

**Comments of the  
New York City Chapter  
National Wastes & Recycling Association**

**On**

**New York City  
Proposed Regulations to Implement  
New Recycling Requirements  
for  
Entities that Receive Private Carter Collection**

**Submitted to the  
New York City Department of Sanitation**

**Thursday, October 22, 2015  
125 Worth Street  
NYC, NY**

**By: Steven Changaris  
Manager  
New York City Chapter  
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## **NYC Chapter of the National Waste & Recycling Association**

### **Comments on New DSNY Commercial Recycling Regulations**

*The NYC chapter of the National Wastes and Recycling Association (NW&RA) endorses all reasonable efforts to divert commonly discarded materials and wastes into recycling and other diversion programs; and away from traditional management options like landfilling and waste-to-energy disposal. Therefore we support these proposed regulatory changes as the right kind for NYC to pursue to achieve these sound environmental objectives. We must also say here that we equally have great concerns about whether these proposed regulations will be reasonable to implement in many, many situations.*

*The NYC chapter shares the city's belief that the system-wide uniformity to be created by these regulations -- about what is to be recycled everywhere within the city's jurisdiction -- makes sense and is long overdue. It will help all involved in recycling -- the consumer product manufacturer; the retailer; the consumer; the builder owner or property manager; building maintenance companies and crews; the carter; the recycling facility operator; end markets; and city policy and enforcement officials to do better at diverting these materials from disposal and into higher and better uses. However, it will take considerable effort, planning and upfront investments, on many levels, to make the changes more than just words in the regulatory code.*

*The NYC chapter, based on its collective experiences in collecting, processing and delivering recyclables to end markets and diverting after useful life materials from disposal, believes that these new commercial recycling regulations will be more successful with the following kinds of additional programs and improvements to support them.*

*Many NYC generators of recyclables, once these new regulations are effective, will need additional technical assistance from the city; and, access to well-funded economic incentives and support programs to help them to further convert their internal recycling operations for compliance. Under existing regulations many generators have only set-up recycling programs to isolate fiber streams in their buildings; and not bottles, cans, plastics and other recoverable materials. These generators will more likely change behaviors and comply when these regulations are matched with a strong combination of technical assistance and economic incentives. At some point in the process many of these same generators will also be subject to additional impacts of establishing separate and new organics management programs called for and authorized under other pending DSNY regulations and law.*

*The vision we have for the collection and movement of all NYC recyclables is one by fit and licensed Business and Integrity Commission (BIC) carters operating with true free market arrangements with their customers, not subject to any rate cap controls. Traditional BIC rate cap regulation may well prevent carters from providing economically sustainable recycling services for their customers under these new regulations, as well as even under existing recycling regulations. The current state of poor end-markets for recyclables, soft demand for commodities in general and the on-going chronic and problematic long-term recycling management issues for certain recovered materials, e.g., glass, continues to put incredible pressure on rate cap related economics that private carters have to deal with on a routine basis. If the rate cap is not to be removed for collection and management of recyclables, further rate cap relief is more than appropriate to be given.*

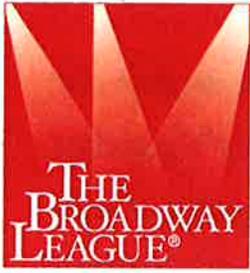
*Incentives and economic support programs for companies siting, building, modifying and operating the recycling facilities will also be required to accommodate both existing, and these new, recycling regulations too. Economic support and incentives will help jump start new facility development or existing facility modifications/upgrades and will be key to the successful implementation of these new expanded and on-going recycling regulations.*

*The proposed regulations are silent about “de minimus” threshold levels for recyclables in wastes; and, they are also silent about any waiver provisions for customers unable to comply with the new requirements; and, they are also silent about a carter not being penalized for the failure of a generator to properly source separate designated recyclables from their wastes. We believe these regulations would be stronger if reasonable “de-minimus” levels were set for recyclables in wastes; and, if a generator is unable to comply, or if compliance with these new regulations would significantly degrade an existing recycling program, that a generator should be able to seek and be granted a waiver; and last, we believe that carters who offer and routinely provide recycling services pursuant to these new regulations should not be penalized when disposing of waste loads with recyclables beyond reasonable “de minimus” thresholds when generators fail to comply with these regulations.*

*The chapter will use this opportunity to make the call for a more inclusive and routine DSNY and city waste and recycling management stakeholder process to help develop these kinds of policies and regulations. Other jurisdictions routinely do this; we believe NYC should too.*

*The chapter also believes the city should do routine and periodic analysis of the recycling markets and trends. We also believe the city has to work with Albany and the business community to find ways to maximize the use of recovered materials and to promote existing and new end markets, and diversion outlets, so that that end markets improve and are robust and dynamic and competitive for the materials we recover under the recycling rules and regulations.*

*And last, the chapter believes the city should allow maximum regulatory flexibility so private carters and waste and recycling companies can introduce new concepts and programs for the end-of-life management of discards, other materials and wastes. The future of how we manage discards and wastes will change and be quite different from how we do things today. Sometimes regulatory policies and programs prevent new programs from evolving or being developed. The city should establish programs to investigate and accommodate such changes and emerging technologies. And, also be sure the hold these pilot programs and new projects to being accountable and being subject to LCA (life cycle analysis) so that all know and can track the environmental improvements brought to bear by them.*



## STATEMENT OF THE BROADWAY LEAGUE

### Regarding Proposed Rules to Regulate Private Recycling

The Broadway League has been the principal trade association of the national commercial Broadway theatre industry for more than 80 years. We represent more than 700 members nationwide, including the forty theatres in Times Square that constitute Broadway. We thank The Department of Sanitation for allowing us an opportunity to remark on the Rules being proposed today.

The Broadway community has always been on the forefront of social issues; including doing everything within our purview to reduce the environmental impact of our facilities. For example, many theatres have been retrofitted with thermal performance windows, reducing heat loss in the winter and cool air loss in the summer. Many have installed water filtration systems for backstage use to reduce plastic waste and the gasoline consumption of the delivery trucks. Our paper hand-towels are green seal approved and made from recycled paper. With assistance from Con-Edison, we have re-lamped our theatres with energy efficient light bulbs and the overall consumption of natural resources are constantly monitored to see how we can conserve even more energy, water and fuel.

With respect to recycling: all theatres have reprocessing programs. After collection, most waste is separated at our carting company's plant for recycling. For back stage areas, recycling bins for paper, and bottles and separate bins for other waste, aid in this process. For the public areas, used Playbills are collected and recycled. We have found that these measures not only help the environment, but often lead to significant cost savings. We continue to strive for new ways to conserve, reuse and recycle in all areas of our operations.

Charlotte St. Martin  
*President*

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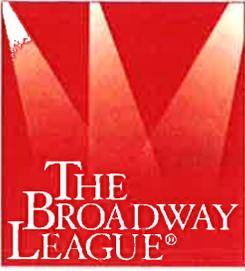
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While we applaud this agency for its efforts to standardize the method that private industries undertake to fulfill the City's mandate on recycling, *our venues may simply be incapable of compliance with some of the proposed rules.* In many instances, theatre owners would be required to station a second set of large collection bins behind each venue. At present, there is scarcely sufficient room for one set. As Fire Code restrictions mandate routes for emergency egress, in many instances there is simply insufficient space to accommodate additional collection bins while simultaneously enabling compliance with safety regulations. Further, the proposed Recycling Rules will require venue staff to separate recyclables from other trash in-house, however our theatres do not have the personnel or capacity to do so.

Please note that all Broadway Theaters have landmark status. Owners are therefore prohibited from making alterations that would be necessary to accommodate more bins. Further, due to the close proximity of the theaters to one another, it is unlikely owners would be able to locate sufficient space even if they could legally alter the properties. Accordingly, we respectfully request that the Rules, while effectively streamlining the recycling process and increasing efficiencies wherever possible, are amended to take into consideration the spatial and practical limitations of our facilities.

On behalf of the Broadway theatre community, the League supports any effort by the City to improve the environment. We would therefore be delighted to collaborate with DSNY in an effort to create Rules that advance its goals while accounting for the real-world affects they will have on building owners, as well as their ability, or inability, to comply.

**THE BROADWAY LEAGUE REPORTS THAT BROADWAY CONTRIBUTES  
ALMOST 12 BILLION DOLLARS TO THE NEW YORK CITY ECONOMY\***

- New York City is the leading American city for presentation of live theatrical attractions. Broadway is a primary motivator of New York City tourism and an integral component of the performing arts culture.
- The 13.1 million theatre tickets purchased in the 12-month theatre season ending in May 2015 represented an increase of over 889,000 tickets from the previous season ending in May of 2014. Generally, over 80% of the tickets sold are purchased by patrons residing outside New York City. Approximately 58% of all theatregoers reported that attending a Broadway show was a principal reason for visiting New York City.
- Broadway theatre was responsible for infusing New York City's economy with approximately \$11.9 billion in 2013, a 2% increase from two years ago. Theatre-motivated consumer spending exceeded \$9.6 billion (not including the purchase of their show tickets), while production and venue related spending totaled more than \$2.2 billion (including theatre employees' salaries and benefits).
- Broadway spending directly supports an estimated 87,000 full-time equivalent jobs in New York City.
- Broadway spending generates over \$500 million in local tax revenue to NYC.
- Broadway attendance for the 2014-2015 season topped those of the ten professional NY and NJ sports teams combined (Mets, Yankees, Rangers, Islanders, Knicks, Liberty, Giants, Jets, Devils and the Nets).
- New York State's theatres depend on Broadway, as the majority of a regional theatre's income is derived from Broadway presentations. Broadway theatre had a combined estimated fiscal impact of \$35.8 million on Buffalo, Ogdensburg, Rochester, Schenectady, Syracuse, Utica, and West Point for the 12-month theatre season ending May 2013. Since 2004, Utica, Schenectady and Elmira have invested between \$15 and \$18 million into theatre renovations, and various other regional theatres collectively spent approximately \$100 million to accommodate Broadway productions.
- Despite its undeniable economic importance, commercial Broadway does not benefit from grants, investment tax credits or bonds – unlike various other forms of commercial entertainment that do not spur economic activity in the same magnitude as live theatre.

\*These figures are from the Broadway League's most recent reports, *The Demographics of the Broadway Audience 2013-2014*, *Broadway's Economic Contribution to New York City 2012-2013* and *The Economic Impact of Touring Broadway 2012-2013*.

## **Broadway League's Comments on Proposed DSNY Rules**

Tom Ferrugia [TFerrugia@broadway.org]

**Sent:** Wednesday, October 21, 2015 16:31

**To:** NYC Rules (DSNY)

**Cc:** Martine Sainvil [msainvil@broadway.org]

**Attachments:** STATEMENT OF THE BROADWAY~1.docx (228 KB)

Good afternoon,

I am writing on behalf of the Broadway Theater community and wish to submit comments on the rules under consideration by The Department to standardize commercial recycling. Please note that I will also attend tomorrow's hearing and respectfully request 3 minutes to address the panel and read our remarks into the record.

Thank you for your courtesy.

### **STATEMENT OF THE BROADWAY LEAGUE Regarding Proposed Rules to Regulate Private Recycling**

The Broadway League has been the principal trade association of the national commercial Broadway theatre industry for more than 80 years. We represent more than 700 members nationwide, including the forty theatres in Times Square that constitute Broadway. We thank The Department of Sanitation for allowing us an opportunity to remark on the Rules being proposed today.

The Broadway community has always been on the forefront of social issues; including doing everything within our purview to reduce the environmental impact of our facilities. For example, many theatres have been retrofitted with thermal performance windows, reducing heat loss in the winter and cool air loss in the summer. Many have installed water filtration systems for backstage use to reduce plastic waste and the gasoline consumption of the delivery trucks. Our paper hand-towels are green seal approved and made from recycled paper. With assistance from Con-Edison, we have re-lamped our theatres with energy efficient light bulbs and the overall consumption of natural resources are constantly monitored to see how we can conserve even more energy, water and fuel.

With respect to recycling: all theatres have reprocessing programs. After collection, most waste is separated at our carting company's plant for recycling. For back stage

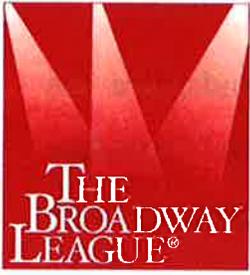
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While we applaud this agency for its efforts to standardize the method that private industries undertake to fulfill with the City's mandate on recycling, *our venues may simply be incapable of compliance with some of the proposed rules*. In many instances, theatre owners would be required to station a second set of large collection bins behind each venue. At present, there is scarcely sufficient room for one set. As Fire Code restrictions mandate routes for emergency egress, in many instances there is simply insufficient space to accommodate additional collection bins while simultaneously enabling compliance with safety regulations. Further, the proposed Recycling Rules will require venue staff to separate recyclables from other trash in-house, however our theatres do not have the personnel or capacity to do so.

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On behalf of the Broadway theatre community, the League supports any effort by the City to improve the environment. We would therefore be delighted to collaborate with DSNY in an effort to create Rules that advance its goals while accounting for the real-world affects they will have on building owners; as well as their ability, or inability, to comply.

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[Broadway.org](http://Broadway.org) | [IBDB](http://IBDB) | [Broadway Concierge](http://BroadwayConcierge) | [TonyAwards.com](http://TonyAwards.com)



## STATEMENT OF THE BROADWAY LEAGUE

### Regarding Proposed Rules to Regulate Private Recycling

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## **Comments to Proposed Commercial Recycling Rule**

Jay Peltz [jay@fiany.com]

**Sent:** Thursday, October 22, 2015 11:58

**To:** NYC Rules (DSNY)

**Cc:** Michael Rosen [Michael@fiany.com]

**Attachments:** Commercial Recycling Propo~1.pdf (369 KB)

Dear Sir or Madam,

Attached are the comments of the Food Industry Alliance of New York State regarding the proposed rule titled Recycling of Material Collected by Private Carters, Reference Number 2015 RG 088. Please acknowledge your receipt of the comments by replying to this e-mail address.

Thank you.

Best,

Jay

Jay M. Peltz

General Counsel and Vice President of Government Relations

Food Industry Alliance of New York State, Inc.

1385 Boston Post Road

Larchmont, New York 10538

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**FOOD INDUSTRY ALLIANCE OF NEW YORK STATE, INC.**

130 Washington Avenue • Albany, NY 12210 • Tel (518) 434-1900 • Fax (518) 434-9962  
Government Relations (518) 434-8144

**Comments**

**By the Food Industry Alliance of New York State, Inc.**

**Regarding**

**Recycling of Material Collected by Private Carters, Reference Number 2015 RG 088**

Thank you for the opportunity to submit comments on the proposed rule titled Recycling of Material Collected by Private Carters, Reference Number 2015 RG 088. My name is Jay Peltz and I am the General Counsel and Vice President of Government Relations for the Food Industry Alliance of New York State ("FIA"). FIA is a nonprofit trade association that promotes the interests statewide of New York's grocery stores, drug stores and convenience stores. Our members include chain and independent food retailers that account for a significant share of New York City's retail food market and the grocery wholesalers that supply them, as well as many of New York City's drug and convenience stores.

Our member stores recycle millions of containers under the New York State Bottle Law every year. To avoid disrupting this recycling, proposed section 1-10 (e)(1)(i) provides that the owner, net lessee or person-in-charge of a premises who arranges for the collection of solid waste or designated recyclable materials must arrange for the recycling, reuse or sale for reuse of designated recyclable materials in accordance with sections 1-10 (b) and 1-10(c) ***"...except where such materials are managed pursuant to the returnable container act, also known as the bottle bill, found in title 10 of article 27 of the environmental conservation law*** (bold and italics added)."

The same exception, however, is not included in the next paragraph (proposed section 1-10 (e)(2)) establishing similar obligations for tenants or occupants. As a result, while there would clearly be a bottle law exception for retailers who own their stores, there would be no such express exception for retailers who lease their stores.

Accordingly, we respectfully request that proposed section 1-10 (e)(2)(i) be revised as follows: (i) source separate materials in accordance with subdivisions (b) and (c) of this section, ***except where such materials are managed pursuant to the returnable container act, also known as the bottle bill, found in title 10 of article 27 of the environmental conservation law*** (proposed added material is in bold and italics).

This proposed modification would put retailers who lease their stores in the same position as retailers who own their stores. As a result, any disruption of recycling under the New York State Bottle Law would be avoided.

Thank you for your attention to FIA's concerns. We look forward to hearing from you.

Respectfully submitted,

**Food Industry Alliance of New York State, Inc.**

**Jay M. Peltz**

**General Counsel and Vice President of Government Relations**

**Metro Office: 914-833-1002**

**[jay@fiany.com](mailto:jay@fiany.com)**

## **Great Forest Comment on Proposed Commercial Recycling Rules**

Amy Marpman [marpman@greatforest.com]

**Sent:** Thursday, October 22, 2015 13:47

**To:** NYC Rules (DSNY)

**Attachments:** GF Comment - Proposed Comm~1.pdf (201 KB)

Please see attached hearing testimony from Great Forest, Inc. regarding proposed rules: recycling requirements for entities that receive private carter collection.

Thank you,

Amy Marpman  
Great Forest

October 22, 2015

## **HEARING TESTIMONY FROM GREAT FOREST, INC**

### **Proposed rules: recycling requirements for entities that receive private carter collection**

#### Great Forest Background

Great Forest is a sustainability consulting firm based in NYC and a large part of our services include recycling education for our commercial business clients - commercial office buildings, hotels, financial institutions and retail establishments.

#### General Comments

Great Forest is in full support of updates to the commercial recycling law, as we are also interested in seeing these regulations simplified, which will hopefully create an improvement in recycling rates throughout the city. We would like to see this done in a practical, effective way without adding any undue burden on commercial business owners and managers.

#### 1-01 Definitions, Section 1-10(c)(3); (d)(1)

We applaud the removal of the term post-collection separation, as this was commonly used as an excuse to not perform any on-site source separation efforts and it was the cause of much confusion. However, we see the potential for even more confusion with the introduction of the terms co-collection and single stream. Co-collection is the typical practice among private carters we work with. They will collect loose cardboard, separately bagged mixed paper and separately bagged glass/metal/plastic in one truck, which then goes to a material recovery facility (MRF). Allowing the private carter to dictate whether or not a commercial business is serviced with co-collection or single stream will create operational issues for businesses, especially when they change carters. For example, if a commercial office building has a successful single-stream, source separation program in place, and as a result of a hauler change the program switches to co-collection, there will have to be significant operational costs to add bins, change signage, and re-train and educate both collection staff and employees. Additionally, even though single stream is a popular practice for source separating recyclables, there is much pushback within the private carting and recycling industry as single stream results in less valuable commodities due to higher contamination rates and puts all the burden on the carter or the facility to absorb the costs for separating materials that potentially have little value. Many businesses may not even have the means for all rigid plastics to be rinsed or clean at the point of generation, which would further contaminate dry paper materials in a single stream system. Also, since residential recycling is not yet single stream this would cause even more confusion for generators doing something different at work than they do at home.

We would urge the council to remove single stream as a source-separation option (remove Section 1-10(c)(3)) until it is also an option for residential.

#### Section 1-10(b)(1)(ii), 1-10(b)(2)

It should be clarified that metal, glass and plastic can be comingled as one stream, as is done on the residential side, and that all types of mixed paper can be comingled as a separate

stream. As written it could be interpreted that separate bins and bags are needed for metal and glass and plastic, when these three streams can be comingled.

#### Section 1-10(b)(3)

In no way should the generator be responsible for informing the carter of the carter's responsibilities. The generator would not be able to know the carter's capabilities nor be able to verify where the truck goes once it leaves the generator site.

#### Section 1-10(d)(2)

The signage provision requirement should be placed on the hauler. It would make the most sense to have a decal for recycling, as all businesses are already required to have a decal for removal of trash. This recycling decal should also be provided by the hauler, and it should indicate the days serviced and destination of recyclable material.

#### Section 1-10(d) and (e)

There is the potential for generators to put the burden of source separation on the janitorial staff, when it should be clarified that the individual commercial business employee is responsible for source separation. While the janitorial staff is responsible for maintaining source separation efforts upon collection, they should not also be expected to sort trash from recyclables on top of their other duties as this would be beyond the scope of many contracts and has the potential to become a real labor issue. Additionally, the penalties for not complying with this law fall on the entity with the contract with the private carter, however, in the case of many commercial office buildings there is little that can be done to ensure that tenants are doing their part in source separation efforts. This is a challenge that exists under the current regulation that continues to not be addressed in the proposed legislation. Under Section 1-10(e)(5) allowing the tenants to set-up a different system than the building further lessens the ability of the property manager or owner to enforce any element of this law.

#### Section 1-10(e)(1)(iv)

We would also ask the council to consider removing or revising this requirement. Adding bins in public areas where there are not currently bins would add undue labor and material costs, and in many locations throughout the city would pose a huge security risk. We support public area recycling where it makes sense, but it must be clarified as to what those public areas are so as to not compromise the operations or safety of a business.





**HEARING TESTIMONY FROM  
THE BUILDING OWNERS AND MANAGERS ASSOCIATION OF GREATER NEW YORK:**

**PROPOSED RULES: RECYCLING REQUIREMENTS FOR ENTITIES THAT RECEIVE PRIVATE  
CARTER COLLECTION**

The Buildings Owners and Managers Association of Greater New York (BOMA/NY) represents more than 750 owners, property managers, and building professionals who either own or manage 400 million square feet of commercial space. We are responsible for the safety of over 3 million tenants, generate more than \$1.5 billion in annual tax revenue, and oversee annual budgets of more than \$4 billion. BOMA/NY is the largest Association in the BOMA International Federation, the world's largest trade organization. We thank you for the opportunity to testify on these bills.

BOMA/NY recognizes the environmental and other benefits of a robust commercial recycling program and supports the City's efforts to strengthen and enhance the existing program, which is confusing and in some ways difficult to implement. That said, we would like any effort moving forward to be data-driven and informed by an active stakeholder-driven process that can sort through barriers and difficulties related to expanded recycling requirements prior to rules changes. BOMA/NY would be happy to serve on a task force or other body to help achieve those goals. A list of some of our concerns is below.

**Commercial Recycling Needs More Study:**

Back in 2006, when the Solid Waste Management Plan (SWMP) was passed, the City laid out a path that would need to be followed to achieve commercial recycling reform. The SWMP is of course still in effect, and BOMA/NY agrees with its approach to conducting a study prior to changing the rules. As the SWMP states:

"DSNY will work with the Business Integrity Commission (BIC) to conduct a comprehensive study of the current recycling practices of commercial waste haulers in the City. The goal of the study will be to assess compliance with applicable local laws and rules in order to determine whether these are effective or require revision and clarification. The study should also assess the capability of the commercial establishments and commercial carters to increase their ability to recycle currently mandated items and their ability to add additional items to be recycled."

According to the SWMP, this study would be fairly exhaustive in its detail:

"The study scope shall include at minimum: a survey of haulers and their customers to determine current practices, including contracting, notification and comprehension of local laws and rules; field inspections of transfer stations and recycling facilities to assess current operations and constraints; collection of data to report the actual amount of material being recycled; site visits to places of business, representative of different types of customers to determine comprehension and compliance, as well as public notification and compliance with any recycling laws or rules currently in place. The study shall report on the current state of commercial recycling in the City, including economic and technical issues, and make recommendations for potential improvement, specifically including whether changes in the applicable laws and rules are merited and what changes, if any should be enacted."

No study with this level of detail and scope has been conducted and released; nonetheless, the information that such a study would include would seem critical to understanding how best to expand commercial recycling in a way that makes the most sense. At the very least, an understanding of the potential environmental and economic impacts from such a rule change would be helpful in advance of making such a change. For example, how many trucks will the new rules add to street networks, and at what cost to building owners and their tenants? Without this information it is difficult to analyze the rule's impacts.

#### **Owner vs. Tenant Responsibilities:**

For the new rules to have any significant effect on commercial recycling rates, it will be critical for tenants to separate and retain recyclable materials within their office areas. As many office tenants live outside NYC, they are unfamiliar with the City's more granular recycling rules. Indeed there is very little history of separating metal, plastic, and glass in office settings and there will be abundant challenges with respect to workplace habits and of greater import, the way these materials would be collected particularly as it relates to occupant use patterns which are much greater in bandwidth than M-F 9-5 of a bygone era. Indeed, for years waste haulers have told building owners and tenants not to separate out recycling, as they would sort everything post collection at another location. It is the industry's belief that this can continue to be performed effectively and economically. Without the detailed analysis and comprehensive study promised to the industry under the 2006 NYC SWMP, there is nothing that would assert or suggest that the current methodology of post collection separation should be amended or replaced at this time.

#### **Cleaning Services Issues:**

The proposed rules have the potential to impact cleaning services in commercial buildings that will, at the least, lead to higher costs. Most cleaning staff in commercial buildings are unionized and working under a collective bargaining agreement. This agreement not only governs the nature of the work conducted by staff but sets forth reasonable worker productivity with respect to the square foot area they are required to clean within each hour. The use of multiple bins necessary for source separation will add complexity to the collection and handling of these materials to the extent that a hardship will be placed on the workforce to complete these activities within the time frames previously allotted for. This will lead to labor conflicts which may only be resolved by reducing productivity requirements, with a resultant increase in workforce hours and related building cleaning expenses. This impact to owners cannot be underestimated as the union cleaners in NYC are among the highest paid in the nation, with annual employee costs currently exceeding \$75,000 per year, including benefits.

#### **Trucks and Costs:**

The ban on co-mingling recyclables and solid waste has never been enforced, and doing so now, as well as the potential need to separate out and remove compost, yard waste, or textiles, will lead to a significant expansion of the amount of truck travel throughout the City. In addition, it will drastically increase the number of trips and services waste haulers perform, thereby increasing contractor overhead and operating costs to handle and dispose of waste and recyclables that will most certainly be passed on to owners. The potential of the City to increase or do away with rate cap could allow for considerable cost increases. As stated before, understanding the potential environmental and economic impacts prior to issuing rules is of critical importance.

#### **Signage and Bin Placement Issues:**

The sign and bin placement requirements are vague, and it is unclear exactly what the building manager's responsibilities would be. For example, does the requirement to place bins include lobbies and atriums? If so, such placement could also lead to security and nuisance issues. And, once again, managing these bins would add labor costs. In addition, Section 1-10(d)(2) needs clarity, and it is not sure that the detail called for in this signage is necessary or appropriate.

While posting signs in maintenance areas may be useful, it should not be understood to serve the purpose of educating janitorial staff to undertake source separation responsibilities for building tenants, which is not their role. Source separation needs to occur in the tenant spaces and other areas of the building and not be expected of the janitorial staff.

**Recycling Disposal Requirements:**

It should not be the responsibility of the building manager to ensure that haulers cart recyclables to a recycling facility. Once off the property, building managers will have no way to verify what haulers do.

**Section 1-10(b)(1)(ii):**

This section should be clarified to make it clear that cardboard is neither bagged nor put in a bin in most situations.

**Conclusion:**

BOMA/NY supports the City's efforts to divert waste from landfills and to recycle more. But without understanding the issues and potential impacts, as well as working through barriers such as how to get tenants to consistently source separate recyclables from trash, it is hard to see how much improvement will be made through these proposed rule changes, and at a material cost penalty. Therefore we would call for more upfront work and analysis by all stakeholders before moving forward.

We thank DSNY and the City for this opportunity to submit these comments.

## **REBNY Comments on Proposed Commercial Recycling Rules**

Ali Ruth Davis [ADavis@rebny.com]

**Sent:** Thursday, October 22, 2015 17:46

**To:** NYC Rules (DSNY)

**Attachments:** REBNY Testimony for 10.22.~1.pdf (103 KB)

To whom it may concern:

Please see the attached document for REBNY's comments on the proposed commercial recycling rules. If you have any questions, please feel free to contact me at (212) 616-5272.

Best,  
Ali

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### **Ali Ruth Davis**

Vice President

Management Services/Government Affairs

The Real Estate Board of New York

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**Comments to the New York City Department of Sanitation  
Regarding Commercial Recycling Rules**

**Real Estate Board of New York  
October 22, 2015**

The Real Estate Board of New York (REBNY), representing over 16,000 owners, developers, managers and brokers of real property in New York City, thanks you for the opportunity to provide comments regarding the New York City Department of Sanitation's proposed rule changes related to commercial recycling requirements.

While REBNY supports the City's recycling goals and applauds its attempts to clarify and streamline regulations, we believe that these changes are being implemented too quickly and without sufficient study to determine their possible costs and impacts. Further analysis would allow the Department of Sanitation (DSNY) to both fully and holistically assess how New York City's overall waste collection process is being changed through various individual initiatives, pilot programs and rule changes, as well as to better understand the operational and fiscal impacts of this particular set of rules. We ask that the City delay implementation and enforcement of these proposed rules to allow for this analysis and input from stakeholders at all levels.

**Owner Requirements vs. Tenant Participation**

As with many of the City's green initiatives for commercial properties, the effectiveness of these regulations depends on the actions of building tenants, but the burdens of notification and enforcement (and often the penalties for non-compliance) are placed on building owners and managers. Given this reality, we suggest that DSNY also consider strategies and programs to improve generator education and incentivize tenant participation, instead of simply implementing rules that often end up penalizing the wrong party.

Although, in the medium to long term, the proposed requirements (along with penalties for non-compliance) can be formally passed along through lease provisions, it may be incumbent upon owners and managers in the short term to ensure tenants' compliance with DSNY's rules. As a result, owners and managers may need to change their operational procedures to include source separation, which has the potential to increase cleaning and maintenance costs. These costs and operational changes must be better understood before the proposed rules are implemented.

**Signage and Notification**

In addition, the signage and notification requirements in the proposed regulations are confusing and unnecessarily burden building owners and managers who already must comply with a multitude of other similar requirements. For example, section 1-10(e)(1)(ii) of the proposed rules requires owners and managers to notify tenants of DSNY's rules regarding commercial recycling. If this requirement is

put on owners and managers, we ask that DSNY provide an example of tenant notification form—as HPD provides example or actual tenant notification forms to residential owners regarding window guard or smoke detector requirements—for owners' use.

Similarly, Section 1-10(d)(2) of the proposed rules requires that generators must post signage identifying contracted private carters, but the requirements are both overly proscriptive (e.g. regarding the amount of information that must be posted) and too vague. For example, if generators use the same carter for both waste and recycling, will the BIC decal that owners are already required to display be sufficient? Will BIC be creating recycling decals for carters to provide to their customers, or will generators be expected to create their own signage? We ask that these requirements be clarified prior to implementation.

### **Language Clarification**

The requirements of section 1-10(e)(1)(iv) are also unclear, regarding placing signage and containers for recyclables in public areas of buildings where such items may be generated. Are the regulations intended to require that owners must now place containers to collect recyclables in areas where they do not currently have containers to collect refuse? If so, this places an unreasonable requirement on building owners and managers; and it has the potential to lead to situations where pedestrian flow is impeded or even to create security concerns.

Also, the requirement in section 1-10(b)(1)(ii) that recyclables must be placed out separately for collection must be clarified. As currently worded, the rule is unclear if each type of recyclable needs to be bagged individually, or if metal, glass and plastic can be comingled in the same bag.

### **Carter Notification Requirement**

Finally, section 1-10(b)(3)(i) of the proposed rules requires generators to notify their carter of DSNY rules regarding collection of recyclables and waste. Building owners, managers and tenants should not be responsible for informing private carters of DSNY's policies, and we ask that this provision be removed from the rules.

### **Conclusion**

Thank you again for allowing us to submit comments to these proposed rules. As previously mentioned, we support the goals that they are trying to achieve—simplifying the commercial recycling regulations and reducing waste in the City by ensuring that recyclables are diverted from landfills—but we once again request that DSNY delay implementation until further analysis is completed. This will allow the City to better understand the cost and operations implications for generators and haulers, ensure that there is sufficient collection and processing capacity available, and improve the likelihood that the final regulations and requirements that result from this process will be successful.

## **NRDC Comments on Proposed Commercial Recycling Rules**

Goldstein, Eric [egoldstein@nrdc.org]

**Sent:** Thursday, October 22, 2015 18:10

**To:** Ciccone, Andrea (DSNY); Orlin, Robert (DSNY); NYC Rules (DSNY)

**Attachments:** EAG Testimony 10.22.15.pdf (1 MB)

Hi DSNY –

Here are NRDC's written comments on the proposed commercial recycling rules.

Thank you for all your good work.

Eric

**ERIC A. GOLDSTEIN**

*Senior Attorney\**

**NATURAL RESOURCES**

**DEFENSE COUNCIL**

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See my blog on NYC environmental issues:

<http://switchboard.nrdc.org/blogs/egoldstein/>

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**STATEMENT OF THE NATURAL RESOURCES DEFENSE COUNCIL  
BEFORE THE NEW YORK CITY DEPARTMENT OF SANITATION  
REGARDING DSNY'S PROPOSED RECYCLING RULES  
APPLICABLE TO COMMERCIAL ESTABLISHMENTS**

**October 22, 2015**

My name is Eric A. Goldstein and I am the New York City Environment Director at the Natural Resources Defense Council, Inc. ("NRDC"). NRDC is a national, not-for-profit legal and scientific organization, active on a wide range of environmental, public health and quality-of-life issues both around the nation and right here in New York City, where we were founded in 1970. NRDC has worked for decades on solid waste issues in the New York region and has advocated for a transformation from primary reliance on landfilling and incineration to making recycling, composting and waste prevention the cornerstones of city waste policy in the 21<sup>st</sup> century.

We appreciate this opportunity to submit written comments on the New York City Department of Sanitation's proposed rules governing recycling requirements applicable to commercial establishments and others who employ private carters to collect their refuse and recyclables.

We share the Department's concern with the state of commercial recycling in New York City today. Even though commercial establishments have been required to recycle since at least 1992, commercial recycling has been a long-time weak-spot in New York's waste-handling operations. Even today, more than two decades after the City Council sought to divert at least half of the commercial waste to recycling facilities, much less than 50% of the city's commercial waste load is today being recycled (although nobody really has precise figures). Confusion regarding existing recycling requirements for businesses, shortcomings in enforcement, major gaps in reliable data and a lack of interest by many commercial establishments in handling their wastes more sustainably have all contributed to this sorry state of affairs.

For these and other reasons, NRDC welcomes the new Department of Sanitation proposal, which has the potential to bring the most significant improvements in years to the recycling and waste collection operations of New York City businesses.

**NATURAL RESOURCES DEFENSE COUNCIL**

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NRDC believes that the proposed rules would help rationalize the current commercial recycling system in New York. Specifically, we welcome the proposed provision that would apply the same recycling rules to all businesses. The new rules would require that all businesses separate for recycling: metals, glass, plastic, and paper products -- as well as textiles, yard waste and construction and demolition debris, where applicable. This change alone (along with strong public education efforts) would reduce confusion regarding the requirements for commercial recycling in New York City.

NRDC is also pleased to see that the new rules would prohibit the co-mingling of designated recyclable and non-recyclable solid waste. The concept of co-mingling recyclables with non-recyclable trash (and theoretically sorting such materials later at mixed-waste processing facilities) is one of the worst ideas to have emerged in the solid waste field in recent years. This practice leads to greater contamination of recyclables, thus defeating the actual purpose of recycling, which is to rescue valuable commodities that would otherwise be sent to landfills and incinerators and instead re-introduce them into the stream of commerce. Another big disadvantage of co-mingling is that such an approach is inconsistent with the city's residential recycling program and therefore its widespread implementation would further confuse the public about how and whether they can and should participate in recycling. The city's proposed regulations would correctly prohibit counter-productive co-mingling.

A third potential advance in the proposed rules is the provision that would allow for single-stream recycling collections in the commercial sector. This approach could simplify the collection process and perhaps even lead to increased participation in the recycling program. To be sure, the implementation of single-stream commercial recycling needs to be carefully monitored to insure that this new system does not lead to increased contamination of sorted recyclables and thus decrease the value of the materials collected for recycling.

Moving on, we note that a requirement for separation by commercial establishments of food waste (for composting or anaerobic digestion) is not provided for in these proposed rules. We understand that this omission is due simply to the fact that the Department's commercial organic composting effort is moving forward separately, pursuant to the city's 2013 commercial organics recycling statute. The proposed regulations do include (in section 1-10(a)(vi)) a placeholder where organics source-separation could be added as a designated recyclable. That is appropriate. In our view, there is no higher priority for sustainability in waste-handling than for the Department to continue advancing programs to insure that all of the city's commercial (and residential) organics are kept out of landfills and incinerators and sent instead to composting or anaerobic digestion facilities. With that goal in mind, we look forward to the day when organics will be added to these rules and designated as recyclable so that a requirement for source-separation of organics is required for commercial waste generators across the city.

Of course, any regulatory program is only as effective as the enforcement effort that supports it. And this is especially true in the area of solid waste. Our biggest fear is that the

effectiveness of this new set of regulations will be undercut by insufficient enforcement over time. Will haulers be effectively moved to comply with the new programs and will they provide sufficient data for the city to assess their performance? And will the new rules be able to assure actual recycling compliance at the end of the line? Unfortunately, the regulation of solid waste recycling facilities has historically fallen to New York State. And the State Environmental Conservation Department rules do not insure that DEC-permitted recycling facilities are maximizing the recycling of all of the waste that they receive. Accordingly, we urge the Department to consider whether it can step in and insure that recycling occurs to the maximum practical degree when the collected recyclables reach recycling facilities. (One way of controlling such activities is through the adoption of an exclusive zone system for commercial waste handling, which is described more fully below.)

NRDC is also submitting comments on behalf of the Transform Don't Trash ("TDT") NYC coalition, of which NRDC is a member. TDT is dedicated to reforming New York City's commercial waste industry so as to reduce waste and pollution, increase recycling, create good local jobs and foster clean and healthy communities for all New Yorkers.

Like NRDC, TDT believes that the proposed rules are a significant step in the right direction and commends the Department for its leadership in seeking to expand recycling in New York City. However, TDT shares the concern the effectiveness of these rules in insuring that metals, glass, plastic and paper will actually be recycled could be limited by the inability of the rules to address what happens at the end of the recycling chain. Even if businesses and haulers do their part, lax regulation of recycling facilities is a big problem that could undermine the Department's sustainability objectives. TDT also shares our sense of urgency about the need to comprehensively recycling NYC's organic material, hundreds of thousands of tons of which are unnecessarily landfilled each year, where it decomposes and releases methane – a potent greenhouse gas.

TDT is advocating for New York City to adopt an exclusive zone system for handling commercial waste. We believe this is a proven approach that would – among other benefits -- insure more effective recycling of metals, glass, plastic and paper, while allowing expansion of organics as well. Under such a system, the City would create geographic zones in which haulers bid for the exclusive right to collect commercial waste. Through contracts between the city and successful bidders, this approach would maximize efficiency for haulers while pooling the purchasing power of businesses, including small businesses. These contracts would allow the city to extend its oversight to the entire recycling chain. And if structured properly, such contracts would confer sufficiently long-term trash collection rights that would in turn spur major industry investments in state-of-the-art recycling and organics processing infrastructure.

We look forward to working with the Department and the de Blasio Administration as the proposed commercial recycling rules and hopefully these broader commercial waste-handling reforms move ahead in coming months.