

**ISRI**

Voice of the Recycling Industry

Institute of
Scrap Recycling
Industries, Inc.

INSTITUTE OF SCRAP RECYCLING INDUSTRIES
NEW YORK CHAPTER
COMMENTS ON THE DRAFT NEW YORK CITY
OPEN INDUSTRIAL USE STUDY
JULY 2014

The New York Chapter of the Institute of Scrap Recycling Industries welcomes this opportunity to provide constructive guidance to the New York Department of City Planning and representatives of the various City agencies which have prepared the Draft Open Industrial Use Study. The Institute of Scrap Recycling Industries (ISRI, www.isri.org) is a Wash. DC based national trade association representing processors and brokers of scrap commodities including ferrous and non-ferrous metals, paper fiber, plastic, rubber and electronics. More than 75 ISRI member companies comprise the ISRI-NY Chapter, ranging from family-owned businesses to multi-national corporations.

The scrap material recycling industry is a sophisticated, capital-intensive industry that has been creating “green jobs” in the United States for decades. As the first link in the manufacturing supply chain, scrap material recycling has been integral to the U.S. economy, job creation, resource sustainability, energy savings and global trade. The scrap material recycling industry has been at the forefront of job creation, adding more than 15,000 jobs to the economy since the beginning of 2010. In New York State the scrap recycling industry directly employs 7,640 people; accounts for 24,000 jobs through direct, indirect and induced impacts and adds more than \$ 5 Billion annually to the State’s economy. (Source: John Dunham and Associates, 2012).

Recommendation 1: *Adopt new zoning definitions for OIUs that are consistent with other City and State regulations and also acknowledge the characteristics of activities occurring on these sites.*

COMMENT

ISRI-NY agrees with the recommendation to define and identify with particularity the various types of businesses which typically comprise the universe of OIU's. Each distinct industrial use presents a particular range of operating parameters which present specific potential environmental and community impacts, and the range of potential mitigation of such impacts need to be tailored and rationalized to a particular industrial use such that adoption and implementation of recommended mitigation measures are practical and achievable. ISRI-NY appreciates the acknowledgement of the drafters that scrap material processing facilities are more than junkyards, providing critical commodity resource management functions. However, we caution the drafters that every scrap material facility is unique. The definition needs to be broad in scope but the prescriptive operational standards need to be flexible to adjust to the wide range of commodity and operational practices throughout the industry.

Properly defining the various open industrial uses common to heavy manufacturing zoning districts will make the Zoning Resolution consistent with other local, state and federal regulations and more accurately reflect contemporary business practices. Please note the need to update and modernize definitions of various open industrial use businesses throughout the Administrative Code and the regulations promulgated thereunder.

Recommendation 2: Require existing and new OIUs to comply with new physical design standards for effective onsite pollution prevention controls.

COMMENT

ISRI-NY recognizes the intent of the drafters in proposing design standards for open industrial use facilities. However, ISRI-NY respectfully suggests that the Zoning Resolution is not an appropriate regulatory “vessel” in which to explicitly codify specific design standards; rather, we believe that broad prescriptive goals with reference to environmental regulations – such as “stormwater management consistent with State and Federal laws and regulations” - are more appropriate to the Zoning Resolution. As environmental regulations constantly evolve through the rule-making process the Zoning Resolution will quickly be rendered out of date if it is overly bogged down by establishing with particularity operational and design standards. In our judgment the regulatory rule-making process at the administrative level presents a more efficient and accessible method for the establishment of design and operational standards.

Paving / Grading: Adding impervious surfaces will increase stormwater and process water runoff. DCP should consider the use of pervious rather than impervious surfaces so as to minimize the amount of runoff which will require retention and treatment. Potential contaminants such as petroleum compounds tend to bind to the soil rather than leaching to ground or surface waters. Since as a practical matter groundwater in industrial areas has already been impacted through historical uses, and given that local groundwater is not a source of potable water, the incremental impact associated with percolation through a pervious paving structure is not likely to pose any significant environmental harm. Moreover, the use of a pervious surface still provides an equivalent reduction in airborne fugitive dust emissions as would an impervious surface.

Drainage: The recommendation that every OIU must install an appropriate treatment, filtration and detention system arbitrarily pre-supposes that potential runoff from every OIU will present contaminants. This recommendation should be modified to be consistent with the federal Clean Water Act as delegated to the State of New York and implemented through the New York State Department of Environmental Conservation Multi-Sector General Permit for Stormwater Discharges from Industrial Sources (MSGP), which establishes the progressive implementation of "best management practices" in correlation to empirical analyses of the quality of stormwater runoff on a site-specific basis obtained through annual testing. A requirement that every OIU must install stormwater detention and treatment without regard to the actual quality of the discharge from a specific site is arbitrary and imposes capital costs for needless infrastructure unless an appropriate analysis and review of runoff discharges is first taken into consideration.

Fencing: ISRI-NY accepts the general concept to require the fencing of facility perimeters to the extent that the purpose of doing so is to provide a visual screen, containment of run-off and fugitive dust and provide control over site access. However, ISRI-NY objects to the proposed limitation on the height of storage piles. The storage of scrap metal does not produce fugitive dust emissions, and therefore there is no practical basis to impose a pile height limitation. In addition, the notion that fencing should be erected around every discrete stockpile of scrap material is completely unrealistic. Likewise, ISRI-NY strongly objects to the proposed requirement that storage piles be covered. Doing so is completely impractical. Pile shapes are dynamic and irregular; as such there are no appropriate coverings available. Moreover, cloth or tarpaulin covers will quickly be ripped from contact with scrap metal, and rigid covers are not practical or feasible. Given the cost of real estate within the City, inventory of scrap materials cannot be maintained solely through horizontal expansion. Limitations on pile height will severely impact the financial viability of many scrap material processing facilities by limiting the quantity of materials which may be processed.

Recommendation 3: *Require new OIUs to provide off-street loading berths and, where adjacent to residence districts, perimeter landscaping.*

Comment:

Truck traffic, on-street vehicle queuing and the appearance associated with many OIUs can negatively affect conditions for residents and workers in and near industrial areas. Requirements for onsite queuing space or loading berths and perimeter landscaping for new OIUs can address these quality of life concerns by improving the compatibility between potentially conflicting uses and enhancing neighborhood character.

Recommendation 4: *Amend other City codes to clarify existing environmental requirements, complement proposed zoning amendments and provide for enhanced enforcement.*

Comment:

Multiple city, state and federal agencies regulate the operation of industries engaging in OIUs. ISRI-NY recommends that the Zoning Resolution incorporate by reference these administrative regulations by requiring compliance with all applicable regulatory standards rather than incorporating specific regulatory standards in to the Zoning Code.

Recommendation 5: *Establish financial and technical assistance programs to assist businesses in complying with the proposed regulations.*

Comment:

ISRI-NY supports the efforts to encourage environmental upgrades of OIUs and offset associated costs through sales tax exemptions on purchases of building, construction and renovation materials. ISRI-NY strongly supports the proposal to consider the cost of implementing new infrastructure as part of the regulatory process, and will provide cost estimates to the Committee.

Recommendation 6: *Analyze additional options for monitoring compliance, voluntary environmental controls and increased resiliency of industrial areas within flood zones.*

Comment:

ISRI-NY respectfully fails to see any value in the creation of a “registry” of Open Industrial Uses. However, we feel that the creation and maintenance of a such a registry is completely within the discretion of the Department which may so choose to wilfully add to its regulatory requirements.

ISRI-NY believes that the recommendation for additional monitoring lacks substantive value. There is simply no scientific process which would allow for the source identification of various common air and water pollutants, most or all of which can be associated with the impacts of transportation and other industrial and commercial uses.

CONCLUDING COMMENT

ISRI-NY greatly appreciates the opportunity to provide these comments and looks forward to working closely with the ongoing efforts of the Open Industrial Use Study.

Respectfully submitted,

Lawrence R. Schillinger

Lawrence R. Schillinger

Government Relations and
Environmental Compliance Counsel
July 15, 2014

