to the making of the application or the issuance of the license or registration.

4. a. Notwithstanding any provision of this Chapter, the Commission may, at its discretion, require that such Applicant provide, within a reasonable time, any

additional information which the Commission may deem necessary, and may, after notice and the opportunity to be heard, refuse to license or register such Applicant for the reasons set forth in Section 826-a.400 of this Chapter.

b. At any time subsequent to the licensing or registration of any Applicant, the Commission may, at its discretion, require the provision, within a reasonable time, by a Licensee or Registrant of any additional information which the Commission may deem necessary.

Section 826-a.303. Application Requirements - Class A, Class B, Class C-2, Class D and Class L Licenses.

1. For the purpose of assisting the Commission in determining the good character, honesty and integrity of Applicants, all Applicants for Class A, Class B, Class C-2, Class D and Class L licenses must submit:

a. A list identifying all vehicles, by Vehicle Identification Number, owned, leased, operated or controlled by the Applicant which will be used in the collection, storage, transfer, transportation, processing or disposal of Solid Waste, garden and yard waste, construction and demolition debris, and/or Recyclables generated, originated or brought within the County. Applicants shall provide a copy of the state registration documentation for each such vehicle. Only those vehicles which are identified in conjunction with the application may be utilized by the Licensee pursuant to that license, unless subsequently approved in writing by the Commission.

b. The names of the Municipalities in Westchester County in which the Applicant presently conducts business, if applicable, and the quantities of Solid Waste, garden and yard waste, construction and demolition debris and/or Recyclables delivered during the previous year to each and every disposal, transfer, collection, storage or processing facility therefor. The Applicant shall list each disposal, transfer, collection, storage or processing facility that it has utilized during the prior year and all such facilities that is utilizing at the time of application or intends to utilize upon becoming licensed.

c. The following information: (i) a list of the names, dates of birth and home addresses of all Principals of the Applicant and of any manager or other person who has policy or financial decision-making authority in the business; (ii) a list of the names and job titles of all employees and prospective employees of the Applicant who are or will be engaged in the operation of the business; (iii.) the notarized Certificate of Business if a sole proprietorship; the partnership papers if a partnership; or the

Certificate of Incorporation if a corporation; and (iv) such other information as the Commission shall determine will properly identify such employees and prospective employees.

d. The following information:

(i.) a listing of the names and addresses of any person having a beneficial interest in the Applicant, and the amount and nature of such interest;

(ii.) a listing of the amounts in which both the Applicant and its Principals, personally, are indebted, including mortgages on real property, and the names and addresses of all persons to whom such debts are owed;

(iii.) a listing of the real property holdings or mortgage or other interest in real property held by such Applicant and by all Principals of such Applicant other than a primary residence and the names and addresses of all co-owners of such interest;

(iv.) a listing of mortgages, loans, and instruments of indebtedness held by such Applicant and by all Principals of such Applicant, the amount of such debt, and the names and addresses of all such debtors;

(v.) the name(s) and address(es) of any business in which such Applicant or any Principal of such Applicant holds an equity or debt interest, excluding any interest in publicly traded stocks and bonds, including any and all bank accounts. Applicant shall provide documentation of all such accounts as follows:

(1.) Passbook Savings Accounts - Applicant and its Principals shall provide a copy of name page and all pages of passbook, and shall highlight and explain all unusual deposits and withdrawals. If funds transferred into that account from another passbook account, provide a copy of name page and all other pages of such passbook going back two (2) years;

(2.) Checking and/or Cash Management Accounts - Applicant and its Principals shall provide copies of monthly statements going back two (2) years, and shall highlight and explain all unusual deposits or withdrawals;

(3.) Stock Accounts - Applicant and its Principals shall provide copies of broker statements going back two (2) years to prove ownership and reflect all purchases and sales;

(vi.) the names and addresses of all persons or entities from whom such Applicant and Principals of such Applicant has received gifts valued at more than one thousand (\$1,000) dollars in any of the past three years, and the name of all persons or entities, excluding any organization recognized by the Internal Revenue Service under Section 501(c)(3) of the Internal Revenue Code, to whom such Applicant has given gifts exceeding one thousand (\$1,000) dollars;

(vii.) a list of all criminal convictions, in any jurisdiction, of the Applicant and each of its Principals;

(viii.) a listing of all pending civil, criminal or administrative actions or proceedings to which such Applicant or any of its Principals is a party, including but not limited to, indictment and arrests;

(ix.) a listing of any determination by a federal, state or County regulatory agency of a violation by such Applicant or any of its employees or Principals of laws or regulations relating to the conduct of the Applicant's business where such violation has resulted in the suspension or revocation of a permit, license or other permission required in connection with the operation of such business or in a civil fine, penalty, settlement or injunctive relief in excess of threshold amounts;

(x.) a listing of any criminal or civil investigation by federal, state, or local prosecutorial agency, investigative agency or regulatory agency in the five year period preceding the application, wherein such Applicant or any of its Principals has (i.) been the subject of such investigation or (ii.) received a subpoena requiring the production of documents or information in connection with such investigation;

(xi.) a certification that the Applicant has paid all federal, state and local income taxes related to the Applicant's business for which the Applicant is responsible for three (3) years preceding the date of the application or documentation that the Applicant is contesting such taxes in a pending judicial or administrative proceeding;

(xii.) the name of any Solid Waste Association in which the Applicant or any Principal thereof is or has been a member or held a position and the time period during which such membership or position was held;

(xiii.) the names and addresses of the Principals of any Predecessor Solid Waste Business of the Applicant;

(xiv.) a listing of accounts held by the Applicant during the five (5) year period preceding the filing of an application for a license or registration pursuant to this Chapter, with banks, credit unions, brokerage firms, and similar entities, and of the amounts held therein in the form of an identification of range of dollar value;

(xv.) a listing of any bankruptcy proceedings in which Applicant or any Predecessor Solid Waste Business of Applicant, as such term is defined herein, was a debtor or any proceedings involving forfeiture, receivership, or independent monitoring in which Applicant or any Predecessor Solid Waste Business of Applicant was a party or participated in during the ten (10) year period preceding the filing of an application for a license or registration pursuant to this Chapter;

(xvi.) any documents or records concerning the acquisition, sale, assignment or loss of routes or customers by the Applicant during the ten (10) year period preceding the filing of the application for a license or registration pursuant to this Chapter;

(xvii.) such additional information concerning good character, honesty and integrity of the Applicant and the Principals and employees of the Applicant that the Commission may deem appropriate and reasonable. An Applicant may submit to the Commission any information or explanation which the Applicant believes demonstrates that any adverse information submitted as part of the application process does not accurately reflect upon the Applicant's good character, honesty and integrity;

(xviii.) a listing of any determination in any administrative, civil or criminal proceeding that the Applicant or Principal of the Applicant has violated any provision of this Chapter, any related order or determination of the Commission, any emergency regulation promulgated pursuant to this Chapter, a material condition of any license issued thereunder or any substantially similar statute, regulation, order or permit condition of the federal, New York State or other state government relating to the handling, storing, treating, disposing or transporting of solid, hazardous, infectious, medical or regulated waste as those terms may be defined under New York State Law, or that the Licensee has subcontracted work within Westchester County, which requires a license or registration under this Chapter, to an unlicensed or unregistered subcontractor;

(xix.) a certification that the Applicant or Predecessor Solid Waste Business, if applicable, has not been denied a license for the same or substantially similar activity based upon one or more of the provisions of this Chapter;

(xx.) a listing of any determination in a civil proceeding that the Applicant or any Principal or employee of the Applicant has committed a negligent or intentionally tortious act in relation to the handling, storing, treating, disposing or transporting of solid, hazardous, infectious, medical or regulated waste, as those terms may be defined under New York State law, or has been convicted in a criminal proceeding of a crime involving the handling, storing, treating, disposing or transporting of solid, hazardous, infectious, medical or regulated medical waste;

(xxi.) a listing of any conviction of the Applicant or any of its employees or Principals for racketeering in connection with the Solid Waste and recycling industry and of any association with a person who has been convicted for the referenced racketeering activity, including but not limited to the offenses listed in Section 1961(1.) of the Racketeer Influenced and Corrupt Organizations statute (18 U.S.C. § 1961 et seq.) or of an offense listed in subdivision one of Section 460.10 of the Penal Law, as such statutes may be amended from time to time, or the equivalent offense under the laws of any other jurisdiction;

(xxii.) a listing of any determination in an administrative, civil or criminal proceeding that the Applicant or any of its Principals or employees has violated any environmental law, including, but not limited to, the Federal Water Pollution Control Act (a/k/a the Clean Water Act), 33 U.S.C. Sections 1251 et seq.; the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. Section 8601 et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. Sections 6901 et seq.; the Oil Pollution Act 33 U.S.C. Sections 2701 et seq.; Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. Sections 136 et seq.; Toxic Substances Control Act, 15 U.S.C. Sections 2601 et seq.; the New York State Public Health Law; the New York State Environmental Conservation Law; the New York State Navigation Law; the Westchester County Source Separation Law; and the Westchester County Solid Waste and Recycling Collection Licensing Law;

(xxiii.) a listing of any adjudication by a court of competent jurisdiction that the Applicant has committed unfair trade practices or conduct in restraint of competition, including but not limited to

violation of the provisions of the Sherman Anti-Trust Act (15 U.S.C. §1, §2), the Clayton Act (15 U.S.C. § 18), the Robinson Patman Act (15 U.S.C. §12 et seq.), the Federal Trade Commission Act (15 U.S.C. §45 et seq.), Section 340 et seq. of the New York State General Business Law or equivalent violation of the laws of any other jurisdiction; and

(xxiv.) where the Applicant has purchased or otherwise acquired a Predecessor Solid Waste Business, or any part thereof, the Applicant must provide a listing of any persons, previously employed by or affiliated with the entity so acquired, which are to be retained by the Applicant, whether as an employee or independent consultant, or otherwise under any agreement, and shall specify the capacity in which such person shall serve the Applicant. The Commission may require that the Applicant provide any supplemental information which it may, in its discretion, require with regard to such persons.

e. Notwithstanding the foregoing, disclosure of information relating to the Principals and employees of any Applicant shall be limited to information relating to the activities or conduct of such Principal or employee in connection with the Applicant's business, the business of any Predecessor Solid Waste Business or the Solid Waste and recycling industry, except for the information required pursuant to subsections (d.)(vii.), (viii.), (x.), and (xiv.), above.

f. Applicants for Class L licenses must submit the names of the municipalities in Westchester County in which the applicant presently conducts business, if applicable, and the quantities of seasonal organic waste, including leaves, handled during the preceding year exclusively on behalf of the County and/or its local municipalities.

g. Notwithstanding anything contained herein to the contrary, Class L applications, including all required information and materials in connection therewith, must be received by the commission on or before July 15th of the year for which the Class L license is being requested in order to be considered.

2. Notwithstanding any other provision of this Chapter, for purposes of this section: (a.) in the case of an Applicant which is a regional subsidiary of or otherwise owned, managed by or affiliated with a business that has national or international operations, (i.) disclosure under this Section shall also be required of, and fingerprinting may be required of, any person not employed by the Applicant who has a direct managerial or supervisory responsibility for the operations or performance of this Applicant; and (ii.) the chief executive officer, chief operating officer and chief financial officer, or any person exercising comparable responsibility

and functions with regard to any regional subsidiary or of the equivalent in relation to such Applicant over which any person subject to fingerprinting and disclosure under item (i.) of this clause exercises similar responsibilities may be fingerprinted and shall submit the information required pursuant to subparagraphs (1.)(d.)(vii.) and (1.)(d.)(viii.) of this Section, as well as additional information pursuant to this paragraph as the Commission may find necessary; and (b.) the listing specified under subparagraph (1.)(d)(x.) of this Section shall also be provided for any regional subsidiary or similar entity of the national or international business for which fingerprinting and disclosure by Principal thereof is made pursuant to subsection (a.) of this Section.

3. In addition to the standards set forth in Section 826-a.400 of this Chapter, if an Applicant fails to provide the information, the fees and/or the certification required under this Section, the Commission may deny an Applicant a license.

4. The Applicant is required to submit a signed letter of certification that the Applicant has read and is familiar with the requirements of the license and the provisions of all laws enacted by the County to date which pertain to the collection, transportation and disposition of Solid Waste, yard waste, Construction and Demolition Debris and Recyclables including, but not limited to, this Chapter and the Westchester County Source Separation Law.

5. Upon payment of the license fee(s) and compliance with all other applicable requirements and the commission's determination that the applicant has met the standards outlined in Article IV, the commission will issue a license together with two decals for each vehicle covered under the license. The decals issued shall be securely fastened and conspicuously displayed on both the driver side and passenger side doors of each vehicle for which they are issued, according to the directions of the commission. The license shall be securely fastened and conspicuously displayed in the principal office or location where the licensee conducts business. Copies of the license shall be conspicuously displayed at any other office or location where the licensee conducts business in the county.

6. The Applicant may be required to submit to investigations by or on behalf of the Commission with respect to the qualifications of the Applicant and with regard to the verification of information provided by the Applicant in any application submitted pursuant to this Chapter. The Applicant shall cooperate with any such investigation by submitting to any requested interviews and submitting any documents requested by the Commission in a timely manner, and shall, upon demand of the Commission, pay to the Executive Director an amount to be determined by the Commission as sufficient to reimburse the Commission for the costs of any such investigation. The failure to cooperate with the investigations provided for in this Section, or to provide such funds for investigation, may be considered grounds for denial of the license or registration application.

7. Applications to modify any existing license shall follow the same procedures required for an application for a license, except that the Commission shall require only that the Licensee supplement information not supplied in the original license application and to pay fees only for any collection vehicles in addition to those for which fees were paid under the original license.

Section 826-a.304. Application Requirements - Class C-1 and Class E Licenses.

1. For the purpose of assisting the Commission in determining the good character, honesty and integrity of Applicants, any Applicant which intends to operate as a Class C-1 or Class E Licensee must submit the following information:

a. A list identifying all vehicles, by Vehicle Identification Number, owned, leased, or controlled by the Applicant which will be used in the collection, storage, transfer, transportation, processing or disposal of construction and demolition debris or scrap waste generated, originated or brought within the County. Applicant shall provide a copy of the state registration documentation for each such vehicle. Only those vehicles which are identified in conjunction with the application may be utilized by the Licensee pursuant to that license, unless subsequently approved in writing by the Commission.

b. The names of the Municipalities in Westchester County in which the Applicant presently conducts business, if applicable, and the quantities of construction and demolition debris and/or scrap waste delivered during the previous year to each and every disposal, transfer, collection, storage or processing facility. The Applicant shall list each disposal, transfer, collection, storage or processing facility that it has utilized during the prior year and all such facilities that is utilizing at the time of application.

c. All applications shall include (i.) a list of the names, dates of birth and home addresses of all Principals of the Applicant and of any manager or other person who has policy or financial decision-making authority in the business; and (ii.) a list of the names and job titles of all employees and prospective employees of the Applicant who are or will be engaged in the operation of the Solid Waste business; (iii.) such other information as the Commission shall determine will properly identify such employees and prospective employees.

2. In addition to the standards set forth in Article IV. of this Chapter, if an Applicant fails to provide the information and the certification required under this Section, the Commission may deny an Applicant a license.

3. The Applicant is required to submit a signed letter of certification that the Applicant has read and is familiar with the requirements of the license and the provisions of all laws enacted by the County to date which pertain to the collection, transportation and disposition garden and yard waste and scrap waste including, but not limited to, this Chapter and the Westchester County Source Separation Law.
4. Upon payment of the license fee(s) and compliance with all other applicable requirements and the commission's determination that the applicant has met the standards outlined in Article IV, the commission will issue a license together with two decals for each collection vehicle covered under the license. The decals issued shall be securely fastened and conspicuously displayed on both the driver side and passenger side doors of each vehicle for which they are issued, according to the directions of the commission. The license shall be securely fastened and conspicuously displayed in the principal office or location where the licensee conducts business. Copies of the license shall be conspicuously displayed at any other office or location where the licensee conducts business in the county.
5. Applications to modify any existing license shall follow the same procedures required for an application for a license, except that the Commission shall only require a Licensee to supplement information not supplied in the original license application and to pay fees only for any collection vehicles in addition to those for which fees were paid under the original license.

Section 826-a.305. Application Requirements - Solid Waste Broker Registration.

1. The application for registration as a Solid Waste Broker shall be signed by all persons participating directly or indirectly in the control of the Applicant. The application shall be certified under penalty of criminal prosecution.
2. For the purpose of assisting the Commission in determining the good character, honesty and integrity of Applicants, all Applicants for registration as Solid Waste Brokers shall provide the following information:
 - a. The names and addresses of all Principals of the Applicant and a description of the position occupied or ownership interest held by each such Principal;
 - b. If such Applicant is doing business under an assumed name, Applicant shall provide a Certificate of Assumed Name, or its equivalent, certified by the County Clerk if a sole proprietorship or partnership or by the Secretary of State if a corporation;
 - c. The notarized Certificate of Business if a sole proprietorship; the partnership papers if a partnership; or the Certificate of Incorporation if a corporation;

d. A business telephone number and a business address in the County of Westchester where notices may be delivered and legal process may be served, and where the records required by this Chapter are maintained, and the name of a person of suitable age and discretion who shall be designated as agent for the service of legal process;

e. A Federal or State tax identification number;

f. Where any Principal of an Applicant holds, or has held at any time in the ten (10) years preceding the date of application, a license for Solid Waste removal in the County of Westchester, a listing of such license number(s);

g. Where any Principal of an Applicant is, or has been at any time during the ten (10) years preceding the date of application, a Principal of a Solid Waste business required to be licensed in the County of Westchester, a listing of such Solid Waste removal business(es) and the nature of the involvement of such Principal in each such business;

h. A listing of any contractual or other business relationship, at any time during the ten (10) years preceding the date of application, between the Applicant business and a Solid Waste removal business required to be licensed pursuant to this Chapter or the former Chapter 826, as repealed by this Chapter;

i. A listing of any criminal convictions of the Applicant or its Principals;

j. A listing of any pending civil or criminal actions with respect to the Applicant or its Principals in any jurisdiction; and

k. A listing of any suspensions or revocations of licenses, registrations or permits held by the Applicant for the removal or recycling of Solid Waste in any jurisdiction or any judgments or orders finding liability of the Applicant in a civil or administrative action related to the conduct of a business that removes or recycles Solid Waste, a Solid Waste broker business or the operation of a dump, landfill or transfer station.

3. Following receipt of the application materials and all materials required to be disclosed pursuant thereto, the Commission may require that the Applicant provide supplemental information as the Commission may deem necessary.

4. The Applicant is required to submit a signed letter of certification that the Applicant has read and is familiar with the requirements of the registration and the provisions of all laws enacted by the County to date which pertain to the collection, transportation and disposition of Solid Waste and Recyclables including, but not limited to, this Chapter and the Westchester County Source Separation Law.

5. Upon payment of the registration fee(s) and compliance with all other applicable requirements and the Commission's determination that the Applicant has met the standards outlined in Article IV., the Commission will issue a registration. The registration shall be securely fastened and conspicuously displayed in the Principal office or location where the Registrant conducts business. Copies of the registration shall be conspicuously displayed at any other office or location where the Registrant conducts business in the County.

Section 826-a.306. Fees.

1. a. For Applicants for Class A, Class B, and Class C-2 licenses, the application fee shall be: \$ 350 per Applicant, plus \$350 per principal thereof. These fees may be modified by the Commission pursuant to Section 826-a.202(2) of this Chapter, any time after the first anniversary of the Effective Date of this Chapter.

b. The application fees do not include the cost of standard background investigations, the cost of which shall be borne solely by the Applicant as set forth in Section 826-a.202(2)(b.), and shall be submitted by the Applicant along with the basic application fee. Such investigational fees shall be specified in the application document.

c. The investigational fees to be submitted at the time of application, as referenced in subsection (b.), above, is intended to cover the costs of a standard background investigation only. In the event that it shall become necessary, in the Commission's reasonable discretion, to require the production of supplemental or additional information from the Applicant, or to undertake a more comprehensive investigation of the Applicant, the Applicant shall bear all costs of the additional investigation Applicant as set forth in Section 826-a.202(2)(b.).

d. The application and investigation fees for Class C-1, Class D and Class E licensees and for solid waste brokers shall be determined by the commission within 110 days of the effective date, hereof, and for Class L licensees within 45 days of the effective date, hereof.

2. a. The annual fee for Class A, Class B and Class C-2 Licenses issued pursuant to this Chapter shall be as follows: One Thousand (\$1,000) Dollars, plus an additional One Thousand (\$1,000) Dollars for each collection vehicle to be operated by a Class A Licensee in connection with the licensed activities, plus an additional One Thousand (\$1,000) Dollars for each collection vehicle to be operated by a Class C-2 Licensee in connection with the licensed activities, plus an additional Five Hundred (\$500) Dollars for each collection vehicle to be operated by a Class B Licensee in connection with the licensed activities. The annual fee for Class C-1 and Class E licenses issued pursuant to this chapter shall be as follows: \$100.00, plus an additional \$100.00 for each collection vehicle to

be operated by a Class C-1 licensee in connection with the licensed activities, plus an additional \$100.00 for each collection vehicle to be operated by a Class E licensee in connection with the licensed activities. In consideration of the seasonal timeframe, which is limited to the months of October, November, December and January, the annual fee for Class L licenses issued pursuant to this chapter shall be \$400.00, plus an additional \$400.00 for each collection vehicle to be operated in connection with the licensed activities. The aforementioned fees may be modified by the commission pursuant to section 826-a.202 2. of this chapter.

b. In addition to the fees specified above, any licensee which owns, leases, operates or controls a transfer station which processes materials, including without limitation solid waste and/or recyclables shall pay an annual transfer station operators fee which shall be equal to \$20,000.00 per transfer station operated, less any applicable credit issued by the Commission pursuant to subsection c below.

c. (i) In the interest of managing the level of solid waste generated and collected within the county's borders and encouraging recycling and/or re-use of materials, the transfer station fee specified in subsection b. above shall be reduced in proportion to the percentage of materials re-used and/or recycled by a transfer station in relation to the amount of materials processed by that transfer station, as follows:

- \$7,500.00 reduction for 76% to 100% materials re-used and/or recycled.
- \$3,500.00 reduction for 51% to 75% materials re-used and/or recycled.
- \$2,000.00 reduction for 31% to 50% materials re-used and/or recycled.
- \$1,000.00 reduction for 21% to 30% materials re-used and/or recycled.
- \$500.00 reduction for 11% to 20% materials re-used and/or recycled.
- \$0.00 reduction for 0 to 10% materials re-used and/or recycled.

(ii) For purposes of this section 826-a.306 (2)(c) the phrase "the percentage of materials re-used and/or recycled by a transfer station" shall mean the percentage of materials separated for re-use or reintroduction into economic markets for alternate uses, where such markets exist and are identified by the licensee in its reports required under section 826-a.500 hereof.

(iii) Upon timely receipt of a licensee's reports, the commission shall in its sole and reasonable discretion make the determination as to whether and to what extent a reduction of the transfer station fee is warranted. In making this determination the commission may consider among other things, regulations and guidance issued by the New York State Department of Environmental Conservation, the United States Environmental Protection Agency and any other applicable statutory and/or regulatory source. The licensee shall provide any additional information required by the commission to substantiate the percentage

of materials re-used and/or recycled. The commission's determination shall be final.

(iv) Reductions to be made in applicable transfer station fees, pursuant to this section 826-a.306(c), for a given year shall be based upon the percentage of materials re-used and/or recycled by the transfer station in the previous year.

(v) The credits outlined herein shall not be available to transfer stations and final disposal sites owned by the County or any County district including, but not limited to, Refuse Disposal District No. 1, and/or operators thereof

d. In addition to the fees specified above, any Licensee which owns, leases, operates or controls a facility, located in Westchester County, which is deemed to be a final solid waste disposal site shall pay an annual fee which shall be equal to Fifty Thousand (\$50,000) Dollars per facility operated.

e. The fees referenced above may be modified by the Commission pursuant to Section 826-a.202(2) of this Chapter, any time after the first anniversary of the Effective Date of this Chapter.

f. The aforementioned transfer station fees shall not apply to transfer stations owned exclusively by a Municipality.

ARTICLE IV.
STANDARDS FOR APPLICATION DENIAL, SUSPENSION, REVOCATION,
NON-RENEWAL, DENIAL OF MODIFICATION OR OTHER ACTION
AGAINST THE PRIVILEGES OF A LICENSEE OR REGISTRANT

Section 826-a.400. Standards for Refusal to Issue a License or Registration.

1. The Commission may, after notice and the opportunity to be heard, refuse to issue a license or registration to an Applicant who lacks good character, honesty and integrity. Such notice shall specify the reasons for such refusal.

2. In making the determination to refuse to issue a license or registration, the Commission, may consider, but is not limited to:

a. failure by such Applicant or any of its Principals to provide truthful information in connection with the application or the failure of the Applicant or any of its Principals to provide truthful information in connection with any duty outlined in this Chapter;

b. a pending indictment or criminal action against such Applicant for a crime which under this Article would provide a basis for the refusal to issue such license or registration, or a pending civil or administrative action to which such Applicant, or any Principal of such Applicant, is a party and which directly relates to the fitness to conduct the business or perform the work for which the license or registration is sought. Notwithstanding any other provisions of this Chapter to the contrary, in lieu of refusing to issue a license or registration, the Commission may defer consideration of an application until such time as a decision has been reached by the court or administrative tribunal before which such indictment, criminal or civil action is pending;

c. conviction of such Applicant, or any Principal of such Applicant, for a crime which would provide a basis under Section 753 of the Correction Law for the refusal to issue such license or registration;

d. a finding of liability against an Applicant or any Principal of such Applicant in a civil or administrative action that bears a direct relationship to the fitness of the Applicant or any of its Principals to conduct the business for which the license or registration is sought;

e. association with a person known to the Applicant or any of its Principals to have been convicted of racketeering activity, including but not limited to the offenses listed in Section 1961(1.) of the Racketeer Influenced and Corrupt Organizations statute (18 U.S.C. § 1961 et seq.) or of an offense listed in subdivision one of Section 460.10 of the Penal Law, as such statutes may be amended from time to time, or the equivalent offense under the laws of any other jurisdiction;

f. association by the Applicant or by any of its Principals with any member or associate of an organized crime group which has a connection to the Solid Waste or recycling industry or to any activity for which a person is required to be licensed or registered pursuant to this Chapter, as previously identified by a federal, state, city or county law enforcement or investigative agency, when the Applicant knew or should have known of the organized crime associations of such person;

g. having been or being a Principal in a Predecessor Solid Waste Business as such term is defined in this Chapter where the Commission has denied or has revoked a license or registration; or would have been authorized to deny or revoke a license or registration to such Predecessor Solid Waste Business pursuant to this subdivision;

h. current membership in or holding a position in a Solid Waste Association where such membership or position would be prohibited pursuant to Section 826-a.402 unless the Commission has determined, pursuant to this subdivision, that such association does not operate in a manner inconsistent with the purposes of this Chapter;

i. failure of the Applicant or any Principal of the Applicant to pay any tax, fine, penalty, or fee related to the business of the Applicant for which liability has been admitted by the person liable therefor, or for which judgment has been entered by a court or administrative tribunal of competent jurisdiction; or

j. failure of the Applicant to respond to the Commission's inquiries within a reasonable period of time.

3. The Commission may refuse to issue a license or registration where the Applicant, or any Principal of the Applicant, has knowingly failed to provide the information and/or documentation required by the Commission pursuant to this Chapter, or who has otherwise failed to demonstrate eligibility for such license or registration under this Chapter.

4. The Commission may refuse to issue a license or registration to an Applicant when such Applicant or any Principal of the Applicant (a.) was previously issued a license, registration or other Solid Waste permit pursuant to this Chapter or the former Chapter 826 and such license, registration or permit was revoked pursuant to the provisions of this Chapter or revoked or not renewed pursuant to the provision of such former Chapter 826 or any rules promulgated thereto; or (b.) was previously denied a license or registration pursuant to this Chapter or the former Chapter 826 within the past eighteen (18) months; or (c.) has been determined to have committed any of the acts which would be a basis for the suspension or revocation of a license or registration pursuant to this Chapter.

Section 826-a.401. Standards for Suspension, Revocation, Non-renewal, Modification or Other Action Against The Privileges of a Licensee or Registrant.

1. The Commission may, subject to Section 826-a.602 of this Chapter and consistent with Articles Twenty-Three and Twenty-Three-A of the New York State Correction Law and the provisions of this Article, deny renewal of a license, revoke or suspend a license or take appropriate action against the privileges of a Licensee or a Registrant, including but not limited to, a modification of its terms over the objection of the Licensee or Registrant, when the Licensee or Registrant and/or any of its Principals, employees and/or agents:

a. have been found by a court or an administrative tribunal of competent jurisdiction, or by the Commission itself, to have violated any provision of this Chapter, or of the former Chapter 826, any related order or determination of the Commission, a material condition of any license or registration issued thereunder or any substantially similar statute, regulation, order or license or registration condition of any federal, New York state or other local government;

b. have been found by a court or an administrative tribunal of competent jurisdiction, or by the Commission itself, to have subcontracted work within Westchester County to an unlicensed

subcontractor, where such work requires a license pursuant to this Chapter;

c. have been found by a court or an administrative tribunal of competent jurisdiction, or by the Commission itself, to have committed a negligent or intentionally tortious act in relation to the handling, storing, treating, disposing or transporting of solid, hazardous, infectious, medical or regulated waste, as those terms may be defined under New York State law, or has been convicted in a criminal proceeding of a crime involving the handling, storing, treating, disposing or transporting of solid, hazardous, infectious, medical or regulated medical waste;

d. have been found by a court or an administrative tribunal of competent jurisdiction, or by the Commission itself, to have committed any act which in the judgment of the Commission has an adverse impact on a Licensee's or Registrant's ability or fitness to perform any licensed activity;

e. have been found by a court or an administrative tribunal of competent jurisdiction, or by the Commission itself, to have committed practices or conduct in restraint of competition, including but not limited to violation of the provisions of the Sherman Anti-Trust Act, the Clayton Act, the Robinson Patman Act, the Federal Trade Commission Act, Section 340 et seq. of the New York State General Business Law or equivalent violation of the laws of any other jurisdiction;

f. have been found by a court or an administrative tribunal of competent jurisdiction, or by the Commission itself, to have repeatedly failed to obey lawful orders of any person authorized by this Chapter to enforce the provisions hereof;

g. have been found by a court or an administrative tribunal of competent jurisdiction, or by the Commission itself, to have failed to pay, within the time specified by the Commission, a court, or an administrative tribunal of competent jurisdiction, any fines or civil penalties imposed pursuant to this Chapter;

h. have been found by a court or an administrative tribunal of competent jurisdiction, or by the Commission itself, to have been in persistent or substantial violation of any local, state or federal law, rule or regulation regarding the handling of solid waste or recyclables, or laws prohibiting deception, unfair, or unconscionable business practices;

i. have been found by a court or an administrative tribunal of competent jurisdiction, or by the Commission itself, to lack good character, honesty and integrity, after consideration of the factors set forth in Section 826-a.400 of this Chapter, in relation to an investigation conducted pursuant to this Chapter;

j. have been found by a court or an administrative tribunal of competent jurisdiction, or by the Commission itself, to have made any false statement or any misrepresentation as to a material fact in the application or accompanying papers upon which the issuance of such license or registration was based or in any other document submitted pursuant to any on-going reporting duty under this Chapter;

k. are convicted of a crime which would provide a basis under Section 753 of the Correction Law for the Commission's refusal to issue a license and/or registration;

l. associates with a person known to the licensee or registrant or any of its Principals to have been convicted of racketeering activity, including but not limited to the offenses listed in Section 1961(1.) of the Racketeer Influenced and Corrupt Organizations statute (18 U.S.C. § 1961 et seq.) or of an offense listed in subdivision one of Section 460.10 of the Penal Law, as such statutes may be amended from time to time, or the equivalent offense under the laws of any other jurisdiction;

m. Licensee or registrant, or by any of its principals, associates with any member or associate of an organized crime group which has a connection to the solid waste or recycling industry or to any activity for which a person is required to be licensed or registered pursuant to this chapter, as previously identified by a federal, state, city or county law enforcement or investigative agency, when the [applicant] licensee or registrant knew or should have known of the organized crime associations of such person;

n. Licensee or registrant, or any principal thereof, fails to pay any tax, fine, penalty, or fee related to the business of the licensee or registrant for which liability has been admitted by the person or entity liable therefor, or for which judgment has been entered by a court or administrative tribunal of competent jurisdiction; or

o. Licensee or registrant fails to respond to the commission's inquiries within a reasonable period of time.

2. In making the decision as to the effective date of a suspension or revocation, except in the case of an emergency suspension order, or in taking any other action against the privileges of a Licensee or Registrant, the Commission shall provide adequate time for the customers of a Licensee or Registrant to find alternative service providers if its decision would cause such customers' services to be interrupted or terminated.

Section 826-a.402. Conduct of Licensees and Registrants: Record Keeping; Service Contracts; Labeling of Containers; Labeling of Vehicles; Complaints.

1. All Licensees and Registrants shall maintain audited financial statements, records, ledgers, receipts, bills and such other written records as the Commission shall determine are necessary or useful for carrying out the purposes of this Chapter. Such records shall be maintained for a period of time of not less than five (5) years, provided however, that the Commission may, in specific instances and in its sole discretion, require that records be retained for a period of time exceeding five (5) years. In those instances where the Commission shall require that such records shall be maintained for an extended period, the Commission shall notify the Licensee or Registrant of same, in writing. Such records shall be made available for inspection and audit by the Commission upon the Commission's request at either place of business of such Licensee or Registrant or at a location within Westchester County designated by the Commission.

2. All Licensees and Registrants shall be required to maintain compliance with all applicable state, federal, and Local Laws, ordinances, rules and regulations pertaining to the collection, removal and disposal of Solid Waste and Recyclables for the duration of any term of the license or registration issued pursuant to this Chapter.

3. a. All Licensees, and any Registrant if applicable, shall enter into written Service Contracts for the collection, hauling and disposal of Solid Waste and Recyclables with all residential and non-residential customers, including those Municipalities which provide for the collection, hauling and disposal of residential Solid Waste and/or Recyclables. The Licensee shall comply with all provisions of such Service Contracts including, where applicable, the terms relating to the agreed-upon time, place and frequency of the collection of waste.

b. All Registrants shall enter into written Service Contracts with all customers where the Registrant is conducting activities on behalf of such customer for which registration is required pursuant to this Chapter. All such Service Contracts must be easily readable, in plain understandable language, and clearly labeled "Contract for Solid Waste Services" or "Service Contract."

c. All Service Contracts shall contain the following provisions to which all Licensees shall adhere, which cannot be waived by agreement and which shall be memorialized in each such Service Contract under the heading entitled "Customer Bill of Rights," which shall take the following form:

**"CUSTOMER BILL OF RIGHTS
CONTRACT FOR SOLID WASTE SERVICES**

between _____
"Service Provider"
and _____
"Customer"

Pursuant to Section 826-a.402(3)(c) of the Laws of Westchester County, the Customer shall be entitled to the following rights which cannot be waived:"

1. This Service Contract shall not exceed (2) years in duration unless the Customer is a Municipality which, after establishing good cause for such waiver, has received a formal waiver of the contract term limit from the Commission.
2. A Service Contract which provides for automatic renewal shall be terminable by the Customer, without penalty, on thirty (30) days written notice to the Service Provider at any time during any renewal term of the Service Contract.
3. The Customer shall not be required to give the Service Provider more than (30) days notice of its intent to exercise its option to terminate or its option to renew an existing Service Contract prior to the expiration of such existing Service Contract.
4. All Service Contracts shall be terminable by the Customer, without penalty, during the final thirty (30) days of any regular Service Contract term or for the thirty (30) day period following any and all proposals made to a Customer by the Service Provider with whom the Customer currently contracts, where such proposal includes a proposal for a new Service Contract which will commence prior to the end of the regular term of the existing Service Contract.
5. Any notice of Service Contract termination from the Service Provider to the Customer shall be in writing, unless otherwise specifically requested by the Customer.
6. Any notice of Service Contract termination from the Customer to the Service Provider may be made by the Customer or the Customer's Agent either: (i.) in writing by facsimile or regular mail; or (ii.) orally by a telephone call to the Service Provider's office.
7. In the event that the Service Provider's license or registration to provide solid waste services is suspended or revoked by the Westchester County Solid Waste Commission, the Service Provider shall notify the Customer, in writing, within (5) business days of the suspension or revocation.
8. A Customer who is notified, by the Service Provider or otherwise, of the suspension or revocation of its Service Provider's license or registration may, immediately and without penalty, terminate this Service Contract.

9. In the event of Service Contract termination prior to the end of any regular contract term, the Service Provider shall not require the Customer to pay liquidated damages.
10. The Customer shall not be required to inform the Service Provider of competitive offers which it may receive for the removal, collection or disposal of refuse and recyclable materials.
11. The Customer shall not be required to give the Service Provider an opportunity to match the terms of any competitive offer which may be made to a Customer by any potential competitor.
12. The Customer shall not be required to contract exclusively with the Service Provider named herein for the removal of the Customer's refuse and recyclable materials. However, a municipal Customer may request such an exclusivity provision in its Service Contracts pursuant to its procurement policy.
13. The Service Provider herein shall not discontinue service to the Customer unless at least thirty (30) days advance written notice has been given to such Customer.
14. The Service Provider shall give the Customer no less than (i.) thirty (30) days advance written notice of proposed rate increases or (ii.) sixty (60) days notice of subcontracting or contract assignment. Upon receipt of such written notice, a Customer may terminate its Service Contract, without penalty, by giving fourteen (14) days notice to the Service Provider. Such notice may be given by the Customer at any time prior to the commencement of the rate increase or the implementation of the assignment or subcontracting.
15. The Service Provider shall promptly provide the Customer with any and all informational notices which the Westchester County Solid Waste Commission may develop or prescribe.
16. In the event that the Service Provider herein shall fail to comply with any of the requirements provided in Paragraphs 1-15, above, in connection with this Contract for Solid Waste Services, or shall integrate provisions into this Service Contract which impairs the Customer's rights as outlined in Paragraphs 1-15, above, the Customer shall be entitled to, immediately and without penalty, terminate this Service Contract. In the event that the Customer believes that such a failure to comply has occurred, the Customer is urged to consult with the Westchester County Solid Waste Commission in order to clarify the Customer's rights and obligations pursuant thereto.
17. All Customers have the right and are encouraged to contact the Westchester County Solid Waste Commission to register a complaint against a Service Provider in the event that the Service Provider (a.) fails to provide the services as agreed under the Service Contract, (b.) fails to comply with the requirements outlined in this Customer Bill of Rights or (c.) engages in any of the following prohibited practices:
 - (i.) Makes a false or misleading statement to the Customer or a prospective Customer;
 - (ii.) Threatens or attempts to intimidate a Customer or a prospective Customer;
 - (iii.) Imposes or attempts to impose liquidated damages upon a Customer for termination of a Service Contract;

- (iv.) Retaliates against a Customer or prospective Customer that has made a complaint to the Westchester County Solid Waste Commission or has exercised or attempted to exercise a right under Chapter 826-a of the Laws of Westchester County; or
- (v.) Discourages a Customer or prospective Customer, who has a question or inquiry concerning the Customer's or the prospective Customer's rights or obligations concerning solid waste, from contacting the Westchester County Solid Waste Commission."

4. No Licensee or Registrant or Principal thereof shall be a member or hold a position in any Solid Waste Association; (i.) where such association, or a predecessor thereof as determined by the Commission, has violated state or federal antitrust statutes or regulations, or has been convicted of a racketeering activity or similar crime; (ii.) where a person holding a position in such Solid Waste Association, or a predecessor thereof as determined by the Commission, has violated state or federal antitrust statutes or regulations, or has been convicted of a racketeering activity or similar crime; (iii.) where a person holding a position in such Solid Waste Association, or a predecessor thereof as determined by the Commission, is a member or associate of an organized crime group as identified by a federal, state or city law enforcement or investigative agency; and (iv.) where the Solid Waste Association has failed to cooperate fully with the Commission in connection with any investigation conducted pursuant to this Chapter. The Commission may determine, for purposes of this subdivision, that a Solid Waste Association is a predecessor of another such Solid Waste Association by finding that transfers of assets have been made between such associations or that all or substantially all of the persons holding positions in the two associations are the same. A Licensee or Registrant shall be in violation of this paragraph when the Licensee or Registrant knows or should have known of a violation, conviction, association with organized crime or failure to cooperate as set forth herein.

5. Labeling of containers.

a. Any container(s) provided by a licensee for the collection, transportation and/or storage of solid waste and/or recyclables within Westchester County, shall be prominently labeled with the licensee's company name and phone number, along with the accurate true measurement of the volume of the container's capacity in Arabic numerals and followed by the indication "cu. yd." when the volume of the container is measured in cubic yards or "gal." when the volume of the container is measured in gallons.

b. For the purposes of this section, a container is defined as any receptacle that is used for the collection, transportation and/or storage of solid waste and/or recyclables and which is not generally disposed of after such use.

6. Labeling of vehicles.

Any vehicle(s) used by a licensee to haul solid waste and/or recyclables into, out of or within Westchester County shall be prominently labeled with the licensee's company name and phone number.

7. Investigation of Complaints.

a. The Commission may conduct an investigation into any complaint alleging that a Licensee or Registrant has violated any provision of this Chapter, or does not meet the standards for licensing or registration as set forth in this Chapter.

b. Where the Commission determines that evidence exists to support a complainant's allegations that a violation of this Chapter has occurred, the Commission may impose penalties designed to redress the injury to the complainant, the customers of such Licensee or Registrant, or any other person who the Commission determines has been injured by such violation(s), and shall in addition impose the penalties as provided in Article VI. of this Chapter. Prior to the imposition of the penalties outlined herein, the Licensee or Registrant shall be entitled to a hearing pursuant to Section 826-a. 602 of this Chapter.

c. Any resolution of a complaint by a complainant prior to a hearing or proceedings on the complaint shall be submitted by the Licensee or Registrant to the Commission for its review and approval. The resolution shall be in writing and signed and notarized by all parties to the proceedings. Where the Commission disapproves such a resolution, the Commission may continue to seek penalties regarding any violation by the Licensee or Registrant underlying the complaint as provided above.

Section 826-a.403. Assignment of Service Contracts; Subcontracting of Services.

1. A Licensee or Registrant who arranges for the provision of services by a subcontractor or an assignee for the removal, collection or disposal of Solid Waste, or for Solid Waste brokering services related thereto, shall give notice of such subcontracting or assignment to all customers of the Licensee or Registrant who will be required to utilize the services of such subcontractor or assignee, or whose services will otherwise be impacted by such subcontracting or assignment, prior to the provision of services by such subcontractor or assignee. Such notification of subcontracting or assignment shall be upon a form prescribed by the Commission, and shall be made by certified mail, with the receipt of delivery thereof maintained by the Licensee or Registrant.

2. No subcontracting or assignment of services by the Licensee or Registrant shall eliminate any obligation on the part of such Licensee or Registrant to maintain compliance with the provisions of this Chapter.

Section 826-a.404. Mergers, Acquisitions & Sales of Licensed or Registered Entities.

1. A Licensee or Registrant shall apply for review of a proposed purchase, sale or merger transaction by the Commission before acquiring, selling or merging with another business no later than ninety (90) days before such acquisition, sale or merger is to take effect. Such review shall, at a minimum, include a determination by the Commission as to whether such transaction may have a substantial impact on the Westchester County operations of the Licensee or Registrant in accordance with the purposes of this Chapter. If such a determination is made, fingerprinting and background investigation of non-licensed or non-registered entities in the transaction and the Principals of such entities will be conducted. After such review, the Commission may issue any order with respect to the transaction consistent with the purposes of this Chapter. The Commission may, in its reasonable discretion, require that either the purchaser or seller post a bond or place money in escrow with the Commission in an amount that the Commission believes, in its discretion, is needed to cover any outstanding or potential fines or penalties owed or that may be owed to the Commission, any complaints that have been heard pursuant to this Article of this Chapter in regard to which a final determination has not been rendered, and any restitution ordered by the Commission which the selling or dissolving Licensee or Registrant has failed to make to a complainant. In the event that the seller fails to post such bond or place money in escrow as set forth in this paragraph, the Commission may seek from the purchaser any and all outstanding fines or penalties for violations of this Chapter, and any outstanding restitution.

2. The fee for investigation and review of any proposed asset sale, assignment of contract, merger, acquisition, or similar transaction, shall be determined by the Commission. After submission to the Commission of an appropriate request for review of such a transaction, the Commission shall notify the parties to the transaction of the total fee amount due and owing, which shall be paid in full within ten (10) days after such notification. The Commission, in its discretion, may waive or reduce fees upon written request based upon one or more of the following :

a. Specified persons or entities have recently undergone complete background investigations by the Commission;

b. The value of the transaction under review is minimal;

c. Specified persons or entities need not undergo background investigations because of their attenuated connection to the transaction;

d. The transaction does not involve the sale, assignment, or other transfer of any account or customer contracts (e.g. trucks or other non-customer assets);

- e. The transaction involves less than 5 customers; or
- f. The transaction involves unique characteristics or other mitigating factors that would warrant a reduction or waiver of fees.

Section 826-a. 405. Prohibited Practices.

1. In addition to any other standard or prohibition set forth in this Article, a Licensee or Registrant, or any Principal or employee thereof shall not :
 - a. Violate or fail to comply with an applicable provision of this Chapter;
 - b. Associate with a person whom such person knows or should know is a member or associate of an organized crime group (a person who has been identified by a federal, state, or local law enforcement agency as a member or associate of an organized crime group shall be presumed to be a member or associate of an organized crime group);
 - c. Refuse to answer any reasonable inquiry from the Commission;
 - d. Make a false or misleading statement to the Commission;
 - e. Make a false or misleading statement to a customer or prospective customer;
 - f. Threaten or attempt to intimidate a customer or prospective customer;
 - g. Impose or attempt to impose liquidated damages upon a customer for termination of a Service Contract;
 - h. Retaliate against a customer or prospective customer that has made a complaint to the Commission or has exercised or attempted to exercise a right under this Chapter;
 - i. Engage in a deceptive trade practice;
 - j. Discourage a customer or prospective customer who has a question or inquiry concerning the customer or prospective customer's rights or obligations concerning solid waste from contacting the Commission;
 - k. Request, participate in, or comply with, a resolution, consideration, hearing, mediation or adjudication by a trade association or any person holding a position in a trade association concerning a dispute between two or more licensees or solid waste removal businesses relating to a customer, route or stop;

- l. Pay any money to a trade association or any person holding a position in a trade association for any activity relating to a sale, purchase, acquisition, or loss of a customer, route, or stop;
- m. Falsify any business record;
- n. Make, file, or submit a false statement or claim to a government agency or employee;
- o. Violate any law concerning payments to labor unions or labor representatives;
- p. Give or offer any money or other benefit to an official or employee of a private business with intent to induce that official or employee to engage in an unethical or illegal business practice;
- q. Give or offer any money or other benefit to any public employee whose duties relate in any way to contracting with or regulating the solid waste or recyclables industry with the exception of funds that must be paid in accordance with a statute, rule, agency order, or court order;
- r. Solicit business from a customer for any person who, or entity that, provides goods or services related to the removal, collection or disposal of solid waste and is not licensed by, or registered with, the Commission;
- s. Agree with another solid waste business to divide or allocate customers or respect an existing division or allocation of customers by geography, territory or otherwise;
- t. Agree upon, with another private hauler, the prices to be submitted on a bid for a solid waste contract;
- u. Fail to timely pay taxes related to a solid waste business;
- v. Operate a transfer station in violation of any federal, state, or local law or regulation;
- w. Fail to properly display the required decals on both the driver side and passenger side doors of each vehicle[s] operated by the Licensee or Registrant;
- x. Attempt to or conspire to engage in any act proscribed by this section;
or
- y. Fail to comply with the Service Contract requirements outlined in Section 826-a.402(3)(c) hereof.

2. Failure of the Licensee or Registrant to comply with any of the provisions of this Chapter shall act as an affirmative defense for any customer in an action to enforce that customer's Service Contract.

3. Where the Licensee or Registrant engages in any action which is identified as a Prohibited Practice under this Section 826-a.405, such conduct may be utilized by a customer as an affirmative defense in an action to enforce that customer's Service Contract.

ARTICLE V. REPORTING REQUIREMENTS

Section 826-a.500. Reporting Requirements for all Licensees and Registrants.

1. A Licensee or Registrant shall inform the Commission of:
 - a. membership in a Solid Waste association in addition to an association identified in the application submitted pursuant to this Chapter;
 - b. the arrest for or conviction of a crime or offense or a finding of civil liability against the Licensee or the Registrant or any Principal thereof;
 - c. any other material change in the information submitted on the application for the license or registration; or
 - d. any changes in the ownership composition of the Licensee or Registrant, the addition or deletion of any Principal at any time subsequent to the issuance of the license or registration.

2. A Licensee or Registrant shall provide the Commission with at least thirty (30) business days prior written notice of the proposed addition of a new Principal to the business of such Licensee or Registrant. Such notice shall be hand-delivered to the Commission or its authorized designee. The Commission may waive or shorten such period upon a showing that there exists a bona fide business requirement therefor. Except where the Commission determines within such period based upon information available to it, that the addition of such new Principal may have a result inimical to the purposes of this Chapter, the Licensee or Registrant may add such new Principal pending the completion of review by the Commission. The Licensee or Registrant shall be afforded an opportunity to demonstrate to the Commission that the addition of such new Principal would not have a result inimical to the purposes of this Chapter. If upon the completion of such review, the Commission determines that such Principal lacks good character, honesty and integrity, the license or registration shall be suspended until such time as that Principal divests his or her interest or discontinues his or her involvement in

the business of such Licensee or Registrant, as the case may be, within the time period prescribed by the Commission.

3. A Licensee or Registrant shall have a continuing duty to immediately disclose and/or update the information provided to the Commission in its application annually, on the anniversary date of the issuance or renewal of the license or registration.

4. All reports, requests, notices and determinations issued pursuant to this Section shall be made in writing and shall be issued separately for each Class or type of activity engaged in by the Licensee or Registrant.

Section 826-a.501. Class A Licensee.

1. On forms to be provided by the Commission after issuance of a license pursuant to this Chapter, the Class A Licensee shall be required to provide written quarterly reports to the Commission.

2. The Licensee shall be required to provide the following information in such quarterly reports:

a. In cubic yards or tons, as specified on the Commission's reporting forms, the total quantity of Solid Waste and Recyclables collected during that quarter ended; the total quantity of materials that were processed, recycled, disposed of or delivered to a recycling facility, including the quantities of each of the specific Recyclables, defined in Section 826-a.200 of this Chapter that were recycled or delivered to a recycling facility during that quarter ended; at the request of the Commission, the quantities of Recyclables that are delivered to each facility that transfers, stores, collects or processes Recyclables; the quantities of such Recyclables that could not be recycled or marketed but were disposed as of Solid Waste during that quarter ended; the total quantity of construction and demolition debris collected and the quantities that were recycled or delivered to a recycling facility or Recyclables broker during that quarter ended.

b. Any subcontracting of any portion of the Licensee's business, identifying the subcontractor by name and address, and describing the nature of the business that was subcontracted during that quarter ended.

3. Quarterly reports for the quarter ending March 31 are due no later than June 30 of that calendar year. Quarterly reports for the quarter ending June 30 are due no later than September 30 of that calendar year. Quarterly reports for the quarter ending September 30 are due no later than December 31 of that calendar year. Quarterly reports for the quarter ending December 31 are due no later than March 31 of the following calendar year.

4. The Commission must be notified within thirty (30) days of any changes in the disposal, transfer, collection, storage or processing facilities used by the Licensee, if different from those listed in the Licensee's license application as the facilities that it was utilizing and/or intended to utilize at the time of application.

5. The Commission must be notified within five (5) business days of the issuance or filing of any criminal indictment or information against the Licensee or any Principal thereof. The Commission shall also be notified within five (5) business days of any judgment or determination of any civil court or administrative tribunal of competent jurisdiction against the Licensee or any of its Principals.

6. The Licensee must also provide any other information which the Commission shall, from time to time, reasonably require.

Section 826-a.502. Class B Licensee.

1. On forms to be provided by the Commission after issuance of a license pursuant to this Chapter, the Class B Licensee shall be required to provide written quarterly reports to the Commission.

2. The Licensee shall be required to provide the following information in such quarterly reports:

a. In cubic yards or tons, as specified on the Commission's reporting forms, the total quantity of Recyclables collected directly from waste generators or Municipalities within the County of Westchester during the quarter ended; as specified on the Commission's forms, the percentage of that total quantity that was received from scrap peddlers during that quarter ended in cubic yard or tons; the total quantity of construction and demolition debris Recyclables that was collected separately and the quantities of the construction and demolition debris materials that were recycled or delivered to another Recyclables broker or recycling facility during that quarter ended.

b. The type and quantity of each of the specified Recyclables as defined in Section 826-a.200 of this Chapter that was collected during the quarter ended.

c. Any subcontracting of any portion of the Licensee's business, identifying the subcontractor by name and address, and describing the nature of the business that was subcontracted during that quarter ended.

3. Quarterly reports for the quarter ending March 31 are due no later than June 30 of that calendar year. Quarterly reports for the quarter ending June 30 are due no later than September 30 of that calendar year. Quarterly reports for the quarter ending September 30 are due no later than December 31 of that calendar

year. Quarterly reports for the quarter ending December 31 are due no later than March 31 of the following calendar year.

4. The Commission must be notified within thirty (30) days of any changes in the disposal, transfer, collection, storage or processing facilities used by the Licensee, if different from those listed in the Licensee's license application as the facilities that it was utilizing and/or intended to utilize at the time of application.

5. At the request of the Commission, a Recyclables broker that has collected Recyclables must document the quantities of such materials that are delivered to each facility that transfers, stores, collects, or processes Recyclables, and the quantities of such materials that cannot be recycled or marketed but are disposed of as Solid Waste during that quarter ended.

6. The Commission must be notified within five (5) business days of the issuance or filing of any criminal indictment or information against the Licensee or any Principal thereof. The Commission shall also be notified within five (5) business days of any judgment or determination of any civil court or administrative tribunal of competent jurisdiction against the Licensee or any of its Principals.

7. The Licensee must also provide any other information which the Commission shall, from time to time, require.

Section 826-a.503. Class C Licensee.

1. On forms to be provided by the Commission, after issuance of a license pursuant to this Chapter, all Class C Licensees shall be required to provide written quarterly reports to the Commission.

2. The Licensee shall be required to provide the following information in such quarterly reports:

a. In cubic yards or tons, as specified on the Commission's reporting forms, the total quantity of construction and demolition debris collected during that quarter ended; the total quantities of construction and demolition debris materials that were recycled or delivered to a recycling facility or Recyclables broker and the quantities of specific construction and demolition debris materials that were recycled during that quarter ended.

b. Any subcontracting of any portion of the Licensee's business, identifying the subcontractor by name and address, and describing the nature of the business that was subcontracted during that quarter ended.

3. Quarterly reports for the quarter ending March 31 are due no later than June 30 of that calendar year. Quarterly reports for the quarter ending June 30 are due no later than September 30 of that calendar year. Quarterly reports for the quarter ending September 30 are due no later than December 31 of that calendar year. Quarterly reports for the quarter ending December 31 are due no later than March 31 of the following calendar year.
4. The Commission must be notified within thirty (30) days of any changes in the location of the disposal, transfer, collection, storage or processing facilities it is using, if different from those listed in the Licensee's license application as the facilities that it was utilizing or intended to utilize at the time of application.
5. The Commission must be notified within five (5) business days of the issuance or filing of any criminal indictment or information against the Licensee or any Principal thereof. The Commission shall also be notified within five (5) business days of any judgment or determination of any civil court or administrative tribunal of competent jurisdiction against the Licensee or any of its Principals.
6. The Licensee must also provide any other information which the Commission shall, from time to time, reasonably require.

Section 826-a.504. Class D and Class L Licensees.

1. Those persons holding a Class D or Class L License shall be required to provide written annual reports to the Commission on forms to be provided by the Commission.
2. All Class D and Class L Licensees shall be required to provide the following information in such annual reports:
 - a. In cubic yards or tons, as specified on the Commission's reporting forms, the total quantity of garden and yard waste or for Class L licensees the total quantity of seasonal organic waste, including leaves collected separately during the preceding year, and locations where the materials were disposed of and for Class L licensees or registrants, the names of the municipalities in Westchester County in which such licensee or registrant presently conducts business.
 - b. An estimate of the type and quantity of each type of yard waste collected during the preceding year.
 - c. Documentation of the total quantity of such waste that either was delivered to a facility for composting, chipping or other recycling or reuse or was sold or marketed for such purposes.

3. Annual reports shall be submitted by March 31 of each year.
4. All Class D and Class L Licensees shall be required to notify the Commission within five (5) business days of the issuance or filing of any criminal indictment or information against the Licensee or any Principal thereof. The Commission shall also be notified within five (5) business days of any judgment or determination of any civil court or administrative tribunal of competent jurisdiction against the Licensee or any of its Principals.
5. All Class D and Class L Licensees must also provide any other information which the Commission shall, from time to time, reasonably require.

Section 826-a.505. Class E Licensee.

1. All Class E Licensees shall be required to provide the Commission with any information which the Commission may, from time to time, reasonably require.
2. All Class E Licensees shall be required to notify the Commission within five (5) business days of the issuance or filing of any criminal indictment or information against the Licensee or any Principal thereof. The Commission shall also be notified within five (5) business days of any judgment or determination of any civil court or administrative tribunal of competent jurisdiction against the Licensee or any of its Principals.

Section 826-a.506. Transfer Station/Ultimate Disposal Site Operators.

1. In addition to all other applicable reporting requirements for Licensees as set forth in this Chapter, a Licensee who operates a Transfer Station located within the County of Westchester shall be required to make a written, quarterly report to the Commission for each transfer station operated by the Licensee, which report shall include, at a minimum:
 - a. the prices charged to haulers which utilized the transfer station during the reporting period on a week-to-week basis;
 - b. the costs associated with operation of the transfer station during the reporting period; and
 - c. the costs associated with disposal of the Solid Waste, Recyclables, garden and yard waste and construction and demolition debris during the reporting period.

Section 826-a.507. Solid Waste Broker.

1. All registered Solid Waste Brokers shall be required to provide the Commission with any information which the Commission may, from time to time, reasonably require.
2. All registered Solid Waste Brokers shall be required to notify the Commission within five (5) business days of the issuance or filing of any criminal indictment or information against the Registrant or any Principal thereof. The Commission shall also be notified within five (5) business days of any judgment or determination of any civil court or administrative tribunal of competent jurisdiction against the Registrant or any of its Principals.

**ARTICLE VI.
PENALTIES AND ENFORCEMENT**

Section 826-a.600. License Suspension or Revocation/Denial of Renewal or Modification.

1. a. No Licensee or Registrant shall have its license or registration suspended, modified or revoked by the Commission, nor shall the Commission refuse to renew or modify a license or registration, without the Licensee or Registrant having first been granted the opportunity for a hearing in accordance with the procedures set forth in Section 826-a.602, below; unless the Licensee or Registrant waives its right to notice and hearing in writing.
 - b. Notwithstanding the above, the Commission may, without hearing and at its sole discretion, immediately suspend a license or registration, without a hearing, provided that the Commission serves the Licensee or Registrant with a Notice of Hearing along with a written notice of such suspension, and provides a post-suspension hearing within seventy-two hours of the Commission's issuance of the emergency suspension.

Section 826-a.601. Violation of License or Registration.

1. a. Any person found guilty by a court of competent jurisdiction of conducting Class A, Class B, Class C, Class D, Class E or Class L activities without a duly-issued license, or operating as a Solid Waste broker without a duly-issued registration, or any Licensee or Registrant found guilty by a court of violating any of the terms and conditions of its license or registration, or violation of any provision of this Chapter or any emergency suspension order of the Commission, shall be guilty of an offense punishable by a fine or not less than \$10,000 per offense and/or by imprisonment not exceeding six (6) months. In

lieu of, or in addition to, such criminal penalties, each person found to be in violation of any provision of this Chapter shall be subject to a civil penalty of not less than a formal written warning and not more than \$5,000.00 per violation which may be imposed at the discretion of the Commission, after hearing as provided in Section 826-a.602 of this Article. Each day of a continuing violation shall constitute a separate offense or violation and shall be subject to a separate fine and/or civil penalty.

2. In addition to any other penalties prescribed in this Section, the County Attorney may maintain an action in a court of competent jurisdiction to compel compliance with or restrain by injunction any violations of the provisions of this Chapter.

3. The civil penalties recited in subsection (1.) (a.), above, shall be imposed only by a court of competent jurisdiction or by the Commission after a hearing held in accordance with the requirements of this Article VI. The Commission may impose such civil penalties in addition to any other action that it is entitled to take against the privileges of a Licensee or Registrant pursuant to this Chapter.

4. a. Notwithstanding the above, municipalities in the County of Westchester may enforce the requirement, pursuant to this Chapter, or pursuant to Section 826.51(7) of the former Chapter 826 until the repeal of same as provided for in this Chapter, that all vehicles operated by a person conducting activities which are required to be licensed or registered be identified by two decals issued by the commission and properly displayed on both the driver side and passenger side doors of such vehicle. A municipality which chooses to enforce this requirement shall designate a local enforcement official who shall have all the powers of the Commission and the County Attorney related to enforcement under this Article.

b. A municipality which enforces this requirement and undertakes the entire enforcement of a particular offense, shall be entitled to retain one hundred (100%) percent of the fines collected, which fines shall be:

(i.) For persons conducting Class A, Class B, Class C-2, Class D and/or Class L activities: One Thousand (\$1,000) Dollars per violation; and

(ii.) For persons conducting Class C-1 and Class E activities: Two Hundred (\$200) Dollars per violation.

Section 826-a.602. Right to a Hearing.

1. Upon an initial determination by the Commission that, under the standards set forth in this Article and in Article IV. of this Chapter, the Commission is entitled to suspend a license or registration; to revoke a license or registration; to

deny a license or registration modification request; to deny a license or registration renewal; or to take any other appropriate action against the privileges of a Licensee or Registrant, the Commission shall cause to be held a hearing before a hearing officer selected by the Commission.

2. In all such cases, the Commission shall issue and serve a written Notice of Hearing, by personal service or by certified mail return receipt requested to the Licensee or Registrant at the last known business address of such Licensee or Registrant, except for a Notice of Violation for a vehicle required to be licensed, but which does not display the decals on both the driver side and passenger side doors of such vehicle as required by this Chapter, which may be issued in the form of a standardized traffic ticket by a police officer within Westchester County.

a. The hearing shall be held as soon as possible, but in no case later than sixty (60) days after service of the Notice of Hearing upon the Licensee or Registrant. Notwithstanding the above, a hearing required pursuant to the Commission's determination to suspend or revoke a license or registration shall be held not later than fifteen (15) days after service of the Notice of Hearing. A Licensee or Registrant may acknowledge its acceptance of the Commission's initial determination by signing the Notice of Hearing where indicated and returning same to the Commission in advance of the specified hearing date, together with payment of the proposed penalty, if any. In the case of a suspension, at the discretion of the Commission, the Licensee or Registrant may sign an agreement with the Commission whereby the Licensee or Registrant will commit to remedy the condition which endangers the health, safety or welfare of the public or to otherwise remedy the condition which is the basis of such determination of suspension by a date certain; the reinstatement of the respondent's license being conditioned upon such performance.

b. The Notice of Hearing shall include the following:

- (i.) the time, place, and nature of the hearing;
- (ii.) a statement of the legal authority and jurisdiction under which the hearing is to be held, including a reference to particular sections of statutes and rules where possible;
- (iii.) a statement outlining the matters asserted, including alleged facts supporting the initial determination, the license violation, or the license suspension;
- (iv.) a notice that, upon application of the respondent, a more detailed and definite statement of the matters being asserted will be provided. The Commission shall make the determination as to

whether the initial statement of the matters asserted is not sufficiently definite. Such determination by the Commission shall not be subject to judicial review.

(v.) the respondent's right to present evidence;

(vi.) the respondent's right to examine and cross-examine witnesses;

(vii.) the respondent's right to be represented by counsel;

(viii.) a statement that the respondent's failure to appear shall constitute a default by the respondent and that the hearing may proceed in the respondent's absence and a determination made based solely upon evidence submitted by the Commission;

(ix.) that a respondent may waive his right to a hearing and accept the initial determination of the Commission without objection, by signing where indicated on and returning the Notice of Hearing to the Commission together with any fine which was assessed by the Commission in conjunction with such determination Upon the receipt of such a properly completed acknowledgment by the Commission, the Commission shall file same with the hearing officer along with a notice of cancellation of hearing;

(x.) a statement that interpreter services will be made available to non-English speaking or hearing-impaired persons at no cost; and

(xi.) the name and address of the hearing officer for the filings of any notices or papers pursuant to such proceedings.

3. a. The hearing officer may grant an adjournment upon the request of any party to the proceeding, provided that an adjournment shall not be for an indefinite period of time, but shall be set down for a date certain. In the case of a hearing initiated due to an initial determination by the Commission to suspend or revoke a license or registration, only the Licensee or Registrant shall be entitled to request an adjournment, and such hearing shall not be adjourned for more than seven (7) days, unless both parties agree.

b. If an adjournment is to be requested in advance of the hearing date, such request shall be presented to the hearing officer in writing at least three (3) business days in advance of such hearing, and shall specify the reason for such request.

c. In considering an application for adjournment of a hearing, the hearing officer shall consider whether the purpose of the hearing will be affected by the granting of such adjournment.

4. a. To aid in the administration of this law, the Commission or any hearing officer designated by it in a particular proceeding, may issue subpoenas in the Commission's name requiring the attendance of and the giving of testimony by witnesses, and the production of books, papers and other evidence for any hearing or proceeding conducted pursuant to this Section. Service of such subpoena(s), enforcement of obedience thereto, and punishment for disobedience thereof, shall be had as and in the manner provided by the New York State Civil Practice Law and Rules relating to the enforcement of any subpoena issued by a board or committee.

b. It shall be the responsibility of the party requesting the issuance of a subpoena to effect service thereof.

5. The hearing officer may add a party to the proceeding upon due and adequate notice to both the party to be added and the parties named in the proceedings.

6. On the return date of a hearing, the hearing officer shall note the appearances of the persons attending the hearing. All hearings shall be open to the public.

7. Witnesses shall be sworn and testimony shall be taken and recorded by use of either a court reporter or an electronic recording device. Testimony shall be transcribed upon the request of any interested party. The party requesting the transcript shall pay the costs and expenses in connection therewith.

8. The hearing officer shall not be bound by the strict rules of evidence in the conduct of a hearing initiated pursuant to this Chapter, but his or her findings of fact and conclusions of law shall be founded upon a fair preponderance of the evidence presented at the hearing. The hearing officer shall admit and consider any evidence of mitigation offered by the Licensee or Registrant.

9. After the conclusion of a formal hearing, the hearing officer shall prepare and issue a report containing a summary of the evidence, findings of fact, conclusions of law and recommendation(s) to the Commission.

10. The recommendations of the hearing officer may include, but shall not be limited to, a recommendation as to whether the Commission's initial determination should be rescinded, affirmed, or modified and/or whether a suspended or revoked license or registration should be reinstated unconditionally or upon the condition that the threat to the health or safety or welfare of the public

is remedied by the Licensee or Registrant in a specified manner according to a specified timetable.

11. Upon the conclusion of a formal hearing and after consideration of the hearing officer's report and recommendations, and any evidence of mitigation, the Commission shall make a final determination based on a fair preponderance of the evidence, and shall execute an administrative order implementing such decision.

12. If the Commission determines that the hearing record is not sufficient to make a final determination, the Commission may direct a rehearing or require the taking of additional evidence.

13. The Commission shall cause to be served upon the respondent, copies of the hearing officer's report and the Commission's final determination and order. Service shall be made in the manner prescribed for the service of notices of hearing.

14. a. In the case of license or registration violations, the order of the Commission may include but shall not be limited to: the assessment of civil penalties, as provided by this law; the approval of a stipulation of settlement which shall include, but not be limited to, a plan and schedule to remedy the condition which caused the violation, if such measures are necessary and appropriate to correct the violation; and suspended penalties.

b. The failure to pay any such criminal fines or civil penalties as may be assessed pursuant to this law shall constitute separate grounds for suspension, revocation or non-renewal of a license or registration. The only issue to be resolved at a hearing which is conducted pursuant thereto is whether or not the penalty was paid.

15. a. The Commission shall maintain an index, which shall be accessible by computer or otherwise, which lists by name and subject all final written decisions, determinations and orders rendered through such hearing proceedings. Such index shall also include by name and subject all written decisions, determinations and orders rendered pursuant to a statute providing any party an opportunity to be heard other than rule making. Such index and the text of any such written final decision, determination or order shall be available for public inspection and copying. Copying services shall be provided at a reasonable fee to be determined by the Commission. Each decision, determination and order shall be indexed within sixty (60) days after having been rendered.

b. The Commission may, upon good cause and the request of a party to a hearing, delete from any such index, decision, determination or order any information that, if disclosed, would constitute an unwarranted invasion of personal privacy under the provisions of subdivision two of section eighty-nine of the Public Officers Law and may also delete at the request of any person all

references to trade secrets that, if disclosed, would cause substantial injury to the competitive position of such person. Information which would reveal confidential material protected by federal or state statute shall also be deleted from such index, decision, determination or order.

16. Where any violation of this Chapter by a Licensee or Registrant has caused the Commission or the County to incur any expenses with respect to enforcement, such expenses may be charged to the Licensee or Registrant. In the discretion of the Commission, such expenses may be separately collected in a civil suit against the Licensee or Registrant, brought by the County Attorney in the name of the County in a court of competent jurisdiction, in the event that the Licensee or Registrant refuses to pay such charges voluntarily.

ARTICLE VII. INDEPENDENT AUDITING AND INDEPENDENT MONITORING

Section 826-a.700. Independent Auditing.

1. The Commission may, in the event that the information disclosed and reported by an Applicant, Licensee or Registrant pursuant to this Chapter produces adverse information which may indicate a violation of the standards set forth in this Chapter and specifically with regard to the standards outlined in Article VI hereof, require, without a hearing and as a condition of the issuance, reinstatement and/or renewal of a license or registration, that the Applicant, Licensee or Registrant enter into a contract with an independent auditor approved or selected by the Commission, all at the sole cost and expense of the Applicant.
2. In conjunction with the operation of such contract, the Applicant, Licensee or Registrant shall cooperate with such auditor in the performance of the responsibilities set forth in such contract and in this Section.
3. The Applicant, Licensee or Registrant shall pay all costs associated with such contract, in addition to any costs associated with the resulting audit. The Commission may require the Applicant, Licensee or Registrant to deposit a sufficient amount of money, as may be determined by the Commission, into an escrow account as security for the payment of such costs. With respect to Applicants which have existing escrow accounts pursuant to the application requirements outlined herein, such funds will be deposited into that account, but shall be utilized only for those expenses specified in this Section.
4. The Commission shall be authorized to prescribe in any contract required herein such reasonable terms and conditions as the Commission deems necessary to effectuate the purposes hereof. Such terms and conditions may include the following:

- a. That the auditor shall investigate the activities of the Applicant, Licensee or Registrant with respect to its compliance with the provisions of this Chapter, other applicable federal, state and Local Law;
 - b. That the auditor may audit the books and records of the Applicant, Licensee or Registrant;
 - c. That the auditor shall have the authority to verify employees and capital equipment of the Applicant, Licensee or Registrant, where applicable;
 - d. That the auditor shall be authorized to accompany trucks operated by the Applicant, Licensee or Registrant, where applicable, in order to verify amounts of Solid Waste collected and the disposal of such waste, at the discretion of the Commission;
 - e. That the auditor shall verify the costs and revenues relating to business arrangements of the Applicant, Licensee or Registrant with truckers, transfer stations, landfills, recyclers, trade waste brokers and manufacturers, where applicable; and
 - f. That the auditor shall have such additional duties and responsibilities as the Commission determines are necessary in the case of a Licensee or Registrant in order to ensure that such Licensee or Registrant performs in a manner consistent with the purposes of this Chapter.
5. An auditor shall report on its activities conducted pursuant to this Section to the Commission.

Section 826-a.701. Independent Monitoring.

1. Notwithstanding any other provision of this Chapter to the contrary, in the case of an Applicant, Licensee or Registrant which is the subject of a pending indictment or criminal action for a crime that would provide a basis for the refusal to issue or renew a license or registration, or which would provide a basis to take action against the privileges of a Licensee or Registrant, including but not limited to the modification of a license or registration as provided under this Chapter, the Commission, in its sole discretion, may (a.) in the case of an Applicant, refrain from making a determination to issue the license or registration indefinitely until final disposition of the criminal case, or may require as a condition of the license or registration to be issued that the Applicant enter into a contract with an independent monitor approved or selected by the Commission, and (b.) in the case of a Licensee or Registrant, may require as a condition of the license or registration that the Licensee or Registrant

enter into a contract with an independent monitor approved or selected by the Commission.

2. The cost of the independent monitoring contract shall be paid by the Applicant, Licensee or Registrant. The Commission may require the Applicant, Licensee or Registrant to deposit a sufficient amount of money, as may be determined by the Commission, into the escrow account as security for the payment of such costs. With respect to Applicants which have existing escrow accounts pursuant to the application requirements outlined herein, such funds will be deposited into that account, but shall be utilized only for those expenses specified in this Section.

3. The Commission shall be authorized to prescribe in any contract required herein such reasonable terms and conditions as the Commission deems necessary to effectuate the purposes hereof. Such terms and conditions may include the following:

a. That the monitor will review and either approve or disapprove certain actions proposed to be taken by the Applicant, Licensee or Registrant, where such actions fall within a category identified in this Section or by rule of the Commission as having a particular bearing on the fitness of an Applicant or Licensee to hold a license under this Chapter. Such actions shall include, without limitation,

(i.) any decision to assign contracts for any activity licensed or registered under this Chapter;

(ii.) any decision to transfer an ownership interest or substantial assets to another person or entity where such interests or assets exceed a threshold established in such rule of the Commission;

(iii.) any significant expenditure by the business as defined in rules of the Commission;

(iv.) the initiation of any litigation against a Service Contract customer or another Solid Waste removal business or Solid Waste broker or its customer;

(v.) the involvement in the business of a Principal who is a defendant in the criminal action for which the Applicant, Licensee or Principal has been indicted in any particular aspect of the business of the Applicant, Licensee or Registrant where the monitor has reasonable cause to

believe that such involvement would be inconsistent with the purposes of this Chapter;

(vi.) membership in a trade association;

(vii.) the hiring or firing of personnel when the monitor has reasonable cause to believe that such actions are inconsistent with the purpose of this Chapter.

b. That the monitor may prohibit persons from entering upon the premises of the Applicant, Licensee or Registrant or from involvement in the business of the Applicant, Licensee or Registrant, when the monitor determines that such prohibition is necessary to effectuate the purposes of this Chapter;

c. That the monitor investigate the activities of the Applicant, Licensee or Registrant with respect to compliance with the provisions of any court order to which the Applicant, Licensee or Registrant is subject; the provisions of this Chapter; compliance with all federal, state and Local Laws applicable to Solid Waste removal and any rules and regulations promulgated thereunder; any transfer or ownership interest in the business of the Applicant, Licensee or Registrant; any litigation entered into by the Applicant, Licensee or Registrant against a Service Contract customer or another Applicant, Licensee or Registrant or its customer; any assignment or purchase of Service Contracts; and any activity of the Applicant, Licensee or Registrant that may violate laws or regulations prohibiting anti-competitive activities or unfair trade practices, and any membership in a trade association;

d. That the monitor may audit the books and records of the Applicant, Licensee or Registrant;

e. That the monitor have authority to verify employees and capital equipment of the Applicant, Licensee or Registrant, where applicable;

f. That the monitor may accompany trucks operated by the Applicant, Licensee or Registrant, where applicable, in order to verify amounts of Solid Waste collected and the disposal of such waste;

g. That the monitor may verify the costs and revenues relating to business arrangements of the Applicant, Licensee or Registrant with truckers, transfer stations, landfills, and Recyclables brokers, where applicable;

h. That the monitor have such additional duties and responsibilities as the Commission determines are necessary in the case of

the Applicant, Licensee or Registrant in order to ensure that such the Applicant, Licensee or Registrant performs in a manner consistent with the purpose of this Chapter.

4. The monitor shall report to the Commission concerning its activities under this Section.

5. The Applicant, Licensee or Registrant shall cooperate with such monitor in the performance of the responsibilities set forth in such contract and this Section.

6. Where an Applicant, Licensee or Registrant is subject to a receivership or court ordered monitor, the Applicant, Licensee or Registrant shall furnish the monitor with the relevant orders of the court regarding such receivership or monitorship.

7. Independent monitors shall possess the skills required by the Commission. The independent monitors may hire consultants who possess those skills to perform the services on behalf of the independent monitor. The types of skills that the Commission may require of the independent monitor shall be reasonably related to the services to be required of the Independent Monitor. Those skills may include but are not limited to the following:

- a. Fraud detection;
- b. Detection of organized crime, anti-trust violations, racketeering or other crimes;
- c. An understanding of business ethics;
- d. The ability to detect noncompliance with the law, including but not limited to, environmental laws, prevailing wage laws, the Westchester County Source Separation Law and the Westchester County Solid Waste and Recycling Collection Licensing Law;
- e. Accounting skills; and
- f. Legal analysis skills.

ARTICLE VIII. IMPLEMENTATION

Section 826-a.800. Effective Date.

1. The Effective Date shall be the date on which this Local Law is signed by the County Executive.

Section 826-a.801. Implementation – Class C Licensees.

1. Any person which holds, or expects to hold, a valid Class C License pursuant to the former Chapter 826 on March 15, 2000 shall apply to the Commission, on a form to be provided by the Commission, on or before January 15, 2000, for a determination as to whether such person's activities constitute Class "C-1" activities or Class "C-2" activities pursuant to this Chapter. The Commission shall issue its written determination as to a person's Class C classification on or before February 15, 2000. The March 15, 2000 deadline for the submission of such person's Class C-2 license application, as set forth in this Article, shall be tolled after February 15, 2000 and until such time as the Commission informs the person, in writing, as to its appropriate Class C licensing classification pursuant to this Chapter, provided that the Licensee submits the application required by this Section to the Commission on or before January 15, 2000.

Section 826-a.802. Implementation - Class A, Class B and Class C-2 Licenses.

1. On or before August 31, 2000, the Commission shall publish notice at least once in one or more newspapers of general circulation which shall be selected by the Clerk of the Board of Legislators, and thereby notify all persons which hold, or expect to hold, valid Class A, Class B or Class C licenses pursuant to the former Chapter 826 on September 30, 2000, excepting those persons who the Commission has determined will conduct activities which require a Class C-1 License pursuant to this Chapter, that they must submit an application for licensing under this Chapter on or before September 30, 2000, and that the failure to submit such application on or before September 30, 2000 shall result in the termination of the person's license issued pursuant to the former Chapter 826, effective November 30, 2000, except that the termination date with regard to that person's performance of its municipal contracts shall be January 31, 2001. Such public notice shall also notify all persons that they shall be subject to fines and/or civil penalties of up to Ten Thousand (\$10,000) Dollars per day for conducting unlicensed activities in accordance with the provisions of this Chapter. The public notice shall notify those persons performing activities, or intending to perform activities, in Westchester County which require a license pursuant to this Chapter that a license is required. The public notice shall also state all application and other fees which shall be due and payable in connection with the submission of such application.

2. By September 30, 2000 all persons who hold valid licenses pursuant to the former Chapter 826 and who intend to conduct Class A, Class B or Class C-2 activities must submit an application to the Commission and provide all of the information required of license Applicants under Article III of this Chapter. The failure to submit such an application on or before September 30, 2000 shall result in the termination of the person's license issued pursuant to the former Chapter 826, effective November 30, 2000, generally, and effective January 31, 2001, only for purposes of the person's performance with respect to its municipal contracts. The Commission shall send notices of this requirement by certified mail, return receipt requested, to all current holders of Class A, Class B and Class C licenses issued pursuant to the former Chapter 826, within one hundred ten (110) days of the Effective Date of this Local Law. With regard to applications submitted to the Commission during the period beginning on the Effective Date of this Chapter and ending on September 30, 2000, the Commission shall issue its final written determination as to each such application no later than March 31, 2002.

a. With respect to persons holding valid Class A or Class B licenses pursuant to the former Chapter 826 or those persons which hold valid Class C licenses pursuant to the former Chapter 826, and require a Class C-2 license pursuant to this Chapter, which are valid on September 30, 2000, the licenses held by such persons shall, unless revoked earlier pursuant to the provisions of the former Chapter 826, remain valid through March 31, 2002, subject to the provisions of subsections (b.) and (c.) below.

b. With respect to those persons referenced in subsection (a.), above, licenses held by those persons which have submitted a license application, including all required application materials, including the application and background check fees, on or before September 30, 2000, shall remain valid beyond September 30, 2000 and until (i.) ninety (90) days after such application has been denied by the Commission, or for good cause shown for a term which shall not exceed one hundred eighty (180) days after such application has been denied only for purposes of the Licensee's performance with respect to its municipal contracts, or until the expiration of the Licensee's existing contracts with such municipalities, whichever occurs sooner, or (ii.) until a new license has been issued pursuant to the provisions of this Chapter, whichever occurs sooner. Notwithstanding the above, no license issued pursuant to the former Chapter 826 shall be extended beyond March 31, 2002.

c. With respect to those persons referenced in subsection (a.), above, licenses, held by persons which have not submitted the required application materials, including all fees, on or before September 30, 2000 shall expire on November 30, 2000, except that the termination date with regard to that person's performance of its municipal contracts shall be January 31, 2001.

d. Any person whose license issued pursuant to the former Chapter 826 is terminated prior to its regularly scheduled termination date by operation of this Section shall be responsible only for that pro rata share of the license fee attributable to such license through the date of termination. The Commission shall issue refunds of any such fees within sixty (60) days of the termination date. Any person whose license issued pursuant to the former Chapter 826 is extended beyond its regularly scheduled termination by operation of this Section shall be required to pay a pro rata share of the license fee attributable to such license on a month-to-month basis, payable to the Commission on the first day of each month during the period of such extension. The Commission may terminate the license, by written notice, for failure to pay such fees on a timely basis.

e. New licenses issued after the Effective Date and pursuant to this Chapter shall be valid as of the date of issue.

f. For so long as licenses issued under the former Chapter 826 remain valid, the standards for enforcement of such licenses shall be those standards set forth in the former Chapter 826.

g. The Commission may issue licenses to haulers pursuant to Chapter 826 of the Laws of Westchester County through December 31, 2000 so long as the hauler has also submitted an application pursuant to Chapter 826-a and provided, however, that licenses may not be issued to a hauler, pursuant to this subsection, where (i.) the hauler's application pursuant to Chapter 826-a has been reviewed and rejected by the Commission or (ii.) that hauler's privilege to operate in Westchester County has been terminated pursuant to the provisions of subsection (c.), above.

Section 826-a.803. Implementation Class C-1, Class D and Class E Licenses.

1. On or before August 31, 2000, the Commission shall publish notice at least once in one or more newspapers of general circulation which shall be selected by the Clerk of the Board of Legislators, and thereby notify all persons which hold, or expect to hold Class C, Class D or Class E licenses pursuant to the former Chapter 826 on September 30, 2000, excepting those persons who the Commission has determined conduct activities which require a Class C-2 License issued pursuant to this Chapter, that they must submit an application for licensing under this Chapter on or before September 30, 2000, and that the failure to submit such application on or before September 30, 2000 shall result in the termination of the person's license pursuant to the former Chapter 826, effective November 30, 2000, except that the termination date with regard to that person's performance of its municipal contracts shall be January 31, 2001. Such public notice shall also advise all persons that they shall be subject to fines and/or civil penalties of up to Ten Thousand (\$10,000) Dollars per day for conducting unlicensed activities. The public notice shall notify those persons performing

activities, or intending to perform activities, in Westchester County which require a Class C-1, Class D or Class E license pursuant to this Chapter that a license is required. The public notice shall also state all application and other fees which shall be due and payable in connection with the submission of such application.

2. By September 30, 2000 all persons who hold valid licenses pursuant to the former Chapter 826 and who intend to conduct Class C-1, Class D or Class E activities pursuant to this Chapter must submit an application and provide all of the information required of license Applicants under Article III. of this Chapter. The failure to submit such an application on or before September 30, 2000 shall result in the termination of the person's license issued pursuant to the former Chapter 826 on November 30, 2000, except that the termination date with regard to that person's performance of its municipal contracts shall be January 31, 2001. The Commission shall send notices of this requirement by certified mail, return receipt requested, to all current holders of Class C, Class D and Class E licenses issued under the former Chapter 826, within one hundred ten (110) days of the Effective Date of this Local Law. With regard to applications submitted to the Commission during the period beginning on the Effective Date of this Chapter and ending on September 30, 2000, the Commission shall issue its final determination as to each such application no later than March 31, 2002.

a. With respect to persons holding valid Class D or Class E licenses pursuant to the former Chapter 826, and those persons which hold Class C licenses pursuant to the former Chapter 826 and require a Class C-1 license pursuant to this Chapter, which are valid on September 30, 2000, the licenses held by such persons shall, unless revoked earlier pursuant to the provisions of the former Chapter 826, shall remain valid through March 31, 2002, subject to the provisions of subsections (b.) and (c.) below.

b. With respect to those persons referenced in subsection (a.), above, licenses, held by those persons which have submitted a application, including all required application materials and application and background check fees, on or before September 30, 2000, shall remain valid beyond September 30, 2000, and until (i.) ninety (90) days after such application has been denied by the Commission or for good cause shown for a term which shall not exceed one hundred eighty (180) days, only for purposes of the Licensee's performance with respect to its municipal contracts, or until the expiration of the Licensee's existing contracts with such municipalities, whichever occurs sooner, or (ii.) until a new license has been issued pursuant to the provisions of this Chapter, whichever is sooner. Notwithstanding the above, no license issued pursuant to the former Chapter 826 shall be extended beyond March 31, 2002.

c. With respect to those persons referenced in subsection (a.), above, licenses, held by persons which have not submitted the required application materials on or before September 30, 2000 shall expire on November 30, 2000,

except that the termination date with regard to that person's performance of its municipal contracts shall be January 31, 2001.

d. Any person whose license issued pursuant to the former Chapter 826 is terminated prior to its regularly scheduled termination date by operation of this Section shall be responsible only for that pro rata share of the license fee attributable to such license through the date of termination. The Commission shall issue refunds of any such fees within sixty (60) days of the termination date. Any person whose license issued pursuant to the former Chapter 826 is extended beyond its regularly scheduled termination date by operation of this Section shall be required to pay a pro rata share of the license fee attributable to such license on a month-to-month basis, payable to the Commission on the first day of each month during the period of such extension. The Commission may terminate the license, by written notice, for failure to pay such fees on a timely basis.

e. New licenses issued after the Effective Date and pursuant to this Chapter shall be valid as of the date of issue.

f. For so long as licenses issued under the former Chapter 826 remain valid under this Section, the standards for enforcement of such licenses shall be those standards set forth in the former Chapter 826.

g. . The Commission may issue licenses to haulers pursuant to Chapter 826 of the Laws of Westchester County through December 31, 2000 so long as the hauler has also submitted an application pursuant to Chapter 826-a and provided, however, that licenses may not be issued to a hauler, pursuant to this subsection, where (i.) the hauler's application pursuant to Chapter 826-a has been reviewed and rejected by the Commission or (ii.) that hauler's privilege to operate in Westchester County has been terminated pursuant to the provisions of subsection (c.), above.

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Section 826-a. 804. Implementation - Solid Waste Brokers.

1. On or before August 31, 2000, the Commission shall publish notice at least once in one or more newspapers of general circulation which shall be selected by the Clerk of the Board of Legislators, and thereby notify all persons who conduct, or intend to conduct, activities which shall require registration under this Chapter that they must submit an application for registration on or before September 30, 2000, or be subject to fines and/or civil penalties of up to Ten Thousand (\$10,000) Dollars per day for conducting unregistered activities thereafter. The public notice shall notify those persons performing activities or intending to perform activities in Westchester County which require a registration pursuant to this Chapter that a registration is required, and that all such persons must apply for a such registration on or before September 30, 2000 in accordance with the provisions of this Chapter. The public notice shall also state all

application and other fees which shall be due and payable in connection with the submission of such application.

2. a. By September 30, 2000, all persons who operate, or intend to operate, as Solid Waste Brokers in the County must submit an application for registration to the Commission and provide all of the information required of registration Applicants under Article III. of this Chapter, in order to be considered for issuance of a registration. With regard to applications submitted to the Commission during the period beginning on the Effective Date of this Chapter and ending on September 30, 2000, the Commission shall issue its final determination as to each such application no later than March 31, 2002.

b. With respect to those persons who have submitted a timely application for registration, and have paid the required fee, as determined by the Commission, the Commission shall issue such person a temporary registration, which temporary registration shall be valid beginning on the date of issuance and until either (i.) ninety (90) days after such application has been denied or (ii.) until a registration has been issued pursuant to the provisions of this Chapter, whichever occurs sooner. Notwithstanding the above, all temporary registrations issued pursuant to this subsection shall terminate on or before March 31, 2002.

c. With respect to Solid Waste Brokers, registrations issued pursuant to this Chapter shall be valid as of the date of issue.

Section 826-a.805. Implementation - Service Contracts.

1. Within one hundred ten (110) days after the Effective Date of enactment of this Chapter, the Commission shall publish notice at least once in one or more newspapers of general circulation which shall be selected by the Clerk of the Board of Legislators, and thereby notify all persons who conduct or intend to conduct activities which shall require a license or registration under this Chapter that any and all Service Contracts which are entered into prior to March 15, 2000 must be amended on or before March 15, 2000 so that each such Service Contract complies with the requirements set forth in Section 826-a.402. The public notice shall also state that all Service Contracts entered into before March 15, 2000 shall be terminable at will upon written notice by the customer.

2. Notwithstanding any other provision of this Local Law:

a. As of the Effective Date, a Service Contract to provide Solid Waste collection, removal or disposal entered into prior to March 15, 2000 shall (i.) be terminable at will by the customer, upon written notice by such customer and (ii.) terminate on the date provided therein or two (2) years from the date of execution, whichever is earlier, subject to the provisions of this Chapter.

b. Upon the integration of the Customer Bill of Rights into those Service Contracts which were entered into prior to March 15, 2000, (i.) the absolute right of the customer to terminate those Service Contracts at will, as outlined in subsection (a)(i) above, shall survive for the duration of the term of such pre-March 15, 2000 Service Contracts; and (ii.) the provision of the Customer Bill of Rights which provides that "All Service Contracts shall be terminable by the Customer, without penalty, during the final thirty (30) days of any regular Service Contract term" shall be superceded by the absolute termination right referenced herein for those Service Contracts entered into prior to March 15, 2000, and shall continue until such time as a new Service Contract is executed by such customer. All haulers shall be required to notify all customers of Service Contracts entered into before March 15, 2000, of their continuing right to terminate their Service Contracts, at will, until a new Service Contract is executed. The integration of the Customer Bill of Rights into any Service Contract which was entered into prior to March 15, 2000, and any written acknowledgement thereof by the customer, shall not by itself constitute the execution of a new Service Contract for purposes of this subsection (ii.).

Section 826-a.806. Implementation - Municipal Enforcement.

1. Within one hundred ten (110) days after the Effective Date of enactment of this Chapter, the Commission shall issue notice to each municipality in Westchester County, and request that each such municipality enforce the provisions of this Chapter and the former Chapter 826 relating to the display of County-issued decals on vehicles which conduct activities which are required to be licensed or registered pursuant to this Chapter. Such notice shall include a copy of this Chapter, as enacted, and a copy of the former Chapter 826, and shall invite such municipal officials to undertake such enforcement without further notice or delay.

Section 826-a.807. Reporting to Board of Legislators.

Beginning in April of 2001 and concluding in April of 2002, the Executive Director of the Westchester County Solid Waste Commission shall transmit a written status report to the Clerk of the Westchester County Board of Legislators on or about the 15th day of each month, which report shall outline the general status of the Commission's investigation of haulers who submitted applications to the Westchester County Solid Waste Commission on or before September 30, 2000, pursuant to the provisions of this Article, and the general statistics regarding approval and/or disapproval of such applications.

**ARTICLE IX.
TERM OF LICENSE OR REGISTRATION**

Section 826-a.900. Term of License.

1. The term of any license issued pursuant to this Chapter shall be two (2) years from the date of issuance, noting that during such two year license term Class L licenses shall be in effect only during the months of October, November, December and January .

Section 826-a.901. Term of Registration.

1. The term of any registration issued pursuant to this Chapter shall be two (2) years from the date of issuance.

**ARTICLE X.
CONFIDENTIALITY**

Section 826-a.1000. Confidentiality of Information.

1. Public access to government records is mandated by the New York State Freedom of Information Law (FOIL), Public Officers Law, Article 6, Section 84-90. It is recognized that information contained in license applications and the quarterly or annual reports required hereunder may include technical, financial, or other information which a license Applicant, Licensee or Registrant believes is not required to be disclosed under FOIL.

2. Applicants, Licensees or Registrants who believe that any information contained in license or registration applications, quarterly or annual reports, or any other information required to be provided by the Commission is not required to be disclosed under FOIL shall underline all such information in red ink and shall provide a separate written explanation of the grounds for their belief, which clearly identifies each underlined section of the application or report to which such explanation applies. Neither the Commission nor Westchester County shall have any liability for disclosure of information that is not properly identified in the manner required by this subsection.

3. In the event that a third party requests information that has been properly identified as outlined in subsection (2), above, the Applicant, Licensee or Registrant shall be advised of such request.

4. The County shall review any written explanation of grounds for nondisclosure submitted by the Applicant, Licensee or Registrant pursuant to

subsection (2) above, prior to making its determination concerning whether disclosure is proper under FOIL.

5. If the County determines that disclosure is required under FOIL, it shall notify the Applicant, Licensee or Registrant of its decision, prior to making such disclosure.

6. Nothing herein shall be construed as imposing any liability upon the Commission or upon Westchester County where disclosure has been made in good faith pursuant to a reasonable interpretation of applicable law, or where disclosure was mandated by the order or judgment of a court of competent jurisdiction or the order of any government agency or authority having lawful jurisdiction.

7. Consistent with all provisions of applicable law, the Commission shall make every effort to preserve the confidentiality of information or evidence relating to on-going criminal investigations, including but not limited to, immediately turning over information concerning actual or suspected criminal activity to the appropriate governmental law enforcement agency.

ARTICLE XI. SEVERABILITY

Section 826-a.1100. Severability.

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

Section 3. This Local Law shall take effect immediately.

APPENDIX G
NYSDEC SWMP-BEYOND WASTE-APPENDIX D-
FLOW CONTROL

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Source: Beyond Waste: A Sustainable Material Management Strategy, NYSDEC
<http://www.dec.ny.gov/chemical/41831.html>

BEYOND WASTE: A SUSTAINABLE MATERIAL MANAGEMENT STRATEGY

APPENDIX D FLOW CONTROL

Thirty-five states (including New York) as well as the District of Columbia and the Virgin Islands directly authorize flow control, while four additional states authorize flow control indirectly through mechanisms such as local solid waste management plans or home rule authority. In New York State, a municipality is usually specifically authorized by the State Legislature to adopt flow-control legislation. Unlike several other states, New York explicitly states that flow control may cover source-separated recyclable materials. Currently, there are 37 New York municipalities (i.e., districts, towns counties, authorities) authorized by the State Legislature to enact flow-control legislation covering approximately 80 percent of the state's population.

New York State has been a primary stage for the legal battles on flow control. In 1994, in *C&A Carbone v Town of Clarkstown*, the Supreme Court's decision struck down the flow-control ordinance adopted by the Town of Clarkstown as unconstitutional because it violated the Commerce Clause of the U.S. Constitution. In this case, the town hired a private contractor to build a waste transfer station and enacted a flow-control ordinance requiring all solid waste generated within the town be directed to that transfer station. The basis of the decision was that solid waste is a commodity in commerce and that the Commerce Clause supersedes laws that discriminate against such commerce on the basis of its origin or destination.

At the time, this decision was widely viewed as invalidating most flow-control models, thus the impact on solid waste management in New York was significant. The results of a 1995 survey of planning units, conducted by DEC, indicated that 16 planning units had significant solid waste debt financing, and most respondents to the survey indicated that they anticipated modifications to several elements of their in-place or planned recycling programs because of the decision regarding flow control. Two-thirds of the respondents reported that a decrease in waste receipts of 10 percent or more would occur, with more than half the respondents reporting a loss of greater than 25 percent of waste flow.

It was reported at that time that few legal challenges to flow control laws had been pursued, but in response to the *Carbone* decision and fear of similar action, many municipalities simply chose not to enforce their flow-control laws. Several planning units reported that they would no longer be able to compete with the private sector due to lower tipping fees offered by private facilities. Planning units called on the state to re-evaluate its solid waste management legislation, regulations and enforcement to ensure a level playing field with the private sector. Many planning units claimed that in the absence of flow control, they would be unable to continue implementing their local solid waste management plans (LSWMPs).

Subsequent to the *Carbone* decision, private waste collectors challenged both the Town of Smithtown's and Town of Babylon's flow-control ordinances. In these cases, after lengthy legal proceedings, both of the towns' ordinances were ultimately upheld as constitutional. In the Town of Smithtown's case, the town enacted a local flow-control ordinance that required any authorized hauler that collected acceptable waste within Smithtown to dispose of such waste at a designated solid waste management facility. Smithtown established municipal garbage collection and disposal for all town residents by

contracts with two waste-hauling companies to collect residential garbage and deliver it to the designated facility. In 1996, it was ruled that the contracts were constitutional as the contractual agreement fell within the “market participant” exception to the Commerce Clause. This was because Smithtown was acting as a market participant in the solid waste management market by operating the town’s solid waste facilities and was merely contracting out private haulers for waste transportation services rather than providing those services themselves. Smithtown was not regulating commerce and, thus, could dictate by contract which waste disposal services must be used.

In the Town of Babylon’s case, the town established commercial garbage improvement districts within which a private hauling company, under contractual agreement with Babylon, agreed to collect the commercial garbage and deliver recyclables to the town’s recycling facility and dispose of the remainder at the town’s municipal waste combustor. Babylon paid the private hauler a monthly fee for the collection and disposal of such wastes. To finance the collection and disposal services, the town imposed an annual assessment against each commercial property within the district. In 1996, it was ruled that Babylon participates in the garbage collection market by purchasing garbage collection services from a private hauler. Thus, the court distinguished and upheld the town’s waste management districts as a valid plan of a local government providing garbage collection services to its residents. Accordingly, this fell within the “market participant” exception to the Commerce Clause. Both the Smithtown and Babylon decisions cleared the way for contractual flow control.

After years of protracted legal battles, in 2007, in the case of *United Haulers Association v Oneida-Herkimer Solid Waste Management Authority*, the US Supreme Court ruled that local governments are permitted to engage in flow control to government-owned and operated facilities in specific circumstances. In this case, both Oneida and Herkimer counties’ ordinances required that all solid waste generated within county boundaries be directed to processing facilities controlled by the Authority. It is important to note that in the majority opinion, it was reasoned that the counties had adopted an expensive waste disposal system that accepted recyclables and household hazardous waste for free to promote separation of these materials, and that the system they had devised enhanced their ability to enforce recycling laws. These provided public benefits that the justices viewed as overriding any burden that had been placed on interstate commerce.

The court found that the challenged ordinances in this case, unlike the ordinance in the Carbone case, conferred a benefit on a public facility rather than a private one, and that the ordinances treated all private companies the same. A significant note in the majority opinion was that local government plays a vital role in the collection and disposal of solid waste, that the State of New York had adopted a policy of displacing competition with regulation or monopoly control, and that nothing in the Commerce Clause vests the responsibility for that policy judgment with the federal judiciary. Consequently, the court held that flow-control ordinances, which treat in-state private business interests exactly the same as out-of-state ones, do not discriminate against commerce for purposes of the Commerce Clause.

The United Haulers decision is expected to modify the development and implementation of the programs for several, local, solid waste management programs. Although some municipalities have begun to again enforce their flow-control ordinances, a significant impact has not yet been seen.