

New York City Department of Sanitation

Notice of Adoption of Final Rule Relating to Use of Certain Receptacles by a Chain of Stores

NOTICE IS HEREBY GIVEN in accordance with the requirements of Sections 1043 of the New York City Charter and pursuant to the authority vested in the Commissioner of the Department of Sanitation by sections 753 and 1043(a) of the New York City Charter and section 16-120 of the New York City Administrative Code, that DSNY adopts the following rule relating to the use of certain receptacles by a chain of stores. DSNY published a Notice of Opportunity to Comment on the proposed rule in the *City Record* on June 30, 2023. On July 31, 2023, DSNY held a public hearing on the proposed rule.

Statement of Basis and Purpose

DSNY rules currently allow for all commercial establishments to set out their waste and recyclable materials within one hour of closing, provided that the scheduled collection occurs before the establishment next reopens for business and only if such materials are placed out for collection in receptacles with tight-fitting lids. Those establishments that place materials out for collection in bags, regardless of the time they close, may place such materials at the curb no earlier than 8:00 p.m.

DSNY recently proposed a rule that requires all food-related businesses to set out any putrescible solid waste, including refuse and organic waste, at the curb for private carter collection in rigid receptacles with tight-fitting lids. This new rule would amend this recent rule and this second phase of rulemaking would expand this requirement to include all commercial establishments that are a part of a chain of stores, regardless of whether such establishments are food-related businesses. A chain of stores includes a commercial establishment that operates five or more stores located within the city of New York that are engaged in the same general field of business and conduct business under the same business name or operate under common ownership or management or pursuant to a franchise agreement with the same franchisor.

These changes are a part of the City's commitment to cleaning up New York City streets and reducing food sources for rats. Businesses are generators of putrescible waste, including organics, and bags of waste set out for collection on the curb, even when in compliance with existing waste set out requirements, attract rats and vermin and are unsightly. Requiring these businesses that produce any amount of food waste to place their putrescible waste in receptacles with tight-fitting lids will meaningfully limit potential food sources for vermin while also helping to keep our sidewalks free of unattractive piles of black bags. DSNY intends in a future rulemaking to further extend the scope of businesses covered by this requirement

These changes align with other City initiatives to increase the use of containers for waste storage and collection, creating cleaner, more livable, and more vibrant streets and neighborhoods across New York City.

New material is underlined.

[Deleted material is in brackets.]

Asterisks (***) indicate unamended text.

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

§1. Section 1-02.4 of Chapter 1 of Title 16 of the rules of the city of New York is amended to read as follows:

§ 1-02.4 Receptacles Required for [Food-Related Businesses] Certain Commercial Establishments

(a) Definitions

1. The terms “catering establishment,” “food manufacturer,” “food preparation establishment,” “food service establishment,” “food wholesaler,” and “retail food store” have the same meanings as in section 16-306.1 of the Administrative Code.

2. The term “chain of stores” means a commercial establishment that operates five or more stores located within the city of New York that are engaged in the same general field of business and conduct business under the same business name or operate under common ownership or management or pursuant to a franchise agreement with the same franchisor.

(b) The following must set out any putrescible solid waste, including refuse and organic waste, at the curb for private carter collection in rigid receptacles with tight-fitting lids, in accordance with § 1-02.1(b), (d) and (e):

1. Catering establishments, food manufacturers, food preparation establishments, food service establishments, food wholesalers, and retail food stores[must set out any putrescible solid waste, including refuse and organic waste, at the curb for private carter collection in rigid receptacles with tight-fitting lids, in accordance with 16 RCNY § 1-02.1(b)].

2. A commercial establishment that is part of a chain of stores and that is not included pursuant to paragraph (1) of this subdivision.

(c) The requirements of this section do not apply to recyclable materials other than organic waste.

(d) The requirements of this section do not apply to commercial establishments that receive off-street collection, including collection from inside a loading dock.

(e) Notwithstanding the requirements of this section, commercial establishments must comply with all laws, rules and regulations, including, but not limited to, the rules and regulations of the Department of Health and Mental Hygiene with respect to the management of waste.