

Department of Sanitation Public Hearing
October 5, 2015

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NEW YORK CITY
DEPARTMENT OF SANITATION
PUBLIC HEARING ON PROPOSED RULES
GOVERNING SOURCE SEPARATION AND HANDLING
REQUIREMENTS FOR ORGANIC WASTE GENERATED
BY CERTAIN COMMERCIAL ESTABLISHMENTS

October 5, 2015
10:00 A.M.
125 Worth Street
New York, New York

Presented By: ANDREA CICCONE, DEPUTY
COMMISSIONER OF LEGAL AFFAIRS
NYC DEPARTMENT OF SANITATION

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2 MS. CICCONE: Good morning and
3 welcome. My name is Andrea Ciccone. I
4 am the Director of Intergovernmental
5 Affairs in the Bureau of Legal Affairs
6 for the Department of Sanitation. Thank
7 you for attending the Department's
8 hearing this morning.

9 The Department is conducting this
10 hearing in accordance with the
11 requirements of the City Administrative
12 Procedure Act. The purpose of this
13 hearing is to receive comments from the
14 public on the Department's proposed rules
15 for governing source separation and
16 handling requirements for organic waste
17 generated by certain commercial
18 establishments in New York City that have
19 their refuse and recycling collected by
20 private carters, based on Local Law 146
21 of 2013, which is codified in Section
22 16-306.1 of the New York City
23 Administrative Code. The Department
24 published the proposed rules in the City
25 Record on August 27, 2015. The

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Department also mailed copies of the rules to all New York City elected officials, the City's 59 community boards, media, and interested parties, and also published the proposed rules on the Department's website.

Local Law 146 requires that the Sanitation Commissioner evaluate at least annually, starting July 1, 2015, whether there is sufficient regional organics processing capacity to require the source separation of organic material by certain City food-generating businesses. If capacity exists, the Commissioner must designate a set of covered establishments that must arrange with their private carters to engage in alternative methods for handling organic waste separated by the businesses. These methods include composting, aerobic or anaerobic digestion, or any other method for processing organic waste approved by the Department by rule. Law 146 also requires private carters to arrange for

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proper collection and handling of organic waste either through a transfer station or directly with an organics processing facility.

The Department visited processing sites and surveyed active private organics waste processing facilities. It also evaluated organic waste quantities generated by various food industry sectors in the City. Accordingly, the Department has identified available organics processing capacity within 100 miles of the City.

The purpose of the Department's proposed rules, that are the subject of today's hearing, is to designate the first phase of specific covered establishments under the program that must comply with the requirements. The designated covered establishment include:

Arenas or stadiums having 15,000 or more seats;

Food service establishment in hotels having 150 or more sleeping rooms

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that are under common control of such
hotel and receives waste collection from
the same private carter;
Food manufacturers having
25,000 square feet or more;
And food wholesalers having
20,000 square feet or more.
Specifically the Department's
proposed rules require designated covered
establishments to source separate their
organic waste and arrange for proper
processing of this material through
collection by a private carter licensed
by the New York City Business Integrity
Commission, or alternatively by
registering with BIC and transporting
their own organic waste for proper
processing. Designated covered
establishments that utilize a private
carter will be required to post a sign
identifying its private carter that will
collect source separate organic waste.
Any such on-site method will be required
to meet sewage discharge limits

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established by the New York City
Department of Environmental Protection.

Covered establishments will also
be allowed to separately donate their
organic waste to a third-party, donate or
sell organic waste to a farmer for
feedstock, and donate or sell meat
by-products to a rendering company.

The Department's proposed rules
also provide source separation, storage,
set-out, handling and sign posting
requirements for the designated covered
establishments. Such entities will be
prohibited from commingling organic waste
with designated recyclable material or
solid waste, and will be required to
store and set-out at the curb separated
organic waste in one or more containers
that have a lid and latch to ensure
closure at all times, except when the
containers are being serviced by a
private carter. Additionally, designated
covered establishments will be required
to post instructions for their employees

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and customers on how to properly source separate organic waste generated at their premises.

The Department's proposed rules set support reporting responsibilities of operators of putrescible solid waste transfer station authorized to receive source-separated organic waste that will be delivered by private carters to their facilities.

Lastly, the Department's proposed rules include enforcement compliance in accordance with the New York City Administrative Code. However, the Department will not begin enforcement until 12 months after the Department's rules become effective in order for designated covered establishments to come into compliance with the proposed new regulatory requirements.

A court reporter is present today and will record the hearing. You may present an oral statement or submit written comments concerning the proposed

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rules. Please sign in at the entrance of the room if you wish to present an oral statement today. We have been accepting written comments on the proposed rules since their publication in August. Today is the deadline for submission of written comments.

The Department will make available a copy of all written comments received through today, together with the hearing transcript, for viewing on its website next week.

The Department will carefully consider all the comments it receives today at the hearing and all written comments it receives.

I will begin calling those of you who wish to speak this morning in the order in which you have signed in. When you speak, please state your name and affiliation and speak slowly and clearly so that the court reporter can understand and accurately record your statement.

I will begin first by calling

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Steven Changaris. Steven represents the New York City Chapter National Wastes and Recycling Association.

MR. CHANGARIS: My name is Steven Changaris. I'm the New York City Chapter Manager for the National Wastes and Recycling Association. Thank you very much for the opportunity to offer these brief comments on the commercial organics waste regulations pending in the Department.

The New York City Chapter of the National Waste and Recycling Association endorses the efforts to divert into higher and best use programs and away from traditional disposal technologies.

The New York City Chapter believes the commercial and residential organics initiatives in the industry today are much like those of the bottles and cans recycling that we set in motion 30-some years ago. While we support the City's initiatives, we will offer comments based on the experts of the

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industry who work with the generators daily, year round, in collecting materials and finding suitable sites for their end of life management. We come forward today with concerns and challenges we see on the horizon for DSNY as the new organics management programs are cultivated and developed under existing laws and regulations. There are many successful, well run solid waste programs, whether the program be commercial collection for recycling or a DSI route for collection of residential wastes.

On the commercial side I believe these comments ought to be focused on the large quantity generators of organics that are covered under the regulations. We believe in order for the generators of these organic materials to be successful, the Department will have to, and the City will have to assist them with economic programs and incentives.

We're glad to play an active role

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2 here and to be competitive and provide
3 the services of collecting and
4 transporting the organics materials. But
5 the first step for the City's commercial
6 organics must be taken by the generator.
7 Generators of these organic materials
8 will need technical assistance from the
9 City, and access to well-funded economic
10 incentives and support programs to help
11 them convert their internal operations
12 for compliance. The generator will more
13 likely change behaviors and comply when
14 this regulation is matched with a strong
15 combination of technical assistance and
16 economic incentives.

17 On another point, we are under a
18 strict regulatory and rate cap system by
19 the Business Integrity Commission. All
20 carters have to be approved for integrity
21 and fitness and be licensed by BIC before
22 they can work with any City business.
23 The rate cap means effectively that any
24 rate charged to a customer is rate
25 regulated and is considered fair and

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2 reasonable by City government officials.

3 As this commercial regulation becomes
4 effective, the vision we have for the
5 collection and movement of organics in
6 the future is one by fit and licensed BIC
7 carters operating with true free market
8 arrangements with their customers, not
9 subject to rate cap controls.

10 Traditional BIC rate cap regulation may
11 well prevent carters from providing
12 sustainable organics service for their
13 customers, and to have a free hand in
14 working with them, and any available
15 organics management sites in the City and
16 region to see that organics are diverted
17 for disposal. We believe there is a
18 distinct possibility, and we have great
19 concerns, after traditionally BIC rate
20 cap regulation remains in place for the
21 new alternative, that carters will not be
22 able to provide the same service for
23 their customers, given the constraints of
24 the rate cap.

25 Related, we believe the City

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should also work to provide incentives and economic support programs for companies siting, building and operating organics management facilities. The City should work with the state legislature and it should fund economic development programs and work the existing resources into regional organics facilities for the creation of new funding programs that will be located in the City.

We also have been working with utility-based green innovative programs. A historical recap will show that many of the organics facilities in the region, the very facilities that are needed to make this organics diverse program work, have had a tough time with it being sustainable for many reasons. Economic support and incentives for these participants in the organics program will be an essential element to the successful implementation of this regulation.

We also recommend that the organics to be managed under these

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2 regulations initially be pre-consumer
3 organic materials. We believe that some
4 of the facilities and businesses covered
5 under these proposed regulations may well
6 produce post-consumer organics. Source
7 separated clean pre-consumer organics
8 will be inherently less difficult than to
9 try and clean up severely contaminated
10 post-consumer organics. In simple words,
11 for example, clean-kitchen generated is
12 more manageable than from a stadium's
13 organics containers filled by the general
14 public at major events.

15 Another future of the City's
16 carting industry being regulated by BIC
17 that impacts the proposed regulation
18 involves a carter's ability to
19 subcontract from a customer with another
20 carter. While we prefer the vision of a
21 deregulated and free and competitive
22 market for providing services, we believe
23 that if that vision does not come into
24 being that the BIC should work with the
25 Department to help streamline the

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subcontracting organizations, which will promote carters' ability to specialize in providing organics services and will help create a denser route for the collection of organics, which means fewer truck miles, and will get the job collecting these materials done most effectively.

And to finish, we would like to reiterate that the need for good technical assistance and economic incentives are really important to make these organics regulations work, but we also believe that the enforcement feature of the program has to be involved at some point. As was noted earlier by Andrea, there is general enforcement authorities in the existing code, but the enforcement protocols here we believe, for our purposes, should really be focused on the generator, after the technical assistance and economic assistance, and not necessarily on the carter. We can collect the material and get to it appropriate sites.

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2 Those are my remarks. Thank you
3 very much.

4 MS. CICCONE: Thank you, Steven.

5 Next I would like to introduce
6 Ya-Ting Liu, representing the New York
7 League For Conservation Voters.

8 MS. LIU: Good morning, everyone.
9 My name is Ya-Ting Liu, and I'm the New
10 York City Program Director at the
11 New York League of Conservation Voters.
12 We are a statewide environmental
13 organization with over 25,000 members
14 here in New York City. We are pleased to
15 submit the following comments regarding
16 the commercial organics rule change to
17 Department of Sanitation.

18 So New York League of
19 Conservation Voters commends the City of
20 New York for its efforts to divert
21 organic waste from landfills. Last fall
22 we hosted a policy forum to explore how
23 best to create a processing
24 infrastructure for food waste program and
25 the strategies needed to achieve the

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necessary economies of scale. Today's rule change governing the source separation handling requirements for organic waste generated by the largest commercial food establishments is really important. It sends the necessary market signals that the City is committed. But it will be necessary for the City to do more if it is to reach OneNYC's goal of sending zero waste to landfills by 2030.

First, a significant amount of organics processing capacity will need to be developed for residential commercial organics waste streams. While several facilities are in the planning stages, no large scale facilities currently exist to serve the nation's largest source of municipal organic waste. In order to address this challenge, the City must create a comprehensive approach and begin a conversation with industry, businesses and the public about what it is willing to do, create, incentivize and spur organic processing capacity within New

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2 York City.

3 So NYLCV offers three
4 recommendations for reaching these goal:

5 First, maximize the use of
6 anaerobic digestion capacity at NYC DEP's
7 wastewater treatment plans. Organic
8 waste can be co-digested with sewage
9 sludge. In addition to the eventual 500
10 tons per day of capacity for organics
11 waste projected at Newtown Creek
12 Wastewater Treatment Plant, the City
13 should encourage high quality organic
14 waste from commercial or institutional
15 sources at other wastewater treatment
16 plants that could accommodate such
17 material. DEP should make clear and
18 public what its intentions and plans are
19 for anaerobic digestion capacity at its
20 wastewater treatment plants and what
21 quality of materials they're willing to
22 take.

23 Second, the City should make
24 publicly-owned sites available to
25 facility developers that will be suitable

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for wet or dry anaerobic digestion technology or composting facilities. These sites should be of appropriate size, provide suitable transportation access, and allow adequate buffer distances from already overburdened communities. If these sites are under state or federal control, the City should try to free them up for such use.

Last, the City should launch a pilot project to create exclusive franchise zones for commercial organic waste. In addition to facilitating the financing of new infrastructure capacity, such exclusive franchise zones can provide other public benefits, such as reduction in truck travel. These franchise zones might also be used to control the collection of non-organic waste and recyclables and/or residential and institutional materials.

The New York City Department of Sanitation sends more than 3 million tons of waste to landfills each year. And

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almost a third of that is food waste.
Today's rule change governing commercial food waste is a good first step to kick-start this work. We look forward to working with the City to make sure that we have the processing capacity and infrastructure in place that can get us to the zero waste goal.

Thank you.

MS. CICCONE: Next I'd like to call Bettina Damiani representing ALIGN.

MS. DAMIANI: Good morning. My name is Bettina Damiani, and I'm a senior researcher and policy analyst at ALIGN, The Alliance For a Greater New York, and a member of the Transform Don't Trash NYC campaign.

Transform Don't Trash NYC is a labor-community coalition made up of ALIGN, Natural Resources Defense Council, New York City Environmental Justice Alliance, New York Lawyers for the Public Interest, and Teamsters Joint Council 16 and Local 813.

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Our coalition advocates for a reformed commercial waste system that significantly increases commercial recycling rates, pushes for equitable siting of waste infrastructure and environmental justice values, reduces environmental impact through significantly reduced vehicle miles traveled and greener vehicles, and improves working conditions of commercial waste haulers.

Thank you for allowing us the opportunity to speak to you today.

Diverting solid waste for landfills is an essential component in creating a suitable and sustainable New York City. A large percentage of refuse waste is organic material and the environmental benefits in recycling that material are significant. In moving the City to expand the organics separation requirements collection on stadiums, wholesalers, retailers, and large hotels, we applaud the Department of Sanitation

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for its commitment to composting and more sustainable waste handling.

We further commend Commissioner Garcia's efforts to increase capacity to receive of organic materials and promote source separation. However, we see the need to push for greater reform in order to grasp the full environmental, economic, and labor benefits of commercial organic waste handling:

In seeking opportunities to scale up organics processing inside of existing transfer stations, we want to ensure that the City is taking into consideration the negative impacts that already exist with waste management in overburdened communities. Because of this, we suggest the City maximizes the use of anaerobic digestion capacity at NYC DEP's wastewater treatment plants such as Newtown Creek. Given the fact that Newtown Creek will only have the capacity to process about 15 percent of New York City's residential organic waste a year,

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we also recommend attracting new investment to build additional anaerobic digesters to create good, local jobs and drive the production of renewable natural gas.

Secondly, ensure that the incineration or other thermal technologies is not considered as a means of organic diversion given the environmental and community health concerns.

Finally, increased route density could allow for more stops per shift and therefore increase total amount of food waste collected per truck per shift per day.

As we know, New York City generates about 1,640 tons of food waste each day and most of this material is sent to distant landfills with less than 6 percent recycled. Organic materials are resources that can be used to generate clean energy with the end products being recycled into valuable

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soil.

Greater organics recovery is therefore a key priority in meeting the City's zero waste goal of achieving 90 percent diversion of commercial waste by 2030 and we continue to look forward to working with you on these goals.

Thank you.

MS. CICCONE: Next I'd like the call Jordan Christensen from the Citizens Campaign for the environment.

MS. CHRISTENSEN: Hello, my name is Jordan Christensen, and I'm here today to represent the Citizens Campaign For the Environment. We're an 80,000 member nonprofit non-partisan advocacy organization that works to empower communities and advocate solutions that protect public health and our natural environment. We applaud the Department for its efforts to reduce solid waste and to promote composting and renewable energy generation. We support the proposed rule requiring large

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establishments to divert their organic waste away from landfills.

New York City has begun making significant strides towards the goal of sending zero waste to landfills by 2030, beginning with the household composting program that's being expanded this year. This proposed rule, which would divert over one million tons of organic waste generated from large hotels, stadiums, food wholesalers, and manufacturers away from landfills each year is an important step in New York City's efforts. States such as California, Vermont, Connecticut and Massachusetts have already begun enacting similar policies, which encourage composting, reduce sanitation costs, create clean, renewable energy, and decrease greenhouse gas emissions. This rule is a critical step in creating a more sustainable NYC, and CCE encourages the Department to use this rule as a pathway towards achieving the zero waste goal.

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Composting is not only a means of reducing waste, it is a valuable resource and a source of clean, renewable energy. Several new compost facilities are currently being built to handle New York City's waste, and the capacity to handle organic waste is expanding as the City's zero waste policies take effect. The establishments targeted by this law provide an important pathway towards creating infrastructure that will allow the City to expand this program and capture more businesses, restaurants, and grocers. Creating a steady source of organic waste from these large establishments can spur investments in large-scale composting infrastructure, including anaerobic digesters, which could then be used to expand this program to smaller establishments and to households.

In the current rule, each establishment will be responsible for arranging its own composting, either

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2 on-site or by transferring it to another
3 location. This makes sense for large
4 hotels and arenas, as these
5 establishments generate large waste
6 organic waste streams. In fact, many of
7 these establishments have already
8 committed to composting and waste
9 reduction goals. However, with the goal
10 of increasing composting for restaurants,
11 fast food establishments, small grocery
12 stores and bodegas, as well as individual
13 households, creating the programs and
14 infrastructure to handle all of New York
15 City's organic waste in the coming years,
16 should be beginning now with these large
17 generators or waste. CCE recommends that
18 the Department create guidelines and
19 recommendations for the smaller
20 generators of waste so that they can more
21 fully participate and more readily
22 implement successful programs. CCE also
23 recommends that the Department create
24 regulations for transportation and
25 composting of organic waste, using this

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rule to create a template for composting by all by New York City's food establishments.

By overseeing the composting process for large establishments, New York City would be creating and piloting a model for the smaller establishments, which may not be able to arrange their own organics composting, and ensuring that the waste is handled properly. Some compost facilities, such as Long Island Compost in Yaphank, New York, have come under fire for air and water pollution as well as odors associated with open air composting. After years of meetings and sustained community participation, Long Island Compost owners signed a consent order with the New York State DEC to enclose the majority of the composting operations and build an aerobic digester which reduces greenhouse gas emissions by 400,000 tons, and operate the facility on the renewable energy generated. This actually was permitted by the town last

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week as well. It is crucial that organic waste from New York City be composted in enclosed facilities, with negative air pressure, to encourage innovative, sustainable compost operations that are welcomed and not rejected by residents.

Waste management is an environmental justice issue for New York City, with low income communities being plagued with the majority of the City's garbage. And it is critical to ensure that the waste coming from the City is handled properly and not simply being dumped into other communities. State of the art composting facilities that are enclosed and utilize negative air pressure systems are essential to avoid community health concerns and adverse impacts to a neighborhood's quality of life.

In addition to the City's waste reduction goals, New York City also has ambitious goals for energy efficiency, renewable energy production, and

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greenhouse gas emission reduction. The organic waste generated in the City should be used to generate clean, renewable energy that is put back into the New York City grid. By overseeing the full life-cycle of waste, New York City can serve as a national model for organic waste reuse and help foster renewable energy generation locally.

CCE applauds the City for working toward zero waste and using that opportunity to create a more sustainable City.

Thank you.

MS. CICCONE: If there is anybody else in the audience that would like to comment on our proposed rulings, we invite you up to the podium.

I'm introducing Bonnie Graziano from Blue Sphere Corporation.

MS. GRAZIANO: My name is Bonnie Graziano, and I just want to say I pretty much agreed with almost everything I heard. And I think it is wonderful. But

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2 I just want people to know that there are
3 anaerobic digester manufacturers,
4 producers, and my company -- I don't want
5 to make this into a commercial, I don't
6 think that's appropriate. But they are
7 out there. Because I heard people say
8 that's great. But, where are these?
9 Where do I go? We are out there.

10 For example, there is a five mega
11 plant in Charlotte, North Carolina that's
12 online now, and produces electricity in
13 partnership with the utilities. And
14 that, I think, is the first of its size
15 in the United States. So we're here.

16 MS. CICCONE: Would anyone else
17 like to testify?

18 Thank you. We will go off the
19 record now.

20 (Whereupon, a recess was taken at
21 10:46 a.m. until 12:03 p.m.)

22 MS. CICCONE: This concludes
23 today's hearing.

24 (Whereupon, the hearing was
25 concluded at 12:03 p.m.)

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C E R T I F I C A T E

STATE OF NEW YORK)
)SS.:
COUNTY OF QUEENS)

I, VICKY GALITSIS, a Certified
Shorthand Report and Notary Public with and
for the State of New York, do hereby
certify:

I reported the proceedings in the
with-entitled matter and the foregoing
transcript is a true record of said
proceedings, as amended.

I further certify that I am not
related to any of the parties to this action
by blood or marriage; that I am in no way
interested in the outcome of the matter.

IN WITNESS WHEREOF, I have hereunto
set my hand this 7th day of October, 2015.

VICKY GALITSIS

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