

NOTICE OF PUBLIC HEARING

Subject: Opportunity to comment on proposed amendments to the rule designating rigid plastics as recyclable material for source separation and collection by the Department of Sanitation.

Date / Time: May 29, 2013, 9:30 A.M. to 11:30 A.M

Location: 125 Worth Street, Third Floor Boardroom (Room 330)
New York, New York 10013

Contact: Andrea Ciccone, Counsel
Bureau of Legal Affairs
New York City Department of Sanitation
125 Worth Street, Room 710
New York, New York 10013
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Proposed Rule Amendment

Pursuant to the authority vested in the Commissioner of the Department of Sanitation by section 753(a) and (b) of the New York City Charter and by section 16-305(c) of the New York City Administrative Code, the Department proposes to adopt the following rule to designate all rigid plastic items as recyclable material for collection by the Department. This rule amends Sections 1-01, 1-08(a), (e), (g), and (h), and 1-09(b) of Chapter 1 of Title 16 of the Rules of the City of New York. The rule was not included in the Department's fiscal year 2013 regulatory agenda because it was not expected at the time.

Instructions

- Prior to the hearing, you may submit written comments about the proposed amendment to the office of the Deputy Commissioner for Legal Affairs, New York City Department of Sanitation, 125 Worth Street, Room 710, New York, New York 10013 by mail or electronically through NYC Rules at www.nyc.gov/nycrules by May 29, 2013.
- Individuals seeking to testify are requested to notify the Deputy Commissioner at the above address.
- To request a sign language interpreter or other reasonable accommodation for a disability at the hearing, please contact Edna Luna by May 22, 2013 by fax at (212) 788-3876 or by mail at 125 Worth Street, Room 710, New York, New York 10013.

- Written comments and a summary of oral comments received at the hearing will be available for public inspection, within a reasonable time after receipt, between 9:00 a.m. and 5:00 p.m., at the office of the Deputy Commissioner.

STATEMENT OF BASIS AND PURPOSE

The Commissioner of the New York City Department of Sanitation (the “Department”) is authorized to adopt rules pursuant to sections 753(a) and (b) of the New York City Charter relating to the removal and disposition of various items from the City’s streets and sidewalks, as well as rules specifying what items will be collected by the Department and the manner in which those items are arranged or sorted. Additionally, section 16-305(c) of the New York City Administrative Code requires the Sanitation Commissioner to designate rigid plastics containers as a recyclable material to be source separated (i.e. sorted and set out by residents) and collected from the Department-managed waste stream prior to delivery of Department-managed recyclables to the Sims Group recycling processing facility being constructed at the South Brooklyn Marine Terminal. This new recycling processing facility is scheduled to open and be operational in 2013.

Besides traditional food containers, there are many other consumer items made of rigid plastic that the Department intends to capture in its recycling collection program. The purpose of the proposed rule is to designate an expanded category of rigid plastic items as recyclable material to be source separated and set out by residents for collection by the Department.

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

New matter is underlined; Deleted matter appears in [brackets].

Section 1. The definitions of “bulk waste,” “designated recyclable glass, metal and plastic,” “designated recyclable materials,” and “film plastic,” as set forth in section 1-01 of Title 16 of the Rules of the City of New York, are amended, and new definitions of “bulk plastic,” “flexible plastic,” and “rigid plastic” are added, in alphabetical order, to read as follows:

§1-01 Definitions.

Bulk Plastic. “Bulk plastic” means rigid plastic items that are too heavy or large to lift or fit into recycling containers.

Bulk waste. "Bulk waste" includes large glass, metal, rigid plastic, ceramic, porcelain and/or wood items, including, but not limited to, furniture such as chairs, tables and desks; household appliances such as refrigerators, freezers, stoves, washing machines, dishwashers; hot water

tanks; and trash compactors; sinks; corrugated roofing; aluminum siding; storm window and door frames; sewer pipes; brass fittings; copper pipes and fittings; and scrap lumber.

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

Designated recyclable materials. "Designated recyclable materials" means solid waste that the Commissioner has designated as recyclable pursuant to §§[16-304,] 16-305, 16-306, 16-307, and 16-314 of the Administrative Code of the City of New York. The materials designated as recyclable under these sections may vary from section to section.

Film plastic. (1) "Film plastic" means non-rigid plastic [wrap or bags, including, but not limited to, shrink wrap, grocery bags, dry cleaning or clothing bags.] items composed of a sheet of plastic material used to wrap or cover other items, or used in packaging.

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

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

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

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

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

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

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

(2) Examples of rigid plastic items may include, but are not limited to: bottles, jars, jugs, fruit cups, pudding cups, yogurt cups, other dairy cups, dairy tubs, pails, "clamshell" or other take-out containers, boxes, bulk items, baskets, buckets, crates, beverage bottle carriers, flower or other gardening pots, toys, bulky housewares, small and large household appliances, furniture and decorations, single-use plates, cups, bowls, platters, and cutlery, trays that have sidewalls designed to contain a product in the tray, lids, caps, handles and hinges, and any durable plastic packaging that holds a food, household product, or consumer product for sale, re-sale or reuse.

(3) The term “rigid plastic” does not include the following:

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

(ii) Flexible plastic;

(iii) Film plastic;

(iv) Cigarette lighters and butane gas lighters;

(v) Cassette and VHS tapes;

(vi) Pens and markers;

(vii) Three-ring binders;

(viii) Umbrellas;

(ix) Garden hoses;

(x) Luggage;

(xi) Sponges; and

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

§ 2. Subdivision (a) of Section 1-08 of Title 16 of the Rules of the City of New York is amended to read as follows:

(a) *Designated recyclable materials.* Pursuant to §16-305 of the New York City Administrative Code the following materials are designated as recyclable materials for purposes of this section: metal cans, metal items, aluminum foil, aluminum foil products, containers made of glass, [and plastic bottles and jugs and] beverage cartons, and rigid plastics (collectively referred to as designated recyclable metal, glass and plastic); newspaper, magazines, catalogs, phone books, mixed paper and corrugated cardboard (collectively referred to as designated recyclable paper); and yard waste. This subdivision notwithstanding, designated recyclable paper

and designated recyclable metal, glass and plastic items that are substantially soiled with food, paint or some other contaminating material shall not be considered a designated recyclable material.

§ 3. Subparagraph (ii) of paragraph 1 of subdivision (e) of Section 1-08 of Title 16 of the Rules of the City of New York is amended to read as follows:

(ii) *Rigid containers for designated recyclable metal, glass and plastic:* Designated recyclable metal, glass and plastic may be placed out for curbside collection in rigid containers provided such containers are: (A) a minimum of 18 and a maximum of 32 gallons in capacity; (B) covered by a lid; (C) in compliance with subparagraph (2)(iii) of this subdivision; and (D) clearly labeled at least two times with the words "Recycling: [Glass Containers, Plastic Bottles, Jugs, Beverage Cartons and Cans] Metal, Glass and Plastic", or some variation thereof, in letters no less than four inches in height. Alternatively, Department Metal, Glass and Plastic Recycling Program Decals may be used to label containers. Labels shall appear twice on the container, on opposite sides. The Department recommends that rigid containers for curbside recycling collection of designated recyclable metal, glass and plastic be blue in color, however, such containers are not required to be blue.

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

(3) rinse and/or clean food and/or residue from metal cans, glass containers, [plastic bottles and jugs,] beverage cartons, rigid plastics, and aluminum foil and aluminum foil products prior to the placement of such materials in the appropriate containers. In addition, in buildings receiving curbside collection service for designated recyclable paper, owners, residents, net lessees and persons-in-charge shall tie newspapers, magazines, catalogs, phone books and corrugated

cardboard into bundles not exceeding eighteen inches in height, when notified of such requirement as set forth in paragraph (f)(1) of this section.

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

(1) Designated recyclable metal, glass and plastic:

(i) Curbside collection service. Designated recyclable metal, glass and plastic (other than bulk metal or bulk plastic) that is collected for recycling via curbside recycling collection service shall be placed at curbside in containers or plastic bags complying with subparagraphs (e)(1)(ii) or (e)(2)(ii) of this section on the day(s) specified for recycling collection by the Commissioner. Bulk metal and bulk plastic shall be placed next to such containers on such days.

(ii) Mechanized collection service. Owners, net lessees or persons-in-charge shall call their district garage to make arrangements for recycling collection of bulk metal and bulk plastic.

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

(b) Designated recyclable materials. Pursuant to §§16-304 and] 16-307 of the New York City Administrative Code, the following materials are designated as recyclable materials: metal cans, metal items, aluminum foil, aluminum foil products, glass containers, [and plastic bottles and jugs and] beverage cartons, and rigid plastics (collectively referred to as designated recyclable metal, glass and plastic); newspaper, magazines, corrugated cardboard, high grade office paper, catalogs, phone books, and mixed paper (collectively referred to as designated recyclable paper),

and bulk waste. The requirement that a specific designated recyclable material be source separated or separated post-collection shall be scheduled as required by subdivision (e) of this section. Implementation schedules for specific designated recyclable materials may vary pursuant to the provisions of subdivision (e).

**NEW YORK CITY LAW DEPARTMENT
DIVISION OF LEGAL COUNSEL
100 CHURCH STREET
NEW YORK, NY 10007
212-788-1087**

**CERTIFICATION PURSUANT TO
CHARTER §1043(d)**

RULE TITLE: Amendment of Recycling Rules (Rigid Plastics)

REFERENCE NUMBER: 2013 RG 028

RULEMAKING AGENCY: Department of Sanitation

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

- (i) is drafted so as to accomplish the purpose of the authorizing provisions of law;
- (ii) is not in conflict with other applicable rules;
- (iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and
- (iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN
Acting Corporation Counsel

Date: April 24, 2013

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS
253 BROADWAY, 10th FLOOR
NEW YORK, NY 10007
212-788-1400**

**CERTIFICATION / ANALYSIS
PURSUANT TO CHARTER SECTION 1043(d)**

RULE TITLE: Rigid Plastic as Recyclable Material

REFERENCE NUMBER: DSNY-3

RULEMAKING AGENCY: Department of Sanitation

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

- (i) Is understandable and written in plain language for the discrete regulated community or communities;
- (ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and
- (iii) Does not provide a cure period because it does not establish a violation, modification of a violation, or modification of the penalties associated with a violation.

/s/ Amy Bishop
Mayor's Office of Operations

April 24, 2013
Date