

**CITY OF NEW YORK  
BILL DE BLASIO  
MAYOR**

**DEPARTMENT OF SANITATION  
KATHRYN GARCIA  
COMMISSIONER**



**SOLID WASTE MANAGEMENT PLAN  
BIENNIAL UPDATE REPORT**

**For the Reporting Period of  
JANUARY 1, 2017 THROUGH DECEMBER 31, 2018**

**May 2019 (Revised August 2020)**

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## **EXECUTIVE SUMMARY**

This sixth Biennial Update Report dated May 2019 and revised as of August 2020 (Report) prepared by the New York City (City) Department of Sanitation (DSNY), is submitted to the New York State Department of Environmental Conservation (NYSDEC) in accordance with the provisions of 6 NYCRR.366-5.1. It provides information on the City's progress in implementing its approved Local Solid Waste Management Plan for 2006 through 2025 (SWMP), during the reporting period of January 1, 2017 through December 31, 2018 (Reporting Period).

In accordance with 6 NYCRR 366-5.1, this Report is required to provide summary information on solid waste management planning, solid waste and recyclables data, and to address:

- (i) Changes to the planning unit structure;
- (ii) Actual waste generation, recycling and disposal data and comparisons with and reasons for deviations from projections;
- (iii) Changes to solid waste management practices;
- (iv) Outreach and education activities;
- (v) Efforts to ensure compliance with local recycling laws;
- (vi) Obstacles preventing the planning unit from implementing tasks and/or achieving the goals of the SWMP; and
- (vii) The status of conformance with the implementation schedule, including discussion of reasons for deviating from the implementation schedule.

No changes were made to either the Planning Unit structure or the SWMP during the Reporting Period. While more detailed data in the form of an Annual Recycling Report for 2017 and for 2018 has been provided separately, the solid waste and recyclables data in this Report includes, as required: (i) the names and locations of all known facilities that accepted waste or recyclables from the planning unit during the previous two years; and (ii) for each facility, the quantity and type of waste and recyclables sent to the facility, as well as information on the efforts taken by the City to ensure compliance with local recycling laws in accordance with 6 NYCRR 366-5.1(b)(1)(v) (see Section 3.1.13).

The Report also contains updates on USACE dredge projects, drift and floatables collection in the NY/NJ region (see new Attachment 7C on plastics floatables programs), processed dredge use at Fresh Kills Landfill (see Attachment 7A) and biosolids management (see revised Attachment 7B). Reporting Period accomplishments are highlighted in this Executive Summary along with information on more recent initiatives.

The City's first SWMP Biennial Update Report discussed implementation during 2007 and 2008. The City's second Report reported on the status of SWMP implementation during 2009 and 2010 and was revised in February 2012 to reflect proposed changes in the milestone implementation schedule. The City's third Report reported on the status of SWMP implementation during 2011 and 2012. The City's fourth Report reported on the status of SWMP implementation during 2013 and 2014. The City's fifth Report reported on the status of SWMP implementation during 2015 and 2016.

## **SWMP Background**

The SWMP was prepared by DSNY with the assistance of the New York City Economic Development Corporation (NYCEDC) and other mayoral agencies, adopted by the City in July 2006, and approved by the New York State Department of Environmental Conservation (NYSDEC) in October 2006. It involved a comprehensive review of the activities undertaken to implement the City's first Solid Waste Management Plan, approved in 1992, as amended, an evaluation of where and how those efforts should be refocused to better meet the City's solid waste management needs, information on the City's on-going solid waste management programs, and an extensive process of consultation with interested parties.

The Final Environmental Impact Statement to support the SWMP was issued in April 2005 (FEIS). A SWMP FEIS Technical Memorandum issued in March 2012 and revised in July 2012 considered changes in SWMP milestone implementation. A SWMP Technical Memorandum issued in May 2013 reflected new flood risk information and related proposed design changes to the East 91<sup>st</sup> Street and Southwest Brooklyn Marine Transfer Stations. A SWMP Technical Memorandum issued in November 2013 reflected new permit modifications in connection with a December 2011 Environmental Assessment Statement (EAS) issued to support Review Avenue Transfer Station

permit modifications obtained by Waste Management of New York LLC (WM) and the 2013 award of a DSNY 20-year service contract to WM for the transfer, transport by rail and disposal of DSNY-managed waste from Queens Sanitation Districts 1 through 6. An EAS was issued in January 2012 in connection with the award of a DSNY 20-year intergovernmental agreement with the Port Authority of New York and New Jersey for the use of the Essex County Resource Recovery Facility for the disposal of DSNY-managed waste from Manhattan Sanitation Districts 1 – 4, 7, 9, 10 and 12. An EAS was issued in December 2014 in connection with the award of a DSNY 20-year service contract to Covanta Sustainable Solutions for the transfer, transport by rail and disposal of DSNY-managed waste from Queens Sanitation Districts 7 through 14 and Manhattan Sanitation Districts 1, 5, 6, and 8. A Technical Memorandum was issued in January 2017 in connection with the award of a DSNY 20-year service contract to WM for the transfer, transport by rail and disposal of DSNY-managed containerized waste from the Hamilton Avenue and Southwest Brooklyn Marine Transfer Stations. Finally, a Technical Memorandum was issued in April 2019 in connection with the start of operations for the East 91<sup>st</sup> Street Marine Transfer Station.

Since the SWMP was approved by NYSDEC in 2006, DSNY, other City agencies, and related entities have advanced SWMP goals and substantially completed the majority of projects and initiatives required to be implemented in the SWMP milestones.

## **REPORTING PERIOD ACCOMPLISHMENTS**

### **OneNYC: The Plan for a Strong and Just City**

In 2015, Mayor Bill de Blasio released “OneNYC: The Plan for a Strong and Just City.” As part of the plan, the City committed to a number of solid waste sustainability initiatives to send zero waste to landfills by 2030 (described in the Recycling and Sustainability discussion below and Section 3.1), reduce greenhouse gas (GHG) emissions and undertake a comprehensive study of commercial waste collection zones to determine if there are substantial inefficiencies in the way waste is collected. DSNY has made great strides in developing programs to achieve these goals and can report that with the opening of the East 91<sup>st</sup> Street Marine Transfer Station in March 2019, is sending roughly 33% of DSNY-managed waste to energy-from-waste facilities and, having completed a study of commercial waste collection, has put forward an ambitious Commercial



Waste Collection Zone plan summarized below. Because organics make up more than a third of the City’s DSNY-managed waste stream, DSNY increased the number of households reached by the Organics Collection Program during the Reporting Period and expanded its platform for recyclable donations –donateNYC – to include food donations. The new website tool matches businesses with extra food to groups who feed hungry New Yorkers, with an eye towards hyper-local donations. See Attachment 1A for more information.

### **Commercial Waste Collection Zones**

To meet the OneNYC commercial waste commitment, in August 2016 DSNY issued an independent Private Carting Study, including a market analysis, cost assessment, benchmarking study, and cost impact study that found that the current open-market commercial waste system generates excess truck traffic, is highly concentrated among a few carters, has little transparency in pricing, and inhibits private carting companies from achieving efficiencies that allow investments in recycling initiatives or cleaner trucks. The Private Carting Study concluded that establishing collection waste zones (CWZs) would reduce truck traffic, associated greenhouse gas emissions and air pollutants and concluded that reducing commercial collection truck traffic would lead to cleaner air, less traffic congestion, safer streets, and quieter nights in neighborhoods across New York City.

As a result of the Private Carter Study findings, in November 2018 DSNY released “Commercial Waste Zones: A Plan to Reform, Reroute, and Revitalize Private Carting in New York City”, a detailed roadmap for implementing the new system. A Final Generic Environmental Impact Statement issued in 2019 disclosed that under the CWZ program, private carting trucks would travel 50 percent fewer miles on an annual basis, leading to a healthier and safer city. Diverted recyclables and organics were projected to increase significantly, to 44 percent of the total commercial-sector municipal solid waste stream, up from 25 percent today, while the carting industry’s total operational expenses would be reduced by an estimated \$14 million annually.

In November 2019, Mayor de Blasio signed Local Law 199 of 2019, which establishes the CWZ program. This program is designed to create a safe and efficient commercial waste collection system that advances the City’s Green New Deal (further discussed below) and zero waste goals

while providing high-quality, low-cost service to NYC businesses. The CWZ program will divide the city into 20 zones, each served by up to three carters selected through a competitive Request for Proposals procurement process. Five citywide contracts will also be awarded for the collection of containerized waste and compactors. This approach will reduce truck traffic associated with commercial waste collection by 50 percent, eliminating millions of heavy-duty truck miles from NYC streets every year, while strengthening service standards and allowing for customer choice. In addition, commercial waste zones will create a new regulatory framework that allows the City to achieve several additional program goals:

- **Toward Zero Waste:** Reduce commercial waste disposal and incentivize recycling
- **Environmental Health:** Reduce truck traffic throughout the city to reduce air pollution and improve quality of life
- **Pricing:** Provide fair, transparent pricing with low prices for businesses
- **Customer Service:** Strengthen customer service standards and establish accountability
- **Health and Safety:** Improve training and safety standards to make the industry safer for workers and the public
- **Labor and Worker Rights:** Improve industry labor standards and uphold worker rights
- **Infrastructure and Waste Management:** Prioritize investments in clean, modern fleets and facilities that make up a reliable, resilient, and sustainable waste management system
- **Robust, Competitive Industry:** Create a system that works for carters of all sizes and prevents overreliance on any single company.

For more information on the CWZ program, see ES-11 and Section 3.3.1 of this Report.

### **Alternative Solid Waste Management Technology - Fleet and Equipment Initiatives**

The Department's fleet continues to be among the cleanest and "greenest" heavy duty fleets in the world. Since 2005 we have reduced our fleet's overall particulate matter (PM) emissions by greater than 90%, and cut Nitrogen Oxide (NOx) emissions by 95%. DSNY trucks acquired since late 2006 meet PM emissions standards that are 98% cleaner than the unregulated diesels of old. Similarly, trucks delivered since 2010 meet the strict USEPA standard for NOx that is 98% cleaner than the old diesels.

DSNY also continues to do pioneering research and development work on cleaner fuels and emissions controls for heavy duty trucks, an effort DSNY started over 20 years ago. Based in part on DSNY's research, in 2006 the USEPA began mandating ultra-low sulfur diesel (ULSD) fuel for heavy diesel trucks nationwide and required new diesels to come equipped with particulate filters starting in 2007. ULSD has a maximum of just 15 parts per million (ppm) of sulfur, compared to the 2500 ppm of sulfur fuel that was the average content of highway fuel prior to 1993. The use of ULSD enabled DSNY to implement our highly effective emissions retrofit program for our pre-2007 model year trucks with best available retrofit technology (BART) such as diesel particulate filters. (Few such pre-2007 trucks were left in DSNY's fleet in the reporting period, due to fleet turnover.) Beginning in 2020, DSNY is piloting an electric collection vehicle on City streets to determine if the vehicle can meet its duty cycle requirements.

DSNY has also mandated that commercial waste vehicles operating in the City comply with emissions requirements and employ certain safety features. Specifically, Local Law 145 of 2013 (LL145/2013) requires all commercial carting diesel trucks to implement Best Available Retrofit Technology such as diesel particulate traps or be equipped with a U.S. Environmental Protection Agency-certified 2007 model year or later engine by January 1, 2020. Local Law 56 of 2015 (LL56/2015) requires all licensed waste carting trucks to be equipped with side guards designed to protect pedestrians and cyclists by January 1, 2024.

In accordance with the Local Law 73 of 2013 mandate to further lower fleet emissions, including greenhouse gases, the Department currently uses B20 (20% biodiesel made of soybeans) for its trucks citywide. DSNY uses B20 generally from April 15 through November 15, and B5 (5% biodiesel) during the colder months. DSNY is currently conducting a B20 Winter Pilot at 21 district locations. Results have been promising.

DSNY is one of several city agencies participating in the NYC Renewable Diesel (RD) pilot, which utilizes a blend of 99% RD with 1% petroleum diesel. DSNY expanded the pilot program (June 2018 through October 2018) to 17 district garages in all five boroughs, with promising results.

In addition, DSNY has 39 compressed natural gas (CNG)-powered collection trucks, 627 light-duty vehicles that are hybrid-electric, 18 plug-in hybrid-electric Chevrolet Volt sedans, 83 Ford

Fusion Energi Plug-In Hybrid sedans, 18 all-electric Nissan Leaf sedans, 47 hybrid-hydraulic diesel collection trucks, and 20 hybrid-electric street sweepers.

Consistent with OneNYC, DSNY remains committed to making its fleet as environmentally sustainable as possible consistent with our operational needs and will continue our research and development efforts concerning alternative fuels and technologies.

DSNY is nationally recognized for its experience with alternative fuels and pioneering efforts to advance the development of cleaner heavy-duty vehicles. DSNY endeavors to operate its fleet in the most environmentally friendly manner, consistent with available resources, and therefore seeks to minimize emissions of concern from such operations as required by OneNYC. A detailed description of DSNY's green fleet and equipment innovations and environmental improvements is provided in Attachment 5. DSNY has also begun pilots and instituted programs that are making its fleet safer as part of Mayor de Blasio's Vision Zero program, including by training all drivers on defensive driving practices and installing wheel side guards on more than 1600 vehicles (as of August 2020).

### **Fresh Kills Landfill Closure/Post Closure, End Use and Renewable Fuel Initiatives**

Section 1/9, the only landfill section that is still undergoing closure construction at the Fresh Kills Landfill, is on track to be completed by the end of 2021. Landfill leachate, the wastewater that is created when rain percolates through garbage, continues to be generated and treated, but has declined with the placement of final cover on each of the landfill mounds. Landfill gas is generated as waste decomposes and, typically, the peak of landfill gas generation occurs one to two years after a landfill stops receiving waste, and then decreases over time. Landfill gas generation is steadily declining at Fresh Kills Landfill, as DSNY continues to manage and maintain an active collection, purification and passive flaring system, including monitoring and reporting for all four landfill sections.

DSNY has generated revenues by selling Fresh Kills Landfill processed gas (biomethane) to the local utility natural gas distribution grid for decades. During the Reporting Period it generated substantially more revenue from the sale of renewable fuel credits generated from Fresh Kills

landfill gas through its contract with EM Gas Marketing, LLC (EM Gas). Since 2015, EM Gas has managed the generation, marketing and sale of federal Renewable Fuel Standard (RFS) and California-based Low-Carbon Fuel Standard (LCFS) credits derived from Fresh Kills landfill gas. Through the EM Gas contract, DSNY earned over \$22 million in revenue during the Reporting Period. The contract also makes New York City part of efforts by some states and USEPA to foster profitable renewable fuel markets in the U.S.

In addition to closure construction, strides were made during the Reporting Period to advance end use goals for the Landfill. A detailed description of Fresh Kills Landfill closure, end use and renewable fuel credit program activities is provided in Attachment 6.

### **Sustainability and Recycling**

With respect to its SWMP recycling achievements during the Reporting Period, DSNY's Bureau of Recycling and Sustainability undertook significant steps in the areas of:

1. Curbside organics collection and recycling in select neighborhoods for residents, nearly 760 public schools and 56 private schools; and continuation of fall leaf collection in Districts not yet served by the Organics Collection Pilot (OCP).
2. Building enrollment programs, drop-off events, and other mechanisms to promote diversion of electronic wastes and textiles from disposal.
3. Drop-off events and acceptance locations for the SAFE handling of residential special wastes and Household Hazardous Waste in every Borough.
4. Community-based composting opportunities through a range of partner organizations and via food scrap drop-off sites.
5. Promotion of materials reuse through the City's network of nonprofit and for-profit sectors.
6. Promoting recycling of paper, metal, glass and plastic recyclables through the longstanding curbside collection program, and via public space recycling receptacles.
7. Engaging schools, public institutions/agencies (specifically NYCHA), community-based organizations, and New Yorkers throughout the five boroughs with enhanced outreach and communications organized around the goal of Zero Waste by 2030.

During the Reporting Period, DSNY expanded the voluntary OCP by adding roughly 486,000 households in 2017 and another 92,000 in 2018. At the end of 2018, close to 890,000 NYC households were receiving organics collection service. The program, which focuses on organic waste, such as food, food-soiled paper and yard trimmings, continued to expand to cover 1 to 9-unit residences through April 2018 in Community Districts outside of Manhattan, at which time expansion was paused. Enrollment of 10+ Unit residences continued in all Boroughs.

DSNY's continuing textile and electronics recycling programs saw considerable growth over the Reporting Period. Since January 1, 2015, when State law banned the collection of electronics at the curb, there has been a surge of interest in DSNY's e-recycling program for City multi-unit buildings – E-cycleNYC. After initiating a successful curbside electronic waste collection pilot program for residents of Staten Island in 2016, DSNY added collections in Brooklyn in CY 2018. As of the end of CY 2018, nearly 860,000 households in almost 14,000 buildings were enrolled in the E-cycleNYC program, with an additional 52 Agency/institutional sites. Total tonnages managed through these two e-waste programs totaled nearly 5,700 tons for fiscal years corresponding to the Reporting Period

By the end of the Reporting Period, Re-FashionNYC for textile recycling was active in nearly 1,700 buildings covering around 167,000 households, plus another 87 institutional/commercial sites. During this time, DSNY conducted extensive outreach to promote Re-FashionNYC, publicizing the program through its website, social media accounts and its participation in events, such as New York Fashion Week. DSNY also facilitated donation events in public venues with the result that textile tonnages managed through these programs totaled nearly 3,600 tons for the fiscal years corresponding to the Reporting Period.

### **Disposal of MSW via Long-Term Contracts for Transport and Disposal (“Export”)**

DSNY continued to advance the implementation of the Converted Marine Transfer Stations (MTS) Program, a key component of the SWMP long-term plan for the transport and disposal of DSNY-managed waste from the City, or “export” , during the Reporting Period. The Hamilton Avenue Converted MTS in Brooklyn began operation in September 2017 and the Southwest Brooklyn

Converted MTS began operation in October 2018. Construction continued at the East 91<sup>st</sup> Street MTS (Manhattan) during the Reporting Period (the MTS began operation in March 2019).

DSNY advanced other components of the SWMP long-term waste export plan during the Reporting Period. Refurbishment continued at the West 59<sup>th</sup> Street MTS, which is a facility at which Manhattan paper recyclables are transferred by barge to a Staten Island paper mill to make liner board. DSNY began the refurbishment of the MTS to ensure its viability for long-term use. The paper recycling operation is planned to move to the new Gansevoort Marine Transfer Station (described below) in the future so that the West 59<sup>th</sup> Street MTS can be made available for Manhattan commercial waste export by barge.

DSNY's Gansevoort Peninsula facilities (inactive Marine Transfer Station and Incinerator, two District Garages and Salt Shed) were demolished during the Reporting Period, in accordance with the Hudson River Park development. The execution of a Memorandum of Understanding, now in draft, between the City and the State would allow for the construction of a Marine Transfer Station for Manhattan Recyclables and an environmental education center at the site of the former Gansevoort MTS. See Section 3.3.4 of this Report.

### **Neighborhood Rat Reduction Initiative**

In 2017, Mayor de Blasio announced the Neighborhood Rodent Reduction Initiative, a targeted set of initiatives to reduce rat populations in three areas with the highest number of failed rodent inspections. This integrated pest management approach will build on the success of the City's current rat abatement programs and attack environmental factors conducive to rats, which is more effective than poisoning rats alone. By dramatically reducing the available habitats and food sources in targeted areas, both rat reproduction and rat colonies will decline. The City will achieve this by cementing dirt basements in NYCHA, purchasing better waste containers, increasing trash pickup and increasing enforcement of rat-related violations in these areas.

In particular, the plan included additional funding for DSNY to replace street corner litter baskets in the rat mitigation zones with rodent-resistant steel cans and to install rat-proof solar compacting litter baskets in select parks and business improvement districts. In addition, the plan called for

increased litter basket service in the rat mitigation zones to ensure daily litter basket collection in the rat mitigation zones.

More broadly, during 2017 and 2018, DSNY expanded efforts to enroll schools and residential buildings in our curbside organics collection program. Participants in this program separate their food scraps, in addition to yard waste and food-soiled papers and set them out in rigid plastic brown bins with latches for collection. This program reduces rodent access to these food scraps, which otherwise would be mixed with refuse and set out for collection in plastic bags on the curb.

For more information on the City's efforts to reduce rodent populations, please visit this link (<https://www1.nyc.gov/office-of-the-mayor/news/472-17/de-blasio-administration-32-million-neighborhood-rat-reduction-plan#/0>) or contact the New York City Department of Health and Mental Hygiene.

## **PROGRAM CHANGES IN 2020**

### **Response to COVID-19**

New York City was the epicenter of the COVID-19 outbreak in this country for much of the first half of 2020. While DSNY continued to provide essential trash and recycling collection services across the city, the pandemic dramatically upended the lives of all New Yorkers, and the economic fallout is unprecedented.

### **Fiscal 2021 Budget Cuts**

The Fiscal Year 2021 Executive Budget reflects the new pandemic reality. As with all other city agencies, DSNY was forced to make cuts to programs and initiatives in order to continue core government operations and to devote resources to essential safety, health, and shelter, and food security needs.

The FY21 Executive Budget includes \$1.75 billion expense funding for DSNY. Between FY20 and FY21, this plan includes a total of \$106.5 million in savings or cuts, including \$45.2 million in FY21. These savings or cuts include:



- \$21.1 million due to a one-year suspension of the organics collection program (beginning May 4, 2020);
- \$9.3 million from the reduction of litter basket service, collection service related to the rat mitigation initiative, syringe collection and other cleaning programs;
- \$3.5 million from the elimination of the curbside e-waste collection program;
- \$3.5 million from one-year reduction in funding for our NYC Compost Project partners;
- \$2.9 million in reduced annual recycling outreach funding for GrowNYC;
- \$2.2 million from a one-year suspension of special waste and household hazardous waste collection programs; and
- \$1.8 million in lower projected costs for the Fresh Kills landfill closure and post-closure maintenance.

### **Commercial Waste Zones Initiative**

The impact of COVID-19 on our city’s businesses has dramatically affected the private carting industry. Businesses of all types have been affected by the pandemic, including many that have been temporarily shuttered. The ripple effects through our economy have not spared the private carting industry, which now faces significant financial and operational disruption. Many carters report that their collections and accounts have decreased by 50 to 90 percent or more. While the City and State have begun to lift some restrictions and will continue to do so over the coming weeks and months, the economic toll of this crisis will continue for quite some time.

As a result, DSNY plans to delay issuance of the Request for Proposals for Commercial Waste Zones until fall 2020 or later, preceded by applicable rulemakings and additional stakeholder engagement, but remains firmly committed to implementing this program and fully realizing its benefits for all New Yorkers. This delay will allow the business community and the carting industry to begin to recover and stabilize before embarking on this transformative effort that will require bold, forward-looking commitments from DSNY partners in the private sector.

## **NEW INITIATIVES IN 2019**

### **Green New Deal / OneNYC 2050**

In April 2019, Mayor de Blasio issued an updated long-term strategic plan for the City--dubbed a “Green New Deal”, known formally as OneNYC 2050--that includes a number of initiatives designed to reduce waste and carbon-intensive consumption in the City. These include a commitment to make organics recycling collection mandatory citywide, expanding the nation's largest organics management program, including curbside pickup, drop-off sites, and support for community composting opportunities. In addition, the Plan references an April 2019 Executive Order that directs city agencies to stop purchasing single-use plastic foodware and replace it with compostable or recyclable alternatives. This Executive Order, which reduces the purchase of single-use plastics by city agencies by an estimated 95%, will also reduce New York City’s carbon emissions by approximately 500 tons per year, decrease plastic pollution, and reduce risks to wildlife. Implementation will begin by the end of 2019. Other initiatives with solid waste management implications include that the City commits to a carbon-neutral City fleet by 2040. The Green New Deal, OneNYC 2050 can be accessed through this link: <https://onenyc.cityofnewyork.us/>

### **Ban on Single-Use Foam Products**

Beginning on January 1, 2019, the City banned the use of single-use foam products. This means that food service establishments, stores, and manufacturers may not possess, sell, or offer for use single service Expanded Polystyrene (EPS) foam food service articles or loose fill packaging, such as “packing peanuts” in the City.

Following the dismissal of a lawsuit delaying the ban on EPS foam food service articles and packing peanuts in New York City, DSNY, after consultation with corporations, non-profits, vendors, and other stakeholders, determined that EPS Foam cannot be recycled, and that there currently is no recycling market for post-consumer EPS collected in a curbside metal, glass, and plastic recycling program.

There was a six-month grace period from when the ban went into effect on January 1, 2019 before fines could be imposed. DSNY, the Department of Health and Mental Hygiene, and the

Department of Consumer Affairs conducted outreach and education in multiple languages to businesses throughout all five boroughs during this period. Enforcement activity will be discussed in future Reports. See Section 5.1.3 and Attachment 4A for more information on the law.

### **City Requires Some Larger Restaurants, Chain Restaurants and Grocery Stores to Separate their Food Waste from their Trash and put it to Beneficial Use**

On February 15, 2019, DSNY began enforcement of a City law that requires some larger restaurants, chain restaurants and grocery stores to manage their food preparation waste separately from their trash, and ensure it is beneficially reused, not sent to a landfill. The fine for a violation starts at \$250.

When food waste ends up in a landfill, it releases methane, a harmful greenhouse gas and major contributor to climate change. However, that same food waste can be turned into beneficial compost or renewable energy. Some may even be able to be used as a food source. The law, expected to divert about 50,000 tons of food waste from landfills every year, is an expansion of a previous law covering some city stadiums, restaurants in hotels, food manufacturers and food wholesalers and is a critical component of the City's efforts to achieve greenhouse gas emissions reduction goals. Businesses covered under the rules include:

- Restaurants with a floor area of at least 15,000 square feet;
- Chain restaurants with 100 or more locations in the City that operate under common ownership or control, are individually franchised outlets of a parent business, or do business under the same corporate name; and
- Food retailers (grocery stores) with a floor area space of at least 25,000 square feet.

To comply, covered businesses can hire a private carter, self-transport, or process their food scraps onsite for beneficial use, such as for use as compost or in anaerobic digestion, a way of generating renewable energy in the form of biogas. If appropriate, businesses may also donate food to a third-party charity or food bank, sell or donate the food to a farmer for feedstock, or sell or donate meat by-products to a rendering company.

In 2018, DSNY's outreach staff, along with other relevant agency partners, worked to inform the covered businesses of the new rules by conducting some 2,000 site visits and sending multiple

mailers to affected businesses. DSNY plans to offer businesses the opportunity to attend semi-monthly trainings, request educational site visits, and watch an educational video series. Further, DSNY hosts off-site group trainings; provides sample signs, labels and electronic copies of notices in multiple languages; produces the DSNY Business Rules and Regulations Guidebook; and hosts workshops with the NYC Department of Small Business Services, Chambers of Commerce, Business Improvements Districts and other organizations to educate businesses in all five boroughs. See also Sections 3.1.11 and 5.1.3 and Attachments 3D and 4B of this Report.

### **ReFashion Week NYC**

From February 23 to March 1, 2019, DSNY hosted ReFashion Week NYC, the first-of-its-kind event celebrating sustainability and reuse in fashion. The week-long celebration included events across the City, such as a pop-up market, clothing swaps, a mending and upcycling workshop, and a ReFashion show – all focused on reducing textile waste and making fashion sustainable. ReFashion Week NYC 2020 was held during the week of February 22 - 28, 2020.

Every year, New Yorkers send approximately 200,000 tons of clothing, shoes, and accessories to landfills. With fast-fashion wear becoming more popular and accessible, textile waste has the potential of increasing. ReFashion Week NYC connects the fashion world, sustainability experts, the re-use industry and consumers to reduce textile waste.

ReFashion Week NYC was implemented in collaboration with the Foundation for New York's Strongest and members of the [donateNYC Partnership](#) including FABSCRAP, Housing Works, Goodwill, NYC Fair Trade Coalition, and others. In addition to holding events, ReFashion Week NYC issued a [lookbook](#) - a sampling of fashionable outfits styled with secondhand clothing from our donateNYC partners. or a full listing of events, and to view the *ReFashion Week Lookbook*, visit [refashionweek.com](http://refashionweek.com).

### **Foundation for New York's Strongest 2nd Food Waste Fair**

The Foundation for New York's Strongest, Inc. (Foundation), is DSNY's official nonprofit organization. Supported by private funding and in-kind donations, the Foundation leverages non-traditional strategies to promote sustainability and advance the essential services Sanitation employees provide by:

- Emphasizing New York's Strongest as City's emergency responders and highlighting their critical, daily service;
- Forging partnerships with private-sector organizations to move the City toward sending zero waste to landfills by 2030; and
- Working to establish an educational museum dedicated to DSNY's rich history, current operations and vibrant future.

During Fashion Week in 2016, the Foundation launched a bold, new designer ready-to-wear collection - Uniform - to keep used clothing from decomposing in landfills, and then turned its attention to food waste. City food-related organizations send more than 650,000 tons of usable food to landfills each year, which could be used to feed people or animals, nourish soil, grow healthy food, or create energy.

To help address this issue, the Foundation held its 2<sup>nd</sup> Food Waste Fair on May 23, 2019 in the Brooklyn Navy Yard. The Fair was an interactive experience connecting food, beverage and hospitality professionals with the resources and education they need to reach zero food waste in their businesses.

The 2<sup>nd</sup> Fair was open to anyone interested in reducing food waste and give participants the opportunity to attend offsite workshops that provided attendees with an immersive experience in a hands-on format. Scheduled workshops included:

- a two-day course for chefs, including site visits to food suppliers and processors, and hands-on cooking demonstrations featuring overlooked or often discarded ingredients.
- a two-part course for operations professionals, including site visits to food establishments to see best practices for food waste prevention and reduction in action, and the opportunity to participate in a mini food waste audit.
- a course for home cooks going beyond the usual carrot top pesto to assess the home kitchen for opportunities to minimize waste and save money.

See Attachment 1B and visit <https://www.sanitationfoundation.org/> for more information on Foundation projects.

## **“Trucks of Art” Project**

In February 2019, DSNY announced “Trucks of Art”, an opportunity for artists to put their artwork, focused on sustainability or the DSNY workforce, on a DSNY collection truck. As DSNY leads New Yorkers to send zero waste to landfills, artists will use paints that would otherwise be discarded or recycled in their artwork. The “Trucks of Art” competition was open to all artists, professional and amateur.

More than 100 applicants submitted short descriptions of their ideas and design mock-ups. DSNY chose 5 finalists and provided paint – from donated household latex paints to spray paints - and access to the trucks for painting in April 2019. The trucks were publicly unveiled in July 2019 and exhibited throughout the summer in Times Square before being placed in regular collection rotation.

## **Single-Use Plastic Bag Ban**

Starting in March 2020, NY State planned to prohibit the distribution of single-use plastic carryout bags, with limited exceptions. This State law also allows counties and municipalities to enact a five-cent fee on paper carryout bags. In April 2019, the City enacted legislation to authorize this fee when the State plastic bag ban takes effect. See Sections 3.1.12 and 5.1.3 of this Report for more information and Attachment 4D for the 2019 State Budget Bill (plastic bag legislation is in Part H) and new local legislation.

## **SECTION 1– PLANNING UNIT DESCRIPTION**

The Planning Unit for the local Solid Waste Management Plan is the City of New York (City) and consists of the five boroughs (and co-terminous counties) of Manhattan, (New York County) Queens (Queens County), Brooklyn (Kings County), Staten Island (Richmond County) and the Bronx (Bronx County). The components of the Planning Unit are unchanged since the SWMP approval in 2006. The statistical profile of the City in terms of population, however, has changed since the issuance of the SWMP. More specifically, according to 2010 Census-based population information provided on the NYCDCP website at <http://www1.nyc.gov/site/planning/data-maps/nyc-population/current-future-populations.page>, the City’s population, as of July 2017, was 8,622,698, an increase of 5.5 percent since April 2010, and close to the population projected for the year 2015 (8,647,865) in the SWMP. The largest change in the City’s population, occurred in the Bronx, growing by 6.2% (which was the largest increase of any County in New York State), followed by Brooklyn (5.8%), Queens (5.7%), Manhattan (5.0%), and Staten Island (2.3%).

### **Waste Generation and Recycling Projections**

Despite the growth in the City’s population, the actual quantity of DSNY-managed waste for export and disposal that was projected in the SWMP for the years 2015 (11,136 tpd) and 2020 (11,469 tpd) is somewhat higher than the amount that DSNY managed during the Reporting Period. The quantity of waste managed by DSNY has slowly increased during the SWMP planning period from an average of 10,592 tpd in 2016, to 10,655 tpd in 2017 and 10,753 tpd in 2018. The quantity of recyclables (MGP, organics and paper) handled during the Reporting Period averaged 2,163 tpd in 2017 and 2,255 tpd in 2018, but is less than the 3,618 tpd that was estimated in the SWMP for 2015, and the 3,820 tpd projected for 2020.

As noted in the last four SWMP Biennial Compliance Reports, the economic circumstances of the City have fluctuated since SWMP approval. Through 2012, the City, still recovering from the economic recession and fiscal crisis, experienced decreased tax revenues. The City’s financial outlook improved during the Reporting Period. According to the New York City Comptroller’s office, New York City’s economy continued its solid growth during 2018, but at a slower pace than during 2017. According to the City Office of Management and Budget Capital Commitment

Plan for Fiscal Year 2019, the capital commitments increased from \$10.9 billion in FY2017 to \$11.8 billion in FY2018. Unemployment rates continued to drop in the City during the Reporting Period, falling from 4.4% in December 2016 to a low of 3.9% in September 2018, and slightly increasing to an estimated 4.0% in December 2018, according to the US Bureau of Labor Statistics.



## SECTION 2 – SWMP MILESTONE ACCOMPLISHMENTS

The milestone tables in this Section provide the SWMP program descriptions, schedule and Sections along with information about the completion of the program during the compliance reporting period.

**Table 1:  
Completed Recycling SWMP Milestones**

<b>PROGRAM Milestone</b>	<b>Scheduled Fiscal Year</b>	<b>SWMP Section</b>	<b>Current Status</b>
<b>PROPOSED ACTION – RECYCLING FACILITIES AND SERVICES</b>			
<b>MATERIALS PROCESSING FACILITY, 30<sup>TH</sup> STREET PIER AT SBMT</b>			
City and SHN execute 20-year agreement	2007	§ 2.3.1 + 2.4.3	Completed
SHN’s facility to receive MGP	2011	§ 2.3.1 + 2.4.3	Completed CY2013
<b>NEW INITIATIVES – RECYCLING</b>			
Propose LL19 amendments to Council, including to replace mandatory tonnage diversion with percentage goals	2007	§ 2.4.1	Completed
Reach resolution on draft legislation to revise LL19	2008	§ 2.4.1	Completed
Electronics recycling Citywide events and mailings	Ongoing	§ 2.4.5	Completed; preempted by State EPR e-waste law enactment
Develop electronics recycling legislative initiative	2007	§ 2.4.5	Completed
<ul style="list-style-type: none"> <li>• Issue Citywide Waste Characterization Study</li> <li>• Final Report</li> </ul>	2007	§ 2.4.2	Completed
Submit Council on the Environment (a.k.a. GrowNYC) Outreach and Education Office work plan and budget	2007	§ 2.4.0	Completed
Report on Council on the Environment Outreach and Education Office w/recommendations	2007	§ 2.4.0	Completed
SHN to Test Feasibility of separating, marketing and recycling plastics 3-7 and if feasible, DSNY to require source separation and educate public	2009-10	§ 2.4,3.1	Completed; additional plastics added to the program in FY 2013

**Table 1:  
Completed Recycling SWMP Milestones**

<b>PROGRAM Milestone</b>	<b>Scheduled Fiscal Year</b>	<b>SWMP Section</b>	<b>Current Status</b>
Issue various new public education materials	Ongoing	§ 2.4.7.4	Completed
Conduct public recycling pilot	2007	§ 2.4.9	Completed
<b>NEW INITIATIVES – WASTE REDUCTION</b>			
Develop, launch and promote Stuff Exchange Website	2007-8	§ 2.4.4.1	Completed
Pilot spring yard waste collection on SI and report	2007-8	§ 2.4.2.2	Completed
Market Wa\$teMatch to add focus on hospitality, healthcare and property management industries	2010-12	§ 2.4.4.2	Completed
Launch new Citywide publication/campaign to promote junk mail reduction	2007-8	§ 2.4.4.3	Completed
Resume compost education and give-back programs in cooperation with the City’s Botanical Gardens	2005	Attachment VI, § 1.7.5	Completed
Seek regulation to require residents to set out leaves in paper bags, educate public and retailers	2007	§ 2.4.8	Completed
Issue electronic newsletter	Ongoing	§ 2.4.7.2	Completed
NYCDEP to issue RFP to study the feasibility of a food waste disposal pilot	2008	§ 5.4	Completed
NYCDEP to complete food waste disposal feasibility study	2009	§ 5.4	Completed
Issue new HHW reduction publication	2007	§ 2.4.7.4	Completed on-line
Issue RFP for HHW collection days and report to Council on proposal selection	2007-8	§ 2.4.6	Completed
Commence HHW collection contract	2009	§ 2.4.6	Completed
Establish Composting/New Technology Facility Task Force	2008	§ 2.4.8.4	Completed
Support legislation to require composting of landscaping organic waste/subsidize + promote bins	N/A	§ 2.4.8.3	Completed

**Table 2:  
Completed Long-Term Export SWMP Milestones**

<b>PROGRAM Milestone</b>	<b>Scheduled Fiscal Year</b>	<b>SWMP Section</b>	<b>Current Status</b>
<b>PROPOSED ACTION – LONG TERM EXPORT FACILITIES AND SERVICES</b>			
<b>DSNY HAMILTON AVENUE CONVERTED MTS, HAMILTON AVENUE AT GOWANUS CANAL, BROOKLYN</b>			
Complete design and permitting	2007	See § 3.2	Completed
Complete construction and begin facility operation	2014	See § 3.2	Completed CY 2017
<b>DSNY SOUTHWEST BROOKLYN CONVERTED MTS, SHORE PKWY AT BAY 41<sup>ST</sup> STREET, BROOKLYN</b>			
Complete design and permitting	2007	See § 3.2	Completed FY 2014
Complete construction and begin facility operation	2017	See § 3.2	Completed CY 2018
<b>DSNY EAST 91ST STREET CONVERTED MTS, MANHATTAN</b>			
Complete design and permitting.	2007	See § 3.2	Completed FY 2013
Complete construction and begin facility operation	2016	See § 3.2	Completed CY 2019
<b>DSNY NORTH SHORE CONVERTED MTS, 31ST AVENUE AND 122ND STREET, QUEENS</b>			
Complete design and permitting	2007	See § 3.2	Completed
Complete construction and begin facility operation	2014	See § 3.2	Completed March 2015
<b>BRONX LONG-TERM EXPORT PROCUREMENT</b>			
Complete contract negotiations and award contract	2007	See § 3.2	Completed
Complete design permitting and construction, if required and begin facility operation	2007	See § 3.2	Completed
<b>BROOKLYN LONG-TERM EXPORT PROCUREMENT</b>			
Complete contract negotiations and award contract	2007	See § 3.2	Completed
Complete design, environmental review, permitting and construction and begin facility operation	2009	See § 3.2	Completed
<b>QUEENS LONG-TERM EXPORT PROCUREMENT</b>			
Complete contract negotiations and award contract	2007	See § 3.2	Completed FY 2014
Complete design, environmental review, permitting and construction and begin facility operation	2013	See § 3.2	Completed July 2015

**Table 2:  
Completed Long-Term Export SWMP Milestones**

<b>PROGRAM Milestone</b>	<b>Scheduled Fiscal Year</b>	<b>SWMP Section</b>	<b>Current Status</b>
<b>STATEN ISLAND TRANSFER STATION</b>			
Begin facility operations and implement long-term service agreement for container rail transport and disposal	2007	See § 3.1 + Table 3.2-1	Completed
<b>CONVERTED MTS REPORTING/PERMITTING</b>			
Report to Council on RFP process/permit approvals for MTSs	2008	See § 3.7	Completed
<b>ALTERNATIVE TECHNOLOGY EVALUATION AND PLANNING</b>			
Issue Phase 2 Alternative Technology Evaluation	2007	See § 5.2	Completed
Evaluate development of a pilot project to establish the basis for commercial application	2012	See § 5.2	Completed
<b>INTERMUNICIPAL PROCUREMENT FOR DISPOSAL SERVICES AT A REGIONAL WASTE-TO-ENERGY FACILITY</b>			
Complete contract negotiations, award contract and commence service	2007	See § 3.2	Completed FY 2013

**Table 3:  
Completed Commercial Waste SWMP Milestones**

<b>PROGRAM Milestone</b>	<b>Scheduled Fiscal Year</b>	<b>SWMP Section</b>	<b>Current Status</b>
<b>ASSESS FEASIBILITY OF USING WEST 59<sup>TH</sup> STREET MTS FOR PROCESSING COMMERCIAL WASTE</b>			
Issue an RFP to solicit private vendors	2007	See §§ 4.3 + 3.6	Completed
<b>FUTURE MANHATTAN CAPACITY</b>			
Investigate potential alternative Manhattan solid waste transfer station locations and report to Council annually on efforts to identify alternative locations	2008	See § 3.6	Completed
<b>TRANSFER STATION CAPACITY REDUCTION</b>			
Commence negotiations with transfer station operators to seek transfer station putrescible and C&D capacity (permitted and used) reductions in select CDs	2007	See § 4.4	Completed, but see Section 3.3.4 discussion and Attachment 4B
<b>TRUCK TRAFFIC ANALYSIS</b>			
DSNY and NYCDOT to conduct a traffic study to assess the feasibility of redirecting transfer station truck routes to minimize potential impacts to residential areas	2008	See § 4.4	Completed
<b>NYCDEP FOOD WASTE DISPOSAL STUDY</b>			
With support from DSNY and NYCEDC, issue RFP to solicit consultant to conduct study to understand the costs and benefits of the use of commercial food waste disposals in defined areas of the City	2008	See § 5.4	Completed
Consultant to complete study	2009	See § 5.4	Completed

## SECTION 3 – SWMP STATUS / IMPLEMENTATION

The tables in this Section contain SWMP program descriptions, schedules and Section references along with updated status and implementation information for Recycling, Long-Term Export and Commercial Waste milestones.

### 3.1 RECYCLING IMPLEMENTATION

#### ALL RECYCLING MILESTONES

**Table 4:  
SWMP Milestones – Recycling**

<b>PROGRAM Milestone</b>	<b>Revised Scheduled Fiscal Year</b>	<b>Scheduled Fiscal Year</b>	<b>SWMP Section</b>	<b>Status / Implementation</b>
<b>PROPOSED ACTION – RECYCLING FACILITIES AND SERVICES</b>				
<b>MATERIALS PROCESSING FACILITY, 30<sup>TH</sup> STREET PIER AT SBMT</b>				
City and SHN execute 20-year agreement		2007	§ 2.3.1 + 2.4.3	Completed
SHN’s South Brooklyn processing facility to begin receiving paper in addition to MGP	2013	2011	§ 2.3.1 + 2.4.3	Completed CY2013
<b>MANHATTAN “ACCEPTANCE FACILITY” RECYCLABLES TRANSFER STATION</b>				
Finalize site selection and complete design and permitting	2014	2008	§ 2.3.2 + 3.3.4	Delayed; design/approvals/permitting pending MOU execution;
Complete construction and begin facility operation	2017	2011	§ 2.3.2 + 3.3.4	Delayed; construction to begin post MOU execution;
<b>NEW INITIATIVES – RECYCLING</b>				
Propose LL19 amendments to Council, including to replace mandatory tonnage diversion w/percentage goals		2007	§ 2.4.1	Completed

**Table 4:  
SWMP Milestones – Recycling**

<b>PROGRAM Milestone</b>	<b>Revised Scheduled Fiscal Year</b>	<b>Scheduled Fiscal Year</b>	<b>SWMP Section</b>	<b>Status / Implementation</b>
Reach resolution on draft legislation to revise LL19		2008	§ 2.4.1	Completed
Electronics recycling Citywide events and mailings		Ongoing	§ 2.4.5	Completed; preempted by State EPR e-waste law enactment
Develop electronics recycling legislative initiative		2007	§ 2.4.5	Completed
<ul style="list-style-type: none"> <li>• Issue Citywide Waste Characterization Study</li> <li>• Final Report</li> </ul>		2007	§ 2.4.2	Completed
Conduct public education market research		Ongoing	§ 2.4.7.1	Completed
Submit Council on the Environment Outreach and Education Office work plan and budget		2007	§ 2.4.0	Completed
Report on Council on the Environment Outreach and Education Office w/recommendations		2007	§ 2.4.0	Completed
Increase recycling diversion rate		Ongoing	§ 2.4.1	Ongoing/Curbside/Containerized Diversion Rate increased from 15.4% in FY 2014 to 16.0% in FY2015 to 16.9% in FY 2016 to 17.4% in FY2017 to 18.0% in FY 2018.
Promote restoration of recycling services		Ongoing	Attachment VI, § 1.4.2	Ongoing

**Table 4:  
SWMP Milestones – Recycling**

<b>PROGRAM Milestone</b>	<b>Revised Scheduled Fiscal Year</b>	<b>Scheduled Fiscal Year</b>	<b>SWMP Section</b>	<b>Status / Implementation</b>
Begin recycling re-education of City Agencies and institutions		2007	§ 2.4.0	Ongoing
SHN to Test Feasibility of separating, marketing and recycling plastics 3-7 and if feasible, DSNY to require source separation and educate public		2009-10	§ 2.4,3.1	Completed. Rigid plastics added FY 2013
DSNY/BIC to report on completed study on efficacy of current laws and feasibility of increasing commercial recycling and report and discuss cost-effective ways to improve diversion		2010	§ 2.4.7.5	Completed Report issued August 2016
2010 review of SWMP recycling initiatives		2010-11	§ 2.5.1	Completed
Issue various new public education materials		Ongoing	§ 2.4.7.4	Completed
Conduct public recycling pilot		2007	§ 2.4.9	Completed
<b>NEW INITIATIVES – WASTE REDUCTION</b>				
Develop, launch and promote Stuff Exchange Website		2007-8	§ 2.4.4.1	Completed
Pilot spring yard waste collection on SI and report		2007-8	§ 2.4.2.2	Completed
Market Wa\$teMatch to add focus on hospitality, healthcare and property management industries		2010-12	§ 2.4.4.2	Completed
Launch new Citywide publication/campaign to promote junk mail reduction		2007-8	§ 2.4.4.3	Completed
Resume yard waste collection (where permitted composting facilities are available)	2013	2005	Attachment VI, § 1.7.2	Completed Resumed Fall 2016



**Table 4:  
SWMP Milestones – Recycling**

<b>PROGRAM Milestone</b>	<b>Revised Scheduled Fiscal Year</b>	<b>Scheduled Fiscal Year</b>	<b>SWMP Section</b>	<b>Status / Implementation</b>
Resume compost education and give-back programs in cooperation with the City's Botanical Gardens		2005	Attachment VI, § 1.7.5	Completed
Seek regulation revision to require residents to set out leaves in paper bags, educate public and retailers		2007	§ 2.4.8	Completed
Issue electronic newsletter		Ongoing	§ 2.4.7.2	Completed
NYCDEP to issue RFP to study the feasibility of a food waste disposal pilot		2008	§ 5.4	Completed
NYCDEP to complete food waste disposal feasibility study		2009	§ 5.4	Completed
Issue new HHW reduction publication		2007	§ 2.4.7.4	Completed on-line
Issue RFP for HHW collection days and report to Council on proposal selection		2007-8	§ 2.4.6	Completed
Commence HHW collection contract		2009	§ 2.4.6	Completed
Establish Composting/New Technology Facility Task Force		2008	§ 2.4.8.4	Completed
Resolve feasibility issues regarding development of on-site food composting facility at Hunt's Point Food Center	2014	2007	§ 2.4.8.2	Ongoing by Mayor's Office of Sustainability & NYCEDC
DSNY to support legislation to require composting of landscaping organic waste/subsidize and promote bins		N/A	§ 2.4.8.3	Completed

### **3.1.1 CURBSIDE RECYCLABLES PROCESSING**

DSNY's adopted budget for the Reporting Period allocated sufficient funds to process paper/cardboard, and commingled metal, glass, plastic and beverage containers (MGPC), which continue to be collected from all 3.5 million New York City households, all public and most private schools, public institutions, and many nonprofit institutions in New York City. For fiscal years corresponding to the Reporting Period, diverted tonnages totaled over 1.23 million tons, reflecting paper/cardboard and MGPC collections from these sources.

Attachment 3A provides a list of the paper/cardboard and MGPC processing vendors that DSNY relied on during the Reporting Period. Attachments 3C and 3D provide details on bulk metal collection that is transferred to Sims Municipal Recycling's yards located in Long Island City, Bronx and Jersey City, NJ. No bulk metal is transferred to Sims' Sunset Park, Brooklyn facility.

### **3.1.2 RECYCLABLES PROCESSING/ADDITIONAL MATERIALS**

In accordance with Local Law 35 of 2010, DSNY evaluated the recycling of rigid plastic containers, and began to conduct outreach programs once it was determined that these materials would be recycled. In 2013, DSNY added all rigid plastics to its recycling program. The designation of all rigid plastics in commingled metal/glass/plastic/container recycling continued during the reporting period. In 2017, DSNY conducted a City-wide waste characterization which assessed the composition of curbside recycling and refuse. Results were reported on DSNY's website at [www.nyc.gov/wastestudy](http://www.nyc.gov/wastestudy), and include detail on additional rigid plastics as a percentage of MGP and refuse collections.

In accordance with Local Law 142 of 2013, the NYC Department of Sanitation determined that expanded polystyrene foam food and beverage containers cannot be recycled in a manner that is economically feasible, environmentally effective, and safe for employees as part of the City's curbside recycling program. For more information, please see Section 5.1.3 of this Report for a discussion of Local Law 142 of 2013 and the DSNY Determination on the Recyclability of Food-Service Foam.

As of January 1, 2019, New York City stores, food service establishments, and mobile food commissaries may no longer offer, sell or possess single-use foam food containers such as foam takeout clamshells, cups, plates, bowls, trays, and coolers. Additionally, manufacturers and stores may no longer sell or offer for sale loose fill foam packaging (“packing peanuts”) in the city.

**3.1.3 RESIDENTIAL ORGANICS COLLECTION PROGRAMS (OCP)**

In fall 2012, DSNY began offering limited curbside collection of organic waste – including food scraps, food-soiled papers and yard waste – to residents. This service, called for in Local Law 77 of 2013, continued to expand to cover 1-9 unit residences through April 2018 in Community Districts outside of Manhattan, at which time expansion was paused. Enrollment of 10+ Unit residences continued in all Boroughs.

During the Reporting Period, as shown in the tables below, expansion added roughly 486,000 households in 2017 and another 92,000 in 2018.

**Table 5: Households Added to Curbside Organics Collection Program**

<b>Calendar Year</b>	<b>Households 1-9 Units</b>	<b>Households 10+ Units</b>	<b>Households Total</b>
2017	449,531	36,663	486,194
2018	57,210	34,738	91,948
<b>Total</b>	<b>506,741</b>	<b>71,401</b>	<b>578,147</b>

At the end of 2018, close to 890,000 NYC households were receiving organics collection service, as shown below.

**Table 6: Cumulative Households Covered By Curbside Organics Collection Program**

<b>Calendar Year</b>	<b>Households</b>
2013	35,753
2014	113,194
2015	216,932
2016	310,924
2017	797,118
2018	889,066

During the Reporting Period, the organics collected were composted at DSNY’s Staten Island Compost facility as well as via contract with processors (see Attachment 3B). Expanded information on facilities and capacity is provided in Attachment 3D. Tonnages collected from residents and schools under the OCP, as well as additional DSNY collections of leaves, Christmas Trees, and DSNY-serviced food scrap drop-off sites, totaled close to 70,000 tons over the fiscal years that correspond to the Reporting Period.

As part of the Neighborhood Rat Reduction Initiative, participants in both the household and school organics diversion programs separated their food scraps, yard waste and food-soiled papers and set them out in rigid plastic brown bins with latches for collection. This set-out requirement reduced rodent access to these food scraps, which otherwise would be mixed with refuse and set out for collection in plastic bags on the curb. Note that DSNY’s organics diversion programs were suspended for one year beginning in May2020 due to budget cuts resulting from the City’s ongoing response to the COVID-19 pandemic.

### **3.1.4 SCHOOL DIVERSION PROGRAMS**

As of the end of 2018, nearly 760 public schools, and another 56 private schools, were covered by the Organics Collection Pilot (OCP). During the Reporting Period, DSNY continued to work closely with the Department of Education (DOE) to address issues of school facility compliance with recycling of paper/cardboard and MGP recycling schedules and separation requirements, as well as to promote participation in the School Organics Collection Program.

Working with DOE, DSNY continued a strategy of support, training and education to all schools, and enhanced outreach and monitoring around 100 schools in Manhattan and Brooklyn chosen as “Zero Waste Schools.” For Zero Waste Schools, as well as (in 2018) for over 100 schools located in the Rat Mitigation Zones, DSNY instituted the School Scorecard system of monthly curbside monitoring and reporting.

In 2017, DSNY completed a Waste Characterization Study that included establishing a baseline composition of school waste citywide. Resulting data has been used to inform ongoing planning to maximize the divertible fractions of school waste. Results were reported on DSNY’s website at [www.nyc.gov/wastestudy](http://www.nyc.gov/wastestudy).

During the Reporting Period, DSNY continued to support the Zero Waste Schools Website as a platform for growing and enhancing diversion of paper, MGP and organics from schools, as well as fostering an educational understanding of the principles of Zero Waste.

### **3.1.5 PUBLIC SPACE RECYCLING**

In accordance with Local Law 38 of 2010, DSNY continues to explore and expand the number of public space recycling sites in the City where it is feasible and where there is no additional cost to collection service. Currently, DSNY has deployed more than 2,600 recycling bins across the City’s five boroughs, with locations posted on the agency’s website. The City’s recycling bins work the same way as the residential recycling program, with public space recycling sites situated throughout all five boroughs, including in many City parks (achieving the Public Space Recycling receptacle goal set forth in Local Law 38 of 2010). The receptacles are bright blue and green, and are placed, in most cases, adjacent to one another alongside a trash receptacle to discourage cross-container contamination. Recycling is required at all NYC street events, including informal block parties and street fairs.

### **3.1.6 CITY AGENCY RECYCLING**

Under Local Law 36 of 2010, starting July 1, 2011, city agencies were required to submit plans to DSNY to increase waste reduction and recycling in all city-owned and city-managed buildings, and to prepare annual updates each year thereafter. As a direct result, there has been greater

compliance by city agencies and a dramatic increase in the number of agency plans and annual reports received by DSNY.

See the Executive Summary for information on an April 2019 Executive Order that ends City Agency reliance on single use plastics.

### 3.1.7 SPECIAL WASTE AND ELECTRONIC RECYCLING

#### Special Waste

DSNY’s Special Waste Programs target the safe disposal of harmful products generated by residents and DSNY-managed institutions, including solvents, automotive materials, flammables and electronics (SAFE materials) as well as other potentially harmful household products, which have increased in the quantity recovered from the prior reporting period.

During the Reporting Period, DSNY held twenty SAFE events--two per year in each of the five boroughs--attracting almost 50,000 residents dropping off Harmful Products and Pharmaceuticals, in addition to Electronics (described below).

Event Series	Bronx	Brooklyn	Manhattan	Queens	Staten Island
Spring 2017	Orchard Beach	Prospect Park	Columbia University	Citi Field	Midland Beach
Fall 2017	Orchard Beach	Floyd Bennett Field	Union Square	Astoria Park	Midland Beach
Spring 2018	Orchard Beach	Prospect Park	Columbia University	Astoria Park	Midland Beach
Fall 2018	Orchard Beach	Floyd Bennett Field	Union Square	Cunningham Park	Midland Beach

Calendar Year	Harmful Products (tons)	Pharmaceuticals (tons)	Total SAFE Event Attendees
2017	432	3.9	23,476
2018	467	4.3	25,599

DSNY also continued to operate Special Waste Dropoff Sites for use by residents in each Borough. These facilities typically open one day per week to accept both Special Waste (latex paint, used oil, fluorescent tubes and bulbs, batteries, mercury-containing thermostats) and electronic waste from City residents for subsequent off-site recycling, energy recovery or disposal. Additionally,

DSNY worked with the NYC Department of Education and other city agencies on its Agency Safe Handling program, which provides guidance in proper handling of fluorescent bulbs, ballasts, batteries, mercury-containing items, and electronics.

Finally, DSNY targeted refrigerants from air conditioners, refrigerators, water coolers, freezers and dehumidifiers for their collection and safe handling and disposal. Refrigerants act as potent greenhouse gases if released into the atmosphere. Local Law 69 of 2013 was enacted to establish a manufacturer-funded program for the recovery of refrigerants from refrigerant-containing appliances that are being disposed of by residential generators in the City of New York. Manufacturers of air conditioners, water coolers, refrigerators, and freezers are responsible for properly recovering and removing ozone-depleting refrigerants when they are thrown away. Manufacturers are billed for their appliances if DSNY collects them through its refrigerant recovery program.

Total tonnages managed through these programs, as well as through DSNY internal garage operations for safe handling of harmful products, totaled nearly 1,700 tons during the Reporting Period.

DSNY supports the idea of Extended Producer Responsibility (EPR) and follows the movement of legislation in this arena. On January 1, 2015, it became illegal for New Yorkers to dispose of their electronics in the trash. DSNY has created several convenient programs for New Yorkers to responsibly dispose of their electronics including E-cycleNYC (servicing apartment programs), SAFE Disposal Events, and Special Waste Drop-Off Sites. DSNY will continue to look for new ways to manage harmful household products.

## **Electronic Waste**

During the Reporting Period, DSNY also worked to expand the range of convenient alternatives for New Yorkers to recycle computers, printers, televisions, cell phones, and other electronic/audiovisual equipment, in accordance with the NY State Electronic Equipment Recycling and Reuse Act of 2010. As of the end of CY 2018, nearly 860,000 households in almost 14,000 buildings were enrolled in this program, with an additional 52 Agency/institutional sites

also enrolled. Total tonnages managed through these programs totaled nearly 5,700 tons for fiscal years corresponding to the Reporting Period.

DSNY continued its curbside E-cycle collection pilot in Staten Island, and added collections in Brooklyn in CY 2018. In conjunction with this effort, DSNY developed an online scheduling system to enable residents to request a pickup. DSNY also established a protocol for the separate collection of electronic waste illegally left at curbside, and in 2015 began accepting year round drop offs of e-waste at DSNY's Special Waste sites described above. Note that e-waste collection programs and Special Waste sites closed in 2020 due to budget cuts resulting from the City's ongoing response to the COVID-19 pandemic.

The City's E-cycleNYC partner is Electronic Recyclers International (ERI), which is certified with e-stewards and R2/RIOS (Recycling Industry Operating Standards), ensuring that all materials will be handled in an environmentally responsible manner and not landfilled or exported illegally.

Over the Reporting Period, DSNY continued to conduct extensive outreach to promote enrollment in the E-cycle program and facilitated public donation events in buildings and in public venues. Furthermore, DSNY facilitated e-waste recycling via Take-Back at retailers, mail-back to manufacturers, and donation to nonprofit organizations, publicizing these venues on its website.

### **Other Diversion Programs**

Local Law 38 of 2010 required DSNY to establish a citywide textile reuse and recycling program on City-owned or City-managed property throughout the City, prior to January 1, 2011. DSNY established its citywide program, Re-FashionNYC, for residents of apartment buildings with 10 or more units in 2010. This program provides donation bins for eligible buildings to reuse and recycle unwanted clothing and linens. The Apartment Building Recycling Initiative helps building managers, superintendents, and residents to improve recycling operations through on-site assessments and training.

DSNY's Bureau of Recycling and Sustainability (BRS) continued to expand its Re-FashionNYC program for the recovery and reuse of unwanted clothing and non-clothing textiles, in partnership



with the New York City nonprofit Housing Works. Clothing and accessories donated through Re-FashionNYC are sorted out at the Housing Works warehouse in Queens. All proceeds from donations support the charitable mission of Housing Works to end the dual crises of homelessness and AIDS.

The cornerstone of Re-FashionNYC is the building enrollment program, which places textile donation bins in residential buildings of ten units or more, as well as in office buildings, commercial businesses, schools, and institutions, for on-call collection. By the end of the Reporting Period, Re-FashionNYC was active in nearly 1,700 buildings covering around 167,000 households, plus another 87 institutional/commercial sites. During this time, DSNY conducted extensive outreach throughout New York City to promote Re-FashionNYC. DSNY publicized the program through its website, social media accounts, and participated in a number of events, such as New York Fashion week. DSNY also facilitated donation events in public venues. Total tonnages managed through these programs totaled nearly 3,600 tons for the fiscal years corresponding to the Reporting Period

### **3.1.8 MATERIALS REUSE**

DSNY has continued to support its <http://nyc.gov/donate> website and mobile app aimed at diverting unwanted goods from landfills through reuse. This program provides a singular platform to make donating and reusing goods easier for all New Yorkers. Residents can use their location to find places to give or find second-hand goods by searching the donateNYC Directory and mobile app, and businesses and nonprofits can use the donateNYC Exchange to donate or receive gently used and surplus commercial goods. DSNY also continued its longstanding donateNYC Partnership program, which encourages the growth and development of the nonprofit reuse sector in NYC by providing a support network for local organizations that accept and distribute second-hand and surplus donated goods. donateNYC partners include over 70 thrift stores, social service providers, and creative arts programs. See the Executive Summary and Attachment 1A for information on the expansion of the platform to include food donations.

## **Community Composting**

To support organic waste recycling in all its forms, DSNY continued its longstanding support of community composting through the New York City Compost Project (NYCCP). In partnership with Brooklyn Botanic Garden, Big Reuse, Earth Matter NY, the Lower East Side Ecology Center, The New York Botanical Garden, Queens Botanical Garden, and the Snug Harbor Cultural Center, DSNY conducted and facilitated the transformation of food scraps into rich, fertile compost to use locally in farming, gardening, and community beautification.

DSNY also continued its work with Food Scrap Drop-Off Sites throughout the five boroughs, increasing the number of sites to 121 at the end of the fiscal years that correspond to the Reporting Period. Over this period, 2017 and 2018, over 412,000 New Yorkers utilized these sites,

### **3.1.9 OUTREACH AND COMMUNICATIONS**

As described above, DSNY has undertaken proactive outreach for paper/MGPC recycling, organics recycling, e-waste recycling, textile donations, other reuse donations and exchanges, and SAFE handling of harmful household wastes. DSNY's BRS staff has continued to enhance the existing DSNY-provided web-based resources for residents and building management. All the public education materials are available as downloadable resources which can be printed from the convenience of one's home or workplace. DSNY staff has continued to provide information, decals and brochures through 311 requests and DSNY's various websites. Most materials are also available in Spanish and Chinese, and select materials are available in up to fourteen additional languages. DSNY continues to expand its outreach through the newest forms of electronic communication, including Facebook, Twitter and Instagram.

In 2017 and 2018, DSNY produced and mailed a wide range of different notifications to various audiences, such as schools, commercial businesses, new recipients of organics curbside collection and residents living near our SAFE Disposal Events. In addition to these notifications, a monthly mailing regarding proper recycling and disposal is sent to all residents who have registered to change their address with the United States Postal Service.

To promote recycling diversion, DSNY recycling outreach staff has also continued to assist the City's landlords, building managers, co-op boards and condo associations, and building superintendents requesting DSNY education and assistance to improve their buildings' recycling rates. Outreach staff is a constant presence in the five boroughs, attending various tenant, coop, and condo association meetings, as well as providing hands-on outreach assistance to individual superintendents and building management where needed.

Furthermore, DSNY has leveraged strategic partnerships with a wide array of nonprofit agencies, including GrowNYC, NYCCP partners, and others, to supplement field outreach staff and boost the presence of DSNY messaging among the public. Included among these are the NYC City Service Corps, an AmeriCorps program run by NYC Service, which unites a diverse group of professionals to serve full-time at City agency host sites, including DSNY, working to address community needs; and the NYC Summer Internship Program, which provides City government internships allowing students to make important contributions to the City while participating in a challenging and rewarding work experience.

### **NYCHA Outreach and Communications**

DSNY supported NYCHA in rolling out its recycling program starting in 2015. As part of this effort, DSNY added new recycling pickup locations, trained NYCHA staff, and funded a resident education program. By the end of the fiscal year corresponding to the Reporting Period, all NYCHA developments had been equipped with bins and training. During this period, over 33,000 NYCHA residents and staff were trained.

One innovative feature of this partnership is the Environmental Ambassador program, in which NYCHA residents can volunteer to become community recycling experts. After completing two recycling trainings, Environmental Ambassadors conduct 12 hours of local outreach at their own development, encouraging their neighbors to participate in the NYCHA Recycles! Program.

In 2017, DSNY completed a characterization of NYCHA containerized refuse as part of its Waste Characterization Study and continues to work with NYCHA to promote waste reduction and recycling at NYCHA complexes. Results are posted at [www.nyc.gov/wastestudy](http://www.nyc.gov/wastestudy).

### **3.1.10 LOW DIVERSION DISTRICTS**

In calendar years 2017 and 2018, DSNY (in partnership with GrowNYC), conducted a wide range of outreach and education efforts to boost recycling participation in community districts with low diversion rates. Target Low Diversion Districts (LDD's) in 2017 and 2018 were community districts with a diversion rate of 10% or less in 2015. The bulk of DSNY's LDD efforts in 2017 and 2018 were centered around recycling outreach to the New York City Housing Authority (NYCHA) as NYCHA did not begin to operationalize recycling at their developments until 2016. Therefore, the presence of NYCHA developments in a district is a recognized rationale for historic low diversion rates. For example, Bronx District 1 had a 5.9% diversion rate in 2015 and 31% of the total population Bronx District 1 population lives in NYCHA housing. Likewise, Brooklyn District 16 had a 7.8% diversion rate in 2015 and 22% of that district's total population is in NYCHA housing. These statistics are not surprising given that NYCHA residents were unable to participate in the city's recycling infrastructure until 2016 or 2017.

In 2017, DSNY continued to go site by site, meeting with NYCHA building Superintendents and DSNY Collections staff to determine the best locations for DSNY to collect recyclables from each development. DSNY also worked closely with NYCHA to produce decals to go above the refuse chutes on each floor of each development to properly educate residents about recycling. DSNY worked with the NYCHA building management to make sure the decals were applied. DSNY also provided recycling trainings for building staff at each NYCHA development as it began recycling. Simultaneously, either GrowNYC or DSNY conducted a "Recycling Kick-Off" presentation for NYCHA residents once recycling went live at each development. By December 31, 2017, 100% of NYCHA developments started receiving DSNY recycling collection, serving 2,553 NYCHA buildings and over 403,000 residents.

In 2018, DSNY continued to work with GrowNYC to educate NYCHA residents and NYCHA building Superintendents about recycling. GrowNYC crafted special tabling activities on the NYCHA campuses with interactive activities for residents to learn how to properly sort their recyclables. GrowNYC and DSNY attended special events hosted by NYCHA to educate residents about proper recycling protocols. DSNY continued to lead trainings for NYCHA staff and began

working with NYCHA to integrate recycling best practices into NYCHA's Superintendent trainings.

In addition, in 2018, DSNY began to craft the *Zero Waste Building Maintenance Training Program, ZWBMT*. The program was originally designed to help building maintenance staff in LDD's run an outstanding apartment building recycling program through a combination of classroom instruction, field trips and practical activities. The trainings would be free and conducted over two days at various locations. Students who successfully completed the program by meeting the course requirements would receive a Zero Waste Building Maintenance Training Certificate. The program was crafted in 2018 and 5 cohorts graduated from May-December 2018. The program is still operative and is serving building superintendents in both LDD's and non-LDD's.

### **3.1.11 COMMERCIAL RECYCLING**

In 2013, Local Law 146 was enacted and mandated that designated covered establishments source-separate organic waste for beneficial use and dispose of organic food preparation waste through one or more of the following methods: private carting, self-hauling, or on-site processing, pursuant to specific regulations for each method of disposal. During the Reporting Period, commercial organics rules were adopted that designated the covered establishments and established the beginning of enforcement for each designation as follows:

#### First Designation (enforcement began January 19, 2017)

- Food service establishments in hotels with 150 or more rooms
- Arenas and stadiums with a seating capacity of at least 15,000 people
- Food manufacturers with a floor area of at least 25,000 square feet
- Food wholesalers with a floor area of at least 20,000 square feet

#### Second Designation (enforcement began February 15, 2019)

- Food service establishments with a floor area of at least 15,000 square feet

- Food service establishments that are part of a chain of 100 or more locations in the city of New York
- Retail food stores with a floor area of at least 25,000 square feet

In 2016, DSNY adopted new business recycling rules pursuant to Local Law 87 of 1992. Generators (businesses) and private carters in New York City are required to recycle designated recyclable materials, including paper, cardboard, metal, glass and plastic. This revision applies the same rules for all businesses. Businesses must contract with a licensed private carter (with minor exceptions) for waste collection. Businesses must post a sign identifying all carters utilized and material collected. In addition, the rules allow all designated recyclable materials, including metal, glass, plastic, paper and cardboard to be collected through one of the following types of recycling collection: source-separation (metal, glass, plastic together in one container/bag, and paper and cardboard in another container/bag), co-collection (source-separated recyclables in separate bags by category, but bags of different categories can be collected in one truck, separate from refuse), or single-stream (recyclables collected mixed together in one bag). The rules prohibit private carters from placing any source-separated recyclables material with refuse in the same compartment of a waste hauling truck. All containers for refuse and recycling must be labeled by material type. Businesses should post and maintain signs in public, staff, and maintenance and waste storage areas describing how recyclables and garbage should be separated. Enforcement of the new commercial recycling rules began on August 1, 2017.

### **3.1.12 PLASTIC BAG LEGISLATION**

Starting in March 2020, NY State will prohibit the distribution of single-use plastic carryout bags, with limited exceptions. Following successful defense of this law in litigation concluded in August 2020, NY State is expected to commence enforcement in September 2020. This State law also allows counties and municipalities to enact a five-cent fee on paper carryout bags. In April 2019, the City enacted legislation to authorize such a fee at the same time that the State plastic bag ban takes effect. The City legislation requires merchants to charge the 5-cent fee for each paper bag they provide to customers starting on March 1, 2020 (now delayed to September 2020, as noted). Merchants would collect the fees as a tax and remit them to the State quarterly. The State law allows the City to keep 40% of the proceeds to distribute reusable bags to the public, with a focus

on low- and fixed-income people, while the rest would go to the State Environmental Protection Fund. New Yorkers making purchases with food stamps or funds from similar programs would be exempt from the fee. The fee's goal is to curtail New Yorkers' use of single-use paper and plastic bags. DSNY collects more than 1,700 tons of single-use carryout bags a week on average, or up to 91,000 tons of paper and plastic bags a year. See Section 5.1.3 of this Report for information and Attachment 4D for the 2019 State Budget Bill (plastic bag legislation is in Part H) and new local legislation.

### **3.1.13 COMPLIANCE WITH LOCAL RECYCLING LAWS**

DSNY's efforts to ensure compliance with New York City's Recycling Law includes education and outreach (described in Section 3.1), and enforcement efforts. Over the Reporting Period, DSNY sent up to 190 Enforcement Agents and 63 Sanitation Police into the field over a 24-hour period. These agents and officers are empowered to issue summonses for failure to recycle properly, among other code violations. Recycling regulation enforcement includes both residential and commercial recycling laws. Over the Reporting Period, DSNY issued 90,046 (CY2017) and 81,924 (CY2018) recycling summonses, respectively.

Certain other local laws require DSNY to take specified steps concerning various kinds of recycling. These include Local Law 35/2010 (requiring DSNY to designate additional rigid plastic types as recyclables if cost effective); Local Law 39 of 2010 (requiring DSNY to establish at least one household hazardous waste (HHW) collection event per borough annually, and to study additional opportunities for collecting HHW); LL176/2017 (requiring DSNY to establish an online food donation portal to connect businesses interested in donating food to local organizations that feed hungry people); LL49/2017 (requiring DSNY to review voluntary incentive programs that may increase resident recycling participation at NYCHA housing complexes); LL 22/2019 (requiring DSNY to establish a City agency/ institution pilot program for collection of source-separated organic waste); LL 36/2010 (requiring City agencies to submit waste reduction and recycling plans to DSNY for approval); LL37/2010 (requiring DSNY to collect residential yard waste separately in the spring and fall, and work to identify suitable yard waste composting facility sites in each borough); LL38/2010 (requiring DSNY to establish a recycling program for textiles, including drop-off sites); LL40/2010 (establishing certain specified recycling target percentages for DSNY-collected waste that increase over time, and requiring certain reporting and waste

characterization studies); LL41/2010 (requiring annual recycling compliance report by City's Schools Chancellor to DSNY); LL42/2010 (requiring a study of potential for food waste composting for the City); LL77/2013 (requiring the City to undertake a pilot program and study for the separate collection of organic wastes); LL146/2013 (requiring certain categories of commercial establishments that generate food waste to keep such waste separate from refuse and compost or otherwise convert it to a beneficial use, provided that sufficient organics conversion capacity exists in the region); LL56/2013 (enhancing the City's ability to limit unlawful scavenging of recyclables); LL57/2013 (enhances City's ability to deter scavenging of recyclables using a motor vehicle); LL67/2014 (enabling DSNY to regulate the placement of private recyclable collection bins on public property). As further discussed elsewhere in this Update, DSNY and other City agencies have generally carried out their responsibilities under these various local laws during the Reporting Period, apart from meeting the recycling targets of LL40/2010.



### 3.2 WASTE DISPOSAL: LONG-TERM EXPORT IMPLEMENTATION

#### ALL LONG-TERM EXPORT MILESTONES: STATUS AND IMPLEMENTATION

**Table 7:  
SWMP Milestones – Facilities & Long-Term Contracts for Waste Transport and Disposal (Export)**

<b>PROGRAM Milestone</b>	<b>Revised Scheduled Fiscal Year</b>	<b>Scheduled Fiscal Year</b>	<b>SWMP Section</b>	<b>Status / Implementation</b>
<b>PROPOSED ACTION – LONG-TERM EXPORT FACILITIES AND SERVICES</b>				
<b>DSNY HAMILTON AVENUE CONVERTED MTS, HAMILTON AVENUE AT GOWANUS CANAL, BROOKLYN</b>				
Complete procurement and award Transport & Disposal contract	2012	2007	See § 3.2	Completed February 2017
Complete design and permitting	2008	2007	See § 3.2	Completed June 2008
Complete construction and begin facility operation Provide Notice to Proceed on Optional Proposal to extract and process organics.	2014	2010	See § 3.2	Completed; facility operation began September 2017. Optional Proposal deadline is May 2022 (see Section 3.2.11)
<b>DSNY SOUTHWEST BROOKLYN CONVERTED MTS, SHORE PKWY AT BAY 41<sup>ST</sup> STREET, BROOKLYN</b>				
Complete procurement and award Transport & Disposal contract	2012	2007	See § 3.2	Completed February 2017
Complete design and permitting	2012	2007	See § 3.2	Completed November 2013
Complete construction and begin facility operation. Provide Notice to Proceed on Optional Proposal to extract and process organics.	2017	2010	See § 3.2	Completed; facility operation began October 2018. Optional Proposal deadline is May 2022 (see Section 3.2.11)
<b>DSNY EAST 91ST STREET CONVERTED MTS, MANHATTAN</b>				
Complete procurement and award Transport & Disposal contract	2012	2007	See § 3.2	Completed July 2013

**Table 7:  
SWMP Milestones – Facilities & Long-Term Contracts for Waste Transport and Disposal (Export)**

<b>PROGRAM Milestone</b>	<b>Revised Scheduled Fiscal Year</b>	<b>Scheduled Fiscal Year</b>	<b>SWMP Section</b>	<b>Status / Implementation</b>
Complete design and permitting.	2012	2007	See § 3.2	Completed July 2012
Complete construction and begin facility operation	2016	2010	See § 3.2	Completed March 2019
<b>DSNY NORTH SHORE CONVERTED MTS, 31ST AVENUE AND 122ND STREET, QUEENS</b>				
Complete procurement and award Transport & Disposal contract	2012	2007	See § 3.2	Completed July 2013
Complete design and permitting	2010	2007	See § 3.2	Completed January 2010
Complete construction and begin facility operation	2014	2010	See § 3.2	Completed March 2015
<b>BRONX LONG-TERM EXPORT PROCUREMENT</b>				
Complete contract negotiations and award contract	2008	2007	See § 3.2	Completed July 2007
Complete design permitting and construction, if required, <sup>1</sup> and begin facility operation	2008	2007	See § 3.2	Completed July 2007
<b>BROOKLYN LONG-TERM EXPORT PROCUREMENT</b>				
Complete contract negotiations and award contract	2008	2007	See § 3.2	Completed February 2008
Complete design, environmental review, permitting and construction and begin facility operation		2009	See § 3.2	Completed March 2009
<b>QUEENS LONG TERM-EXPORT PROCUREMENT</b>				
Complete contract negotiations and award contract	2013	2007	See § 3.2	Completed November 2013

<sup>1</sup> Only one of the two private waste transfer stations in the Bronx requires permit modifications and construction.

**Table 7:  
SWMP Milestones – Facilities & Long-Term Contracts for Waste Transport and Disposal (Export)**

<b>PROGRAM Milestone</b>	<b>Revised Scheduled Fiscal Year</b>	<b>Scheduled Fiscal Year</b>	<b>SWMP Section</b>	<b>Status / Implementation</b>
Complete design, environmental review, permitting and construction and begin facility operation	2013	2009	See § 3.2	Completed July 2015
<b>INTERMUNICIPAL PROCUREMENT FOR DISPOSAL SERVICES AT A REGIONAL WASTE-TO-ENERGY FACILITY</b>				
Complete contract negotiations, award contract and commence service	2012	2007	See § 3.2	Completed October 2012
<b>STATEN ISLAND TRANSFER STATION</b>				
Complete facility construction		2007	See § 3.1 + Table 3.2-1	Completed 2006
Begin facility operations and implement long term service agreement for container rail transport and disposal		2007	See § 3.1 + Table 3.2-1	Completed November 2006
<b>CONVERTED MTS REPORTING/PERMITTING</b>				
Report to Council on RFP process/permit approvals for MTSs		2008	See § 3.7	Completed
Report to Council if any of the MTS agreements are not finalized by 2010 and recommend (as appropriate) proposed SWMP modification on handling residential solid waste	2012	2010-11	See § 3.7	Completed FY 2012
<b>ALTERNATIVE TECHNOLOGY EVALUATION AND PLANNING</b>				
Issue Phase 2 Alternative Technology Evaluation		2007	See § 5.2	Completed
Evaluate development of a pilot project to establish the basis for commercial application	2012	2007	See § 5.2	Completed; RFP Issued March 2012 and Cancelled in FY 2014

### **3.2.1 HAMILTON AVENUE CONVERTED MTS, HAMILTON AVENUE AT GOWANUS CANAL, (GOWANUS) BROOKLYN**

Project Overview: The Hamilton Avenue Converted MTS (MTS) replaced the former MTS at the same location and serves the same waste shed (Brooklyn Collection Districts 2, 6 - 10, 14 and 16 – 18). The MTS currently accepts an average of 1,100 tons per day of DSNY-managed waste from those communities. The facility operates 24 hours per day, six days a week.

The MTS is an enclosed processing building (with ramps) constructed along the Gowanus Canal (the former overwater MTS was demolished). The MTS is a three-level facility designed to facilitate the indoor transfer of solid waste from collection vehicles into sealed, leak-proof intermodal containers that are placed by an outside gantry crane system onto barges for transport to an intermodal facility where the containers are placed onto rail cars or larger barges for transport to a disposal site. The design of the MTS processing building and ramp allows for collection vehicles to queue on the ramp and move quickly through the facility without on-street queuing. The MTS is a City-owned facility; DSNY accepts waste and loads and lids containers. DSNY awarded a contract for the maintenance and operation of the cranes on the facility barge pier and the receipt of loaded containers for transport to an intermodal facility for trans-loading to rail transport and disposal at an out-of-City disposal facility to Waste Management of New York, LLC (see discussion under CONVERTED MTS REPORTING/PERMITTING provided below).

Permitting: After substantial completion of the final MTS design, and having obtained approval for the project under the City's Uniform Land Use Review Procedures, NYSDEC issued final State permits (Solid Waste Management, Air State Facility, Tidal Wetlands, Water Quality Certification, Protection of Waters) to operate and construct (including demolition of the existing over-water MTS and construction dredging) the MTS on June 3, 2008 (renewed in 2013 and 2018). The project required an Army Corps of Engineers (USACE) permit for in-water demolition and dredging activities and the construction of a barge fendering system; the USACE nationwide permit was issued for the MTS on May 22, 2008 (renewed in 2010).

Construction: Pursuant to competitive bid procurement, DSNY awarded contracts in 2010, and construction began in May 2010. In the aftermath of Super Storm Sandy, basic flood proofing measures were incorporated into the design of the MTS.

Operation: MTS operation began in September 2017; full operations began in September 2018. DSNY awarded a long-term service contract to Waste Management of New York, LLC for the maintenance and operation of the cranes at the MTS barge pier and the receipt of loaded containers at the MTS for transport to and disposal at High Acres Landfill in Perinton, NY and Atlantic Waste Disposal Landfill in Waverly, VA. See Attachments 2A and 2B for information on MTS tonnage disposed during the Reporting Period and for the disposal locations for MTS waste.

### **3.2.2 SOUTHWEST BROOKLYN CONVERTED MTS, SHORE PKWY AT BAY 41ST STREET, (GRAVESEND) BROOKLYN**

Project Overview: The Southwest Brooklyn Converted MTS (MTS) was constructed on the site of the demolished Southwest Brooklyn Incinerator to serve the same waste shed as the former MTS (Brooklyn Collection Districts 11 – 13 and 15). The MTS currently accepts an average of 680 tons per day of DSNY-managed waste from those communities. The facility operates 24 hours per day, six days a week.

The MTS, including a fully enclosed processing building and ramp structures, was constructed on land on the edge of Gravesend Bay. The MTS is a three-level facility designed to facilitate the indoor transfer of solid waste from collection vehicles into sealed, leak-proof intermodal containers to be placed by an outside gantry crane system onto barges for transport directly to an intermodal facility where the containers are placed onto railcars or larger barges for transport to a disposal site. The design of the MTS processing building and ramp allow for collection vehicles to queue on the ramp and move quickly through the facility without on-street queuing. The MTS is a City-owned facility; DSNY accepts waste and loads and lids containers. DSNY awarded a long-term service contract for the maintenance and operation of the cranes on the facility barge pier and the receipt of loaded containers for transport to an intermodal facility for trans-loading to rail transport and disposal at an out-of-City disposal facility to Waste Management of New York, LLC.

Permitting: After substantial completion of final designs for the MTS and having obtained approval for the MTS under the City's Uniform Land Use Review Procedures, DSNY submitted the final permit applications for the State environmental permits (Solid Waste Management, Air State Facility, Tidal Wetlands, Water Quality Certification, Protection of Waters) needed for the construction and operation of the facility in January/February 2007. In support of its permit application, DSNY held an Environmental Justice Informational Meeting on the project in the Southwest Brooklyn Converted MTS community on April 16, 2007. A Notice of Complete Application and draft permits were issued for the project on August 29, 2007. The Notice established an October 1, 2007 deadline for public comments. Based on the comments received, NYSDEC referred the permit application to NYSDEC Office of Hearings and Mediation Services and assigned an Administrative Law Judge (ALJ) to oversee the permit proceedings.

The NYSDEC permit process began with a Legislative Hearing in the community on January 15, 2008 that was presided over by the ALJ. Opponents of the project seeking party status were heard at an Issues Conference held at NYSDEC Region 2 offices on January 23, 2008. Briefing opportunities were provided to NYSDEC staff, DSNY and those seeking party status. In July 2009, the ALJ issued Ruling on Issues and Party Status (Rulings) that held that there were no issues to adjudicate, the record was closed and the permit application remanded to NYSDEC staff for processing. An appeal of the Rulings was filed by Assemblyman William Colton on behalf of NY/NJ Baykeeper, Natural Resources Protective Assn., Wake Up and Smell the Garbage, Urban Divers Estuary Conservation and the No Spray Coalition (Appellants). The appeal was denied and NYSDEC issued the above-described State environmental permits in July 2012. Petitioners filed an Article 78 proceeding for the review of the NYSDEC permit decision in August 2013 and the Supreme Court, Kings County, issued an April 2013 decision denying the petition and dismissing the proceeding. An appeal of the Supreme Court decision to the Appellate Division of the Supreme Court of New York was perfected, and briefs were filed by the City and Appellants in 2014. Appellants also sought a stay of construction, which was denied. The appeal of the Supreme Court's decision to deny the petition and dismiss the Article 78 proceeding was dismissed by the Appellate Division in June 2016.

DSNY was issued a permit to construct the Southwest Brooklyn Converted MTS by the U.S. Army Corps of Engineers in November 2013. The ACOE permit is for dredging activities, the construction of a barge fendering system and a king pile wall to protect the adjacent marina and barge staging that will affect littoral and non-littoral zones. The ACOE permit was modified to extend dredging until December 15, 2015 and to modify the storm water outfall and king pile wall protection design.

In accordance with the NYSDEC Part 360 Permit for the MTS, DSNY submitted a Part 360 Permit renewal application to NYSDEC in January 2017 and a permit was issued effective July 31, 2017. NYSDEC natural resources permits were modified and reissued in 2017 to reflect changes in storm water outfall and king pile wall protection designs.

Construction: A construction contract was awarded in 2014 and construction began in December 2014. Construction dredging for the MTS was completed in December 2015 and resulted in the issuance of a Notice of Violation to DSNY for failure to fully close an environmental bucket during dredging in areas where timber debris was being removed as part of the dredging operation. In the aftermath of Super Storm Sandy, basic flood proofing measures were incorporated into the design of the MTS.

Operation: MTS operation began on October 5, 2018. DSNY awarded a long-term service contract to Waste Management of New York, LLC for the maintenance and operation of the cranes on the facility barge pier and the receipt of loaded containers for transport to and disposal at High Acres Landfill in Perinton, NY and Atlantic Waste Disposal Landfill in Waverly, VA. See Attachments 2A and 2B for information on the MTS tonnage disposed during the Reporting Period and for the disposal locations for MTS waste.

### **3.2.3 EAST 91ST STREET CONVERTED MTS AND THE EAST RIVER, MANHATTAN**

Project Overview: The East 91<sup>st</sup> Street Converted MTS replaced the preexisting MTS on the site and serves the same waste shed as the former MTS (Manhattan Districts 5, 6, 8 and 11), and was expected to accept an average of 720 tons per day of DSNY-managed waste from those communities. The facility operates 24 hours per day, six days a week.

The Converted MTS has an over-water processing building, barge pier, and includes ramp structures that entirely replace the preexisting MTS structure in the East River at the terminus of East 91<sup>st</sup> Street on Manhattan's east side. The Converted MTS is a three-level facility designed to facilitate the indoor transfer of solid waste from collection vehicles into sealed, leak-proof intermodal containers that are placed by an outside gantry crane system onto barges for transport directly to a disposal site or to an intermodal facility where the containers are placed onto rail cars for transport to a disposal site. The design of the processing building and ramp allows for collection vehicles to queue on the ramp and move quickly through the facility without on-street queuing. The Converted MTS is a City-owned facility. DSNY accepts waste and loads and lids containers. DSNY awarded a long-term service contract to Covanta Sustainable Solutions for the maintenance and operation of the cranes on the facility barge pier and the receipt of loaded containers for transport to and disposal at Covanta resource recovery facilities in Niagara, NY and Chester, PA.

Permitting: After substantial completion of final designs for the E. 91<sup>st</sup> Street Converted MTS (MTS), and having obtained approval under the City's Uniform Land Use Review Procedures, DSNY submitted the final permit applications for the State environmental permits (Solid Waste Management, Air State Facility, Tidal Wetlands, Water Quality Certification, Protection of Waters) needed for the construction and operation of the facility in January and February 2007. In support of its permit application, thereafter, DSNY held an Environmental Justice Informational Meeting on the project in the E. 91<sup>st</sup> Converted MTS community on April 19, 2007. A Notice of Complete Application and draft permits were issued for the project on May 30, 2007. The Notice established a July 2, 2007 deadline for public comments. Based on the comments received, NYSDEC referred the permit application to NYSDEC Office of Hearings and Mediation Services and assigned an Administrative Law Judge (ALJ) to oversee the permit proceedings.

The NYSDEC permit process began with a Legislative Hearing in the community on October 9, 2007 that was presided over by the ALJ. Opponents of the project seeking party status were heard at an Issues Conference held at NYSDEC Region 2 offices on October 16, 2007. After briefing opportunities were provided to NYSDEC staff, DSNY and those seeking party status, the ALJ issued Rulings of the Administrative Law Judge on Issues and Party Status dated April 7, 2008 (Rulings) that determined that there were no issues to adjudicate except that DSNY



had not submitted evidence that it had met the Part 360 noise standards for the project. The petitioners for party status, Environmental Defense Fund and Gracie Point Community Council, et al., were granted party status on the noise standard issue. Petitioners Gracie Point Community Council, et al., appealed the Rulings on May 2, 2008. After the parties had briefed the noise standard issue, in a Supplemental Issues Ruling dated December 10, 2008, the ALJ held that no issue existed with respect to the ability of the MTS, as designed, to meet the Part 360 noise standards. NYSDEC denied the appeal of Rulings and issued permits to operate and construct the MTS in October 2009. Petitioners appealed in Supreme Court. In June 2010, the Supreme Court determined that the State's decision to issue permits was not arbitrary and capricious, and dismissed the petition. In December 2011, the Appellate Court affirmed the dismissal of the challenge.

DSNY filed timely and complete renewal applications for NYSDEC environmental permits for the MTS in April 2014 and the permits were renewed by NYSDEC in 2015.

DSNY applied for a U.S. Army Corps of Engineers permit to construct the E. 91<sup>st</sup> Street Converted MTS to the Army Corps of Engineers in 2008. The project required an ACOE permit for in-water demolition, construction and dredging activities, the construction of a barge fendering system and a pile-supported transformer building and barge staging that will affect littoral and non-littoral zones. ACOE held a public hearing on the application on September 18, 2008 and established a thirty-day comment period on the permit application. DSNY provided ACOE with responses to the comments received. DSNY submitted a Mitigation Plan in June 2011 and thereafter USACE issued a Supplemental Public Notice on July 25, 2011, establishing a 30-day written comment period on the Mitigation Plan. The USACE permit was issued on July 20, 2012.

Legal Actions: The project has been the subject of a number of lawsuits. The first two were brought on the sufficiency of the environmental review: (*The Association for Community Reform Now (ACORN), et al. v. Mayor Michael Bloomberg, et al.*; and *New York State Assemblyman Adam Clayton Powell, IV, et al. v. City of New York (Powell)*). The ACORN lawsuit was unsuccessful at the Supreme Court level. On appeal, the Appellate Division, in June 2008, upheld the lower court's finding that DSNY took the required hard look at the relevant areas of environmental concern for the project and made a reasoned elaboration of the basis for its determination in its Final

Environmental Impact Statement. In the *Powell* lawsuit, the Supreme Court held that the project's environmental review was lawful in all respects; on a parkland issue, in June 2011, the Appellate Court affirmed the lower court decision that the Asphalt Green and Bobby Wagner were not parks entitled to protection under the Public Trust Doctrine and held that even if these properties could be considered parks, the proposed MTS construction would not result in a substantial invasion of parkland that would trigger the Public Trust Doctrine.

Two lawsuits were brought in 2010 to challenge the issuance of the NYSDEC permits for the facility. The issuance of the DEC permit was subsequently upheld by the Court. Two lawsuits were brought in 2012 to challenge the issuance of the USACE permit. Decisions on these lawsuits resulted in the dismissal of both lawsuits in 2014.

Construction: A competitive bid solicitation issued for the construction of the project in January 2012 resulted in the registration of a construction contract in December 2012. Construction began in March 2013, with the demolition of the existing MTS primarily completed (except for the ramp) in 2013. In the aftermath of Super Storm Sandy, basic floodproofing measures were incorporated into the design of the MTS.

Operation: The facility began operation on March 25, 2019. DSNY awarded a long-term service contract to Covanta Sustainable Solutions (Covanta) for the maintenance and operation of the cranes on the MTS barge pier and the receipt of loaded containers at the MTS for transport to and disposal at an out-of-City disposal facility. MTS waste is being disposed at Covanta resource recovery facilities located in Chester, PA and Niagara, NY.

New MTS and Southbound FDR Entrance Ramps Construction: A new MTS entrance ramp was proposed to be constructed at East 92<sup>nd</sup> Street along with a new southbound entrance to the FDR highway a few blocks north of the new MTS ramp. The design and construction of this project was suspended by the NYC Department of Design & Construction in March 2020.

If the ramp project advances during the SWMP planning period, it would be subject to approval under the City's Uniform Land Use Review Procedure and require an environmental review. DSNY would request a modification of its NYSDEC Part 360 permit for the East 91<sup>st</sup> Street MTS

to construct the ramp project if a Draft Environmental Impact Statement or Negative Declaration is issued for the project. In the meantime, the MTS will operate using the already constructed ramp at the foot of E. 91<sup>st</sup> Street and York Avenue.

### **3.2.4 NORTH SHORE CONVERTED MTS, 31ST AVENUE AND 122ND STREET, (COLLEGE POINT) QUEENS**

Project Overview: The North Shore Converted MTS (MTS) replaced the former MTS on the site and serves the same waste shed (Queens Collection Districts 7 -14). The MTS currently accepts an average of 1,530 tons per day of DSNY-managed waste from those communities. The facility operates 24 hours per day, six days a week.

The MTS has an over-water processing building with an over-water barge pier and ramp structures that replaced the demolished former MTS structure in Flushing Bay. The MTS is a three-level facility designed to facilitate the indoor transfer of solid waste from collection vehicles into sealed, leak-proof intermodal containers placed by an outside gantry crane system onto barges for transport to an intermodal facility where the containers are placed onto rail cars or larger barges for transport to a disposal site. The design of the processing building and ramp allows for collection vehicles to queue on the ramp and move quickly through the facility without on-street queuing. The MTS is a City-owned facility operated by DSNY, at which DSNY accepts waste and loads it into containers and lids the containers. The maintenance and operation of the cranes on the facility barge pier and the receipt of loaded containers for transport to and disposal at an out-of-City disposal facility (see discussion under CONVERTED MTS REPORTING/PERMITTING provided below) is provided for through a long-term service contract with a private vendor.

DSNY contracts for the services of a wildlife biologist for the implementation of an approved integrated wildlife hazard (bird) management program for the MTS, located across Flushing Bay from LaGuardia Airport.

Permitting: After substantial completion of final designs for the MTS and having obtained approval under the City's Uniform Land Use Review Procedures, DSNY obtained NYSDEC environmental permits to construct (including demolition of the existing MTS and construction dredging) and operate the MTS (Solid Waste Management, Air State Facility, Tidal Wetlands,

Water Quality Certification, Protection of Waters in September 2007 (renewed in 2012). DSNY submitted an application for renewal of its Part 360 Solid Waste Management Facility permit to NYSDEC in March 2017 and a renewal permit was issued effective June 2017.

DSNY submitted an application for a permit to construct the North Shore Converted MTS to the Army Corps of Engineers in October 2007. The project required an ACOE permit for in-water demolition and construction and dredging activities, the construction of a barge fendering system and barge staging that will affect littoral and non-littoral zones. The final ACOE permit was issued on January 11, 2010.

Construction: Pursuant to a competitive bid solicitation, DSNY received construction bids for the project on March 12, 2009 and awarded contracts thereafter. Construction was substantially completed in early 2015; training activities for the facility began in November 2014. Because of its proximity to LaGuardia Airport, to ensure the safety of air traffic in the vicinity of the MTS, modifications were made to the MTS to deter wildlife, especially birds, from the MTS and an MTS wildlife hazard management plan was implemented that is managed by a USDA wildlife biologist. In the aftermath of Super Storm Sandy, basic flood proofing measures were incorporated into the design of the MTS.

Operation: The MTS began operations in March 2015 and reached full operating capacity in fall 2015. DSNY awarded a long-term service contract to Covanta Sustainable Solutions for the maintenance and operation of the cranes on the MTS barge pier and the receipt of loaded containers at the MTS for transport to and disposal at an out-of-City disposal facility. The MTS has experienced some mechanical problems that have resulted in the replacement of portions of the container loading system. Additional work on the MTS floor slabs was expected to be undertaken in summer 2019. Lessons learned from the operation of the MTS were translated into changes that were incorporated into the construction of the Hamilton Avenue, Southwest Brooklyn and East 91<sup>st</sup> Street MTSSs. The DSNY waste accepted pursuant to the Service Contract is disposed at Covanta resource recovery facilities in Chester, PA and Niagara, NY. See Attachments 2A and 2B for information on MTS tonnage disposed during the Reporting Period.

### **3.2.5 BRONX LONG TERM EXPORT PROCUREMENT**

Pursuant to a procurement issued in December 2003, Waste Management of New York, LLC. (“Company”) was awarded a 20-year Service Contract, with two five-year renewals to containerize transport by rail and dispose of an average of 2,100 tons per day of DSNY-managed waste (municipal solid waste, or MSW) from the Bronx, the waste shed historically handled by the South Bronx Marine Transfer Station. The Service Contract terms require the Company to accept, manage, transport and dispose of Bronx long-term Service Contract Waste (“Contract Waste”), delivered by the City to the Company’s Harlem River Yard Transfer Station located at 98 Lincoln Avenue, Bronx. The Service Contract fee formula is made up of several fixed and variable components that are escalated based on various factors. The fixed components are payable regardless of the number of tons of MSW delivered. The variable components are paid based on the number of tons of MSW delivered. DSNY must also pay for certain costs incurred by the Company for Uncontrollable Circumstances, for disposal of unacceptable waste and for acceptance of deliveries on Sundays and certain holidays. Service under the Service Contract began in July 2007. The facility is a rail-only facility; trucking of waste containers would only be permitted in an emergency defined by the facility’s permit. The DSNY processed under the Service Contract is disposed at Atlantic Waste Disposal Landfill in Waverly, VA. See Attachments 2A and 2B for quantities waste accepted and disposed in the Reporting Period.

### **3.2.6 BROOKLYN LONG-TERM EXPORT PROCUREMENT**

Pursuant to a procurement issued in December 2003, Waste Management of New York, LLC (WM) was awarded a 20-year Service Contract, with two five-year renewals to containerize, transport by rail and dispose of an average of 950 tons per day of DSNY-managed waste from Brooklyn Districts 1, 3, 4 and 5, the Brooklyn waste shed historically handled by the former Greenpoint Marine Transfer Station. The Service Contract terms require WM to accept, manage, transport and dispose of Brooklyn long-term Service Contract waste (“Contract Waste”), delivered by the City to WM’s Varick Transfer Station located at 215 Varick Street, Brooklyn, New York 11237. The Service Contract fee formula is made up of several fixed and variable components that are escalated based on various factors. The fixed components are payable regardless of the number of tons of MSW delivered. The variable components are paid based on the number of tons of MSW

delivered. DSNY must also pay for certain costs incurred by WM for Uncontrollable Circumstances, for disposal of unacceptable waste and for acceptance of deliveries on Sundays and certain holidays. WM must manage, operate and maintain the Varick Transfer Station.

Full rail service began for DSNY-managed waste in March 2009; as of October 2011, any commercial waste accepted at the facility is required to be transported from the MTS by rail. The DSNY waste accepted pursuant to the Service Contract is disposed at High Acres Landfill in Perinton, NY. See Attachments 2A and 2B for waste accepted and disposed in the Reporting Period.

### **3.2.7 QUEENS LONG-TERM EXPORT PROCUREMENT**

In November 2013, DSNY awarded to Waste Management of New York, L.L.C. (WM), a long-term Service Contract for the use of Review Avenue Transfer Station (Review Avenue TS or TS), located at 38 - 22 Review Avenue in Maspeth, Queens, to containerize, export by rail and dispose of the approximately 1,200 tons per day generated by Queens Collection Districts 1 - 6 and includes the Queens waste shed formerly served by the Greenpoint MTS. This contract is similar to the 20-year long-term rail export contracts entered into by DSNY for the use of Harlem River Yard Transfer Station for Bronx waste and Varick Transfer Station for a portion of Brooklyn's waste.

In May 2009, WM applied for an NYSDEC Part 360 permit modification to increase capacity at the Review Avenue facility and revised its application in December 2011 to reflect new dray and rail yard plans in response to community concerns about its plans to dray containers approximately 1.5 miles (round trip) to the Maspeth Railyard through the Rust Avenue intersection expressed in an Environmental Justice Meeting held by WM in June 2009 in connection with the permit modification. The modification was issued in June 2012.

In September 2013, WM submitted an application to further modify the permit to allow for on-site rail so as to eliminate the proposed dray of containers to and from Review Avenue TS's western entrance and the Blissville Yard, a 100-meter round-trip on Railroad Avenue and to enlarge the existing processing building rather than build a new processing building on another portion of the

site. The permit application was supported by a SWMP FEIS Technical Memorandum. NYSDEC approved the permit modification for the TS in 2014; service began under the Service Contract in July 2015. Up to 451 tons per day of commercial waste could be permitted to be transferred at the TS in the evening hours with DSNY prior authorization. The DSNY waste accepted pursuant to the Service Contract is disposed at High Acres Landfill in Perinton, NY. See Attachments 2A and 2B for waste accepted and disposed in the Reporting Period.

### **3.2.8 INTERGOVERNMENTAL PROCUREMENT FOR DISPOSAL SERVICES AT A REGIONAL WASTE-TO-ENERGY FACILITY**

DSNY entered into a 20-year Government-to-Government Agreement with the Port Authority of New York (PANYNJ) for the use of its mass-burn Resource Recovery Facility located in Essex County, New Jersey for DSNY-managed waste generated in Manhattan Districts 1 – 4, 7, 9, 10 and 12, the waste sheds historically served by the W. 59th Street and W. 135<sup>th</sup> Street MTSs. The operator of the facility is Covanta Essex County. Service began under the Agreement in October 2012. Pursuant to the Agreement, DSNY currently delivers an average of 1,330 tons per day of DSNY-managed waste in collection vehicles to the mass-burn facility, six days per week. The facility recovers ferrous metal from the waste, generates electricity from the heat recovered from combustion of the waste, and sends the ash residue to a permitted ashfill. See Attachments 2A and 2B for waste accepted and disposal locations in the Reporting Period.

### **3.2.9 STATEN ISLAND TRANSFER STATION**

Pursuant to design and construction projects managed by DSNY, the Staten Island Transfer (SITS), a truck-to-container-to-rail facility operated by DSNY's Bureau of Waste Disposal, began operations in November 2006 and entered into full-scale rail operations in April 2007. The SITS NYSDEC Part 360 solid waste facility permit was issued in March 2002 and was renewed in 2007, 2012 and 2017. The SITS accepts only Staten Island DSNY-managed waste, an average of approximately 730 tons per day. See Attachments 2A and 2B for waste accepted and disposal locations in the Reporting Period. Allied Waste Systems, Inc. (now owned by Republic Services, Inc.) operates the SITS railyard and provides rail transport and disposal of all of Staten Island's DSNY-managed waste pursuant to a 20-year Service Contract. The waste is disposed in Lee

County Landfill in Bishopville, SC. The SITS received the Solid Waste Association of North America's Golden Transfer Station award in 2008 for excellence in facility design and operation.

### **3.2.10 CONVERTED MTS REPORTING/PERMITTING**

Pursuant to SWMP Section 3.7, DSNY is required to report to the New York City Council on the progress of the Request for Proposals procurement processes and other approvals and contract awards needed to use the four Converted Marine Transfer Stations proposed for construction and operation as facilities that would containerize DSNY-managed waste and some portion of commercial waste for barge transport and barge or rail export to a disposal facility. DSNY submitted a Progress Report to City Council on Implementation of the Marine Transfer Station Conversion Program in April 2008, including on the establishment of Community Advisory Groups.

In 2011, the City met with the leadership of the New York City Council on the revised SWMP implementation schedule following DSNY testimony at City Council hearings in 2009, 2010 and 2011 about delays in the MTS projects. Thereafter, in March 2012, DSNY provided the February 2012 Revised SWMP Compliance Report for the period of 2009 through 2010 to the New York City Council. Finally, in April 2019, DSNY submitted a Report on the Delivery of Commercial Waste to Converted Marine Transfer Stations (see Attachment 8).

### **3.2.11 MTS TRANSPORT AND DISPOSAL CONTRACTS**

As part of the MTS Conversion Program, DSNY negotiated two 20-year Service Contracts (with two five-year renewals) with vendors selected for discussions through a Request for Proposals procurement and Best And Final Offer processes that solicited vendors to accept operate/maintain the gantry cranes and accept loaded containers at the four proposed Converted MTSs and transfer those containers by barge for disposal to an intermodal facility onto rail cars or larger barges for disposal at an out-of-City disposal facility. A contract award to Covanta 4Recovery LP (now Covanta Sustainable Solutions) was made in July 2013 for the North Shore and E. 91<sup>st</sup> Street MTSs. Negotiation of the second award under the procurement for the two Brooklyn MTSs was terminated in November 2014 with the issuance of a new 20-year contract procurement – a Request for Proposals to Transport and Dispose of Containerized Waste from Hamilton Avenue and



Southwest Brooklyn Marine Transfer Stations. The new RFP sought vendor services for Hamilton Avenue MTS within one year of the issuance of a contract notice to proceed and sought optional proposals from vendors to recover additional recyclables, including organics, from the MSW accepted. A long-term service contract with Waste Management of New York, LLC (WM) was registered in 2017; service began at the Hamilton Avenue MTS in September 2017 and at the Southwest Brooklyn MTS in October 2018.

As part of the WM Service Contract for the Hamilton Avenue and Southwest Brooklyn MTSS, DSNY has the option, by May 2022, to issue a notice to proceed to WM to (i) divert DSNY designated recyclables; (ii) construct and operate a 200 ton-per-day pilot mixed waste processing facility (which would use organics extraction equipment); and (iii) arrange for the processing of the recovered organics fraction at participating local waste water treatment plants (the “Optional Proposal”). The parties have the option to expand the pilot to 400 tons per day by adding an additional shift and up to 600 tons per day by also adding a second organics extrusion press. The Optional Proposal would create energy from the organic fraction of the waste and potentially result in other products for beneficial use for the remainder of the contract term.

### **3.2.12 ALTERNATIVE TECHNOLOGY EVALUATION AND PLANNING**

Pursuant to SWMP Section 5.2, the New York City Economic Development Corporation was required to issue a Phase 2 Study that followed up its a Phase 1 Report on its Evaluation of New and Emerging Solid Waste Management Technologies that appeared in the SWMP. Based on a review of successful projects outside the United States, the Phase I Study concluded that anaerobic digestion and thermal processing technologies merited further consideration for a potential demonstration project in New York City, the results of which could foster an appropriate basis for commercial application once the project and legal risks were sufficiently defined. The Phase I Study also concluded that hydrolysis technology might also be the subject of a demonstration project and recommended that a focused, detailed review be undertaken in the Phase 2 Study to supplement and verify the information provided for the Phase 1 Study before a final determination was made that any of the three technologies warranted a demonstration project in New York City. Thereafter, NYCEDC issued a Phase 2 Study Report entitled Focused Verification and Validation

of Advanced Solid Waste Management Conversion Technologies conducted by Alternative Resources, Inc.

The Phase 2 Study sought to provide a more detailed evaluation of the more advanced technologies so that they could be independently validated to the extent possible. Coupled with that evaluation was the consideration of technical, environmental and costs issues that were anticipated to arise if the implementation of one or more demonstration projects was deemed to be warranted by the technical analyses. The demonstration projects would be a key feature of long-range planning for commercial application of these technologies for beneficial use of waste materials and for the purpose of developing feasible alternatives to waste export and landfilling -- the technologies on which the SWMP long-term export plan largely relies.

The Phase 2 Study contained detailed, independent technical and conceptual environmental reviews and evaluation for two anaerobic digestion technologies and four thermal processing technologies. On a technical basis, it was confirmed that anaerobic digestion and thermal processing technologies are in commercial application for mixed MSW and no issues were identified that would prevent the technologies from being piloted in New York City. Recyclable materials and process products recovery rates were verified (along with residue disposal needs) and equipment layouts and site requirements were developed. The environmental findings are that there is the potential for anaerobic digestion and thermal processing technologies to perform better than waste-to-energy facilities in some areas – decreased air emissions, less residue requiring disposal and better beneficial use of waste rates.

Building on the findings of the Phase 2 Study, in 2008, the City established the Composting/New Technology Facility Task Force to identify the site needs (including for preprocessing feedstock waste) for the technologies under consideration and identify and investigate sites, ownership arrangements, regulatory requirements and potential product markets.

With the assistance of the Composting/New Technology Facility Siting Task Force, NYCEDC developed a scope and engaged a consultant to perform a siting study that assessed the availability of sites for a demonstration project of an anaerobic digestion, thermal or hydrolysis technology. The Phase 3 siting study undertaken in compliance with SWMP Section 2.4 and in connection

with the work of the Composting/New Technology Facility Siting Task Force was issued in March 2012.

In March 2012, DSNY issued a Request for Proposals for New and Emerging Solid Waste Management Technology (RFP) in compliance with a SWMP requirement. The RFP sought proposals to develop new and emerging solid waste management technology pilot facilities to process DSNY-managed MSW. The RFP sought to replace one or more long-term export contracts with facilities in the City or region that would create energy and avoid the cost and impacts of long-term export transport and disposal of waste at remote landfills that emit greenhouse gases or at other disposal facilities. Proven technologies such as mass burn, traditional waste-to-energy and Refuse-Derived Fuel (RDF) technologies were not eligible for consideration. The RFP initially offered a portion of a site adjacent to the Fresh Kills Compost Facility for proposals; the site was subsequently withdrawn. Proposers were required to submit proposals for sites in the City or within 80 miles of the City's borders.

After evaluation of the proposals, DSNY cancelled the procurement in 2014, concluding that there were a number of challenges presented by the anaerobic digestion (AD) and plasma gasification proposals selected for contract negotiations, including high costs for proposed facilities with low throughputs, and depending on the technology proposed, a failure to provide validated emissions testing (gasification) and unreasonably high residue rates (AD).

DSNY has a strong continuing interest in alternative solid waste management technology and continues to evaluate advances in solid waste technologies and new technology and equipment. See Attachment 5.

### 3.3 COMMERCIAL WASTE IMPLEMENTATION

#### ALL COMMERCIAL WASTE MILESTONES

**Table 8:  
SWMP Milestones – Commercial Waste**

<b>PROGRAM Milestone</b>	<b>Revised Scheduled Fiscal Year</b>	<b>Scheduled Fiscal Year</b>	<b>SWMP Section</b>	<b>Current Status</b>
<b>ASSESS FEASIBILITY OF USING WEST 59<sup>TH</sup> STREET MTS FOR PROCESSING COMMERCIAL WASTE</b>				
Issue an RFP to solicit private vendors		2007	See § 4.3 + 3.6	Completed
Report on West 59 <sup>th</sup> Street RFP process progress and required approvals		2008	§ 4.3 + 3.6	Completed
Report and recommend (as appropriate) SWMP modifications on commercial waste to Council if the City does not have an executed agreement for use of West 59 <sup>th</sup> Street MTS	2012	2009	See § 4.3 + 3.6	Revised SWMP Compliance Report dated February 2012 submitted to Council in March 2012
<b>USE OF CONVERTED MTSs TO CONTAINERIZE COMMERCIAL WASTE</b>				
Assess alternative implementation methods	2013	2009	See § 4.3	Pending
Implement selected method	2014	2010	See § 4.3	Pending
Report on use of MTSs for transport and disposal of commercial waste	2015	2010	See § 4.3	Submitted April 2019 Report to Council
Report to Council on status of commercial recycling and propose SWMP modifications if for 3 years in a row, any MTS receives less than 50% of commercial capacity analyzed in FEIS	Post 2017	Post 2010	See § 4.3	Submitted April 2019 Report to Council

**Table 8:  
SWMP Milestones – Commercial Waste**

<b>PROGRAM Milestone</b>	<b>Revised Scheduled Fiscal Year</b>	<b>Scheduled Fiscal Year</b>	<b>SWMP Section</b>	<b>Current Status</b>
<b>FUTURE MANHATTAN CAPACITY</b>				
Investigate potential alternative Manhattan solid waste transfer station locations and report to Council annually on efforts to identify alternative locations		2008	See § 3.6	Completed 2008
<b>TRANSFER STATION CAPACITY REDUCTION</b>				
Commence negotiations with transfer station operators to seek transfer station putrescible and C&D capacity (permitted and used) reductions in select CDs		2006	See § 4.4	See Section 3.3.5 below and Local Law 152 of 2018 in Attachment 4B.
Reach agreement on transfer station capacity reductions by April 2007; if not work with Council to draft legislation to accomplish reductions	2014	2007	See § 4.4	See Section 3.3.5 below and Local Law 152 of 2018 in Attachment 4B.
MTS host district specific and Bronx capacity reductions to occur	2014	2010	See § 4.4	See Section 3.3.5 below and Local Law 152 of 2018 in Attachment 4B.
<b>TRUCK TRAFFIC ANALYSIS</b>				
DSNY and NYCDOT to conduct a traffic study to assess the feasibility of redirecting transfer station truck routes to minimize potential impacts to residential areas	2009	2008	See § 4.4	Completed; study for Brooklyn communities issued in 2008

**Table 8:  
SWMP Milestones – Commercial Waste**

<b>PROGRAM Milestone</b>	<b>Revised Scheduled Fiscal Year</b>	<b>Scheduled Fiscal Year</b>	<b>SWMP Section</b>	<b>Current Status</b>
<b>NYCDEP FOOD WASTE DISPOSAL STUDY</b>				
With support from DSNY and NYCEDC, issue RFP to solicit consultant to conduct study to understand the costs and benefits of the use of commercial food waste disposals in defined areas of the City		2008	See § 5.4	Completed; RFP issued in 2007
Consultant to complete study		2009	See § 5.4	Completed; report issued in 2008

In New York City, DSNY collects waste and recyclables from residential buildings, government agencies, and institutions. Private carting companies, licensed by the Business Integrity Commission (BIC), collect waste and recyclables from commercial establishments, office buildings, and other businesses. The commercial waste market is a highly competitive one, with several hundred firms providing a range of services and service levels to customers.

During the Reporting Period, DSNY advanced the SWMP Commercial Waste Milestones, as follows:

### **3.3.1 COMMERCIAL WASTE COLLECTION ZONES**

In recent years, cities such as Los Angeles and San Jose have established commercial waste franchise systems with exclusive hauler districts or zones to achieve multiple environmental, economic, and labor-related policy goals in exchange for the right to operate in a given zone.

In April 2015, Mayor Bill de Blasio released “One New York: The Plan for a Strong and Just City”, known as OneNYC. As part of OneNYC, the City committed to conducting a comprehensive study of commercial waste collection zones to determine if there are substantial inefficiencies in the way waste is collected and if so, whether collection zones would reduce those inefficiencies and possibly create ancillary benefits such as improved recycling rates, working conditions, and wages. To meet this commitment, in October 2015, the City commissioned an independent private carting study, including a market analysis, cost assessment, benchmarking study, and cost impact study. The study was completed by a team of consultants led by BuroHappold Engineering.

The study concluded that the current open-market commercial waste system generates excess truck traffic, is highly concentrated among a few carters, has little transparency in pricing, and inhibits private carting companies from achieving efficiencies that allow investments in recycling initiatives or cleaner trucks. Today, commercial waste trucks travel over 23 million miles annually to collect refuse and recycling material from approximately 108,000 businesses.

The study found that collection zones would reduce truck traffic by an estimated 49 to 68 percent as measured in vehicle miles travelled (VMT) along with a 42 to 64 percent reduction in associated greenhouse gas emissions. The study also found that collection zones would reduce other air pollutants resulting from commercial waste trucks, including those most closely linked with asthma and other respiratory illnesses, by between 34 and 62 percent. The study concludes that reducing commercial collection truck traffic will lead to cleaner air, less traffic congestion, safer streets, and quieter nights in neighborhoods across New York City.

With the release of the private carting study, DSNY proposed a multi-year process of transforming the current system into a system of commercial waste zones (CWZ Plan). Since July 2017, DSNY along with a consultant team led by Arcadis has conducted extensive research and outreach in developing a detailed plan for CWZ. DSNY has held over 200 stakeholder meetings on aspects of designing the new system and issued a Final Generic Impact Statement for the CWZ Plan in 2019.

After issuance of the FGEIS, in November 2019, Mayor de Blasio signed Local Law 199 of 2019, which establishes the CWZ program to create a safe and efficient commercial waste collection system that advances the City's OneNYC environmental and zero waste goals while providing high-quality, low-cost service to NYC businesses. The CWZ program will divide the city into 20 zones, each served by up to three carters selected through a competitive Requests for Proposals process. This procurement process will consider price, capacity and experience as well as the submission of a variety of plans to meet the above-stated goals. DSNY anticipates releasing the Request for Proposals to carters late in 2020. Five citywide contracts will also be awarded for the collection of containerized waste and compactors. This approach will reduce truck traffic associated with commercial waste collection by 50 percent, eliminating millions of heavy-duty truck miles from NYC streets every year, while strengthening service standards and allowing for customer choice. In addition, CWZs will result in a new regulatory framework that allows the City to achieve several additional program goals:

- Move Toward Zero Waste: Reduce commercial waste disposal and incentivize recycling
- Environmental Health: Reduce truck traffic throughout the city to reduce air pollution and improve quality of life
- Pricing: Provide fair, transparent pricing with low prices for businesses
- Customer Service: Strengthen customer service standards and establish accountability



- Health and Safety: Improve training and safety standards to make the industry safer for workers and the public
- Labor and Worker Rights: Improve industry labor standards and uphold worker rights
- Infrastructure and Waste Management: Prioritize investments in clean, modern fleets and facilities that make up a reliable, resilient, and sustainable waste management system
- Robust, Competitive Industry: Create a system that works for carters of all sizes and prevents overreliance on any single company.

For organics in particular, LL199 requires all awardees to provide organics collection service to the more than 2,500 businesses required to source-separate their organic waste under Local Law 146 of 2013. As the City expands the number of businesses covered by this law, awardees under CWZ will have to provide service to these additional businesses. In addition, proposers seeking contracts to collect commercial waste in a zone will submit Zero Waste Plans detailing their efforts to go above and beyond these minimum requirements and to offer organics collection to as many customers as possible.

Once CWZ contracts are negotiated, awarded and registered (currently the procurement processes are delayed until late 2020 or early 2021 due to the effects of COVID-19 on the City’s private carters), the start of the implementation and customer transition period will begin and last up to two years. Contracts will be for 10 years with extension options. See [nyc.gov/commercial\\_waste](http://nyc.gov/commercial_waste) for the CWZ Plan and appendices.

### **3.3.2 ASSESS FEASIBILITY OF USING WEST 59TH STREET MTS FOR PROCESSING COMMERCIAL WASTE**

The West 59<sup>th</sup> Street MTS is a permitted facility that is operated by DSNY seven days per week for the receipt of mixed paper recyclables collected by DSNY. Pursuant to a contract with DSNY, paper is barged by Visy Paper from the MTS to its paper mill located in Staten Island and used to make linerboard. Pursuant to a 2014 permit renewal for the MTS, DSNY relocated the scale from the bottom of the ramp to the top, thus reducing the potential for on-street truck queuing. The scale relocation was completed in 2015.

DSNY assessed the feasibility of developing the West 59<sup>th</sup> Street MTS to serve as a transfer point for Manhattan commercial waste as contemplated by SWMP Sections 3.6 and 4.3. DSNY issued a Request for Proposals (RFP) in 2007 to determine the best way to use the site to achieve the

goals of the SWMP. The RFP sought proposals for a two-phased approach to using the site to transfer Manhattan commercial waste. During the first phase, the West 59<sup>th</sup> Street MTS would serve as a transfer point for commercial waste, as well as recyclable paper. This shared usage would continue until the planned Gansevoort MTS facility for recyclables could be operational, thus replacing the old inactive Gansevoort MTS. Once the Gansevoort MTS was operational for the receipt of Manhattan paper recyclables, the West 59<sup>th</sup> Street MTS would be available to handle an additional quantity of commercial waste. Sims Metal Management (Sims) was selected for negotiations on October 14, 2007.

DSNY was required to submit a report to the New York City Council on its efforts to implement the West 59<sup>th</sup> Street MTS plans in compliance with SWMP Section 4.3. Consequently, a report on future Manhattan capacity for commercial waste and West 59<sup>th</sup> Street Marine Transfer Station progress was duly issued on February 14, 2008 (see discussion below).

So that both shared and exclusive use of the MTS could be negotiated with Sims, DSNY began to work with its consultants to gather the necessary information to analyze the potential impacts of a C&D transfer operation as a precursor to an environmental review of the project. As a result of this analysis of the C&D operations, it was determined that dust from the C&D in the enclosed MTS would require the installation of special purpose air handling systems, similar to systems used in the transfer of coal dust, and intensive spraying of the C&D as it is dumped into the barge. The installation, operation and maintenance of these special systems were determined to place logistical restrictions on the paper transfer operations. As a result, DSNY determined that shared use of the MTS for commercial C&D and DSNY paper recyclables was infeasible. The exclusive use of the MTS as an export facility for the barging of Manhattan commercial waste was deferred until the paper operations can be moved to the new Gansevoort MTS recyclables facility, pending the execution of a Memorandum of Understanding between the City and the State for the funding of the new Gansevoort MTS (described in Future Manhattan Capacity below). The February 2012 Revised SWMP Compliance for the period of 2009 – 2010, submitted to the City Council, contained revised milestone dates for a number of SWMP milestones, including the development of a commercial waste export facility at West 59<sup>th</sup> Street MTS.

DSNY upgraded truck weighing operations at the West 59<sup>th</sup> Street MTS so that there is now both an inbound and outbound scale. The scales have been appropriately located to prevent street queuing of collection vehicles. As part of this project, a deteriorating subsurface structure was replaced under West 59<sup>th</sup> Street directly in front of the MTS and signage and interface was improved between the MTS traffic, pedestrians and Hudson River Park Bikeway users. A refurbishment of the MTS, including in-water work, began in 2016 and continued during the Reporting Period. Part of the scope of work is to fortify the structural integrity of the facility and ensure that it can support a future use over the next several decades. The refurbishment is expected to be completed by the end of 2020.

### **3.3.3 USE OF CONVERTED MTSS TO CONTAINERIZE COMMERCIAL WASTE**

The four Converted MTSs, three of which were in operation during the Reporting Period, are capable of accepting commercial waste between the hours of 8 PM and 8 AM, the hours when DSNY collections are limited and when commercial carters typically collect. Commercial waste trucks deliveries would be limited pursuant to the Final Environmental Impact Statement for the SWMP to specific numbers in each hour of the delivery period so as to avoid noise impacts during the quiet nighttime hours. Commercial waste maximum acceptance per day for the MTSs is as follows: North Shore – 1,000 tpd; E. 91<sup>st</sup> Street -- 780 tpd; Southwest Brooklyn -- 718 tpd; and Hamilton Avenue -- 494 tpd.

In the next Reporting Period, DSNY will consider a mechanism to attract commercial waste to the MTSs. Only one of the three MTSs, North Shore MTS has been operating sufficiently long enough to warrant serious consideration of adding commercial waste delivery at night (between 8pm and 8 am). This effort has been delayed by mechanical and other issues experienced at North Shore MTS that resulted in repairs undertaken in 2016. Projects to replace the processing and tipping floors, which were improperly constructed, and repair and heighten the push walls on the processing floor were completed in 2019.

Pursuant to SWMP Section 4.3, in April 2019, DSNY reported to the New York City Council on the use of the Converted MTSs, specifically North Shore MTS which reached full operation in October 2015, for the transport and disposal of commercial waste (see Attachment 8). This section

requires that, if after three years of operation, any MTS has received less than 50% of the MTS's commercial capacity, DSNY will report on the status of commercial recycling and, as necessary, propose modifications to the mechanism employed to attract commercial waste to the MTSs.

### **3.3.4 FUTURE MANHATTAN CAPACITY**

DSNY issued a Report to the New York City Council on Future Manhattan Capacity for Commercial Waste (Report) in fulfillment of SWMP Section 3.6 in February 2008. The Report describes efforts to explore opportunities to increase the collective commercial waste capacity in Manhattan through the ongoing implementation of the Marine Transfer Station on Pier 52 on the Gansevoort Peninsula (Gansevoort MTS) and the West 59<sup>th</sup> Street MTS on Pier 99 (see discussion in Section 3.3.2 above). The Gansevoort MTS is proposed to be a state-of-the-art transfer facility for recyclables, designed to handle recyclable metal, glass, plastic and paper generated in Manhattan that is currently trucked to facilities in the Bronx, Brooklyn and New Jersey. It would also host an environmental education center that will be a destination for school groups and users of Hudson River Park. The environmental center will house a classroom that could provide much-needed indoor space for community uses, as well as viewing platform and education panels that will describe the importance of recycling, alternative modes of transportation and the history and ecology of New York Harbor. The new facility would free up capacity at the W. 59<sup>th</sup> Street MTS to accept Manhattan construction and demolition debris under a contract to be procured. As a result, the implementation of the Gansevoort MTS is intended to help to achieve SWMP goals to make each borough responsible, to the extent practicable, for the transfer of its own waste and recyclables.

The Report also describes DSNY's assessment of proposals brought forward by stakeholders, including its review of the Pier 76 Siting Study presented by Friends of Hudson River Park, judged to be excessively expensive in comparison to DSNY's two facilities, West 59<sup>th</sup> Street and Gansevoort MTSs, sited separately, but designed to result in new recyclables and commercial waste transfer capacity for Manhattan. The Pier 76 Study was also reviewed by DSNY's consulting engineers, Greeley and Hansen, LP in a July 2000 Study of the Friends of the Hudson River Park Pier 76 Concept that concluded that the existing substructure and concrete deck structure of Pier 76 could not carry the expected loads from a DSNY containerization facility and a rooftop park.

Since the issuance of the Report, the State Legislature enacted legislation to amend the Hudson River Park Act to allow for the Gansevoort MTS to be constructed with certain prerequisites and to require that a Memorandum of Understanding (MOU) be executed that would delineate the financial and other responsibilities of the State and the City on the Gansevoort implementation project. The draft MOU has not yet been executed. A contract for design was awarded by DDC in 2014 and a pre-schematic design was prepared for the project in 2015. The start of design has been delayed pending execution of the MOU, which requires approval of various State and City officials and lacks a firm schedule for completion. The design and environmental review of the Gansevoort MTS project would be anticipated to be completed within two years; thereafter, construction would be expected to take three years to complete. DDC completed the demolition of the DSNY facilities on the Gansevoort Peninsula in 2019. Due to budget cuts resulting from the City's COVID-19 response, no projected date can currently be provided for the MOU execution and completion of the Gansevoort MTS design.

### **3.3.5 TRANSFER STATION CAPACITY REDUCTION**

Pursuant to the SWMP, reductions in the permitted capacity of certain transfer stations located in four Community Districts -- Bronx 1 and 2, Brooklyn 1 and Queens 12 -- were required to be achieved no later than one year after the city-owned Marine Transfer Station (MTS) serving the borough in which each particular community district is located became operational. In the Bronx, where no MTS was constructed, the reductions were to be achieved within one year after the first MTS became operational.

The SWMP identified factors to determine whether to reduce the lawful permitted putrescible capacity of a transfer station, which included: 1) the overall concentration of transfer stations in the community district in which the transfer station is located; 2) a transfer station's proximity to other transfer stations; 3) a transfer station's unused throughput capacity in relation to its lawful permitted capacity during the twelve month period immediately preceding the date when the obligation to reduce authorized capacity became effective; 4) the City's solid waste management needs; 5) a transfer station's compliance with revised operating rules promulgated by DSNY in 2005; 6) a transfer station's ability to facilitate export of waste outside the city by barge or rail; 7) a transfer station's ability to provide on-site truck queuing; and 8) number and type of violations

issued to a transfer station during the eighteen month period immediately preceding the date when the obligation to reduce the authorized capacity became effective.

To address transfer station capacity in the four listed Community Districts, the City Council enacted Local Law 152 of 2018. This law will reduce the maximum amount of waste that private transfer stations in the four overburdened Community Districts can manage. It also prevents new transfer stations from opening in any community district that has more than 10% of the City's total capacity.

Specifically, Local Law 152 of 2018 carries out an important policy goal of the SWMP by requiring DSNY to reduce the daily permitted capacity of transfer stations in certain community districts that are overburdened with putrescible transfer stations and construction and demolition debris transfer stations and their associated truck traffic. The law was designed to ensure that the targeted cuts would still leave the City with adequate capacity to manage its commercial and residential waste. LL 152/2018 does not reduce the capacity of any transfer station currently used or planned to be used to manage substantial amounts of residential waste collected by DSNY.

The City conducted a detailed environmental review of the proposed transfer station cuts mandated by LL 152/2018, which found that the cuts would not have a significant adverse impact on the City's management of solid waste or on the solid waste transfer station industry as a whole in the City and region. See Environmental Assessment Statement CEQR No. 18O0M004Y, available online at <https://a002-ceqraccess.nyc.gov/ceqr/> Specifically, with the full implementation of the law, excluding the DSNY marine transfer station and Staten Island transfer station capacity, assuming at least 2% annual growth of waste generation tonnage and subsequent delivery to the affected transfer stations, and without assuming any new capacity developed and permitted in the City, there would be approximately 18,895 tons per day of permitted putrescible waste processing capacity (compared to average daily demand of 10,865 tons for such capacity in the City without the proposed law in 2021) and 15,993 tons per day of permitted C&D waste processing capacity (compared to average daily demand of 9,732 tons for such capacity without the proposed law in 2021). The analysis considered the possibility that certain transfer stations affected by the capacity reductions would close. Even under this worst case "closure scenario" the City would have sufficient capacity to transfer both putrescible waste (leaving an average of 7,894 tons per day of

slack capacity) and non-putrescible/C&D waste (leaving an average of 6,009 tpd of slack capacity). Accordingly, LL 152/2018 would leave the City able to handle the projected commercial putrescible and C&D debris waste over the remainder of the SWMP planning period. The City has successfully defended the law against a legal challenge from certain transfer station operators; the matter is currently on appeal. A copy of the law is provided in Attachment 4B.

### **3.3.6 TRUCK TRAFFIC ANALYSIS**

Pursuant to SWMP Subsection 4.4.5 that required the conduct of a feasibility study of routing alternatives for commercial waste trucks, representatives of the New York City Department of Transportation (NYCDOT), DSNY and Urbitran Associates, Inc. met with members of the Greenpoint, Williamsburg and Bushwick communities in Brooklyn in November 2007 to outline the goals of the study. The proposed alternative routes were presented to the Brooklyn communities in September 2008.

### **3.3.7 NYCDEP FOOD WASTE DISPOSAL STUDY**

Pursuant to SWMP Section 5.4, the New York City Department of Environmental Protection (NYCDEP) conducted a Food Waste Disposal Study that analyzed the economic, engineering, and environmental impacts that food waste disposers (FWD) could have on NYCDEP infrastructure and operations and on the commercial waste management system. The scope of services included a commercial food waste characterization study; laboratory analysis of food waste; evaluation of the current land disposal system for food waste; capital and operations and maintenance (O&M) impacts on sewers, other NYCDEP infrastructure, and programs including water conservation, nitrogen removal, combined sewer overflows, solids handling and disposal, secondary treatment, and sewer back-up and maintenance; the comparison of the two disposal methods; energy use assessments; and a neighborhood-scale study area assessment. The 2008 Study analyzed 50% penetration of commercial food waste diverted by FWDs from food service establishments likely to use FWDs. The penetration of this food waste (approximately 500 tons per day) represents 4% of total commercial waste and would thus divert only a small percentage of the volume handled by commercial waste transfer stations and trucks.

The Study found that approximately nine trucks would be diverted from City streets by the diversion of food waste; this figure accounts for the reduction of solid waste disposal trucks which would be offset by the additional trucks required by NYCDEP to transport the increased sludge. The Study concluded that use of commercial FWDs at a 50 percent penetration rate would result in the need for investments of \$1.4 to 1.7 billion; should primary tanks be required at Newtown Creek Water Pollution Control Plant, an additional investment of \$1.7 billion would be required for a total of \$3.1 to 3.4 billion. Annual O&M costs associated with these investments would be between \$34 and 35 million a year. These costs would likely be borne by the City's water and sewer ratepayers at an increase of up to 3-6% per year.

### **3.3.8 REGULATION OF FILL MATERIAL**

Fill material consisting of earth, dirt, rock, concrete gravel, sand and stone is primarily managed by a network of twenty-two (22) fill material transfer stations in the City. All 22 facilities are permitted and regulated by DSNY's Permit and Inspection Unit (PIU). PIU staff are trained to look for unauthorized materials and take enforcement action when necessary.

DSNY fill material transfer station inspections are performed routinely to ensure facilities operate within the standards outlined in Title 16 of the Rules of the City of New York (Rules) and in the regulations governing fill material and fill material transfer stations in Sections 16-130 and -131 of the Administrative Code of the City of New York (Code), including the requirement that only clean materials are received for subsequent transfer to other locations. Fill material is considered "clean" if free of visible contaminants such as wood, plastic, asphalt and other general debris. PIU inspections are performed by a staff of 17 officers and 5 supervising lieutenants who conduct random inspections 24 hours per day and 7 days per week. Title 16 of the Administrative Code and Title 16 of the Rules can be accessed through the following link: [http://library.amlegal.com/nxt/gateway.dll/New%20York/admin/newyorkcityadministrativecode?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:newyork\\_ny](http://library.amlegal.com/nxt/gateway.dll/New%20York/admin/newyorkcityadministrativecode?f=templates$fn=default.htm$3.0$vid=amlegal:newyork_ny).

During an inspection, DSNY Inspectors perform visual inspections of material to determine compliance with standards set forth in the Rules and the Code. Contaminants observed in fill material beyond what is reasonably considered incidental will place the facility in violation for the



receipt of unacceptable fill material. DSNY does not require testing of fill material unless an inspector observes material with unusual visual characteristics or odors that warrant further testing.

DSNY's regulatory jurisdiction over fill material also includes the placement of fill material for the purpose of land alteration and improvement. DSNY permits are issued in conjunction with the grading of properties using fill material with routine inspections conducted to ensure only clean materials are used for such purpose. This process has led to the effective management of fill materials within the City from the processing of materials to their final disposition.

Recent modifications to 6 NYCRR Part 360 regulations by the New York State Department of Environmental Conservation ("NYSDEC") regarding fill material and its placement at newly NYSDEC permitted Construction Debris Processing and Recovery facilities have prompted DSNY to re-evaluate its Rules and Code regulations governing fill material and the operation of fill material transfer stations in the City. The revised 6 NYCRR Part 360 regulations can be accessed through the following link: <http://www.dec.ny.gov/regulations/81768.html>.

NYSDEC's new Construction Debris Processing and Recovery facility regulations took full force and effect in spring 2020. Accordingly, DSNY will propose to amend Title 16 of the City's Administrative Code to allow the newly categorized fill material types to be handled at DSNY-permitted fill material transfer stations in the City, including the acceptance of asphalt for allowable reuse as limited and restricted use fill. DSNY expects to take the approach that newly categorized material types will not be accepted at a permitted fill material operation in the City unless specifically authorized by an NYSDEC case-specific Beneficial Use Determination. DSNY looks forward to continuing to work with NYSDEC to ensure the effective management and final disposition of fill materials in the City and the State of New York.

### **3.3.9 COMMERCIAL WASTE QUANTITIES FOR THE REPORTING PERIOD**

This subsection provides a list of transfer stations operating in the City that process putrescible, non-putrescible and fill material in the City (as defined by DSNY Rules at 4 RCNY 16) and the quantities of material that the facilities accepted during the Reporting Period. See Attachment 9A for CY 2017 and Attachment 9B for CY 2018.

## SECTION 4 – PLANNING UNIT RESOURCES

This section demonstrates that DSNY has available adequate capital and expense funds and staffing levels to continue to advance SWMP goals and projects.

### 4.1 ADOPTED BUDGET HIGHLIGHTS

The City’s budgets provided adequate expense and capital funding during the Reporting Period for recycling, composting, disposal of solid waste and Fresh Kills Landfill closure construction, as well as the continued implementation of the MTS Conversion Program. The Reporting Period and current expense funding for SWMP implementation is set forth in Table 9. The City’s FY 2019 Capital Budget information and the proposed FY2020 Capital Budget information on SWMP programs is provided in Table 10 and 11, respectively.

**Table 9:  
Expense Budget OTPS Funding\***

<b>Programs</b>	<b>FY 2019</b>	<b>FY 2020</b>	<b>Grand Total</b>
<b>Metal, Glass &amp; Plastic Processing</b>	<b>\$21,189,598</b>	<b>\$21,229,399</b>	<b>\$42,418,997</b>
<b>Composting</b>	<b>10,818,217</b>	<b>15,080,985</b>	<b>25,899,202</b>
<b>Public Education/Outreach</b>	<b>8,580,325</b>	<b>5,996,879</b>	<b>14,577,204</b>
<b>NYC Grow, Printing, Postage, Contracts &amp; Professional Services</b>	<b>7,853,748</b>	<b>5,671,649</b>	<b>13,525,397</b>
<b>Household Hazardous Waste Program</b>	<b>2,605,502</b>	<b>2,605,502</b>	<b>5,211,004</b>
<b>Export Contractual Cost**</b>	<b>409,456,166</b>	<b>412,441,503</b>	<b>821,897,669</b>
<b>Fresh Kills Closure Cost</b>	<b>68,505,000</b>	<b>71,450,000</b>	<b>139,955,000</b>
<b>Long Term Export (Legal/Engineering)</b>	<b>549,530</b>	<b>756,303</b>	<b>1,305,833</b>
<b>Staten Island Transfer Station</b>	<b>767,869</b>	<b>767,869</b>	<b>1,535,738</b>
<b>Long-Term MTS &amp; Headquarters</b>	<b>3,573,284</b>	<b>3,573,284</b>	<b>7,146,568</b>
<b>Total</b>	<b>\$533,899,239</b>	<b>\$539,573,373</b>	<b>\$1,073,472,612</b>

\*Information based on January Budget 2019

\*\* Includes all export contracts – long-term and interim

**Table 10:**  
**Fiscal Year 2019 Adopted Capital Budget**  
**Reporting Period**  
**SWMP - Related Projects**  
**\$ in 000's (as of April 2019)**

<b>Item Description</b>	<b>FY 2018</b>	<b>FY 2019</b>
<b>Staten Island Transfer Station*</b>	<b>\$0</b>	<b>\$0</b>
<b>Composting Remediation***</b>	<b>(\$1,516)</b>	<b>\$13,246</b>
<b>Long-Term Export*/**</b>	<b>\$29,348</b>	<b>\$39,601</b>
<b>Long-Term Export Design</b>	<b>\$0</b>	<b>\$0</b>
<b>Recycling</b>	<b>\$0</b>	<b>\$0</b>
<b>Totals</b>	<b>\$27,832</b>	<b>\$52,847</b>

\*Includes Export Equipment  
\*\*Includes \$53K in FEMA funds  
\*\*\*Includes Composting Equipment

**Table 11:**  
**Preliminary Capital Budget**  
**Current**  
**SWMP - Related Projects**  
**\$ in 000's**

<b>Item Description</b>	<b>FY 2020</b>	<b>FY 2021</b>
<b>Staten Island Transfer Station*</b>	<b>\$0</b>	<b>\$900</b>
<b>Composting Remediation**</b>	<b>\$3,759</b>	<b>\$633</b>
<b>Long-Term Export*</b>	<b>\$17,023</b>	<b>\$3,326</b>
<b>Long-Term Export Design</b>	<b>\$0</b>	<b>\$0</b>
<b>Recycling</b>	<b>\$0</b>	<b>\$0</b>
<b>Totals</b>	<b>\$20,782</b>	<b>\$3,959</b>

\*Includes Export Equipment / \*\* Includes Composting Equipment

#### 4.1.1 STAFFING LEVELS

Staffing was adequate during the Reporting Period and remains adequate to implement the SWMP projects.

<b>Programs</b>	<b>FY 2019*</b>	<b>FY 2020*</b>
Recycling	51	51
Waste Management Eng.	19	19
Export Unit SWM & BCC	62	62
Staten Island Transfer Station	35	35
Long Term MTS & HQ	302	302
Adm. - SWMP IFA	3	3
Legal Affairs - SWMP IFA	1	1
Long Term Export Unit	13	13
<b>Total</b>	<b>486</b>	<b>486</b>

\*January Budget 2019

#### 4.1.2 EVALUATION OF WASTE STREAM FOR ADDITIONAL RECYCLABLES

DSNY conducts ongoing evaluations for additional recyclables, and in 2017, DSNY completed a Waste Characterization Study to inform ongoing planning to maximize the divertible fractions of waste. Results were reported on DSNY's website at [www.nyc.gov/wastestudy](http://www.nyc.gov/wastestudy).

#### 4.1.3 NEW ISSUES

New issues have not been separately identified. See the Executive Summary and Section 3 SWMP Status / Implementation narratives for issues related to specific projects.

## **SECTION 5 – SOLID WASTE AND RECYCLABLES INVENTORIES**

### **5.1 DATA COLLECTION METHOD AND DATA SOURCES**

Sources for the data collected to provide the information in this Compliance Report include the City’s 2019 Adopted Capital Budget, DSNY’s FY 2019 January Plans, Residential Recycling Diversion Reports and Loads and Tonnage Export Reports for the Reporting Period. The Recycling Diversion Reports derive information on recycling diversion from scale data and from commercial waste recycling from quarterly reports submitted by private transfer stations operating in the City. The Loads and Tonnage Exported Reports reflect the sum of all DSNY-managed tonnage exported for the period based on scale data.

#### **5.1.1 LIST OF DESTINATIONS FOR SOLID WASTE GENERATED IN PLANNING UNIT**

The lists of destinations for solid waste generated in the City during the Reporting Period are appended hereto as Attachment 2A (CY 2017) and Attachment 2B (CY 2018), respectively.

#### **5.1.2 LIST OF DESTINATIONS FOR RECYCLABLES AND ORGANICS GENERATED IN PLANNING UNIT**

The Reporting Period list of destinations for recyclables generated in the City is appended hereto as Attachment 3A. Bulk Metal quantities/destination details are provided in Attachment 3C.

The Reporting Period list of destinations for organics generated in the City is appended hereto as Attachment 3B.

#### **5.1.3 NEW OR REVISED SOURCE SEPARATION AND/OR SOLID WASTE MANAGEMENT-RELATED LAWS, ORDINANCES, REGULATIONS, RESOLUTIONS AND RULES (COLLECTIVELY “LEGISLATION”) WITHIN THE PLANNING UNIT**

The following local and state legislation on source separation or solid waste management were enacted or revised during the Reporting Period. Copies of the laws or rules are provided in Attachments 4A (2017 or earlier), 4B (2018 and 2019), 4C (Commercial Waste Zones Plan) and 4D (2019 State Budget Bill (see Part H) and City Plastic Bag laws).

**LOCAL LEGISLATION** (amends the Administrative Code of the City of New York):

**Recycling Incentives**

**Local Law 49 of 2017:** Establishes a pilot program to provide incentives for recycling to residents living in community districts with high rates of public housing. A report was due to the Mayor and Council by 7/1/18, with implementation of such program as outlined in said report by 7/1/20. See Attachment 4A.

**Environmental Justice**

**Local Law 60 of 2017:** Requires a study of potential environmental justice communities in New York City and the publication of the results of such study on the City's website.

The law requires the Environmental Justice (EJ) Interagency Working Group (IWG), as put forth by Local Law 64 of 2017, to conduct a comprehensive EJ Study identifying the locations and boundaries of EJ areas within the City, describing environmental concerns affecting these areas and identifying data, studies, programs and other resources that are available and that may be used to advance EJ goals. This law requires the IWG to issue recommendations for legislation, policy, budget initiatives and other measures to address environmental concerns affecting EJ communities. The law also requires the IWG to make publicly available online an interactive map showing the boundaries of EJ areas within the City and the locations of sites, facilities and infrastructure which may raise environmental concerns. Finally, the law requires the Administration to create an Environmental Justice Portal on the City's website, providing easy access to EJ resources including relevant maps, data, studies and information about Agency programs. See Attachment 4A.

**Local Law 64 of 2017:** Environmental Justice (EJ) means the fair treatment and involvement of all persons, regardless of race, color, national origin or income, with respect to the development, implementation and enforcement of environmental laws, regulations, policies and activities, and with respect to the distribution of environmental benefits (such as financial assistance for environmental projects).

The City currently does not have a comprehensive law relating to EJ. This new law requires the Mayor to establish an Interagency Working Group (IWG) consisting of representatives from City agencies relevant to EJ, including DEP, DOHMH, Planning, DOT, DSNY and DOB. The IWG will be chaired by a special coordinator of EJ, who will be appointed by the Mayor. The IWG is tasked with developing a comprehensive Environmental Justice Plan (EJ Plan) that provides guidance on incorporating EJ concerns into City decision-making, identifies possible Citywide initiatives for promoting EJ and provides specific recommendations for City agencies to bring their operations, programs and projects in line with EJ concerns. The IWG must update the EJ Plan every five years. An EJ Advisory Board (AB) consisting of Mayoral and Speaker appointees, all of whom must have EJ qualifications is also required. The AB will make recommendations to the IWG concerning ways to promote EJ, will hold public hearings to fact-find and will closely consult the IWG during development of the EJ Plan. See Attachment 4A.

### **Online Application of Permits, Licenses & Registrations**

**Local Law 61 of 2017:** Requires an office designated by the Mayor to review the feasibility of establishing online applications for all permits, licenses, and registrations issued by city agencies. Such review would also include an evaluation of the feasibility to create and maintain a single web portal to access such applications and a plan and timeline for creating such web portal. Findings for the review shall be reported to the Mayor and the Council on or before June 1, 2018. See Attachment 4A.

### **Business Notification of Complaint**

**Local Law 70 of 2017:** Requires notification to a business when the city has received a request for service or complaint about its operation. See Attachment 4A.

### **Stormwater Management (MS4 Permit)**

**Local Law 97 of 2017:** In relation to water pollution control, including provisions relating to stormwater management and control of discharges into storm sewers (MS4 Permit). See Attachment 4A.

In 2015, the New York State Department of Environmental Conservation issued a permit, under the federal Clean Water Act and the State Environmental Conservation Law, governing the operation of New York City’s municipal separate storm sewer systems (“MS4 Permit”), which governs stormwater infrastructure owned and operated by all City agencies, and requires management practices to reduce discharges of pollutants in stormwater runoff from all municipal operations and facilities in the MS4 area. This local law fulfills the requirement in the MS4 Permit that the City demonstrate adequate legal authority to implement and enforce the terms of the Permit. In particular, the law provides the City authority to act in a regulatory capacity to oversee and/or enforce requirements regarding activities that have the potential to contribute pollutants to stormwater runoff and the water bodies surrounding the City. Two of the programs addressed in the law – involving stormwater runoff from commercial and industrial activities, and runoff from active construction sites and newly developed or redeveloped sites – involve the City taking over administration of existing State stormwater programs within the MS4 area. The third program, illicit discharge detection and elimination, continues, with minor updates, NYCDEP’s robust existing program to detect and address illicit discharges to the sewer system, and applies citywide.

### **Food Donation**

**Local Law 171 of 2017:** This law requires an agency, when confiscating food safe for human consumption, to notify at least two food rescue organizations that they may retrieve such food at their own expense at least 24 hours before disposing of the food. See Attachment 4A.

**Local Law 176 of 2017:** This law requires the Department of Sanitation, in conjunction with the Department of Information Technology and Telecommunications, to create and maintain a web portal that will allow prospective food donors and recipients to post notifications concerning the availability of food, including food that would otherwise go to waste, and to arrange for the transportation or retrieval of such food. See Attachment 4A.

### **Vacant Properties**

**Local Law 29 of 2018:** This law requires the Mayor or an agency designated by the Mayor to conduct an annual census of vacant properties in coordination with the Department of Housing



Preservation and Development, the Department of Environmental Protection, the Department of Buildings, the Department of Sanitation, the Fire Department and any other relevant agencies. The Mayor or the designated agency will also be required to compile a list of vacant properties as a result of the census. See Attachment 4B.

### **Penalty Mitigation**

**Local Law 74 of 2018:** This law requires the Commissioners of Housing Preservation and Development, Buildings, Sanitation and Consumer Affairs to create a list of violations for which civil penalties may be waived through a penalty mitigation program. Such report is due by January 22, 2020. See Attachment 4B.

### **Quality of Life Offenses**

**Local Law 131 of 2018:** This law raises the penalties for the second and third violation of public littering. See Attachment 4B.

**Local Law 134 of 2018:** This law allows identifying information found in waste that has been unlawfully dumped to be used as evidence of a violation of illegal dumping. See Attachment 4B.

**Local Law 135 of 2018:** This law raises the civil and criminal penalties for illegal dumping. This law also prohibits the improper disposal of household garbage on streets, sidewalks, and other places, and would allow the Department of Sanitation to use identifying information found in the garbage to identify whom to issue a violation. See Attachment 4B.

**Local Law 137 of 2018:** This law increases the civil penalties for littering or spilling out of a vehicle to \$200 for a first violation, \$350 for any second violation within any 12-month period, and \$450 for any third violation within any 12-month period. See Attachment 4B.

**Local Law 138 of 2018:** This law requires DSNY to report on enforcement of section 16-118(4) of the New York City Administrative Code, which prohibits littering out of motor vehicles. Such report is due by April 1, 2019. See Attachment 4B.

## **Transfer Station Capacity Reduction**

**Local Law 152 of 2018:** This law will reduce the maximum amount of waste that private transfer stations in four overburdened Community Districts can manage. It also prevents new transfer stations from opening in any community district that has more than 10% of the City's total capacity. The City is currently involved in litigation challenging the validity of this new law. See Attachment 4B and Section 3.3.5.

## **Suspension of Alternate Side Parking**

**Local Law 3 of 2019:** This law suspends alternate side parking regulations on Three Kings Day. See Attachment 4B.

**Local Law 5 of 2019:** This law suspends alternate side parking on Lunar New Year's Eve. See Attachment 4B.

## **RULES PROMULGATED BY DSNY** (amends Title 16 of the Rules of the City of New York):

### **Container Size**

On February 5, 2017, DSNY published a final rule that limits the size of receptacles containing solid waste that are set out for collection by the Department. Specifically, this rule limits the maximum size of such receptacles to fifty-five gallons. This rule will ensure that receptacles are of an acceptable size for the Department's sanitation workers to safely handle in the course of their collection duties. Violators will be subject to a fine for using an improper receptacle as set forth in Section 16-120 of the Administrative Code. The fine for a first violation will be \$100. The fine for a second violation in a twelve month period will be \$100. The fine for a third and any subsequent violations in a twelve month period will be \$200. See Attachment 4A.

## **Commercial Recycling**

On February 5, 2016, DSNY published a final rule governing recycling requirements for commercial establishments and institutions and residences that have their refuse and recyclables collected by private carters. This rule went into effect on August 1, 2016 and DSNY began enforcement on August 1, 2017.

This rule revises the City's current commercial recycling rules by simplifying the requirements and making them easier for businesses to understand. Previously, not all businesses were required to recycle the same materials. Applying the same rules for all businesses will facilitate greater recycling participation. This rule designates a standard set of recyclable materials that all businesses receiving private-carter collection are required to recycle, including, but not limited to, metal, glass, plastic, paper and cardboard. The rule for commercial establishments will now be consistent with the recycling requirements for New York City residents.

In addition, allowing designated recyclable materials, including metal, glass, plastic, paper and cardboard, to be placed in the same bag or bin by the business generator, referred to as single stream recycling, and prohibiting private carters from placing any source separated recyclables material with refuse in the same compartment of a waste hauling truck, will help make commercial recycling easier and can significantly increase the diversion of recyclables. See Attachment 4A.

## **Penalty Schedule for Littering Offenses**

On May 5, 2017, DSNY published a final rule establishing penalties for repeat violations of certain provisions as described in Local Law 75 of 2016.

Local Law 75 was enacted as part of the Criminal Justice Reform Act, a package of bills passed by the City Council that aims to build stronger and safer neighborhoods by reducing arrests and incarceration. Local Law 75 of 2016 amended §16-118(1) of the Rules of the City of New York to establish a new violation for spitting. In addition, Local Law 75 also establishes a specific penalty for violation of subdivision 6 of §16-118 by means of public urination. Local Law 75 imposes a fixed penalty of \$75 for first time violations of §16-118(1) and 16-118(6) and provides

for a range of penalties for subsequent offenses of those provisions. The penalties for subsequent offenses of those provisions are fixed at the minimum amounts authorized by Local Law 75. Additionally, the default penalties for all violations found in §16-118(1) and for public urination under §16-118(6) have been set at 150 percent of the penalty imposed, not to exceed \$400. See Attachment 4A.

### **Commercial Organics**

On February 15, 2018, DSNY published a final rule that expanded the source separation and handling requirements for organic waste generated by certain commercial establishments. This rule went into effect on August 15, 2018. As per the local law (Local Law 146 of 2013) and DSNY's rule, enforcement did not begin until February 15, 2019.

DSNY's rule designates the second phase of specific covered establishments under the program to include food service establishments with a floor area of at least 15,000 square feet, food service establishments that are part of a chain of 100 or more locations in the city of New York, and retail food stores with a floor area of at least 25,000 square feet. The first phase in 2016, designated stadiums, large hotels, food manufacturers and food wholesalers for compliance. See Attachment 4B.

### **Criteria Used in the Siting of Solid Waste Transfer Stations**

On March 9, 2018, DSNY published a final rule amending its rule relating to the criteria used in the siting of solid waste transfer stations. Specifically, this rule would provide that the 400-foot buffer requirement between a proposed transfer station and a public park or parkway would not apply to certain limited Bronx River Parkway lands abutting an active railroad line. See Attachment 4B.

## **OTHER INITIATIVES**

### **Commercial Waste Zones**

As noted above, on November 7, 2018, DSNY released a plan for commercial waste zones. The plan provides a blueprint for the implementation of commercial waste collection zones across New York City over the next three years. See Attachment 4C for the commercial waste zones plan.

The plan will divide the city into 20 zones, each served by three to five carters selected through a competitive process. This approach will reduce truck traffic associated with commercial waste collection by more than 60 percent, or more than 18 million miles per year, while strengthening service standards and allowing for customer choice. In addition, commercial waste zones will create a new regulatory framework that allows the City to achieve several additional program goals:

- **Zero Waste:** Reduce commercial waste disposal and incentivize recycling
- **Environmental Health:** Reduce truck traffic throughout the city to reduce air pollution and improve quality of life
- **Pricing:** Provide fair, transparent pricing with low prices for businesses
- **Customer Service:** Strengthen customer service standards and establish accountability
- **Health and Safety:** Improve training and safety standards to make the industry safer for workers and the public
- **Labor and Worker Rights:** Improve industry labor standards and uphold worker rights
- **Infrastructure and Waste Management:** Prioritize investments in clean, modern fleets and facilities that make up a reliable, resilient, and sustainable waste management system
- **Robust, Competitive Industry:** Create a system that works for carters of all sizes and prevents overreliance on any single company.

See also Section 3.3.1 of this Report and [nyc.gov/commercial\\_waste](http://nyc.gov/commercial_waste).

## **Restrictions on the Sale or Use of Expanded Polystyrene Foam**

On December 30, 2013, Local Law 142 of 2013 was signed requiring the Sanitation Commissioner to make a one-time determination of the recyclability of expanded polystyrene foam (EPS), commonly known as foam, by January 1, 2015.

In a determination dated January 1, 2015, DSNY determined that foam single service articles cannot be recycled in a manner that is economically feasible or environmentally effective. Since DSNY determined that EPS could not be recycled, foam was to become banned on July 1, 2015. However, the determination was challenged by a coalition of plaintiffs representing various New York City and businesses, manufacturers, recyclers and purchasers of EPS products. The determination was subsequently annulled by the New York State Supreme Court, which remanded the determination to DSNY for reconsideration.

DSNY reissued its determination on May 12, 2017. DSNY again concluded that foam single service articles cannot be recycled in a manner that is economically feasible or environmentally effective. Once again, a coalition of plaintiffs representing various New York City and businesses, manufacturers, recyclers and purchasers of EPS products challenged the determination. This time, DSNY's determination was upheld by the New York State Supreme Court which held that "the 2017 Determination was a painstakingly studied decision and was in no way rendered arbitrarily or capriciously."

Petitioners appealed the Supreme Court's decision, however, the Appellate Division held "The Commissioner properly considered the evidence submitted upon remand, as well as reconsidering the evidence in the original record, and, based on that record, rationally concluded that the City's expanded polystyrene single service articles cannot be recycled in a manner that is environmentally effective and economically feasible."

As such, NYC instituted its ban on single-service foam items and foam packing peanuts on January 1, 2019. Enforcement of this ban began on July 1, 2019. See Attachment 4A.

## **STATE**

### **Final Part 360 Regulations**

The NYS Department of Environmental Conservation finalized revisions to the State's Solid Waste Management Regulations, commonly referred to as Part 360, effective November 4, 2017. In the first major overhaul of the program in 20 years, these regulations set design standards and operational criteria for all solid waste management facilities. The revisions can be found here: <http://www.dec.ny.gov/regulations/81768.html>.

DEC's comprehensive revisions include the addition of solid waste management facilities, activities, and waste streams that are not currently addressed within the former Part 360, to institute a level of control necessary to ensure protection of human health and the environment. In addition, these amendments relaxed or eliminated existing requirements that have proven to be burdensome to the regulated community with little or no environmental benefit.

### **Plastic/Paper Carry-out Bags**

In 2016, the City Council passed two local laws aimed at reducing the use of plastic and paper carry-out bags in New York City. Local Law 63 of 2016 required that covered stores charge customers a fee of at least 5-cents per plastic or paper carryout bag which the stores are allowed to retain, unless the customer brings his/her own reusable bag(s). This law was slated to go into effect on October 1, 2016 until Local Law 81 of 2016 delayed the effective date until February 15, 2017 (together, the NYC Carryout Bag Fee). Chapter 7 of 2017 of the Laws of the State of New York suspended implementation of the NYC Carryout Bag Fee.

Starting in March 2020, NY State will prohibit the distribution of single-use plastic carryout bags, with limited exceptions. This State law also allows counties and municipalities to enact a five-cent fee on paper carryout bags. In April 2019, the City enacted legislation to authorize this fee when the State plastic bag ban takes effect. The City legislation requires merchants to charge the 5-cent fee for each paper bag they provide to customers starting on March 1, 2020. Merchants would collect the fees as a tax and remit them to the State quarterly. The State law allows the City to keep 40% of the proceeds to distribute reusable bags to the public, with a focus on low- and fixed-

income people, while the rest would go to the State Environmental Protection Fund. New Yorkers making purchases with food stamps or funds from similar programs would be exempt from the fee. The fee could curtail New Yorkers' use of paper and plastic bags. DSNY collects more than 1,700 tons of single-use carryout bags a week on average, or up to 91,000 tons of paper and plastic bags a year. See Attachment 4D for 2019 State Budget Bill (plastic bag legislation is in Part H) and new local legislation.



## **Attachment 1A**

## **donateNYC: Food Donations Portal**

In March 2019, DSNY launched the “food” donation section of the donateNYC website. The new website tool matches businesses with extra food, to groups who feed hungry New Yorkers, with an eye towards hyper-local donations. The new donateNYC food tool will help reduce the large amounts of edible food sent to landfills every year, redirect excess edible food to New Yorkers in need, and help fill the meal gap not yet met by existing food donations. The site also supports recurring hyper-local donations, which increase the positive neighborhood impacts of food donation and works to enhance and support New York City’s robust food rescue infrastructure.

All safe, pre-consumer food is eligible for donation, including packaged, prepared, or bulk foods, such as:

- Whole, cut, canned, or frozen fruits and vegetables
- Cooked or dry grains, rice, and pasta
- Meat or dairy
- Meat and dairy alternatives
- Prepared meals or side dishes
- Baby food
- Pet food (to be distributed to people in need with pets)

Food that is clearly unsuitable for consumption, is from residential sources, or includes any controlled or illegal substances, along with food held or transported outside of food safe temperatures is **not** eligible for donation and will **not** be able to be listed in the portal.

To participate, both potential donors and receivers must first register for an account at [nyc.gov/donate](https://nyc.gov/donate). Groups with available food post a donation listing, specifying the type and amount of food, its packaging and delivery requirements, as well as a pickup/delivery time. A proprietary algorithm matches donations to possible recipients, first by their required criteria (food type, quantity, storage requirements) and then by distance, starting with the closest organization first. Recipients are notified when a donation matches their criteria and they have a limited amount of time to accept, before the algorithm matches a second possible recipient.

Once matched, donors and recipients can message one another to confirm a delivery/pickup time. Upon confirmation of a successful donation, donors will receive automatically-generated tax

receipts. Additionally, after the donation is complete, donors and recipients must rate the transaction in order to assure quality and compliance with User Agreement.

To ensure the integrity of the portal, users and donation listings are monitored and approved by NYC Sanitation staff.

Donors are asked to maintain the safety standards of their donations in storage, packaging, and transit. Recipients should monitor deliveries for food safety and match to donation description. donateNYC staff will provide resource guides for best practices and more information on the City's food safety guidelines. Food donors are protected by Bill Emerson Good Samaritan Act of 1996.

While the website portal is now active, a mobile app for iOS and Android will follow.

The food portal is only available to businesses. Residents wishing to donate their excess food may visit the donateNYC directory at [nyc.gov/donate](http://nyc.gov/donate).

**Attachment 1B**

## **The Foundation for New York's Strongest**

The Foundation for New York's Strongest, Inc. (the Foundation) is the official nonprofit organization of the New York City Department of Sanitation. Supported by private funding and in-kind donations, the Foundation, established in 2016, leverages non-traditional strategies to promote sustainability and advance the essential services of Sanitation employees. This is achieved by emphasizing New York's Strongest as one of the City's emergency responders and highlighting their critical, daily service; forging partnerships with private-sector organizations to move New York City toward sending zero waste to landfills; and educating the public about DSNY's rich history, current operations and vibrant future.

## **Fashion Partnership: DSNY + Heron**

DSNY launched its Foundation with a bold new clothing line at an unprecedented 2016 Fashion Week event. Unveiled at our critically acclaimed Spring Street salt shed, fashion designer Heron Preston created a ready-to-wear collection - Uniform - to keep used clothing from decomposing in landfills - while celebrating our emergency responders. Best known for his work with Kanye West and Nike, Preston built upon street-style by repurposing decommissioned DSNY uniforms and thrift store finds. This creative use of secondhand materials highlighted DSNY's workers, reuse programs and zero-waste goals. The fundraising event drew international attention to DSNY's zero waste-to-landfills goal – drawing supporters from as far away as South Africa who purchased Heron's one-of-a-kind garments. See the Uniform collection at <https://www.heronpreston.com/en/US/info/uniform>.

## **Food Waste Fairs**

City food-related organizations send more than 650,000 tons of usable food to landfills each year. Instead, that food could be used to feed people or animals, nourish soil, grow healthy food, or create energy. To help address this issue, the Foundation is proud to announce its 2<sup>nd</sup> Food Waste Fair, which will be held on May 23, 2019 in the Brooklyn Navy Yard. The Fair is an interactive experience connecting food, beverage and hospitality professionals with the resources and education they need to reach zero food waste in their businesses.

The Fair is open to anyone interested in reducing food waste, such as chefs, grocery store owners, street vendors, restaurant and fast food operators, manufacturers, wholesalers, and building and custodial management.

The Fair will also give participants the opportunity to attend offsite workshops that will provide attendees with an immersive experience in a hands-on format. Scheduled workshops include:

- a two-day course for chefs, including site visits to food suppliers and processors, and hands-on cooking demonstrations featuring overlooked or often discarded ingredients
- a two-part course for operations professionals, including site visits to food establishments to see best practices for food waste prevention and reduction in action, and the opportunity to participate in a mini food waste audit
- a course for home cooks going beyond the usual carrot top pesto to assess the home kitchen for opportunities to minimize waste and save money

This is the second Food Waste Fair presented by the Foundation. The first Fair, held in July 2017, attracted some 1,200 attendees and more than 80 exhibitors.

### **Microgrant Program**

The Foundation established a Microgrant program in 2018 to help small, local businesses implement or expand food waste reduction strategies, and witness the steps all New Yorkers are taking to reduce waste sent to landfills. Additionally, these partners will help DSNY develop and demonstrate best management practices to the larger business community in the City and the nation. Microgrant awardees received up to \$2,000 and technical assistance. The grants were funded from the proceeds of the Foundation's successful Food Waste Fair held in 2017.

The first microgrants went to Ox Verte and White Moustache Yogurt for fulfilling the 2018 Microgrant Program requirements and completing their projects as scoped. The services provided by these businesses and their plans for the grant funds are as follows:

- Ox Verte, a plant-forward food company that reinvents office lunch and breakfast, used its grant to purchase a commercial freezer and pan rack to preserve food for later use. Increasing its cold storage capacity helped to reduce the amount of food discarded and increased donations.
- White Moustache Yogurt, a handmade yogurt maker that uses the leftover whey from the yogurt-making process to create probiotic tonics and ice pops, used its grant to develop educational messaging and advertising, and purchase a customized, branded freezer cart that will serve as a mobile vending and marketing unit for its Probiotic Pops.

The New York State Pollution Prevention Institute is the Foundation's technical advisory partner for the Microgrant Program, and served on the Microgrant Advisory Committee. The Institute offered technical brief assistance to the grant awardees, including creating a tracking mechanism for recording food waste, advising on how to efficiently sort waste on site, assessing the environmental benefits of food waste prevention, and sharing best practices. The Institute also held check-in calls with the grantees.

**Attachment 2A**

**DSNY-Managed Waste Transfer Station and Disposal Sites in CY17**

Facility Name/Address	Facility Ownership	Facility Transport Vendor	Contract Type	Average Tons/Day	Delivered Tons/Per Year	Tons/Day by Disposal Site	Disposal Sites*	State	Truck or RR
<b>STATEN ISLAND TRANSFER STATION</b> 600 W. Service Road Staten Island, NY	NYC	Republic Services	Long-term	695	208,556	695	Lee County LF	SC	RR
<b>HARLEM RIVER YARD</b> 98 Lincoln Avenue Bronx, NY	Private	Waste Management of New York, LLC	Long-term	1957	587,180	1,957	Atlantic Waste Disposal LF	VA	RR
<b>WASTE MANAGEMENT</b> 215 Varick Street Brooklyn, NY	Private	Waste Management of New York, LLC	Interim	656	181,643	22	Grand Central Sanitary	PA	T
						26	Atlantic Waste Disposal LF**	VA	RR
						2	Westchester Resco, Peekskill*	NY	T
						503	Fairless Hills	PA	T
<b>WASTE MANAGEMENT</b> 215 Varick Street Brooklyn, NY	Private	Waste Management of New York, LLC	Long-term	752	225,723	61	Atlantic Waste Disposal LF	VA	RR
						692	High Acres LF	NY	RR
<b>IESI of NY</b> 577 Court Street Brooklyn, NY	Private	Waste Connections	Interim	631	189,473	10	Tullytown	PA	T
						72	Bethlehem LF	PA	T
						152	Blue Ridge LF	PA	T
						397	Seneca Meadows LF	PA	T
<b>IESI of NY</b> 110 50th Street Brooklyn, NY	Private	Waste Connections	Interim	718	215,535	579	Seneca Meadows LF	NY	T
						81	Bethlehem LF	PA	T
						58	Blue Ridge LF	PA	T
<b>ACTION ENVIRONMENTAL</b> 941 Stanley Avenue Brooklyn, NY	Private	Action Environmental	Interim	257	77,232	257	Keystone LF	PA	T
<b>BROOKLYN TRANSFER</b> 105-115 Thames Street Brooklyn, NY	Private	Five Star Carting	Interim	120	35,994	20	Covanta - Delaware Valley	PA	T
						100	Grows North LF	PA	T
<b>WASTE MANAGEMENT</b> 38-50 Review Avenue Queens, NY	Private	Waste Management of New York, LLC	Long-term	900	270,037	900	High Acres LF	NY	RR
<b>WM - A-1 COMPACTION</b> 325 Yonkers Avenue Yonkers, NY	Private	Waste Management of New York, LLC	Interim	147	44,001	1	Grand Central Sanitary	PA	T
						105	Weelabrator Falls*	PA	T
						2	Grows North	PA	T
						39	Fairless Hills LF	PA	T
<b>TULLY ENVIRONMENTAL</b> 127-30 34th Avenue CORONA, NY	Private	Tully Environmental	Interim	217	65,126	3	Covanta - Delaware Valley - Chester*	PA	T
						9	Atlantic Waste Disposal LF**	VA	RR
						1	Greentree LF	PA	T
						71	Commonwealth Envir System LF	PA	T
						77	Seneca Meadows LF	NY	T
						41	Keystone LF	PA	T
						14	Covanta - Hempstead*	NY	T
<b>REGAL RECYCLING</b> 172-06 DOUGLAS AVENUE JAMAICA, NY 11433	Private	Regal Recycling	Interim	25	7,500	25	Covanta - Hempstead*	NY	T
<b>AMERICAN RECYCLING</b> 172-33 DOUGLAS AVENUE JAMAICA, NY	Private	American Recycling	Interim	230	69,079	230	Seneca Meadows LF	NY	T
<b>WASTE MANAGEMENT</b> 864 JULIA ST ELIZABETH, NJ	Private	Waste Management of New York, LLC	Interim	11	3,433	11	Grows North LF	PA	T
<b>WASTE MANAGEMENT</b> 61 BROAD AVE FAIRVIEW NJ	Private	Waste Management of New York, LLC	Interim	209	62,643	156	Grows North LF	PA	T
						53	Fairless Hills LF	PA	T
<b>INTERSTATE WASTE SERVICES</b> 375 US 1 TRUCK RT JERSEY CITY, NJ	Private	Interstate Waste Svces	Interim	192	57,605	192	Cumberland County	PA	T
<b>North Shore Marine Transfer Station</b> 120-15 31ST AVE COLLEGE POINT, NY 11354	NYC	Covanta Sustainable Solutions, LLC	Long-term	1470	441,019	649	Covanta - Delaware Valley	PA	RR
						821	Covanta - Niagara	NY	RR
<b>Hamilton Avenue Marine Transfer Station</b> 500 HAMILTON AVE BROOKLYN, NY	NYC	Waste Management of New York, LLC	Long-term	195**	58,457	195**	High Acres LF	NY	RR
<b>Covanta Energy - Essex*</b> 183 Raymond Blvd. Newark, NJ	PANYNJ	Port Authority of New York and New Jersey	Long-term	1312	393,476	1,312	Covanta Energy - Essex	NJ	NA
<b>TOTALS</b>				<b>10,499</b>	<b>3,193,709</b>	<b>Percent Per Year for Waste to Energy: 28%</b>			

6,005 In-City rail	56.4%
3,327 Delivered to truck-based facilities.	31.1%
6,005 Total delivered or drayed to rail, incl NJ	56.4%

\*Disposal site addresses are provided on next page

Red text denotes waste to energy facility.

All other facilities: trucks assumed to haul an average of 22 tons top-loaded with no backhauling.

Rail transport from Harlem River Yard averages 90 tons/car; from WM/Julia 85 tons/car and WM-Varick Ave 77 tons/car

Long-haul trucks to waste-to-energy resource recovery facilities are included; DSNY direct haul to such facilities (Covanta-Essex & Covanta-Hempstead) excluded.

Distances conservatively assumed to be the shortest (or least congested) typical route; model added 10 miles to trip to avoid Manhattan tunnels and associated congestion.

Numbers may not add due to rounding.

Barges from North Shore MTS transport containers to GCT to be loaded on rail. Avg 74.4 tons/car.

There were 494 barge trips one-way from North Shore MTS 21 nautical miles to Global Container Terminal in Staten Island each with 48 containers, plus return of empty containers by barge.

\*\*Hamilton Avenue began operation in September 2017 - so actual average daily tonnage is 487/day. Barges from Hamilton MTS transport containers to Transflo to be loaded on rail. Avg 76.16 tons/car.

There were 64 barge trips one-way from Hamilton MTS 10.5 nautical miles to Transflo in New Jersey each with 48 containers, plus return of empty containers by barge.



## Final Disposal Locations

Covanta/ Essex	183 Raymond Blvd.	Newark, N.J. 07105
Covanta/ Chester	10 Highland Street	Chester, Pa. 19013
Covanta/ Hempstead	600 Merchants Concourse	Westbury, N.Y. 11590
Covanta/ Niagara	100 Energy Boulevard	Niagara Falls, N.Y. 14304
Atlantic Waste Disposal	3474 Atlantic Lane	Waverly, Va. 23890
Bethlehem Landfill	2335 Applebutter Road	Bethlehem, Pa. 18015
Blue Ridge Landfill/ RA Bender	3747 White Church Road	Chambersburg, Pa. 17201
Commonwealth	99 Commonwealth Road	Hegins, Pa. 17938
Cumberland County Landfill	142 Vaughn Road	Shippensburg, Pa. 17257
Fairless Hills Landfill	1000 New Ford Mill Road	Morrisville, PA 19067
Grand Central Sanitary Landfill	1963 Pen Argyl Road	Pen Argyl, Pa. 18072
Greentree Landfill	635 Toby Road	Kersey, Pa. 15846
Grows North	1121 Bordentown Road	Morrisville, PA 19067
High Acres	425 Perinton Parkway	Fairport, NY 14450
Keystone Sanitary Landfill	P.O. Box 249 Dunham Drive	Dunmore, Pa. 18512
Lee County	1301 Sumpter Highway	Bishopville, SC 29010
Seneca Meadows Inc	1786 Salomon Road	Waterloo, N.Y. 13165
Tullytown	200 Tullytown Road	Tullytown, PA 19007
Westchester Resco	One Charles Point Avenue	Peeksville, NY 10566
Wheelabrator Falls	1201 New Ford Mill Road	Morrisville, PA 19067

**Attachment 2B**

**DSNY-Managed Waste Transfer + Disposal Sites in CY18**

Facility Name/Address	Facility Ownership	Facility Transport Vendor	Contract Type	Average Tons/Day	Delivered Tons/Per Year	Tons/Day by Disposal Site	Disposal Sites*	State	Truck or RR
<b>STATEN ISLAND TRANSFER STATION</b> 600 W. Service Road Staten Island, NY	NYC	Republic Services	Long-term	709	213,324.78	709	Lee County LF	SC	RR
<b>HARLEM RIVER YARD</b> 98 Lincoln Avenue Bronx, NY	Private	Waste Management of New York, LLC	Long-term	1933	581,684.53	1933	Atlantic Waste Disposal LF	VA	RR
<b>WASTE MANAGEMENT</b> 215 Varick Street Brooklyn, NY	Private	Waste Management of New York, LLC	Interim	196	59,246.11	196	Fairless Hills	PA	T
<b>WASTE MANAGEMENT</b> 215 Varick Street Brooklyn, NY	Private	Waste Management of New York, LLC	Long-term	808	243,244.12	1 115 692	Fairless Hills LF Atlantic Waste Disposal LF High Acres LF	PA VA NY	T RR RR
<b>WASTE CONNECTIONS</b> 577 Court Street Brooklyn, NY	Private	Waste Connections	Interim	418	125,905.72	76 83 259	Bethlehem LF Blue Ridge LF Seneca Meadows LF	PA PA PA	T T T
<b>WASTE CONNECTIONS</b> 110 50th Street Brooklyn, NY	Private	Waste Connections	Interim	426	128,267.50	144 249 33	Seneca Meadows LF Bethlehem LF Blue Ridge LF	NY PA PA	T T T
<b>ACTION ENVIRONMENTAL</b> 941 Stanley Avenue Brooklyn, NY	Private	Action Environmental	Interim	170	51,176.91	40 8 122	Fairless Hills LF Grows North LF Keystone LF	PA PA PA	T T T
<b>WASTE MANAGEMENT</b> 38-50 Review Avenue Queens, NY	Private	Waste Management of New York, LLC	Long-term	922	277,483.94	915 7	High Acres LF Atlantic Waste Disposal LF**	NY VA	RR T/RR
<b>WM - A-1 COMPACTION</b> 325 Yonkers Avenue Yonkers, NY	Private	Waste Management of New York, LLC	Interim	167	50,274.20	59 108	Fairless Hills LF Westchester Resco	PA NY	T T
<b>TULLY ENVIRONMENTAL</b> 127-30 34th Avenue CORONA, NY	Private	Tully Environmental	Interim	192	57,937.96	6 73 48 50 5 9 1	Covanta - Delaware Valley Seneca Meadows LF Keystone LF Commonwealth Envir System LF Covanta - Hempstead Tunnel Hill Reclamation LF Atlantic Waste Waverly LF	PA NY PA PA NY OH VA	T T T T T T/RR RR
<b>REGAL RECYCLING</b> 172-06 DOUGLAS AVENUE JAMAICA, NY 11433	Private	Regal Recycling	Interim	5	1,489.64	5	Covanta - Hempstead	NY	T
<b>AMERICAN RECYCLING</b> 172-33 DOUGLAS AVENUE JAMAICA, NY	Private	American Recycling	Interim	210	63,196.22	210	Seneca Meadows LF	NY	T
<b>WASTE MANAGEMENT</b> 864 JULIA ST ELIZABETH, NJ	Private	Waste Management of New York, LLC	Interim	14	4,229.21	13 1	Grows North LF Fairless Hills LF	PA PA	T T
<b>WASTE MANAGEMENT</b> 61 BROAD AVE FAIRVIEW NJ	Private	Waste Management of New York, LLC	Interim	204	61,258.37	204	Fairless Hills LF	PA	T
<b>INTERSTATE WASTE SERVICES</b> 375 US 1 TRUCK RT JERSEY CITY, NJ	Private	Interstate Waste Svces	Interim	212	63,753.32	163 1 48	Cumberland County LF Keystone LF Fairless Hills LF	PA PA PA	T T T
<b>North Shore Marine Transfer Station</b> 120-15 31ST AVE COLLEGE POINT, NY 11354	NYC	Covanta Sustainable Solutions, LLC		1530	460,633.25	582 948	Covanta - Delaware Valley Covanta - Niagara	PA NY	RR RR
<b>Hamilton Avenue Marine Transfer Station</b> 500 HAMILTON AVE BROOKLYN, NY	NYC	Waste Management of New York, LLC	Long-term	1091	328,642.46	501 590	Atlantic Waste Disposal LF High Acres LF	VA NY	RR RR
<b>Southwest Brooklyn Marine Transfer Station</b> Bay 41st Street/25th Ave Brooklyn, NY 11214	NYC	Waste Management of New York, LLC		674**	60,726.12	45** 157**	High Acres LF Atlantic Waste Disposal LF	NY VA	RR RR
<b>Covanta Energy - Essex</b> 183 Raymond Blvd. Newark, NJ	PANYNJ	Port Authority of New York and New Jersey	Long-term	1330	400,264.37	1330	Covanta Energy - Essex	NJ	NA
<b>TOTALS</b>		<b>10,537</b>	<b>3,232,739</b>				<b>Total Tons Per Year for Waste to Energy: 898,184.00</b>		

<b>5895</b> In-City rail	<b>55.9%</b>
<b>2205</b> Delivered to truck-based facilities.	<b>20.9%</b>
<b>2984</b> Delivered to waste to energy facilities	<b>27.9%</b>

\*Disposal site addresses are provided on next page

Red text denotes waste to energy facility. DSNY-managed waste is direct hauled to Covanta Energy - Essex for disposal.

All other facilities: trucks assumed to haul an average of 22 tons top-loaded with no backhauling.

Rail transport from Harlem River Yard averages 90 tons/car; from WM/Julia 85 tons/car and WM-Varick Ave 77 tons/car.

Long-haul trucks to waste to energy facilities are included; DSNY direct haul to Covanta-Essex & Covanta-Hempstead are excluded.

Distances conservatively assumed to be the shortest (or least congested) typical route; model added 10 miles to trip to avoid Manhattan tunnels and associated congestion.

\*\*Southwest Brooklyn MTS started operations in October 2018.

Barges from North Shore MTS transport containers to GCT to be loaded on rail. Avg 80 tons/car.

There were 513 barge trips one-way from North Shore MTS 21 nautical miles to Global Container Terminal in Staten Island each with 48 containers, plus return of empty containers by barge.

Barges from Hamilton MTS transport containers to Transflo to be loaded on rail. Avg 80 tons/car.

There were 368 barge trips one-way from Hamilton MTS 10.5 nautical miles to Transflo in New Jersey each with 48 containers, plus return of empty containers by barge.

Barges from Southwest Brooklyn MTS transport containers to Transflo to be loaded on rail. Avg 80 tons/car.

There were 66 barge trips one-way from SouthWest MTS 11 nautical miles to Transflo in New Jersey each with 48 containers, plus return of empty containers by barge.

## Disposal Site Addresses

Covanta Energy - Essex	183 Raymond Boulevard	Newark, NJ 07105
Covanta - Delaware Valley	10 Highland Street	Chester, PA 19013
Covanta - Hempstead	600 Merchants Concourse	Westbury, NY 11590
Covanta - Niagara	100 Energy Boulevard	Niagara Falls, NY 14304
Atlantic Waste Disposal Landfill	3474 Atlantic Lane	Waverly, VA 23890
Bethlehem Landfill	2335 Applebutter Road	Bethlehem, PA 18015
Blue Ridge Landfill/ RA Bender	3747 White Church Road	Chambersburg, PA 17201
Commonwealth Enviro Systems	99 Commonwealth Road	Hegins, PA 17938
Cumberland County Landfill	142 Vaughn Road	Shippensburg, PA 17257
Fairless Hills Landfill	1000 New Ford Mill Road	Morrisville, PA 19067
Grows North Landfill	1121 Bordentown Road	Morrisville, PA 19067
High Acres Landfill	425 Perinton Parkway	Fairport, NY 14450
Keystone Sanitary Landfill	P.O. Box 249 Dunham Drive	Dunmore, PA 18512
Lee County Landfill	1301 Sumpter Highway	Bishopville, SC 29010
Seneca Meadows Landfill	1786 Salomon Road	Waterloo, NY 13165
Tunnel Hill Reclamation	2500 Township Road 205	New Lexington, OH 43764
Westchester Resco	One Charles Point Avenue	Peeksville, NY 10566

## **Attachment 3A**

## DSNY Recycling Processors & Tonnage for 2017 & 2018 Calendar Years

Processor	Address	Material Type (s) Processed	Tonnage	
			2017	2018
<b>Sims Municipal Recycling</b>	<i>Processing Address:</i> One Linden Ave. East Jersey City, NJ 472 2 <sup>nd</sup> Ave. Brooklyn, NY 11200 30-27 Greenpoint Ave. LIC, NY 11101 850 Edgewater Rd. Bronx, NY 10474	Paper	171,583	175,542
		Metal Glass Plastic/Jersey City	54,230	54,675
		Metal Glass Plastic/Brooklyn	67,550	69,323
		Metal Glass Plastic/LIC	80,639	83,546
		Metal Glass Plastic/ Bronx	84,696	86,745
		Bulk Metal Acceptance	3,345	2,468
		Bulk Metal Removal	796	1,067
		<b>Visy</b>	4435 Victory Blvd. Staten Island, NY 10314	Paper

Material type	MGP	Paper & comingled	Bulk Metal
2017	287,115	324,021	4,141
2018	294,289	333,499	3,535
<i>Total tons calendar years 17/18</i>	<b>581,404</b>	<b>657,520</b>	<b>7,676</b>

**Attachment 3B**

## Brooklyn Transfer - Thames Street

<i>SSOs Delivered</i>	<i>Waste Disposed</i>	<i>Disposal Site</i>	<i>Recovered for Beneficial Reuse</i>	<i>Beneficial Reuse Facilities</i>	<i>Beneficial Reuse Tons</i>	<i>Percent Recovered</i>
98.28	34.48	Covanta Hempstead	63.80	McEnroe Farms	63.80	64.92%

## Regal Recycling

<i>SSOs Delivered</i>	<i>Waste Disposed</i>	<i>Disposal Site</i>	<i>Recovered for Beneficial Reuse</i>	<i>Beneficial Reuse Facilities</i>	<i>Beneficial Reuse Tons</i>	<i>Percent Recovered</i>
472.10	359.31	Covanta Hempstead	112.79	McEnroe Farms	112.79	23.89%

## Waste Management - Varick Avenue

<i>SSOs Delivered</i>	<i>Waste Disposed</i>	<i>Disposal Site</i>	<i>Recovered for Beneficial Reuse</i>	<i>Beneficial Reuse Facilities</i>	<i>Beneficial Reuse Tons</i>	<i>Percent Recovered</i>
979.10	362.50	High Acres	616.60	Newtown Creek	581.20	62.98%
				WeCare	35.40	

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Jan Total :      1,549.48      756.29                      793.19                                      51.19%

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## Brooklyn Transfer - Thames Street

<i>SSOs Delivered</i>	<i>Waste Disposed</i>	<i>Disposal Site</i>	<i>Recovered for Beneficial Reuse</i>	<i>Beneficial Reuse Facilities</i>	<i>Beneficial Reuse Tons</i>	<i>Percent Recovered</i>
75.47	27.64	Covanta Hempstead	47.83	McEnroe Farms	47.83	63.38%

## Regal Recycling

<i>SSOs Delivered</i>	<i>Waste Disposed</i>	<i>Disposal Site</i>	<i>Recovered for Beneficial Reuse</i>	<i>Beneficial Reuse Facilities</i>	<i>Beneficial Reuse Tons</i>	<i>Percent Recovered</i>
344.58	264.34	Covanta Hempstead	80.24	McEnroe Farms	80.24	23.29%

## Waste Management - Varick Avenue

<i>SSOs Delivered</i>	<i>Waste Disposed</i>	<i>Disposal Site</i>	<i>Recovered for Beneficial Reuse</i>	<i>Beneficial Reuse Facilities</i>	<i>Beneficial Reuse Tons</i>	<i>Percent Recovered</i>
832.90	273.40	High Acres	559.50	WeCare	12.30	67.17%
				Newtown Creek	547.20	

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Feb Total :    1,252.95    565.38                      687.57                      54.88%

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## Brooklyn Transfer - Thames Street

<i>SSOs Delivered</i>	<i>Waste Disposed</i>	<i>Disposal Site</i>	<i>Recovered for Beneficial Reuse</i>	<i>Beneficial Reuse Facilities</i>	<i>Beneficial Reuse Tons</i>	<i>Percent Recovered</i>
88.02	31.41	Covanta Hempstead	56.61	McEnroe Farms	56.61	64.31%

## Regal Recycling

<i>SSOs Delivered</i>	<i>Waste Disposed</i>	<i>Disposal Site</i>	<i>Recovered for Beneficial Reuse</i>	<i>Beneficial Reuse Facilities</i>	<i>Beneficial Reuse Tons</i>	<i>Percent Recovered</i>
318.35	240.69	Covanta Hempstead	77.66	McEnroe Farms	77.66	24.39%

## Waste Management - Varick Avenue

<i>SSOs Delivered</i>	<i>Waste Disposed</i>	<i>Disposal Site</i>	<i>Recovered for Beneficial Reuse</i>	<i>Beneficial Reuse Facilities</i>	<i>Beneficial Reuse Tons</i>	<i>Percent Recovered</i>
1012.20	318.30	High Acres	693.90	Newtown Creek	672.80	68.55%
				WeCare	21.10	

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Mar Total :    1,418.57    590.40                      828.17                      58.38%

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## American Recycling

<i>SSOs Delivered</i>	<i>Waste Disposed</i>	<i>Disposal Site</i>	<i>Recovered for Beneficial Reuse</i>	<i>Beneficial Reuse Facilities</i>	<i>Beneficial Reuse Tons</i>	<i>Percent Recovered</i>
532.04	371.18	Seneca Meadows	160.86	DSNY SI Compost Facility	45.79	30.23%
				Quantum Bio Power Conn.	23.63	
				Pine Island Dairy	91.44	

## Brooklyn Transfer - Thames Street

<i>SSOs Delivered</i>	<i>Waste Disposed</i>	<i>Disposal Site</i>	<i>Recovered for Beneficial Reuse</i>	<i>Beneficial Reuse Facilities</i>	<i>Beneficial Reuse Tons</i>	<i>Percent Recovered</i>
77.19	28.16	Covanta Hempstead	49.03	McEnroe Farms	49.03	63.52%

## Regal Recycling

<i>SSOs Delivered</i>	<i>Waste Disposed</i>	<i>Disposal Site</i>	<i>Recovered for Beneficial Reuse</i>	<i>Beneficial Reuse Facilities</i>	<i>Beneficial Reuse Tons</i>	<i>Percent Recovered</i>
21.18	16.06	Covanta Hempstead	5.12	McEnroe Farms	5.12	24.17%

## Waste Management - Varick Avenue

<i>SSOs Delivered</i>	<i>Waste Disposed</i>	<i>Disposal Site</i>	<i>Recovered for Beneficial Reuse</i>	<i>Beneficial Reuse Facilities</i>	<i>Beneficial Reuse Tons</i>	<i>Percent Recovered</i>
992.90	285.40	High Acres	707.50	Newtown Creek	601.10	71.26%
				WeCare	106.40	

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Apr Total :      1,623.31      700.80                      922.51                      56.83%

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## American Recycling

<i>SSOs Delivered</i>	<i>Waste Disposed</i>	<i>Disposal Site</i>	<i>Recovered for Beneficial Reuse</i>	<i>Beneficial Reuse Facilities</i>	<i>Beneficial Reuse Tons</i>	<i>Percent Recovered</i>
622.20	410.65	Seneca Meadows	211.55	Pine Island Dairy	211.55	34.00%

## Brooklyn Transfer - Thames Street

<i>SSOs Delivered</i>	<i>Waste Disposed</i>	<i>Disposal Site</i>	<i>Recovered for Beneficial Reuse</i>	<i>Beneficial Reuse Facilities</i>	<i>Beneficial Reuse Tons</i>	<i>Percent Recovered</i>
83.12	29.94	Covanta Hempstead	53.18	McEnroe Farms	53.18	63.98%

## Waste Management - Varick Avenue

<i>SSOs Delivered</i>	<i>Waste Disposed</i>	<i>Disposal Site</i>	<i>Recovered for Beneficial Reuse</i>	<i>Beneficial Reuse Facilities</i>	<i>Beneficial Reuse Tons</i>	<i>Percent Recovered</i>
1236.90	369.00	High Acres	867.90	Newtown Creek	766.60	70.17%
				WeCare	101.30	

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May Total : 1,942.22 809.59 1,132.63 58.32%

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## American Recycling

<i>SSOs Delivered</i>	<i>Waste Disposed</i>	<i>Disposal Site</i>	<i>Recovered for Beneficial Reuse</i>	<i>Beneficial Reuse Facilities</i>	<i>Beneficial Reuse Tons</i>	<i>Percent Recovered</i>
582.71	458.08	Seneca Meadows	124.63	Pine Island Dairy	124.63	21.39%

## Waste Management - Varick Avenue

<i>SSOs Delivered</i>	<i>Waste Disposed</i>	<i>Disposal Site</i>	<i>Recovered for Beneficial Reuse</i>	<i>Beneficial Reuse Facilities</i>	<i>Beneficial Reuse Tons</i>	<i>Percent Recovered</i>
1339.00	437.90	High Acres	901.10	Newtown Creek	868.40	67.30%
				WeCare	32.70	

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<b>Jun Total :</b>	<b>1,921.71</b>	<b>895.98</b>	<b>1,025.73</b>			<b>53.38%</b>
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## American Recycling

<i>SSOs Delivered</i>	<i>Waste Disposed</i>	<i>Disposal Site</i>	<i>Recovered for Beneficial Reuse</i>	<i>Beneficial Reuse Facilities</i>	<i>Beneficial Reuse Tons</i>	<i>Percent Recovered</i>
407.03	272.28	Seneca Meadows	134.75	Pine Island Dairy	134.75	33.11%

## Waste Management - Varick Avenue

<i>SSOs Delivered</i>	<i>Waste Disposed</i>	<i>Disposal Site</i>	<i>Recovered for Beneficial Reuse</i>	<i>Beneficial Reuse Facilities</i>	<i>Beneficial Reuse Tons</i>	<i>Percent Recovered</i>
1228.20	386.90	High Acres	841.30	Newtown Creek	756.30	68.50%
				WeCare	85.00	

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Jul Total :      1,635.23      659.18                      976.05                                      59.69%

---

## American Recycling

<i>SSOs Delivered</i>	<i>Waste Disposed</i>	<i>Disposal Site</i>	<i>Recovered for Beneficial Reuse</i>	<i>Beneficial Reuse Facilities</i>	<i>Beneficial Reuse Tons</i>	<i>Percent Recovered</i>
642.89	490.54	Seneca Meadows	152.35	Pine Island Dairy	152.35	23.70%

## Waste Management - Varick Avenue

<i>SSOs Delivered</i>	<i>Waste Disposed</i>	<i>Disposal Site</i>	<i>Recovered for Beneficial Reuse</i>	<i>Beneficial Reuse Facilities</i>	<i>Beneficial Reuse Tons</i>	<i>Percent Recovered</i>
1228.70	341.60	High Acres	887.10	Newtown Creek	736.10	72.20%
				WeCare	151.00	

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Aug Total :    1,871.59    832.14                      1,039.45    55.54%

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American Recycling

<i>SSOs Delivered</i>	<i>Waste Disposed</i>	<i>Disposal Site</i>	<i>Recovered for Beneficial Reuse</i>	<i>Beneficial Reuse Facilities</i>	<i>Beneficial Reuse Tons</i>	<i>Percent Recovered</i>
820.68	574.01	Seneca Meadows	246.67	Pine Island Dairy	157.76	30.06%
				GRO-Max LLC	88.91	

Waste Management - Varick Avenue

<i>SSOs Delivered</i>	<i>Waste Disposed</i>	<i>Disposal Site</i>	<i>Recovered for Beneficial Reuse</i>	<i>Beneficial Reuse Facilities</i>	<i>Beneficial Reuse Tons</i>	<i>Percent Recovered</i>
1631.20	497.30	High Acres	1133.90	Newtown Creek	1048.50	69.51%
				WeCare	85.40	

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Sep Total :      2,451.88    1,071.31                                      1,380.57                                      56.31%

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## American Recycling

<i>SSOs Delivered</i>	<i>Waste Disposed</i>	<i>Disposal Site</i>	<i>Recovered for Beneficial Reuse</i>	<i>Beneficial Reuse Facilities</i>	<i>Beneficial Reuse Tons</i>	<i>Percent Recovered</i>
1267.54	687.12	Seneca Meadows	580.42	Quantin Bio Power	259.36	45.79%
				Grow-Max LLC	284.17	
				Pine Island Dairy	36.89	

## Waste Management - Varick Avenue

<i>SSOs Delivered</i>	<i>Waste Disposed</i>	<i>Disposal Site</i>	<i>Recovered for Beneficial Reuse</i>	<i>Beneficial Reuse Facilities</i>	<i>Beneficial Reuse Tons</i>	<i>Percent Recovered</i>
1827.40	491.60	High Acres	1335.80	Newtown Creek	1145.70	73.10%
				WeCare	190.10	

## WeCare - Metropolitan

<i>SSOs Delivered</i>	<i>Waste Disposed</i>	<i>Disposal Site</i>	<i>Recovered for Beneficial Reuse</i>	<i>Beneficial Reuse Facilities</i>	<i>Beneficial Reuse Tons</i>	<i>Percent Recovered</i>
242.57	59.48	Seneca Meadows	183.09	DSNY SI Compost Facility	22.67	75.48%
				Marlborough Composting	160.42	

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Oct Total :      3,337.51    1,238.20                      2,099.31                                      62.90%

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## American Recycling

\*Approx. 280 tons of organics unprocessed by Nov 30th

<i>SSOs Delivered</i>	<i>Waste Disposed</i>	<i>Disposal Site</i>	<i>Recovered for Beneficial Reuse</i>	<i>Beneficial Reuse Facilities</i>	<i>Beneficial Reuse Tons</i>	<i>Percent Recovered</i>
1839.93	804.90	Seneca Meadows	755.03	Quantin Bio Power	114.12	48.40%
				Grow-Max LLC	602.75	
				Pine Island Dairy	38.16	

## Waste Management - Varick Avenue

<i>SSOs Delivered</i>	<i>Waste Disposed</i>	<i>Disposal Site</i>	<i>Recovered for Beneficial Reuse</i>	<i>Beneficial Reuse Facilities</i>	<i>Beneficial Reuse Tons</i>	<i>Percent Recovered</i>
2332.60	712.00	Atlantic Landfill	1620.60	Newtown Creek	1383.30	69.48%
				WeCare	237.30	

## WeCare - Metropolitan

<i>SSOs Delivered</i>	<i>Waste Disposed</i>	<i>Disposal Site</i>	<i>Recovered for Beneficial Reuse</i>	<i>Beneficial Reuse Facilities</i>	<i>Beneficial Reuse Tons</i>	<i>Percent Recovered</i>
869.08	232.76	Seneca Meadows	636.32	DSNY SI Compost Facility	471.32	73.22%
				Marlborough Composting	165.00	

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**Nov Total :**    5,041.61    1,749.66                      3,011.95    63.25%

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## American Recycling

<i>SSOs Delivered</i>	<i>Waste Disposed</i>	<i>Disposal Site</i>	<i>Recovered for Beneficial Reuse</i>	<i>Beneficial Reuse Facilities</i>	<i>Beneficial Reuse Tons</i>	<i>Percent Recovered</i>
830.61	330.51	Seneca Meadows	500.10	Grow-Max LLC	458.45	60.21%
				Greenway Compost	41.65	

## Waste Management - Varick Avenue

<i>SSOs Delivered</i>	<i>Waste Disposed</i>	<i>Disposal Site</i>	<i>Recovered for Beneficial Reuse</i>	<i>Beneficial Reuse Facilities</i>	<i>Beneficial Reuse Tons</i>	<i>Percent Recovered</i>
1405.10	401.40	Atlantic Landfill	1003.70	Newtown Creek	978.40	71.43%
				WeCare	25.30	

## WeCare - Metropolitan

<i>SSOs Delivered</i>	<i>Waste Disposed</i>	<i>Disposal Site</i>	<i>Recovered for Beneficial Reuse</i>	<i>Beneficial Reuse Facilities</i>	<i>Beneficial Reuse Tons</i>	<i>Percent Recovered</i>
353.33	0.00		353.33	DSNY SI Compost Facility	171.79	100.00%
				Marlborough Composting	181.54	

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Jan Total :      2,589.04      731.91      1,857.13      71.73%

---

## American Recycling

<i>SSOs Delivered</i>	<i>Waste Disposed</i>	<i>Disposal Site</i>	<i>Recovered for Beneficial Reuse</i>	<i>Beneficial Reuse Facilities</i>	<i>Beneficial Reuse Tons</i>	<i>Percent Recovered</i>
644.94	246.52	Seneca Meadows	398.42	Grow-Max LLC	369.37	61.78%
				Quantum Bio Power	29.05	

## Waste Management - Varick Avenue

<i>SSOs Delivered</i>	<i>Waste Disposed</i>	<i>Disposal Site</i>	<i>Recovered for Beneficial Reuse</i>	<i>Beneficial Reuse Facilities</i>	<i>Beneficial Reuse Tons</i>	<i>Percent Recovered</i>
1176.80	348.40	Atlantic Landfill	828.40	Newtown Creek	813.70	70.39%
				WeCare	14.70	

## WeCare - Metropolitan

<i>SSOs Delivered</i>	<i>Waste Disposed</i>	<i>Disposal Site</i>	<i>Recovered for Beneficial Reuse</i>	<i>Beneficial Reuse Facilities</i>	<i>Beneficial Reuse Tons</i>	<i>Percent Recovered</i>
314.62	0.00		314.62	Marlborough Composting	314.62	100.00%

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Feb Total :      2,136.36      594.92                      1,541.44                                      72.15%

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## American Recycling

<i>SSOs Delivered</i>	<i>Waste Disposed</i>	<i>Disposal Site</i>	<i>Recovered for Beneficial Reuse</i>	<i>Beneficial Reuse Facilities</i>	<i>Beneficial Reuse Tons</i>	<i>Percent Recovered</i>
762.76	294.78	Seneca Meadows	467.98	Grow-Max LLC	327.21	61.35%
				Quantum Bio Power	140.77	

## Waste Management - Varick Avenue

<i>SSOs Delivered</i>	<i>Waste Disposed</i>	<i>Disposal Site</i>	<i>Recovered for Beneficial Reuse</i>	<i>Beneficial Reuse Facilities</i>	<i>Beneficial Reuse Tons</i>	<i>Percent Recovered</i>
1598.80	451.40	High Acres	1147.40	Newtown Creek	1132.50	71.77%
				WeCare	14.90	

## WeCare - Metropolitan

<i>SSOs Delivered</i>	<i>Waste Disposed</i>	<i>Disposal Site</i>	<i>Recovered for Beneficial Reuse</i>	<i>Beneficial Reuse Facilities</i>	<i>Beneficial Reuse Tons</i>	<i>Percent Recovered</i>
381.00	11.95	Seneca Meadows	369.05	Marlborough Composting	369.05	96.86%

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Mar Total :      2,742.56      758.13                      1,984.43                                      72.36%

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## American Recycling

<i>SSOs Delivered</i>	<i>Waste Disposed</i>	<i>Disposal Site</i>	<i>Recovered for Beneficial Reuse</i>	<i>Beneficial Reuse Facilities</i>	<i>Beneficial Reuse Tons</i>	<i>Percent Recovered</i>
800.97	311.84	Seneca Meadows	489.13	Grow-Max LLC	359.85	61.07%
				Quantum Bio Power	129.28	

## Waste Management - Varick Avenue

<i>SSOs Delivered</i>	<i>Waste Disposed</i>	<i>Disposal Site</i>	<i>Recovered for Beneficial Reuse</i>	<i>Beneficial Reuse Facilities</i>	<i>Beneficial Reuse Tons</i>	<i>Percent Recovered</i>
1388.70	382.80	High Acres	1005.90	Newtown Creek	969.80	72.43%
				WeCare	36.10	

## WeCare - Metropolitan

<i>SSOs Delivered</i>	<i>Waste Disposed</i>	<i>Disposal Site</i>	<i>Recovered for Beneficial Reuse</i>	<i>Beneficial Reuse Facilities</i>	<i>Beneficial Reuse Tons</i>	<i>Percent Recovered</i>
470.02	195.97	Seneca Meadows	274.05	DSNY SI Compost Facility	55.70	58.31%
				Marlborough Composting	218.35	

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**Apr Total :**      2,659.69      890.61      1,769.08      66.51%

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### American Recycling

SSOs Delivered	Waste Disposed	Disposal Site	Recovered for Beneficial Reuse	Beneficial Reuse Facilities	Beneficial Reuse Tons	Percent Recovered
1943.11	863.29	Seneca Meadows	1079.82	Grow-Max LLC	212.74	55.57%
				Quantum Bio Power	867.08	

### Waste Management - Varick Avenue

SSOs Delivered	Waste Disposed	Disposal Site	Recovered for Beneficial Reuse	Beneficial Reuse Facilities	Beneficial Reuse Tons	Percent Recovered
1900.40	569.80	High Acres	1330.60	Newtown Creek	1330.60	70.02%

### WeCare - Metropolitan

SSOs Delivered	Waste Disposed	Disposal Site	Recovered for Beneficial Reuse	Beneficial Reuse Facilities	Beneficial Reuse Tons	Percent Recovered
309.72	136.89	Seneca Meadows	172.83	DSNY SI Compost Facility	110.19	55.80%
				Marlborough Composting	62.64	

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May Total :	4,153.23	1,569.98	2,583.25			62.20%
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## American Recycling

<i>SSOs Delivered</i>	<i>Waste Disposed</i>	<i>Disposal Site</i>	<i>Recovered for Beneficial Reuse</i>	<i>Beneficial Reuse Facilities</i>	<i>Beneficial Reuse Tons</i>	<i>Percent Recovered</i>
1456.85	724.74	Seneca Meadows	732.11	Quantum Bio Power	732.11	50.25%

## Waste Management - Varick Avenue

<i>SSOs Delivered</i>	<i>Waste Disposed</i>	<i>Disposal Site</i>	<i>Recovered for Beneficial Reuse</i>	<i>Beneficial Reuse Facilities</i>	<i>Beneficial Reuse Tons</i>	<i>Percent Recovered</i>
2347.80	681.60	High Acres	1666.20	Newtown Creek	1666.20	70.97%

## WeCare - Metropolitan

<i>SSOs Delivered</i>	<i>Waste Disposed</i>	<i>Disposal Site</i>	<i>Recovered for Beneficial Reuse</i>	<i>Beneficial Reuse Facilities</i>	<i>Beneficial Reuse Tons</i>	<i>Percent Recovered</i>
0.00	0.00		0.00		0.00	0.00%

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Jun Total :      3,804.65    1,406.34                      2,398.31                                      63.04%

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## American Recycling

<i>SSOs Delivered</i>	<i>Waste Disposed</i>	<i>Disposal Site</i>	<i>Recovered for Beneficial Reuse</i>	<i>Beneficial Reuse Facilities</i>	<i>Beneficial Reuse Tons</i>	<i>Percent Recovered</i>
1163.97	568.98	Seneca Meadows	594.99	Quantum Bio Power	594.99	51.12%

## Waste Management - Varick Avenue

<i>SSOs Delivered</i>	<i>Waste Disposed</i>	<i>Disposal Site</i>	<i>Recovered for Beneficial Reuse</i>	<i>Beneficial Reuse Facilities</i>	<i>Beneficial Reuse Tons</i>	<i>Percent Recovered</i>
1560.40	436.90	High Acres	1123.50	Newtown Creek	1123.50	72.00%

## WeCare - Metropolitan

<i>SSOs Delivered</i>	<i>Waste Disposed</i>	<i>Disposal Site</i>	<i>Recovered for Beneficial Reuse</i>	<i>Beneficial Reuse Facilities</i>	<i>Beneficial Reuse Tons</i>	<i>Percent Recovered</i>
0.00	0.00		0.00		0.00	0.00%

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Jul Total :      2,724.37    1,005.88                      1,718.49                                      63.08%

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## American Recycling

<i>SSOs Delivered</i>	<i>Waste Disposed</i>	<i>Disposal Site</i>	<i>Recovered for Beneficial Reuse</i>	<i>Beneficial Reuse Facilities</i>	<i>Beneficial Reuse Tons</i>	<i>Percent Recovered</i>
1234.59	645.28	Seneca Meadows	589.31	Quantum Bio Power	589.31	47.73%

## Waste Management - Varick Avenue

<i>SSOs Delivered</i>	<i>Waste Disposed</i>	<i>Disposal Site</i>	<i>Recovered for Beneficial Reuse</i>	<i>Beneficial Reuse Facilities</i>	<i>Beneficial Reuse Tons</i>	<i>Percent Recovered</i>
1082.90	281.60	High Acres	801.30	Newtown Creek	801.30	74.00%

## WeCare - Metropolitan

<i>SSOs Delivered</i>	<i>Waste Disposed</i>	<i>Disposal Site</i>	<i>Recovered for Beneficial Reuse</i>	<i>Beneficial Reuse Facilities</i>	<i>Beneficial Reuse Tons</i>	<i>Percent Recovered</i>
627.14	23.65	Seneca Meadows	603.49	DSNY SI Compost Facility	94.08	96.23%
				Marlborough Composting	430.81	
				Cayuga Regional	78.60	

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**Aug Total :**      2,944.63      950.53                      1,994.10                                      67.72%

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## American Recycling

<i>SSOs Delivered</i>	<i>Waste Disposed</i>	<i>Disposal Site</i>	<i>Recovered for Beneficial Reuse</i>	<i>Beneficial Reuse Facilities</i>	<i>Beneficial Reuse Tons</i>	<i>Percent Recovered</i>
1199.68	638.46	Seneca Meadows	561.22	Quantum Bio Power	397.31	46.78%
				Pine Island Farm	163.91	

## Waste Management - Varick Avenue

<i>SSOs Delivered</i>	<i>Waste Disposed</i>	<i>Disposal Site</i>	<i>Recovered for Beneficial Reuse</i>	<i>Beneficial Reuse Facilities</i>	<i>Beneficial Reuse Tons</i>	<i>Percent Recovered</i>
1555.40	388.10	High Acres	1167.30	Newtown Creek	1167.30	75.05%

## WeCare - Metropolitan

\*Approx. 49.25 tons of organics unprocessed by Cayuga

<i>SSOs Delivered</i>	<i>Waste Disposed</i>	<i>Disposal Site</i>	<i>Recovered for Beneficial Reuse</i>	<i>Beneficial Reuse Facilities</i>	<i>Beneficial Reuse Tons</i>	<i>Percent Recovered</i>
532.95	16.19	Seneca Meadows	467.51	DSNY SI Compost Facility	137.40	96.65%
				Marlborough Composting	330.11	

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Sep Total :      3,288.03      1,042.75                                      2,196.03                                      67.80%

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## American Recycling

<i>SSOs Delivered</i>	<i>Waste Disposed</i>	<i>Disposal Site</i>	<i>Recovered for Beneficial Reuse</i>	<i>Beneficial Reuse Facilities</i>	<i>Beneficial Reuse Tons</i>	<i>Percent Recovered</i>
1194.04	584.75	Seneca Meadows	609.29	Quantum Bio Power	278.80	51.03%
				Pine Island Farm	330.49	

## Waste Management - Varick Avenue

<i>SSOs Delivered</i>	<i>Waste Disposed</i>	<i>Disposal Site</i>	<i>Recovered for Beneficial Reuse</i>	<i>Beneficial Reuse Facilities</i>	<i>Beneficial Reuse Tons</i>	<i>Percent Recovered</i>
1717.60	436.90	High Acres	1280.70	Newtown Creek	1280.70	74.56%

## WeCare - Metropolitan

<i>SSOs Delivered</i>	<i>Waste Disposed</i>	<i>Disposal Site</i>	<i>Recovered for Beneficial Reuse</i>	<i>Beneficial Reuse Facilities</i>	<i>Beneficial Reuse Tons</i>	<i>Percent Recovered</i>
593.31	0.00		593.31	DSNY SI Compost Facility	112.07	100.00%
				Marlborough Composting	481.24	

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**Oct Total :**    3,504.95    1,021.65                      2,483.30    70.85%

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American Recycling

<i>SSOs Delivered</i>	<i>Waste Disposed</i>	<i>Disposal Site</i>	<i>Recovered for Beneficial Reuse</i>	<i>Beneficial Reuse Facilities</i>	<i>Beneficial Reuse Tons</i>	<i>Percent Recovered</i>
2059.82	638.54	Seneca Meadows	1421.28	Pine Island Farm	983.72	69.00%
				Quantum Bio Power	345.15	
				Newtown Creek	92.41	

Waste Management - Varick Avenue

<i>SSOs Delivered</i>	<i>Waste Disposed</i>	<i>Disposal Site</i>	<i>Recovered for Beneficial Reuse</i>	<i>Beneficial Reuse Facilities</i>	<i>Beneficial Reuse Tons</i>	<i>Percent Recovered</i>
2225.50	401.40	High Acres	1824.10	Newtown Creek	1824.10	81.96%

WeCare - Metropolitan

<i>SSOs Delivered</i>	<i>Waste Disposed</i>	<i>Disposal Site</i>	<i>Recovered for Beneficial Reuse</i>	<i>Beneficial Reuse Facilities</i>	<i>Beneficial Reuse Tons</i>	<i>Percent Recovered</i>
847.79	26.96	Seneca Meadows	820.83	DSNY SI Compost Facility	685.55	96.82%
				Marlborough Composting	135.28	

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Nov Total :      5,133.11      1,066.90                      4,066.21                      79.22%

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American Recycling

<i>SSOs Delivered</i>	<i>Waste Disposed</i>	<i>Disposal Site</i>	<i>Recovered for Beneficial Reuse</i>	<i>Beneficial Reuse Facilities</i>	<i>Beneficial Reuse Tons</i>	<i>Percent Recovered</i>
1221.67	536.74	Seneca Meadows	684.93	Newtown Creek	176.95	56.07%
				Pine Island Farm	507.98	

Waste Management - Varick Avenue

<i>SSOs Delivered</i>	<i>Waste Disposed</i>	<i>Disposal Site</i>	<i>Recovered for Beneficial Reuse</i>	<i>Beneficial Reuse Facilities</i>	<i>Beneficial Reuse Tons</i>	<i>Percent Recovered</i>
1649.50	314.80	High Acres	1334.70	Newtown Creek	1334.70	80.92%

WeCare - Metropolitan

<i>SSOs Delivered</i>	<i>Waste Disposed</i>	<i>Disposal Site</i>	<i>Recovered for Beneficial Reuse</i>	<i>Beneficial Reuse Facilities</i>	<i>Beneficial Reuse Tons</i>	<i>Percent Recovered</i>
530.78	0.00		530.78	Marlborough Composting	135.84	100.00%
				DSNY SI Compost Facility	394.94	

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Dec Total :     **3,401.95**     **851.54**         **2,550.41**         **74.97%**

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**Grand Total\* : 39,082.57    11,891.14         27,142.18         69.54%**

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\*Grand total ranges from Jan 2018 - Dec 2018

# Organics Vendor Addresses

## American Recycling

### Transfer Station:

172-33 Douglass Ave  
Jamaica, NY 11433

### Disposal Sites:

Seneca Meadows, 1786 Salcman Rd., Waterloo, NY 13165

### Beneficial Reuse Facilities:

Newtown Creek Wastewater Treatment Plant, 329 Greenpoint Av., Brooklyn, NY 11222  
Pine Island Farm, 1474 Herwins St., Sheffield, MA 01257  
Quantum Bio Power, 49 DePaolo Dr. Southington, Ct 06489  
Grow-Max LLC, 111 Swiss Farms Rd. Hudson NY 12501  
Greenway Compost, 205 Hurds Road, Clintondale, NY 12515

## Waste Management

### Transfer Station:

221 Varick Ave  
Brooklyn, NY 11237

### Disposal Sites:

High Acres Landfill, 425 Perinton Pkwy, Fairport, NY 14450  
Atlantic Landfill, 3474 Atlantic Ln., Waverly, VA 23890

### Beneficial Reuse Facility:

Newtown Creek Wastewater Treatment Plant, 329 Greenpoint Av., Brooklyn, NY 11222

## We Care Metropolitan

### Transfer Station:

287 Halleck Ave  
Bronx, NY 10474

### Disposal Site:

Seneca Meadows Landfill, 1786 Salcman Rd. Waterloo, NY 13165

### Beneficial Reuse Facilities:

DSNY SI Compost Facility, 600 West Service Rd Staten Island, NY 10314  
Marlborough Composting, 856 Boston Post Rd E, Marlborough, MA 01752  
Cayuga Regional, 7413 Country House Rd., Auburn, NY 13021



## **Brooklyn Transfer**

**Transfer Station:**

105-115 Thames St  
Brooklyn, NY 11237

**Disposal Site:**

Covanta Hempstead, 600 Merchants Concourse Westbury NY 11590

**Beneficial Reuse Facility:**

McEnroe Farms, 194 Coleman Station Rd. Millerton, NY 12546

## **Regal Recycling**

**Transfer Station:**

172-06 Douglass Avenue  
Jamaica, NY 11433

**Disposal Site:**

Covanta Hempstead, 600 Merchants Concourse Westbury NY 11590

**Beneficial Reuse Facility:**

McEnroe Farms, 194 Coleman Station Rd. Millerton, NY 12546

## **Attachment 3C**

**DSNY Bulk Metal  
Tonnage\***

<b>2017</b>	<b>JAN</b>	<b>FEB</b>	<b>MAR</b>	<b>APL</b>	<b>MAY</b>	<b>JUN</b>	<b>JUL</b>	<b>AUG</b>	<b>SEPT</b>	<b>OCT</b>	<b>NOV</b>	<b>DEC</b>	<b>totals for year</b>
<b>Acceptance</b>	268.6	263.05	291.99	283.44	278	298.29	206.58	318.39	312.54	318.22	288.79	216.85	<b>3,344.74</b>
<b>Removal</b>	56.88	61.01	80.85	54.17	101.64	71.62	47.85	55.61	57.89	63.59	112.17	33.02	<b>796.3</b>
<b>total tons</b>	325.48	324.06	372.84	337.61	379.64	369.91	254.43	374	370.43	381.81	400.96	249.87	<b>4,141.04</b>
<b>2018</b>	<b>JAN</b>	<b>FEB</b>	<b>MAR</b>	<b>APL</b>	<b>MAY</b>	<b>JUN</b>	<b>JUL</b>	<b>AUG</b>	<b>SEPT</b>	<b>OCT</b>	<b>NOV</b>	<b>DEC</b>	<b>totals for year</b>
<b>Acceptance</b>	170.67	175.83	213.49	321.75	302.47	259.37	159.1	255	189.26	136.63	139.85	144.37	<b>2,467.79</b>
<b>Removal</b>	77.81	102.79	101.86	146.7	90.78	114.7	61.45	76.37	64.01	54.36	75.04	101.1	<b>1,066.97</b>
<b>total tons</b>	248.48	278.62	315.35	468.45	393.25	374.07	220.55	331.37	253.27	190.99	214.89	245.47	<b>3,534.76</b>

\*Delivered to SIMS yards in Bronx and Long Island City, NY and Jersey City, NJ (addresses provided in Attachment 3A )

## **Attachment 3D**

## 2019 Organics Capacity

Facility Name	Location	Facility Type	If over 100 miles, in-city relationship	Permitted Capacity
Newtown Creek Wastewater Treatment Plant (via WM's Varick TS)	Brooklyn, NY	Wastewater Treatment	w/in 100 miles	90,000-156,000 TPY*
Ag Choice, LLC	Andover, NJ	Composting - Turned windrows (regular turning and management)	w/in 100 miles	22,800 TPY
Trenton Biogas	Trenton, NJ	Anaerobic Digestion	w/in 100 miles	124,000 TPY
New Milford Farms	New Milford, CT	Composting - Turned windrows Composting - Aerated static pile (ASP)	w/in 100 miles	30,000 TPY
American Biosoils & Compost, LLC - Easton	Easton, PA	Composting - Aerated static pile (ASP)	w/in 100 miles	8,000 TPY
McEnroe Organic Farm	Millerton, NY	Composting - Turned windrows	w/in 100 miles	20,000 TPY
American Biosoils & Compost, LLC - Douglassville	Douglassville, PA	Composting - Aerated static pile (ASP)	w/in 100 miles	8,000 TPY
Quantum Biopower	Southington, CT	Anaerobic Digestion – High Solids (Wet) Composting - Turned windrows	w/in 100 miles	40,000 TPY
New England Compost	Danbury, CT	Composting - Aerated static pile (ASP)	w/in 100 miles	5,000 TPY
Greenway Topsoil	Clintondale, NY	Composting - Turned windrows Composting - Aerated static pile (ASP)	w/in 100 miles	5,000 TPY
Town of New Paltz Compost Facility	New Paltz, NY	Composting - Passive piles	w/in 100 miles	1,350 TPY
Gromax Organic Recycling	Hudson, NY	Composting - Aerated static pile (ASP)	w/in 100 miles	500 TPY
Pine Island Farms	Sheffield, MA	Anaerobic Digestion – High Solids (Wet) Anaerobic Digestion – Low Solids	Has arrangement with NYC Transfer Station	36,500 TPY
Cayuga Digester	Auburn, NY	Anaerobic Digestion	Has arrangement with NYC Transfer Station	50,000 TPY**
Natural Soil Products	Tremont, PA	Composting - Turned windrows (regular turning and management)	Has arrangement with NYC Transfer Station	93,900 TPY
WeCare Environmental - Marlborough Compost Facility	Marlborough, MA	Composting - in-vessel / bioreactor	Has arrangement with NYC Transfer Station	54,000 TPY
<b>Totals</b>				<b>589,050-655,050 TPY</b>

### Notes & Findings

\*WM's Varick Street TS, which sends source-separated organics (SSO) to the Newtown Creek facility, has the permitted capacity for 156,000 TPY of SSO but currently chooses to accept 90,000 TPY.

\*\*For the Cayuga Digester, this is the approximate tonnage capacity converted from gallons per year.

1. DSNY's analysis included site visits, phone calls, and emails to the above regional facilities.
2. DSNY outreach also included multiple discussions with operators that plan to open new facilities in the region.
3. Under LL146/2013's mandate, DSNY designated commercial establishments in 2015 and 2017; both designations are currently effective.
4. Since the 2015/2017 designations, DSNY has refined its estimate of the number of businesses covered by the first two designations, resulting in a reduction of over 100 in the estimated number of businesses covered by the prior designations.
5. NYC Transfer Stations, which receive a majority of the SSO from NYC commercial generators prior to its transfer to regional processing facilities, reported SSO tonnages in 2018 that were lower than the generation estimates forecasted by DSNY for the 2015 and 2017 designations. Accordingly, based on this data, DSNY has reduced the estimated tonnages of organics generated by commercial establishments.
6. Several transfer stations notified DSNY in April 2019 per LL152/2018 of their intention to dedicate some of their permitted capacity to SSO when LL152 becomes effective. Capacity to handle SSO at these transfer stations in NYC will increase.
7. As a result of outreach with regional processing facilities, DSNY estimates that the combined available capacity at facilities indicating that they would accept SSO from NYC commercial generators is 285,000 TPY, accounting for their estimates of commitments to other generators.
8. Existing capacity in the region is sufficient to support additional designations of cohorts.
9. **Some** organics processing facilities indicated that they plan to come in 2020. DSNY will continue to monitor progress.

## **Attachment 4A**

**LOCAL LAWS  
OF  
THE CITY OF NEW YORK  
FOR THE YEAR 2013**

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**No. 142**

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Introduced by Council Members Fidler, James, Gentile, Brewer, King, Koslowitz, Lander, Levin, Vann, Dromm, Ferreras, Gonzalez, Mendez, Richards, Rivera, Van Bramer, Chin, Nelson, Garodnick, Gennaro, Rodriguez, Koo, Vallone and Koppell (in conjunction with the Mayor).  
Passed under a Message of Necessity from the Mayor.

**A LOCAL LAW**

**To amend the administrative code of the city of New York, in relation to restrictions on the sale or use of certain expanded polystyrene items.**

*Be it enacted by the Council as follows:*

Section 1. The opening paragraph of subdivision a of section 16-324 of the administrative code of the city of New York, as amended by local law number 77 for the year 2013, is amended to read as follows:

a. Subject to the provisions of subdivision b of this section, any person who violates this chapter, except subdivision g of section 16-308 of this chapter [or], *section 16-310.1 of this chapter or section 16-329 of this chapter*, or any rule promulgated pursuant thereto, shall be liable for a civil penalty recoverable in a civil action brought in the name of the commissioner or in a proceeding returnable before the environmental control board, as follows:

§ 2. Subdivision d of section 16-324 of the administrative code of the city of New York, as amended by local law number 34 for the year 2010, is amended to read as follows:

d. Any notice of violation or notice of hearing for a violation issued to the owner, net lessee or person in charge of a premises *or to a food service establishment, mobile food commissary, store, or manufacturer, as those terms are defined in section 16-329 of this chapter*,

at which *or by whom* a violation of this chapter or any rule promulgated *pursuant* thereto is alleged to have occurred *or to have been committed* shall be served by delivering a copy of the notice thereof at the address maintained in the records of the department of housing preservation and development [or], the department of finance, *or the department of health and mental hygiene*. The notice of violation or notice of hearing may be served by regular mail or in accordance with section one thousand forty-nine-a of the charter *or, if such notice is served by an agency other than the department, in accordance with the rules of such agency*.

§ 3. Section 16-324 of the administrative code of the city of New York is amended by adding a new subdivision f to read as follows:

*f. Any person who violates section 16-329 of this chapter or any rule promulgated pursuant thereto shall be liable for a civil penalty recoverable in a civil action brought in the name of the commissioner, the commissioner of health and mental hygiene or the commissioner of consumer affairs, or in a proceeding before the environmental control board, the health tribunal at the office of administrative trials and hearings, or the administrative tribunal of the department of consumer affairs, in the amount of two hundred fifty dollars for the first violation, five hundred dollars for the second violation committed on a different day within a period of twelve months, and one thousand dollars for the third and each subsequent violation committed on different days within a period of twelve months, except that the department, the department of health and mental hygiene, and the department of consumer affairs shall not issue a notice of violation, but shall issue a warning and provide information on replacement material, for any violation that occurs before January first, two thousand sixteen.*

§ 4. Chapter 3 of title 16 of the administrative code of the city of New York is amended by adding a new subchapter nine to read as follows:



SUBCHAPTER 9

RESTRICTIONS ON THE SALE OR USE OF CERTAIN EXPANDED  
POLYSTYRENE ITEMS

§16-329 Restrictions on the sale or use of certain expanded polystyrene items. a.

*Definitions. When used in this section:*

*“Chain food service establishment” means five or more food service establishments located within the city that (1) conduct business under the same business name or (2) operate under common ownership or management or pursuant to a franchise agreement with the same franchisor.*

*“Chain store” means five or more stores located within the city that (1) conduct business under the same business name or (2) operate under common ownership or management or pursuant to a franchise agreement with the same franchisor.*

*“Economically feasible” means cost effective based on consideration of factors including, but not limited to, direct and avoided costs such as whether the material is capable of being collected by the department in the same truck as source separated metal, glass and plastic recyclable material, and shall include consideration of markets for recycled material.*

*“Environmentally effective” means not having negative environmental consequences including, but not limited to, having the capability to be recycled into new and marketable products without a significant amount of material accepted for recycling being delivered to landfills or incinerators.*

*“Expanded polystyrene” means blown polystyrene and expanded and extruded foams that are thermoplastic petrochemical materials utilizing a styrene monomer and processed by any number of techniques including, but not limited to, fusion of polymer spheres (expandable*

*bead foam), injection molding, foam molding, and extrusion-blown molding (extruded foam polystyrene). Such term shall not include rigid polystyrene.*

*“Food service establishment” means a premises or part of a premises where food is provided directly to the consumer whether such food is provided free of charge or sold, and whether consumption occurs on or off the premises or is provided from a pushcart, stand or vehicle. Food service establishment shall include, but not be limited to, full-service restaurants, fast food restaurants, cafes, delicatessens, coffee shops, grocery stores, vending trucks or carts and cafeterias.*

*“Manufacturer” means every person, firm or corporation that:*

- 1. produces expanded polystyrene or polystyrene loose fill packaging that is sold or distributed in the city; or*
- 2. imports expanded polystyrene or polystyrene loose fill packaging that is sold or distributed in the city.*

*“Mobile food commissary” means any facility that:*

- 1. disposes of solid waste generated by the operation of a food service establishment that is located in or is a pushcart, stand or vehicle; or*
- 2. supplies potable water and food, whether pre-packaged or prepared at the mobile food commissary, and supplies non-food items.*

*“Polystyrene loose fill packaging,” commonly known as packing peanuts, means a void-filling packaging product made of expanded polystyrene that is used as a packaging fill.*

*“Safe for employees” means that, among other factors, the collection and sorting of any source separated material does not pose a greater risk to the health and safety of persons*

*involved in such collection and sorting than the risk associated with the collection and sorting of any other source separated recyclable material in the metal, glass and plastic recycling stream.*

*“Single service articles” means cups, containers, lids, closures, trays, plates, knives, spoons, stoppers, paddles, straws, place mats, napkins, doilies, wrapping materials, toothpicks and all similar articles that are intended by the manufacturer to be used once for eating or drinking or that are generally recognized by the public as items to be discarded after one use.*

*“Store” means a retail or wholesale establishment other than a food service establishment.*

*b. No later than January first, two thousand fifteen, the commissioner shall determine, after consulting with the department’s designated recycling contractor for metal, glass and plastic materials, manufacturers and recyclers of expanded polystyrene, and, in the commissioner’s discretion, any other person or group having expertise on expanded polystyrene, whether expanded polystyrene single service articles can be recycled at the designated recycling processing facility at the South Brooklyn Marine Terminal in a manner that is environmentally effective, economically feasible, and safe for employees. At such time, the commissioner shall report to the mayor and the council on such determination. If the commissioner determines that expanded polystyrene single service articles can be recycled in such manner, the commissioner shall adopt and implement rules designating expanded polystyrene single service articles and, as appropriate, other expanded polystyrene products, as a recyclable material and require the source separation of such expanded polystyrene for department-managed recycling.*

*c. If expanded polystyrene single service articles are not designated as a recyclable material pursuant to subdivision b of this section, then, on and after July first, two thousand fifteen, no food service establishment, mobile food commissary, or store shall possess, sell, or offer*

*for use single service articles that consist of expanded polystyrene including, but not limited to, providing food in single service articles that consist of expanded polystyrene. This subdivision shall not apply to (1) expanded polystyrene containers used for prepackaged food that have been filled and sealed prior to receipt by the food service establishment, mobile food commissary, or store or (2) expanded polystyrene containers used to store raw meat, pork, fish, seafood or poultry sold from a butcher case or similar retail appliance.*

*d. If expanded polystyrene single service articles are not designated as a recyclable material pursuant to subdivision b of this section, then, on and after July first, two thousand fifteen, no manufacturer or store shall sell or offer for sale polystyrene loose fill packaging in the city.*

*e. Any not-for-profit corporation, regardless of its income, and any food service establishment, mobile food commissary, or store that had a gross income under five hundred thousand dollars per location on their annual income tax filing for the most recent tax year and is not part of a chain food service establishment or a chain store may request from the commissioner of small business services, in a manner and form established by such commissioner, a financial hardship waiver of the requirements of this section. Such waiver request may apply to one or more single service articles possessed, sold, or offered for use by any such not-for-profit corporation, food service establishment, mobile food commissary, or store. The commissioner of small business services shall, after consultation with the commissioner, grant such waiver if such not-for-profit corporation, food service establishment, mobile food commissary, or store proves: (1) that there is no comparable alternative product not composed of expanded polystyrene that would cost the same as or less than the single service article composed of expanded polystyrene, and (2) that the purchase or use of an alternative product not composed of expanded polystyrene*

would create an undue financial hardship. Such financial hardship waiver shall be valid for twelve months and shall be renewable upon application to the commissioner of small business services. A pending application for such financial hardship waiver shall be a defense to any notice of violation issued pursuant to this section to which such pending application relates and such notice of violation shall be dismissed.

f. On and after January first, two thousand fifteen, the department shall provide outreach and education as follows:

(1) if expanded polystyrene single service articles are not designated as a recyclable material pursuant to subdivision b of this section, the department, in consultation with the department of health and mental hygiene and the department of consumer affairs, shall conduct outreach and education to food service establishments, mobile food commissaries, and stores to inform them of the provisions of this section and provide assistance with identifying replacement material, and such outreach and education shall be offered in multiple languages; and

(2) if expanded polystyrene single service articles are designated as a recyclable material pursuant to subdivision b of this section, the department shall provide instruction and materials for residential building owners, net lessees or persons in charge of such buildings, and their employees and residents, for the purpose of improving compliance with such new recycling designation.

g. The department, the department of health and mental hygiene and the department of consumer affairs shall have the authority to enforce the provisions of this section.

§ 5. This local law shall take effect immediately.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, s.s.:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council on December 19, 2013 and approved by the Mayor on December 30, 2013.

MICHAEL M. McSWEENEY, City Clerk, Clerk of the Council

CERTIFICATION OF CORPORATION COUNSEL

I hereby certify that the form of the enclosed local law (Local Law No. 142 of 2013, Council Int. No. 1060-A of 2013) to be filed with the Secretary of State contains the correct text of the local law passed by the New York City Council and approved by the Mayor.

JEFFREY D. FRIEDLANDER, Acting Corporation Counsel.

**NEW YORK CITY DEPARTMENT OF SANITATION**  
**NOTICE OF ADOPTION OF FINAL RULE RELATING**  
**TO THE PENALITIES FOR LITTERING OFFENSES**

**NOTICE IS HEREBY GIVEN** in accordance with the requirements of Section 1043 of the New York City Charter and pursuant to the authority vested in the Commissioner of the Department of Sanitation by sections 753 and 1043(a) of the New York City Charter and section 16-118 of the New York City Administrative Code that the Department adopts the following rule relating to the penalties for littering offenses. The Department published a Notice of Opportunity to Comment on the proposed rules in the *City Record* on March 10, 2017. On April 19, 2017 the Department held a public hearing on the proposed rule.

**Statement of Basis and Purpose of Rule**

The New York City Department of Sanitation (“DSNY”) is creating a new chapter that will include certain provisions of its existing penalty schedule, which is currently found in Title 48 of the Rules of the City of New York, by moving those provisions into Title 16 of the Rules of the City of New York. DSNY also is establishing penalties for repeat violations of certain provisions as described in Local Law 75 of 2016.

Currently the penalties for violations of §16-118 of the New York City Administrative Code (“Administrative Code”) that pertain to certain types of littering infractions are found in 48 RCNY § 3-122. The Office of Administrative Trials and Hearings, Environmental Control Board (“OATH ECB”), is in the process of repealing all penalty schedules in its rules so they can be relocated to the rules of the enforcement agencies with primary rulemaking and policymaking jurisdiction over the laws that underlie these penalties. In conjunction with this rule, OATH ECB will remove the penalties for violations of §16-118 that pertain to littering from its schedule.

In 2003, a civil penalty of \$100 was established for violations of subdivisions (2), (3), (4), (6) and (7) of §16-118. Additionally in 2003, penalties for violations of subdivisions (3), (4) and (6) were set at \$250 for a second offense and \$350 for a third and subsequent offense within a 12 month period. Defaults for violations of these provisions are set at the maximum penalty that can be assessed. All penalties are within the monetary ranges specified in §16-118.

Local Law 75 was enacted as part of the Criminal Justice Reform Act, a package of bills passed by the City Council that aims to build stronger and safer neighborhoods by reducing arrests and incarceration. Local Law 75 of 2016 amended §16-118(1) to establish a new violation for spitting. In addition, Local Law 75 also establishes a specific penalty for violation of subdivision 6 of §16-118 by means of public urination. Local Law 75 imposes a fixed penalty of \$75 for first time violations of §16-118(1) and 16-118(6), and provides for a range of penalties for subsequent offenses of those provisions. The penalties for subsequent offenses of those provisions are fixed at the minimum amounts authorized by Local Law 75. Additionally, the default penalties for all violations found in §16-118(1) and for public urination under §16-118(6) have been set at 150 percent of the penalty imposed, not to exceed \$400.

Working with the City’s rulemaking agencies, the Law Department, OMB, and the Office of Operations conducted a retrospective rules review of the City’s existing rules, identifying those rules that will be repealed or modified to reduce regulatory burdens, increase equity, support

small businesses, and simplify and update content to help support public understanding and compliance. This rule meets the criteria for this initiative.

DSNY's authority for these rules is found in sections 753 and 1043 of the New York City Charter, and section 16-118 of the New York City Administrative Code.

New material is underlined.

[Deleted material is in brackets.]

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

Section 1. Title 16 of the Rules of the City of New York is amended by adding a new Chapter 19 to read as follows:

**Chapter 19**

**PENALTY SCHEDULE**

**§19-101 Definitions**

**Default penalty.** “Default penalty” shall mean the penalty imposed by the Office of Administrative Trials and Hearings acting pursuant to section 1049-a of the Charter of the City of New York in accordance with subparagraph (d) of paragraph one of subdivision d of section 1049-a of such Charter.

**§19-102 General**

(a) Unless otherwise indicated, all citations are to the New York City Administrative Code.

(b) Sections marked with an asterisk (\*) indicate that a repeat violation is:

(1) a violation by the same respondent of the same section of law; and

(2) a violation that occurred within 12 months of the dates of 12 or more violations issued to the same respondent; and

(3) a violation that occurred at the same place of occurrence as the previous 12 violations.

(c) Sections marked with two asterisks (\*\*) indicate that a second or third violation is:

(1) a violation by the same respondent of the same section of law as the previous violation(s); and



(2) \_\_\_\_\_ a violation that occurred within 12 months of the date of the last violation issued to the same respondent.

**§19-103 Sanitation Penalty Schedule**

<b><u>Section of Law</u></b>	<b><u>Description</u></b>	<b><u>Offense</u></b>	<b><u>Penalty</u></b>	<b><u>Default Penalty</u></b>
<u>16-118(1)(a)**</u>	<u>Littering</u>	<u>1st</u>	<u>75</u>	<u>112</u>
		<u>2nd</u>	<u>250</u>	<u>375</u>
		<u>3rd</u>	<u>350</u>	<u>400</u>
<u>16-118(1)(a)**</u>	<u>Sweep-out</u>	<u>1st</u>	<u>75</u>	<u>112</u>
		<u>2nd</u>	<u>250</u>	<u>375</u>
		<u>3rd</u>	<u>350</u>	<u>400</u>
<u>16-118(1)(a)**</u>	<u>Throw-out</u>	<u>1st</u>	<u>75</u>	<u>112</u>
		<u>2nd</u>	<u>250</u>	<u>375</u>
		<u>3rd</u>	<u>350</u>	<u>400</u>
<u>16-118(1)(b)**</u>	<u>Spitting</u>	<u>1st</u>	<u>75</u>	<u>112</u>
		<u>2nd</u>	<u>250</u>	<u>375</u>
		<u>3rd</u>	<u>350</u>	<u>400</u>
<u>16-118(2)(a) *</u>	<u>Dirty sidewalk</u>		<u>100</u>	<u>300</u>
<u>16-118(2)(a) *</u>	<u>Dirty Area</u>		<u>100</u>	<u>300</u>
<u>16-118(2)(a) *</u>	<u>Failure to Clean 18" Into Street</u>		<u>100</u>	<u>300</u>
<u>16-118(2)(a) *</u>	<u>Sidewalk obstruction</u>		<u>100</u>	<u>300</u>
<u>16-118(2)(b) *</u>	<u>Dirty Sidewalk (Vacant Lot) *</u>		<u>100</u>	<u>300</u>
<u>16-118(2)(b) *</u>	<u>Dirty Area (Vacant Lot) *</u>		<u>100</u>	<u>300</u>
<u>16-118(2)(b) *</u>	<u>Sidewalk Obstruction (Vacant Lot) *</u>		<u>100</u>	<u>300</u>
<u>16-118(2)(b) *</u>	<u>Failure to Clean 18" Into Street (Vacant Lot) *</u>		<u>100</u>	<u>300</u>
<u>16-118(2)*</u>	<u>Repeat Violation</u>		<u>250</u>	<u>300</u>
<u>16-118(3) **</u>	<u>Dust or substances flying</u>	<u>1st</u>	<u>100</u>	<u>450</u>
		<u>2nd</u>	<u>250</u>	<u>450</u>
		<u>3rd</u>	<u>350</u>	<u>450</u>
<u>16-118(4) **</u>	<u>Spilling from truck or receptacle</u>	<u>1st</u>	<u>100</u>	<u>450</u>
		<u>2nd</u>	<u>250</u>	<u>450</u>
		<u>3rd</u>	<u>350</u>	<u>450</u>
<u>16-118(6) **</u>	<u>Noxious liquids</u>	<u>1st</u>	<u>100</u>	<u>450</u>
		<u>2nd</u>	<u>250</u>	<u>450</u>
		<u>3rd</u>	<u>350</u>	<u>450</u>

<u>16-118(6)**</u>	<u>Public Urination</u>	<u>1st</u>	<u>75</u>	<u>112</u>
		<u>2nd</u>	<u>250</u>	<u>375</u>
		<u>3rd</u>	<u>350</u>	<u>400</u>
<u>16-118(7)</u>	<u>Preventing or otherwise interfering with work of DSNY employee</u>		<u>100</u>	<u>300</u>

## **New York City Department of Sanitation**

### **NOTICE OF ADOPTION OF FINAL RULES GOVERNING RECYCLING REQUIREMENTS FOR ENTITIES THAT RECEIVE PRIVATE CARTER COLLECTION**

**NOTICE IS HEREBY GIVEN** in accordance with the requirements of Section 1043 of the New York City Charter and pursuant to the authority vested in the Commissioner of the Department of Sanitation by sections 753 of the New York City Charter and section 16-306 of the New York City Administrative Code that the Department adopts the following rules governing recycling requirements for entities that receive private carter collection. The Department published a Notice of Opportunity to Comment on the proposed rules in the *City Record* on September 8, 2015. On October 22, 2015 the Department held a public hearing on the proposed rules.

#### **Statement of Basis and Purpose of Rule**

Businesses in New York City are required to recycle in accordance with the Department of Sanitation's commercial recycling rules promulgated pursuant to Local Law No. 87 of 1992, which amended §16-306 of the Administrative Code. Private carters, which collect and dispose of putrescible and non-putrescible waste from commercial waste generators, must recycle designated recyclable materials, including paper, cardboard, metal, glass and plastic.

These rules revise the City's current commercial recycling rules to simplify the requirements, and make them easier for businesses to understand. Currently, not all businesses are required to recycle the same materials. Eliminating the distinction and applying the same rules for all businesses will facilitate greater recycling participation and make recycling easier for the business community. In addition, allowing all designated recyclable materials including metal, glass, plastic, paper and cardboard to be placed in the same bag or bin by the business generator ("single stream recycling") and prohibiting private carters from placing any source separated recyclables material with refuse in the same compartment of a waste hauling truck, will help make commercial recycling easier and can significantly increase the diversion of recyclables.

These rules:

- Amend §1-01 by adding, amending and removing relevant definitions;
- Make technical amendments to §1-02 (collection service), §1-08 (residential recycling) and §1-09 (agency and institutional recycling);
- Designate a standard set of recyclable materials that all businesses that receive private-carter collection are required to recycle, including but not limited to, metal, glass, plastic, paper and cardboard, consistent with the requirements for New York City residents;
- Prohibit the commingling of any designated recyclable materials with solid waste;
- Allow private carters, in addition to separate pick-up of designated recyclable materials, to utilize single stream collection and recycling or the co-collection of recyclables;
- Require any generator of private carter collected waste to post a sign identifying: 1) its private carter(s); 2) by type, each designated recyclable material that will be collected by

each private carter, and; 3) if such private carter will be utilizing single stream collection and recycling or co-collection of recyclables;

- Provide implementation and notice requirements for owners, net lessees, or persons-in-charge who arrange for private carter collection, and set forth recycling requirements for their tenants and occupants;
- Set forth responsibilities of operators of non-putrescible and putrescible solid waste transfer stations; and
- Provide for the enforcement of such rules in accordance with the New York City Administrative Code.

DSNY's authority for these rules is found in sections 753 and 1043(a) of the New York City Charter and section 16-306 of the New York City Administrative Code.

New material is underlined.

[Deleted material is in brackets.]

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

Section 1. The definitions as set forth in section 1-01 of Title 16 of the Rules of the City of New York are amended, and new definitions are added, in alphabetical order, to read as follows:

#### §1-01 Definitions

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**Beverage [Cartons] cartons.** "Beverage cartons" means coated cardboard cartons or boxes, including milk and juice cartons or boxes, gable-top cartons and aseptic packages.

**Bulk [Metal] metal.** "Bulk metal" means metal items that are too heavy or large to lift or fit into recycling containers, including large metal appliances.

**Bulk [Plastic] plastic.** "Bulk plastic" means rigid plastic items that are too heavy or large to lift or fit into recycling containers.

**Bulk waste.** "Bulk waste" includes large glass, metal, rigid plastic, ceramic, porcelain and/or wood items, including, but not limited to, furniture such as chairs, tables and desks; household appliances such as refrigerators, freezers, stoves, washing machines, dishwashers; hot water tanks; and trash compactors; sinks; corrugated roofing; aluminum siding; storm window and door frames; sewer pipes; brass fittings; copper pipes and fittings; and scrap lumber.

**City agency or agency.** "City agency or agency" means all city mayoral and non-mayoral agencies. Excluded from the definition of city agency or agency are city-owned buildings, including residential units within buildings, that are leased to entities other than New York City governmental entities. A city-owned building, or part of a building, that is leased for residential purposes shall be covered by [§1-09 (recycling rules for residential buildings)] §1-08 (residential collection service of designated recyclable materials). A city-owned building, or part of a building, that is leased for non-residential purposes shall be covered by §1-10 (recycling of private-carter collected waste) [a yet to be numbered section of the Department rules governing recycling of private-carter collected waste] unless such building is leased to a facility or organization that qualifies as an institution as defined in this section.

**Co-collection of recyclables.** "Co-collection of recyclables" means a system in which designated recyclable metal, glass and plastic and designated recyclable paper that have been previously source separated and set out by a generator are collected at the same time and placed in a single compartment of a waste hauling truck. Such designated recyclable materials must be kept separate from solid waste and organic waste and delivered directly to a recycling processing facility that is designed to receive, separate and process for reuse or sale designated recyclable metal, glass and plastic, and designated recyclable paper, collected in a single compartment of a waste hauling truck. "Co-collection of recyclables" does not include any system in which designated recyclable metal, glass and plastic and designated recyclable paper that have been source separated and set out by a generator are collected at the same time but placed in separate compartments of the same waste hauling truck.

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**Commissioner.** "Commissioner" means the Commissioner of the Department or his/her representative.

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**Construction [waste] and demolition debris.** "Construction [waste] and demolition debris" means [construction waste shall include] non-putrescible waste materials resulting from building demolition, construction, alteration and excavation, including, but not limited to materials such as dirt, earth, plaster, concrete, rock, rubble, slag, ashes, tree stumps, roots and waste timber and lumber.

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**Department.** "Department" means the Department of Sanitation or its agents or contractors.

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

**Designated recyclable materials.** "Designated recyclable materials" are materials [means solid waste] that the Commissioner has designated as recyclable pursuant to §§16-305, 16-306, 16-306.1, 16-307, 16-308 and 16-314 of the [Administrative Code] administrative code of the [City] city of New York. The materials designated as recyclable under these sections may vary from section to section.

**Designated recyclable paper.** "Designated recyclable paper" includes: high grade office paper; newspaper; magazines; catalogs; phone books; corrugated cardboard; and mixed paper, as such term is defined in this section.

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**Film plastic.** (1) "Film plastic" means non-rigid plastic items composed of a sheet of plastic material used to wrap or cover other items, or used in packaging.

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

- (i) Carry-out grocery or shopping bags, sleeves for newspapers and circulars, dry cleaning bags, and garbage bags;
- (ii) Items used in packaging, such as plastic wrap, wrappers, bubble wrap, shrink or stretch wrap or other wrapping;

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

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

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

**[Food or beverage service establishment.** "Food or beverage service establishment" means any establishment that serves food or beverages that is required to be permitted pursuant to Articles 85, 87, 88, or 89 of the New York City Health Code, including but not limited to a delicatessen, caterer, cafeteria, or restaurant, or any beverage service establishment required to be licensed pursuant to section 100 of the New York State Alcoholic Beverage Control Law that sells beverages for on-premises consumption, including but not limited to a bar or tavern.]

**Generator of private carter-collected waste.** "Generator of private carter-collected waste" or "generator" means any owner, net lessee, lessee, agent or occupant of a premises that generates solid waste or recyclable materials that is collected by a private carter.

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**High grade office paper.** "High grade office paper" includes: white bond paper, including, but not limited to, typing paper, letterhead and copier paper; computer printout; and computer tab cards; and manila folders]. Carbon paper and envelopes are not included in the definition of high grade office paper.

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**Institution.** "Institution" includes non-profit organizations and other facilities or organizations[, except those described in subdivision c of this section,] receiving Department collection service or free dump privileges at Department solid waste disposal facilities. Excluded from the definition of institutions are college or university owned residential apartment buildings that are

located outside of the college's or university's campus. Such buildings shall be covered by recycling rules for residential buildings.

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**Metal items.** "Metal items" means items that are more than fifty percent metal, including, but not limited to, large metal appliances, such as stoves, ovens and dishwashers; small metal appliances, such as toasters and irons; metal utensils, pots and pans; wire hangers; metal cabinets; metal pencil sharpeners or staplers; metal furniture; window screens; metal lighting fixtures; metal tools; metal boxes, such as tool and mail boxes; nuts and bolts; lawn mowers; bicycles; and metal toys.

**Mixed [Paper] paper.** "Mixed paper" includes: junk mail, smooth cardboard, such as cereal and shoe boxes and cardboard tubes from paper towels; white and colored paper; manila folders; envelopes, including plastic window envelopes; paper bags; paper or cardboard cartons and trays, such as egg cartons and produce trays; and soft-cover books. Such term does not include plastic or wax coated paper; carbon paper, or hard-cover books.

**[Non-designated materials.** "Non-designated materials" means solid waste that the Commissioner has not designated as recyclable pursuant to §§16-304, 16-305, 16-306, 16-307 or 16-314 of the Administrative Code of the City of New York.]

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**[Post-collection separation.** "Post-collection separation" means the dividing of solid waste into some or all of its component parts after the point of collection.]

**Private carter.** "Private carter" means any person required to be licensed or permitted pursuant to [Subchapter eighteen of Chapter two of] Title [twenty] 16A of the [Administrative Code] administrative code of the [City] city of New York.

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**Recyclable materials.** "Recyclable materials" means [solid waste] materials that may be separated, collected, processed, marketed and returned to the economy in the form of raw



materials or products, including but not limited to, types of metal, glass, paper, rigid plastic, food waste, tires and yard waste.

**Recycled or recycling.** "Recycled" or "recycling" means any process by which recyclable materials are separated, collected, processed, marketed and returned to the economy in the form of raw materials or products.

**Recycler.** "Recycler" means any person who lawfully collects, accepts, or otherwise processes recyclable materials who is not required to be licensed or [permitted] registered pursuant to [Subchapter 18 of Chapter 2 of] Title [20] 16-A of the [New York City Administrative Code] administrative code of the city of New York.

**Recycling processing facility.** "Recycling Processing Facility" means a facility that is registered or permitted by the New York State of Department of Environmental Conservation and/or the department at which: 1) designated recyclables, other than organic waste, are delivered separately from solid waste; or, 2) source-separated designated recyclables, other than organic waste, are processed for the purpose of reuse or sale.

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**[Residential generator of private carter-collected waste.** "Residential generator of private carter-collected waste" means any owner, net lessee, lessee, agent or occupant of a premises, or portion of a premises, used for residential purposes that generates solid waste that is collected by a private carter.]

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

(2) Examples of rigid plastic items may include, but are not limited to: bottles, jars, jugs, fruit cups, pudding cups, yogurt cups, other dairy cups, dairy tubs, pails, "clamshell" or other take-out containers, boxes, bulk items, baskets, buckets, crates, beverage bottle carriers, flower or other gardening pots, toys, bulky housewares, small and large household appliances, furniture and decorations, single-use plates, cups, bowls, platters, and cutlery, trays that have sidewalls

designed to contain a product in the tray, lids, caps, handles and hinges, and any durable plastic packaging that holds a food, household product, or consumer product for sale, re-sale or reuse.

(3) Notwithstanding paragraph (1) of this definition, the term "rigid plastic" does not include the following:

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

(ii) Flexible plastic;

(iii) Film plastic;

(iv) Cigarette lighters and butane gas lighters;

(v) Cassette and VHS tapes;

(vi) Pens and markers;

(vii) Three-ring binders;

(viii) Umbrellas;

(ix) Garden hoses;

(x) Luggage;

(xi) Sponges; and

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

**Single stream collection and recycling.** "Single stream collection and recycling" means a system in which designated recyclable metal, glass and plastic, and designated recyclable paper, are placed in the same bags or bins by the generator. Such bags and/or the contents of such bins are placed into one waste hauling truck, separate from solid waste and organic waste, and are delivered directly to a recycling processing facility. Such recycling processing facility must be designed to receive, separate and process for reuse or sale commingled loads of designated recyclable metal, glass and plastic, and designated recyclable paper.

**Solid waste.** "Solid waste" means all putrescible and non- putrescible materials or substances, except as described in paragraph [(2)] (3) of this [subsection] definition, that are discarded or rejected, as being spent, useless, worthless or in excess to the owners at the time of such discard or rejection, including but not limited to garbage, refuse, [waste collected by any person required to be licensed or permitted pursuant to Subchapter eighteen of Chapter two of Title

twenty of the Administrative Code of the city of New York,] industrial and commercial waste, rubbish, tires, ashes, contained gaseous material, incinerator residue, construction and demolition debris that is not designated as recyclable pursuant to this chapter, discarded automobiles and offal. [Such term shall include recyclable materials, as defined in §1-101 of chapter one of title sixteen.]

(1) A material is discarded [or rejected if it is] if it is abandoned by being:

[(i) spent, useless, worthless or in excess to the owners at the time of such discard or rejection;

(ii)] (i) disposed of;

[(iii)] (ii) burned or incinerated, including material being burned as a fuel for the purpose of recovering useable energy; or

[(iv)] (iii) accumulated, stored or physically, chemically or biologically treated (other than burned or incinerated) instead of or before being disposed of.

(2) A material is disposed of if it is discharged, deposited, injected, dumped, spilled, leaked, or placed into or on any land or water so that such material or any constituent thereof may enter the environment or be emitted into the air or discharged into groundwater or surface water.

(3) The following are not solid waste for the purpose of this [subsection] definition:

(i) domestic sewage;

(ii) any mixture of domestic sewage and other waste that passes through a sewer system to a publicly owned treatment works for treatment, except [any material that is introduced into such system in order to avoid the provisions of the Title 16 of the [Administrative Code] administrative code of the [City] city of New York, or of state regulations promulgated to regulate solid waste management facilities] (A) any material that is introduced into such system in order to avoid the

provisions of this chapter or the state regulations promulgated to regulate solid waste management facilities pursuant to part 360 of title 6 of the New York Code, Rules and Regulations or (B) food waste;

(iii) industrial wastewater discharges that are actual point source discharges subject to permits under article 17 of the New York state environmental conservation law; [provided that] industrial wastewaters while they are being collected, stored or treated before discharge and sludges that are generated by industrial wastewater treatment are solid wastes;

(iv) irrigation return flows;

(v) radioactive materials that are source, special nuclear, or by-product material under the federal Atomic Energy Act of 1954, as amended, 42 U.S.C. S 2011, et seq.;

(vi) materials subject to in-situ mining techniques which are not removed from the ground as part of the extraction process;

(vii) hazardous waste as defined in section 27-0901 of the New York state environmental conservation law[, including material containing hazardous waste]; and

(viii) regulated medical waste [as defined in title 15 of article 27 of the New York State environmental conservation law, in title 13 of article 13 of the New York State public health law, or in §16-120.1 of the [Administrative Code] administrative code of the [City] city of New York or any rules and regulations promulgated pursuant to such provisions of law] or other medical waste as described in section 16-120.1 of the administrative code of the city of New York. Nothing in this provision shall omit the requirement to be licensed or registered pursuant to Title 16A of the administrative code of the city of New York.

**Source [Separation] separation.** "Source [Separation] separation" means [the dividing of solid waste into some or all of its component parts] the separation of designated recyclable materials from each other or the separation of designated recyclable materials from solid waste at the point of generation.

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**Yard waste.** "Yard waste" means leaves, grass clippings, garden debris, and vegetative residue that is recognizable as part of a plant or vegetable, small or chipped branches, and similar material.

§2. Subdivision (e) of Section 1-02 of Title 16 of the Rules of the City of New York is amended to read as follows:

(e) Upon the request of any authorized representative of the New York City Department of Housing Preservation and Development, the Commissioner may, in his/her absolute discretion, authorize the collection of construction [waste] and demolition debris, originating from any premise or structure owned or managed by the City of New York, the rehabilitation of which is administered by the New York City Department of Housing Preservation and Development or its contractor.

§3. Paragraphs (4) and (5) of subdivision (h) of Section 1-08 of Title 16 of the Rules of the City of New York is amended to read as follows:

(4) [Non-designated material.] Materials that are not required to be source separated for recycling shall be removed from both curbside and mechanized collection recycling containers and bags prior to recycling collection day.

(5) *Designated recyclable materials.* Designated recyclable materials that have been source separated as required by subdivision (g) of this section shall not be placed out for collection in the same container as [non-designated material] solid waste or organic waste.

§4. Subdivisions (a), (b) and (c) of Section 1-09 of Title 16 of the Rules of the City of New York are amended to read as follows:

(a) *Agency/Institution facility:* For purposes of this section, unless the context clearly indicates otherwise, a "facility within an agency/institution" or a "facility" shall mean a unit, or part of a unit, within an agency/institution that is located in one building or several buildings that operate as an integrated whole.

(b) *Designated recyclable materials.* Pursuant to §16-307 of the [New York City Administrative Code] administrative code of the city of New York, the following materials are designated as recyclable materials: metal cans, metal items, aluminum foil, aluminum foil products, metal components of bulk waste, bulk metal, containers made of glass [containers], beverage cartons,[ and] rigid plastics and bulk plastic (collectively referred to as designated recyclable metal, glass and plastic); and newspaper, magazines, corrugated cardboard, high grade office paper, catalogs, phone books, and mixed paper (collectively referred to as designated recyclable paper) [and bulk waste. The requirement that a specific designated recyclable material be source separated or separated post-collection shall be scheduled as required by subdivision (e) of this section. Implementation schedules for specific designated recyclable materials may vary pursuant to the provisions of subdivision (e).]

(c) *Designation of additional materials.* The Commissioner may require that a facility within an agency/institution source separate, [or separate post-collection,] an additional material for recycling if it is determined by the Commissioner, in consultation with the facility, that the facility generates a [non-designated] recyclable material that has not been designated pursuant to §16-307 of the administrative code of the city of New York in a sufficient quantity to make collection

for recycling reasonably practicable. Thereafter, such additional recyclable[ material] materials shall be considered [a] designated recyclable [material] materials for that facility and shall be subject to the requirements of this section.

§5. Paragraph (4) and the final, undesignated paragraph of subdivision (d) of Section 1-09 of Title 16 of the Rules of the City of New York is amended to read as follows:

(4) the number of employees at each facility, identified as either full-time or part-time employees, and in addition: for schools, the number of students; for jails, the number of inmates; for hospitals, the number of patients; and for shelters, the number of temporary residents, at each facility.

In lieu of submitting information specified in paragraph (4), agencies/institutions may, with Department approval, develop and submit other criteria for estimating the amount of waste generated at a facility. For facilities within agencies/institutions that receive Department collection service, implementation plans shall include, in addition to paragraphs (1), (2), (3) and (4) of this subdivision, the location of the central collection area or areas required in subparagraph (g)(2)(i). For facilities within agencies/institutions that receive private carter service, implementation plans shall include, in addition to paragraphs (1), (2), (3) and (4) of this subdivision, the name of the private carter or private carters, [and whether designated recyclable materials will be source separated or separated post-collection] and must identify, by type, each designated recyclable material that will be collected by each private carter, and if applicable, whether the private carter will be utilizing single stream collection and recycling or co-collection of recyclables. Each agency/institution shall appoint an agency/institution recycling coordinator who shall be responsible for overseeing the establishment and operation of the agency's/institution's recycling program. Each agency/institution shall submit one plan to the Department for approval within three months of the effective date of this section and shall update such plan within a reasonable time if there are any significant changes, including changes in the information required to be supplied under paragraphs (3) and (4) of this subdivision.

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

(1) Recycling programs in facilities in agencies/institutions that receive private carter collection service shall provide for source separation [or post-collection separation of designated recyclable materials from non-designated materials, unless the private carter receives free dump privileges at Department solid waste disposal facilities, in which case recycling programs shall provide for source separation] of designated recyclable [material] materials from [non-designated material] solid waste and organic waste, if applicable.

§7. Paragraph (1) of subdivision (j) of Section 1-09 of Title 16 of the Rules of the City of New York is amended to read as follows:

(1) Recycling programs in facilities within institutions that provide their own collection service and receive free dump privileges at Department solid waste disposal facilities shall provide for source separation of designated recyclable materials from [non-designated materials] solid waste and organic waste, if applicable.

§8. Section 1-10 of Chapter 1 of Title 16 of the Rules of the City of New York, relating to the recycling of private carter collected waste, is REPEALED and a new section 1-10 is added, to read as follows:

**§1-10 Recycling of Private Carter-collected Waste.**

**(a) Designated recyclable materials.**

(1) Pursuant to §16-306 of the administrative code of the city of New York, the following materials are designated as recyclable materials for purposes of this section:

(i) metal cans, metal items, aluminum foil, aluminum foil products, metal components of bulk waste, bulk metal, containers made of glass, beverage cartons, rigid plastics and bulk plastic (collectively referred to as designated recyclable metal, glass and plastic);

(ii) high grade office paper, newspaper, magazines, catalogs, phone books, mixed paper and corrugated cardboard (collectively referred to as designated recyclable paper);

(iii) textiles generated by establishments whose solid waste during any monthly period is comprised of at least 10% textiles;

(iv) yard waste generated by establishments whose solid waste during any monthly period is comprised of at least 10% yard waste;

(v) construction and demolition waste generated by entities that exclusively engage in an activity that generates construction waste during the ordinary course of business, except that such construction waste shall exclude plaster, wall coverings, drywall, roofing shingles and glass window panes; and

(vi) organic waste, if designated as a recyclable material pursuant to section 16-306.1 of the administrative code of the City of New York;

(2) Notwithstanding paragraph (1) of this subdivision, if there exists any amount of paint, solvents, or hazardous substances contained in a designated recyclable container, such container must not be deemed a designated recyclable material. Instead, such containers must be disposed of in accordance with applicable local, state or federal law.

**(b) General source separation, set-out and collection requirements for private carter-collected waste.**

(1) Generators of private carter-collected waste must source separate the materials designated in subdivision (a) as follows:

(i) Designated recyclable paper must be tied and bundled securely, or placed out separately for collection in transparent or translucent bags, or labeled bins;

(ii) Designated recyclable metal, glass, and plastic must be placed out together, for collection in transparent or translucent bags or labeled bins, provided that bulk metal and bulk plastic items that do not fit in transparent or translucent bags or labeled bins may be placed out separately;

(iii) Yard waste must be placed out separately for collection from all other designated recyclable materials and solid waste, and must be disposed of in accordance with section 16-308 of the administrative code of the City of New York;



(iv) Textiles must be placed out separately for collection from all other designated recyclable materials, solid waste and organic waste; and

(v) Construction and demolition debris must be placed out separately for collection from all other designated recyclable materials, solid waste and organic waste.

(2) Designated recyclable metal, glass and plastic, which may be commingled together, must not be placed in the same bags with designated recyclable paper. The provisions of this paragraph will not apply if such materials are collected pursuant to single stream collection and recycling as allowed by paragraph (3) of subdivision (c) of this section.

(3) Any materials that have special collection requirements pursuant to applicable local, state or federal law must be disposed of accordingly, and must not be commingled with solid waste, designated recyclable materials or organic waste.

**(c) Commingling of solid waste with designated recyclable materials.**

(1) The commingling of any designated recyclable materials with solid waste is prohibited.

(2) The commingling of organic waste that has been designated pursuant to section 16-306.1 of the administrative code of the City of New York, with solid waste or other designated recyclable materials is prohibited.

(3) Notwithstanding the source separation provisions of subdivision (b) of this section, a generator of private-carter collected waste may commingle designated metal, glass, and plastic with designated recyclable paper if:

(i) his or her private carter has furnished information to the business integrity commission of its ability to use either single stream collection and recycling, or co-collection of recyclables; or

(ii) a generator obtains a registration from the business integrity commission pursuant to paragraph (b) of section 16-505 of the administrative code of the city of New York, to transport its own designated recyclable materials to a central holding location under the control of the

generator, from which such designated recyclable materials will be collected by a private carter, who has furnished information to the business integrity commission of its ability to use either single stream collection and recycling, or co-collection of recyclables, or delivered by the generator directly to a recycler.

**(d) Generator requirements.** (1) All generators of private carter-collected waste must ensure that the separation of materials as set forth in subdivisions (b) and (c) of this section is maintained prior to the collection of such materials by a private carter or recycler. However, such requirements do not apply if single stream collection and recycling is used by a private carter or recycler pursuant to paragraph (3) of subdivision (c) of this section. All generators of private carter-collected waste must ensure that designated recyclable materials as set forth in subdivision (a) of this section are kept separate from solid waste and organic waste, if designated pursuant to section 16-306.1 of the administrative code of the city of New York.

(2) As required by section 16-116 of the administrative code of the city of New York, generators must post a sign identifying each private carter approved to provide collection and/or recycling services for such generators. Such sign must use lettering of a conspicuous size and be prominently displayed by attaching it to a window near the principal or service entrance of the generator's premises so as to be easily visible from outside such premises. Such sign must also identify, by type, each designated recyclable material that will be collected by each private carter and, if applicable, whether the private carter will be using single stream collection and recycling or co-collection of recyclables.

**(e) Implementation and notice requirements.**

(1) Owners, net lessees or persons-in-charge of a premises who arrange for the collection of solid waste. The owner, net lessee or person-in-charge of a premises who arranges for the collection by a private carter or recycler of solid waste or designated recyclable materials generated by such premises must:

(i) arrange with a private carter or recycler for the recycling, reuse or sale for reuse of designated recyclable 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. This provision will not apply if an establishment obtains a registration issued by the business integrity commission pursuant to subdivision b of section 16-505 of the administrative code of the city of New York.

(ii) Notify his or her tenants, occupants, and/or employees, at least annually, in writing, of applicable source separation requirements, including what materials are required to be source separated and how to source separate such materials. A copy of such notification shall be submitted to the Department upon request within five business days of such request either by postal mail or electronic mail to the Department.

(iii) Post and maintain one or more signs in maintenance areas where refuse and recycling are collected and/or stored, which describe what materials are required to be source separated and collection procedures for such materials; and

(iv) Post and maintain one or more such signs in public areas where designated recyclable materials that are required to be source separated are routinely generated, provide containers for, or otherwise provide for the separate collection of, such materials.

(2) *Tenants or occupants.* Tenants or occupants of premises that generate private carter-collected waste must, at a minimum:

(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;

(ii) notify their employees, customers, clients, or others lawfully on the premises of applicable source separation requirements by posting and maintaining one or more signs that set forth what materials are required to be source separated and how to source separate such materials.

(3) Any sign posted pursuant to this paragraph must be posted in a common area or areas routinely visited by such employees, customers, clients, and/or others lawfully on the premises.

(4) Containers for the collection of designated recyclable materials to be used by customers, clients, or others lawfully on the premises must be labeled to indicate what materials may be properly placed therein.

(5) Nothing in this subdivision will preclude a tenant or occupant from instituting his or her own source separation program in accordance with the provisions of subdivision (c) or (d) of this section.

**(f) Responsibilities of operators of non-putrescible and putrescible solid waste transfer stations.** Operators of non-putrescible and putrescible solid waste transfer stations must:

(1) remove any translucent plastic bags containing source separated designated recyclable metal, glass and plastic that are intended for recycling, reuse, or sale for reuse, or transfer to a recycling processing facility; and

(2) maintain any separated designated recyclable paper materials apart from all other solid waste and other designated recyclable materials before their transfer to another location.

**(g) Enforcement and compliance.** (1) The Commissioner reserves the right to conduct lawful inspections at reasonable times to ensure compliance with this section. Such inspections may include, but need not be limited to:

(i) inspections of solid waste and/or designated recyclable materials placed out for collection by a generator to determine whether such materials have been placed out for collection in accordance with subdivisions (b), (c) and (d) of this section;

(ii) inspections of solid waste brought to Department solid waste disposal facilities;

(iii) inspections of non-putrescible and putrescible solid waste transfer stations; and

(iv) inspections of any other facilities required to be registered or licensed by the department.

(2) Any person who violates any provision of this section will be liable for civil penalties as provided for under section 16-324 of the administrative code of the city of New York. Section 16-324 provides for a civil penalty in the amount of \$100 for the first violation, \$200 for the second violation committed on a different day within a period of twelve months, and \$400 for the third and each subsequent violation committed on a different day within a period of twelve months. Any person who receives four or more violations that were committed on different days within a period of six months shall be classified as a persistent violator and would be subject to the additional penalties as set forth in section 16-324 of the administrative code of the city of New York. In addition, operators of non-putrescible or putrescible solid waste transfer stations will be liable for civil penalties as provided for in section 16-133(a)(2) of the administrative code of the city of New York and rules promulgated thereunder. Section 16-133(a)(2) provides for a civil penalty in the amount of \$2,500 to \$10,000 for the first violation, \$5,000 to \$10,000 for the second violation committed within a three year period, and \$10,000 for a third and each subsequent violation committed within a three year period.

**(h) Severability.** The provisions of these Rules shall be severable and if any word, phrase, clause, sentence, paragraph, subsection or section of these Rules, or the applicability thereof to any person or circumstance, shall be held invalid, the remainder of these Rules and the application thereof shall not be affected thereby.

§9. This rule shall take effect on August 1, 2016 and the Department shall not issue any violations pursuant to this rule until August 1, 2017, provided however, section 1 shall take effect thirty days after the final rule is published in the City Record.



**THE CITY OF NEW YORK  
DEPARTMENT OF SANITATION**

**NOTICE OF ADOPTION OF FINAL RULES GOVERNING THE MAXIMUM SIZE OF  
CONTAINERS THAT ARE SET OUT FOR COLLECTION BY DSNY.**

**NOTICE IS HEREBY GIVEN** in accordance with the requirements of Section 1043 of the New York City Charter and pursuant to the authority vested in the Commissioner of the Department of Sanitation by sections 753 and 1043(a) of the New York City Charter and section 16-120 of the New York City Administrative Code that the Department adopts the following rule governing the time for placing solid waste for collection. The Department published a Notice of Opportunity to Comment on the proposed rules in the *City Record* on February 15, 2017. On March 21, 2017 the Department held a public hearing on the proposed rules.

### **Statement of Basis and Purpose**

The Department of Sanitation is issuing a rule that limits the size of receptacles containing solid waste that are set out for collection by the Department. Specifically, this rule limits the maximum size of such receptacles to fifty-five gallons. This rule will ensure that receptacles are of an acceptable size for the Department's sanitation workers to safely handle in the course of their collection duties. Violators will be subject to a fine for using an improper receptacle as set forth in Section 16-120 of the Administrative Code. The fine for a first violation will be \$100. The fine for a second violation in a twelve month period will be \$100. The fine for a third and any subsequent violations in a twelve month period will be \$200.

DSNY's authority for these rules is found in section 753 of the New York City Charter.

New material is underlined.

[Deleted material is in brackets.]

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

The title and subdivision (a) of section 1-02.1 of title 16 of the rules of the city of New York is amended to read as follows:

§ 1-02.1. [Placement of] Requirements for Receptacles and Bags Containing Solid Waste and Recyclables for Collection.

(a) Occupants of residential buildings, public buildings, and special use buildings, except commercial occupants of residential buildings where Department collection service is not otherwise authorized by section 1-03 of this chapter, shall not place receptacles or bags containing solid waste or recyclables out at the curb for collection by the Department earlier than 4:00 p.m. on the day before scheduled collection. Receptacles containing solid waste that are set out at the curb for collection by the Department must not exceed fifty-five gallons in size.





# **Determination on the Recyclability of Food-Service Foam**

**Pursuant to Local Law 142 of 2013**

Submitted to:

Mayor Bill de Blasio

Council Speaker Melissa Mark-Viverito

Antonio Reynoso, Chair, Council Committee on Sanitation and  
Solid Waste Management

By:

Commissioner Kathryn Garcia, NYC Department of Sanitation

**May 12, 2017**

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## **A. EXECUTIVE SUMMARY**

As described herein and summarized below and pursuant to Local Law 142 of 2013, the New York City Department of Sanitation (“DSNY” or “the Department”) determines that Food-Service Foam or post-consumer Food-Service Foam **cannot be recycled** in a manner that is economically feasible or environmentally effective for New York City.

As a result of this determination, on and after November 13, 2017, no food service establishment, mobile food commissary, or store shall possess, sell, or offer for use single-service articles that consist of expanded polystyrene (“Food-Service Foam”), unless otherwise exempt under Local Law 142. In addition, no manufacturer or store shall sell or offer for sale polystyrene loose fill packaging (“Foam Packing Peanuts”). In accordance with Local Law 142, DSNY will provide public education and outreach to food service establishments, mobile food commissaries, and stores to inform them of the provisions of this section and provide assistance with identifying replacement material and no violations will be issued under this Law until May 14, 2018.

To make this determination, the Department has consulted with and requested information from the City’s metal, glass, and plastic recycling contractor Sims Municipal Recycling (“Sims”); manufacturers and purported recyclers of expanded polystyrene; plastics industry and recycling market experts; other municipalities and their recycling contractors; and other stakeholders with expertise on expanded polystyrene, as required by Local Law 142.

### **Key Findings:**

For 30 years, attempts to recycle Food-Service Foam—both subsidized and non-subsidized attempts—have failed at each step of the recycling process. The municipalities and programs that DSNY researched tell a very clear story: Food-Service Foam is not capable of being recycled in an environmentally effective or an economically feasible manner.

The municipalities found that Food-Service Foam compacts in collection trucks, breaks into bits, and becomes covered in food residue, making it worthless when it arrives at the material recovery facility (“MRF”). It then blows throughout the MRF, is missed by manual sorters, mistakenly moves with the paper material and contaminates other valuable recycling streams, namely paper, which can be the most consistently valuable commodity in a recycling program. Food-Service Foam is too costly to clean and process compared to virgin material. If some is sorted successfully, the light-weight foam must be stored for months, waiting for enough material to economically ship.

If any Food-Service Foam makes it over these hurdles, the process grinds to a stop due to the struggle to find a buyer. With no buyer, municipalities get stuck with the material and ultimately send the remaining amount of Food-Service Foam that was not already landfilled after the compacting or sorting phases to a landfill.

This has been the experience of the large municipalities contacted by DSNY—the same municipalities that Dart suggested DSNY research—and several other small and large

municipalities that also attempted to recycle Food-Service Foam. After designating Food-Service Foam, numerous municipalities end up disposing of the material at each step in the recycling process. There is no basis to expect that New York City’s experience will be any different.

*i. Food-Service Foam is Being Landfilled by Jurisdictions Collecting It*

DSNY’s research and interviews with jurisdictions that collect foam as part of their residential commingled recycling collection lead to one conclusion—Food-Service Foam is being landfilled at high costs. Food-Service Foam is crushed in commingled collections, cannot be properly sorted, and moves with other products through the MRF. The small amount of foam that is sorted properly is often stockpiled awaiting non-existent buyers and ultimately sent to landfill. Numerous municipalities end up sending Food-Service Foam collected in commingled recycling to a landfill at every step of the process.

*ii. No Markets Exist for Recycled Food-Service Foam, Failing Tests for Economic Feasibility and Environmental Effectiveness*

In interviews with other jurisdictions and numerous expert reports, it is clear that Food-Service Foam is not being purchased from MRFs by reclaimers and no markets exist. Businesses that do purchase foam are only interested in purchasing industrial discards or clean post-consumer Foam Packing Materials, and even then on a very limited basis.

*iii. Processing Food-Service Foam is Not Cost Effective*

Due to high costs, attempts to recycle Food-Service Foam are not economically feasible. Past industry-subsidized programs have failed, leaving municipalities to dispose of collected foam in a costly manner. And Los Angeles abandoned its past attempts to clean, process, and convert Food-Service Foam into a new marketable product because it was twice the cost of using virgin material.

*iv. Food-Service Foam Contaminates Valuable Recycling Streams*

Research and discussions with municipalities and MRFs echoed the findings of a study supported by major packaging and plastics industry trade groups—Food-Service Foam contaminates other valuable recycling streams, especially paper. Food-Service Foam flattens in commingled recycling and can be sorted as paper in the two-dimensional sorter.

*v. If New York City Designates Food-Service Foam Recyclable, Then Abandons, It Will Reduce the Overall Recycling Rate*

When New York City altered its recycling program temporarily in 2002, recycling rates dropped and took 15 years to recover. DSNY’s research shows that industry-sponsored foam recycling programs, the offer Dart has presented, have failed over the last 30 years in the United States and Canada, leaving cities facing huge costs and no buyers. After the subsidized markets failed in Ontario, Canada, many municipalities have paid MRFs to sort the designated Food-Service Foam and then landfilled it. Other municipalities have reversed foam’s designation as recyclable. These

actions can erode public understanding of, confidence in, and, as a result, participation in the City's recycling programs.

## **B. INTRODUCTION**

### **1. Legislation and Determination**

Local Law 142 of 2013 requires the Commissioner of the New York City Department of Sanitation (“DSNY”) to determine the recyclability of single-use food and beverage containers—cups, trays, plates, and take-out containers used at restaurants and delis and recognized by the public as items thrown out after one use<sup>1</sup>—that are made of expanded polystyrene (“EPS”), which is commonly known as foam (hereinafter “Food-Service Foam”). To make this determination, the Commissioner must analyze whether Food-Service Foam “can be recycled at the designated recycling processing facility at the South Brooklyn Marine Terminal in a manner that is environmentally effective, economically feasible, and safe for employees.” Local Law 142 defines these terms as follows:

“Environmentally effective” means not having negative environmental consequences including, but not limited to, having the capability to be recycled into new and marketable products without a significant amount of material accepted for recycling being delivered to landfills or incinerators.

“Economically feasible” means cost effective based on consideration of factors including, but not limited to, direct and avoided costs such as whether the material is capable of being collected by the department in the same truck as source separated metal, glass and plastic recyclable material, and shall include consideration of markets for recycled material.

“Safe for Employees” means that, among other factors, the collection and sorting of any source separated material does not pose a greater risk to the health and safety of persons involved in such collection and sorting than the risk associated with the collection and sorting of any other source separated recyclable material in the metal, glass and plastic recycling stream.

If the Commissioner determines that Food-Service Foam can be recycled in a manner that is environmentally effective, economically feasible, and safe for employees, then the Commissioner is required by Local Law 142 to designate Food-Service Foam as a recyclable material to be collected in DSNY’s residential recycling collection. At that time, the Commissioner may choose, pursuant to Local Law 142, to also designate other EPS materials,

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<sup>1</sup> Local Law 142 (Exhibit A) defines Single Service Articles as cups, containers, lids, closures, trays, plates, knives, spoons, stoppers, paddles, straws, place mats, napkins, doilies, wrapping materials, toothpicks and all similar articles that are intended by the manufacturer to be used once for eating or drinking or that are generally recognized by the public as items to be discarded after one use.

like large foam packing materials used to package electronics (“Foam Packing Materials”) or foam packing peanuts.

If Food-Service Foam is found not to be recyclable under any of the three required factors, Local Law 142 mandates that the City prohibit New York City food service establishments and stores from stocking, selling, or offering Food-Service Foam.<sup>2</sup> The law also requires that the City prohibit the sale of foam packing peanuts if it is determined that Food-Service Foam is not recyclable.

## **2. Dart’s Temporary Offer to the Private Company Running City’s Processing Facility**

After Local Law 142’s passage and before DSNY made its determination on Food-Service Foam’s recyclability, the Dart Container Corporation (“Dart”), a Food-Service Foam manufacturer, proposed to create a temporary subsidized recycling program in New York City by making several different offers to Sims Municipal Recycling (Sims), the private company that operates the City’s recycling processing facility at the South Brooklyn Marine Terminal. These offers were made through the month of December 2014, right up until the deadline for DSNY to make a recyclability determination under Local Law 142.

Under the offer, Dart would pay to install an optical sorting machine equivalent to Sims’ existing optical sorting equipment at Sims’ Brooklyn facility.<sup>3</sup> Dart claimed this new optical sorter could achieve 90-95% accuracy at sorting all types of polystyrene, rigid and foam. Dart would also install equipment to process Food-Service Foam at Plastic Recycling, Inc.’s (PRI), located in Indianapolis. Additionally, Dart and PRI would train Sims employees and would cover the “cost of employment” of four employees at Sims to “Service PRI’s demands.”<sup>4</sup>

Dart would then pay Sims \$160 a ton (\$0.08 / lb) “for at least five years at Sims’ request”<sup>5</sup> for New York City’s Baled Polystyrene (Dart required both rigid and foam). Due to the terms of its contract with Sims, the City would not profit share at all in the Dart offer. For the City to profit

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<sup>2</sup> Local Law 142 states: If expanded polystyrene single service articles are not designated as a recyclable material pursuant to subdivision b of this section, then, on and after July first, two thousand fifteen, no food service establishment, mobile food commissary, or store shall possess, sell, or offer for use single service articles that consist of expanded polystyrene including, but not limited to, providing food in single service articles that consist of expanded polystyrene. This subdivision shall not apply to (1) expanded polystyrene containers used for prepackaged food that have been filled and sealed prior to receipt by the food service establishment, mobile food commissary, or store or (2) expanded polystyrene containers used to store raw meat, pork, fish, seafood or poultry sold from a butcher case or similar retail appliance.

<sup>3</sup> Mastro letter from 2/24/16, included in exhibit D.

<sup>4</sup> Mastro letter from 2/24/16, included in exhibit D.

<sup>5</sup> Mastro letter 2/24/16 included in exhibit D.

share on Sims' sale of the City's baled recyclables, the contract requires the commodity to have a positive value for at least two consecutive years in a recognized trade journal. There has never been a price index published in a trade journal for Food-Service Foam. The mixed bales of polystyrene would be shipped to PRI's facility in Indianapolis where Dart and PRI claim the materials would be processed for end-users. PRI's Indianapolis facility would require \$5.7 million in upgrades to handle Food-Service Foam. As the Dart offer to both Sims and PRI currently stands, there is no negative side for these private companies, which is not the case with the City.

### **3. January 1, 2015 Determination, Litigation and Additional Investigation**

In a January 1, 2015 determination,<sup>6</sup> DSNY concluded that even though Food-Service Foam can be collected and sorted in a manner that is safe for DSNY and Sims employees, Food-Service Foam cannot be recycled in a manner that is economically feasible or environmentally effective for New York City. Consequently, Food-Service Foam was set to be banned on July 1, 2015.

In April 2015, a coalition of various foam manufacturers and businesses sued, challenging the January 2015 determination. The January 1, 2015 determination was subsequently annulled in the case of *Restaurant Action Alliance v. New York City Department of Sanitation*, 100734/15 (Sup. Ct., N.Y. County 2015), and the determination was remanded to DSNY for reconsideration consistent with the Court's opinion.<sup>7</sup>

The Court noted that DSNY "has discretion to choose the evidence upon which [it] relies" in making a determination, but found that the January 1, 2015 determination did not "clearly state the basis of [DSNY's] conclusions." The Court recognized that although EPS could technologically be recycled, the "tougher question is whether dirty or post-consumer single-serve EPS can be recycled, in a manner this is environmentally effective and economically feasible so to be designated as recyclable" pursuant to Local Law 142. The Court found that DSNY's conclusions regarding the lack of "sustainable market for post-consumer EPS" were not adequately explained.

In accordance with the Court's opinion, DSNY undertook additional research and analysis to update its determination. On December 30, 2015, DSNY requested updated information from Dart and from the Natural Resources Defense Council ("NRDC"), which had submitted information to DSNY prior to January 2015 determination.<sup>8</sup> Both the Dart and the NRDC responses incorporated materials from various interested parties. In making this determination, DSNY also considered all of the information received prior to the date of the initial

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<sup>6</sup> January 1, 2015 determination (Exhibit B.)

<sup>7</sup> Decision (Exhibit C.)

<sup>8</sup> A copy of this letter and the February 2016 responses submitted by NRDC and Dart are Exhibit D.



determination and the information submitted during the course of the litigation. DSNY also conducted new research, which is contained in this determination.<sup>9</sup>

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<sup>9</sup> A full list of the documents DSNY took under consideration in making its determination is Exhibit E.

## **C. BACKGROUND: NEW YORK CITY RECYCLING**

### **1. New York City Recycling Program History**

New York City's curbside recycling program began in 1989, and was slowly phased in community district by community district through 1993, when it was fully implemented citywide. Since its beginning, recycling collections have been "dual stream," requiring residents to separately sort and bag two types of recyclables: paper and cardboard as one separation and metals, glass containers, rigid plastics, and cartons in a second separation. The first stream is referred to as Paper, and the second stream is referred to as MGP, referring to metal-glass-plastic.

When DSNY started its recycling collections, the program included only newspaper, corrugated cardboard, bottles, and cans. In 1997, DSNY expanded the accepted materials, adding all types of mixed paper and bulk metal, followed by beverage cartons in 1997. The program expanded again in 2013, requiring residents to recycle rigid plastic materials in addition to bottles. The term "rigid plastic" refers to any item composed primarily of plastic resin with inflexible fixed shapes or forms such as tubs, containers, gardening pots, and toys. Rigid plastics do not include plastic bags, wrappers, pouches, or foam products, including Food-Service Foam. Film, flexible and foam plastics were excluded at the time, based on consultation with Sims about plastic markets and consideration of contamination of marketable commodities. The 2013 expansion included Rigid Polystyrene with rigid plastics since the public would find Rigid Polystyrene indistinguishable from plastic cups, trays, and tubs made of valuable plastics, like PET and HDPE. This decision sought to maximize collection of marketable plastics by making the collection rule simple for New York City residents, namely, all rigid plastics. Foam EPS products, including Food-Service Foam, are easily identified by the public, and therefore could be excluded, reducing contamination at the facility.

Designating new material for the recycling program means creating a shift in thinking among residents, as they re-learn what can and should be recycled at the curb. Residents also expect that when New York City designates a new material for recycling that the material will truly be recycled, consistently over time. Each recycling expansion in New York City has involved large-scale printing of educational and outreach materials designed to educate residents on the updated requirements. The 2013 revision of New York City's recycling requirements cost the City approximately \$4.5 million for mailers to households of the City's 8.5 million residents and new labels for millions of recycling bins and recycling areas.

For these reasons, when a new material is designated for recycling, removing the materials later from the recycling program is problematic. New York City learned that hard lesson when it suspended all glass and plastic recycling collections in 2002 due to the fiscal crisis. This cut led to widespread confusion among residents and elected officials, with impacts felt throughout DSNY's overall collection programs for all materials over an extended period of time. Recycling rates had reached a high of 19 percent just prior to the cuts; when the full MGP program was reinstated, recycling rates rebounded only to around 15 to 16 percent and remained

consistently at that level. Only in the past two years, almost 15 years later, has the diversion rate increased back up to 18.9 percent with the addition of curbside organics collection.<sup>10</sup>

## **2. Current Program**

### *i. What and How to Recycle*

Recycling is mandatory in New York City, and violations of the City's recycling laws and rules are enforced by DSNY personnel. Every neighborhood in New York City receives curbside recycling collection at least once a week; every household is required to recycle the same materials. Paper/cardboard and MGP must be set out at the curb on the designated recycling collection day in a clear bag or in a labelled bin. Therefore, by its nature, the materials discarded as part of the MGP stream are dirty or become dirty when mixed with other curbside recyclables in the collection truck.

### *ii. Recycling Education*

Recycling education takes place in a number of ways, including through a detailed website, social media channels, videos, periodic mailings, free multilingual flyers and brochures, and decals for recycling bins. DSNY attends community meetings and events, conducts trainings and site visits, and makes recycling information available by calling 311, the city's general service helpline. DSNY coordinates with other agencies on institutional recycling, and also funds non-profit organizations, including GrowNYC, to provide targeted recycling outreach and education, including events, community meetings and workshops.

DSNY and the NYC Department of Education work closely to coordinate the teaching and practice of recycling among students, teachers, custodial engineers and administrators. Schools compete for prizes awarded annually to student/teacher groups for innovative projects of waste reduction, reuse, composting, recycling, and neighborhood cleanup. In public schools, EPS foam trays, which were once used to serve student lunches, have been replaced due to parent involvement in seeking more sustainable alternatives that are suitable to be included in the Schools Organics Recycling Program, which began in 2012.

### *iii. Expansion of Diversion Programs*

As part of the Administration's comprehensive sustainability plan, *One New York: The Plan for a Strong and Just City*, DSNY has an ambitious goal of sending zero waste to landfills by 2030. To achieve this goal, DSNY seeks to promote and support a system of sustainable solid waste management that builds on the City's environmental initiatives to reduce the amount of waste we dispose of and maximize recycling. An important component of our zero waste goal is to continue to expand the City's residential organics collection program.

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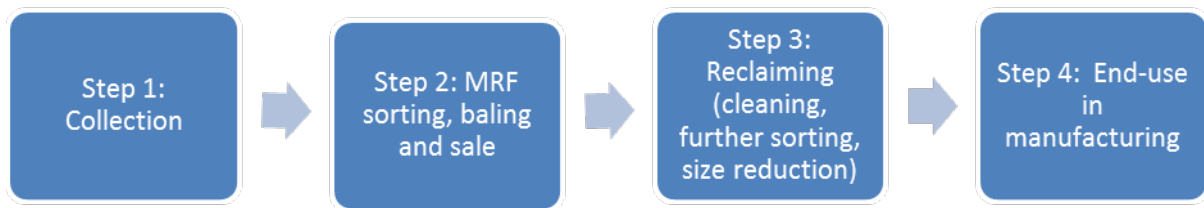
<sup>10</sup> DSNY publishes statistics on diversion rates monthly on its website:  
<http://www1.nyc.gov/assets/dsny/about/inside-dsny/annual-and-monthly-statistics.shtml>

#### iv. City's Change to Single-Stream Recycling

In addition to the expansion of the City's organics collection program, the City has committed to transitioning to a single stream recycling program by 2020. This means that residents will be able to commingle all of their recyclables together: paper, cardboard, metals, glass, rigid plastic, and cartons will all go in the same bin. The City anticipates that moving to single-stream recycling will help simplify recycling for citizens, make it easier to participate in recycling where storage is limited, and increase diversion rates in order to help the City meet its zero waste goals.

### 3. The Recycling Process

Broadly, there are four steps in the process to achieve recyclability. The individual players may vary depending on the material stream, but the same steps are needed to prepare a material to re-enter the industry as a manufacturing feedstock.



For a typical large municipality, the steps are as follows:

- 1) Collection: Designated recycling material is collected as part of a commingled collection program (like DSNY's MGP program).
- 2) Material Recovery Facilities ("MRF") Sort, Bale, and Sell Material: Commingled collections are delivered to a MRF, where it is placed onto a sorting line with specialized equipment geared to sort each material—for example, magnets pull off ferrous metal cans, and optical sorters use visual sensors to separate plastics by resin type. The sorted material is then packaged into commodity bales that meet buyer specifications,<sup>11</sup> which are then offered for sale to reclaimers.
- 3) Reclaiming/Cleaning/Processing: Most material baled by MRFs require further cleaning and processing before it can be used in manufacturing. A reclaimer processes the MRF

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<sup>11</sup> While many specifications exist specific to each buyer, two industry organizations, the Institute of Scrap Recycling Industries (ISRI) and the Association of Plastic Recyclers have worked to create model bale specifications of common commodities that can be used in the marketplace. Sims is a member of both of these organizations and provides input into the development of model bale specifications. <http://www.isri.org/docs/default-source/commodities/specupdate.pdf> <http://www.plasticsrecycling.org/markets/model-bale-specs>

bales through additional sorting and cleaning, and ultimately turns the collected material into pellets, flakes, or other raw material that can be used as feedstock by a manufacturer.

- 4) Reuse/End-Use: An end-user purchases what is now feedstock material from the reclaimer and makes it into a new product. Reclaimers can also be end-users in some instances.

To conduct the mandated Local Law 142 analysis, DSNY must carefully consider the entire recycling process to ensure that during the sorting, baling, reclaiming and reuse stages there is a high capture of Food-Service Foam, ensuring that a significant amount of the material is not disposed of in a landfill or incinerator at any of these stages.

#### **4. Plastics Recycling**

Plastic products are highly diverse. Broadly, New York City identifies plastic products in four general categories: rigid plastics, flexible plastics, film plastics, and foam plastics. As described above, rigid plastics are composed primarily of plastic resin with inflexible fixed shapes or forms. Flexible and film plastics are the plastic resins that are made into bags, wrappers, pouches and squeeze tubes, where the shape of the plastic can be manipulated. Foam plastics are plastic resins consisting of many air pockets that are formed into a solid shape.

Rigid or harder plastics are far easier to recycle than foamed plastics. Compared to foam plastics, rigid plastics are heavier and do not easily break into smaller pieces. This makes them better at remaining intact through compaction in collection and in sorting. Rigid plastics also do not easily become tangled in recycling equipment like many film plastics, such as plastic bags. This means that solid bales of homogenous rigid plastic materials can be successfully created through the complex sorting process at the MRF stage of the recycling process. For example, Sims, and MRFs generally, achieve a high yield rate for PET and HDPE plastic products, meaning these materials are accurately sorted into their designated bales. Rigid plastics, as discussed in greater detail below, typically do not contaminate other streams. In addition, most rigid plastics have viable markets.

In contrast, foam products, are extraordinarily light weight. Ninety-eight percent of the weight of EPS Foam is comprised of air.<sup>12</sup> Foam-Service Foam, specifically, flattens and breaks into small pieces when pressure is applied to it. Its light weight and tendency to break apart and flatten causes it to contaminate other streams, particularly paper. Food-Service Foam can resemble the 2-dimensional properties of paper when it is flattened and broken into small pieces. Other materials that are able to maintain their shape through the collection process are more accurately recognized by the optical sorter and are sorted properly.

The value of recycled material is based on the amount of resin that can be recovered, and it takes a much higher volume of EPS Foam to generate the same weight as a smaller volume of rigid plastic, such as PET. Thus, bales of EPS Foam generated at a MRF through the same sorting

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<sup>12</sup> <http://www.genpak.com/Literature/Foamfacts.pdf>

process as rigid plastic material will contain a low weight and low density. This low density makes it difficult to transport bales of EPS Foam in a cost-effective manner. In addition, the light weight of EPS foam makes it difficult to keep contamination at a low enough percentage of the overall weight of the material being offered for sale by the MRF. When EPS is contaminated with food residue, the weight of such residue can easily overwhelm the weight of the low-density EPS itself.

*i. Sources of Plastics for Recycling*

There are different sources of plastics for recycling. These namely fall under three categories:

a. Pre-Consumer

Pre-consumer plastic is typically byproducts produced in the factory (i.e. cuttings or extra pieces that left after a plastic product is manufactured). It is called “pre-consumer” because it has never been used. Pre-consumer plastic waste tends to be clean, consistent and homogeneous (of one variety), because it comes from standard manufacturing process that generates the same byproduct over time.

b. Post-Consumer

Post-consumer plastic consists of plastic products that have been used, and subsequently discarded. Typically, post-consumer plastics can be further divided into “food service” and “non-food service” items. Post-consumer food service plastics are often contaminated with food residues while non-food service items tend to be cleaner.

c. Post-consumer commingled material

New York City’s curbside collections of mixed metal, glass, plastics and cartons consist entirely of post-consumer material. Residents put a range of designated materials in their recycling bins. The mix of materials, called commingled materials, is picked up and compacted in a truck during municipal curbside collections. Post-consumer, commingled plastics are the most costly and laborious to process as recyclables. They are not homogeneous, so they need to be sorted. Food-service plastics are particularly dirty, having been soiled with food and then further dirtied by mixing and compacting with other items in the back of a collection truck.

*ii. Plastic Markets*

As DSNY’s economic consultant, Christopher Behr notes, “Recycling markets for many waste products (including differentiated types of paper, plastics and metals) are well-established in many parts of the country.”<sup>13</sup> Many rigid plastics, particularly PET (Polyethylene Terephthalate) plastics, commonly found in bottles, have particularly strong, well-established markets. In contrast, flexible and foam plastic do not.

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<sup>13</sup> Behr Discussion of Economic Feasibility and Markets (Exhibit F) at 3.

Most pricing of recyclable material that a MRF endeavors to sell is based on index pricing. An index is a means of looking at the average composition of bale of recycled material, and tying this composition to average prices over a set period. This information enables the calculation of the market value of an “average” ton of that material, which is then published in trade journals. This average pricing is typically used as the basis for contracts between municipalities or regions and their recyclers or MRFs. There is no index published in any trade journal for Food-Service Foam.

For the end-user, typically a manufacturer, recycled material feedstock directly competes with virgin material on the commodity markets. Manufacturers make purchasing decisions based on quality, price, and consistency of supply. The more effort it takes to prepare recycled materials to compete in quality and quantity with virgin feedstock, the more expensive it will be to end-users and the less competitive on the market.

### **5. Post-Consumer Food-Service Foam has Unique Challenges to Being Economically Recycled**

Different types of polystyrene plastic exist—including rigid and expanded. Expanded or foam can be pre-consumer or post-consumer. Pre-consumer foam includes “industrial scrap” EPS that are sourced from pieces trimmed in factory production as well as finished product that has never been used. Pre-consumer is very clean and homogenous, due to the source.

Post-consumer foam has been used and is either “Food-Service” (used to hold liquids or food) or “non-food service”, sometimes called “packing” foam. Typically the latter consists of cushioning material for shipping delicate items, such as electronics. Post-consumer Food-Service Foam is often called “dirty” due to the presence of food residues that adhere to it.

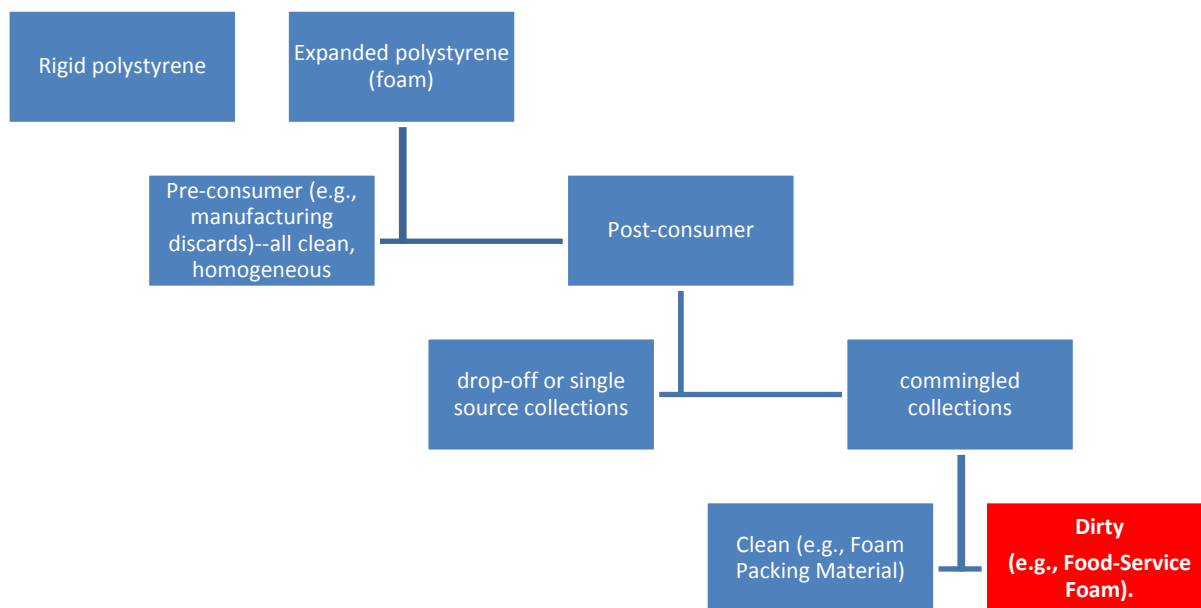
Local Law 142 addresses only Food-Service Foam and the determination as to recyclability is solely based on whether post-consumer Food-Service Foam can be recycled. It is not based on the recyclability of any other foam product.

The highest quality EPS material for recycling is industrial scrap. This material does not appear in DSNY’s waste stream since DSNY collects from residents and not from industrial or business sources.

The lowest quality EPS material is post-consumer commingled Food-Service Foam, the type of material that would be collected in DSNY’s recycling stream. Because of the commingled nature of DSNY’s curbside recycling program, even if a resident placed clean foam into the recycling bin, the clean foam would become dirty and contaminated because of the other dirty post-consumer material that is collected as part of DSNY’s commingled MGP program. With respect

to commingled recycling collection programs like DSNY's, recyclers consider Food-Service Foam dirty even if some items have not touched food.<sup>14</sup>

The chart below highlights the differences between the types of polystyrene. As noted, "Dirty" or Food-Service Foam is the only material at issue in this determination. It is the lowest quality EPS available and requires the most effort and cost to clean and prepare into a feedstock material for manufacturing.



As the quality of EPS declines, the cost and complexity of sorting and reclaiming the foam increases, reducing the economic viability of the program. For example, while some reclaimers accept clean foam for processing, there appears to be none or virtually none that process dirty Food-Service Foam.

- i. *Food-Service Foam that comes into contact with contaminants in commingled collections will be more contaminated than rigid plastics.*

Unlike rigid plastics, EPS's chemical structure attracts oils, grease, and other nonpolar molecules<sup>15</sup> within its polymer chains,<sup>16</sup> making it nearly impossible to completely

<sup>14</sup> Note that Sexton Consultant learns in discussions with over 100 recyclers that Food-Service Foam collected in residential recycling programs is always considered dirty even if it is not touched by food. See, Sexton Report at 5.

<sup>15</sup> Zhang, Yanyang, Bingcai Pan, Chao Shan, and Xiang Gao. "Enhanced Phosphate Removal by Nanosized Hydrated La(III) Oxide Confined in Cross-linked Polystyrene Networks." *Environmental Science & Technology Environ. Sci. Technol.* 50, no. 3 (2016).



clean. Another aspect of EPS's structure that makes it hard to clean are the air pockets in the very light material. Lipids and other nonpolar molecules become easily trapped and absorbed when EPS is exposed to them.<sup>17</sup> Other materials collected by DSNY as part of its MGP stream do not absorb residue in the same manner that foam does.

- ii. *Foam's light weight poses challenges to efficiently transport the material, and densification, one of the strategies to improve these economics is not recommended for dirty Food-Service Foam per industry standards.*

Densification is a strategy used to compact foam to generate a weight to volume ratio to make shipments of the material financially viable. Facilities that densify foam, install densification equipment into which clean, homogeneous foam items are fed to generate physically compacted blocks or thermally transformed ingots of polystyrene. These facilities also set aside space to store the material until sufficient quantities are aggregated to generate a truckload.<sup>18</sup>

Industry prefers densification as a strategy for clean foam, and recommends against densifying dirty foam because the compaction and/or thermal process impedes the ability to clean the material<sup>19</sup>. Densification is not a viable strategy for Food-Service Foam received at Sims. It does not have the physical space or storage capacity to clean, densify, and store EPS. Rather, it would need to sort the EPS and create bales using the same equipment used on other types of material collected as part of DSNY's MGP stream. As a result, transport of collected Food-Service Foam is difficult to accomplish in an economically feasible manner.

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<sup>16</sup> García, María Teresa, et al., "Study of the Solubility and Stability of Polystyrene Wastes in a Dissolution Recycling Process." *Waste Management* 29, no. 6 (2009).

<sup>17</sup> <https://stab-iitb.org/newton-mirror/askasci/chem03/chem03994.htm>

<sup>18</sup> See Section 7 of this determination: Research on Cities that Collect Foam with Recycling.

<sup>19</sup> [http://www.epspackaging.org/images/stories/EPS\\_Recycling\\_How-To\\_Manual-lores.pdf](http://www.epspackaging.org/images/stories/EPS_Recycling_How-To_Manual-lores.pdf)

#### **D. RESEARCH ON FOAM SORTING, CITIES COLLECTING FOAM & RECYCLERS**

There is a clear distinction between collecting a material as a recyclable and actually re-using it. An item can be added to the accepted collection list but to be recycled and make its re-use feasible, the material must be sorted and baled by a MRF, purchased and processed by a reclaimer; and then sold to buyers that value it and reuse it for a purpose that keeps the material from being landfilled.<sup>20</sup> Simply because a material is being collected in a municipal recycling program does not mean the material is actually being recycled. Local Law 142's mandate requires DSNY to examine the feasibility of the entire recycling process—the sorting, baling, selling, cleaning, processing, selling, and reuse—for Food-Service Foam in today's market. Dart's offer to Sims to install equipment and temporarily purchase the Food-Service Foam for five years does not remove the DSNY Commissioner's responsibilities to analyze Food-Service Foam's recyclability under Local Law 142's mandate.

Pursuant to Local Law 142, DSNY, as part of its determination, is mandated to review, among other things, whether a significant amount of Food-Service Foam would be landfilled if it were designated as a recyclable and whether markets exist for this material. If a significant amount of Food-Service Foam would be landfilled even if it were collected as a recyclable or if DSNY finds that there are no sustainable markets for the material, recycling Food-Service Foam would not be environmentally effective or economically feasible under Local Law 142. Additionally, Dart's subsidized offer is only for five years, and DSNY needs to plan its recycling program based on long-term considerations about the markets for its recyclable materials. DSNY cannot make a decision about whether a particular material should be included in its recycling program based solely on a temporary subsidized offer to DSNY's recycling contractor that has no direct benefit to the City.

DSNY's research has demonstrated that there have been 30 years of failed attempts to subsidize the Food-Service Foam recycling process. And, notably, no example of successful municipal Food-Service Foam recycling has emerged since DSNY's initial determination. If after Sims' five-year profit offer expires no true market arises, as has been the case with subsidized programs in other jurisdictions, Food-Service Foam will become contamination in DSNY's recycling stream in the same way that it has with other cities.

Food-Service Foam is difficult to recycle in part because it flattens and breaks up into many small pieces during collection or in the sorting equipment. Often, pieces end up with other commodities, like paper, having the potential to increase paper recycling costs or de-value valuable paper bales. As discussed above, collected Food-Service Foam is also difficult to transport effectively because of its light weight and relatively heavy contamination burden. Investigations into a list of 137 processors and end-users—purchasers—provided by Dart's

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<sup>20</sup> See Sexton Consulting Report, at p. 15, explaining that “recycling” includes a reuse to the original value-level, like a can that is collected, melted, and made into another metal can. In contrast, Manufacturing Discards of Industrial Foam that are turned into Foam packing peanuts is an example of downcycling, because the Foam packing peanuts will be thrown-out after that second use.

consultant Berkeley Research Group found that none of the 137 entities purchased bales of dirty Food-Service Foam.<sup>21</sup>

Only a small number of jurisdictions in the U.S. and Canada collect Foam, having found the cost to collect, sort, and process it to be twice the cost to use virgin material.<sup>22</sup> DSNY contacted the eight largest jurisdictions identified by Dart that supposedly have a curbside recycling program for Food-Service Foam and researched the recycling programs of these jurisdictions. These jurisdictions echo what DSNY already found in its research; there is no market for the purchase and ultimate re-use of collected Food-Service Foam. Ultimately, some municipalities have been forced to pay MRFs to sort it and then find no market to sell it at the reclaimer stage for the Food-Service Foam.

This research, discussed below, was taken into consideration in this Determination's conclusion.

### **1. 30-Year History of Failure for Subsidized Markets of Foam Recyclers Failing**

For the past 30 years, there have been industry-supported attempts to recycle Food-Service Foam. All such attempts have failed after the subsidy ended. It has never been economically feasible or environmentally effective to recycle Food-Service Foam.

In 1989, eight polystyrene manufacturers banded together to form the National Polystyrene Recycling Company (NPRC) with the stated goal of recycling 250 million pounds of EPS by 1995. To try to achieve this goal, in 1990 through 1991, the eight manufacturers built and/or acquired six EPS recycling plants located in or near six different major metropolitan areas in the United States, including one in New York City. By 1993, all six of these EPS recycling plants had shut down.

The plants that NPRC built or retrofitted focused on recycling Food-Service Foam. DSNY's expert consultant Michael Schedler<sup>23</sup>, who has worked for over 30 years in the post-consumer plastic recycling industry, notes that the plants failed as they encountered excessive food contamination, where the weight of the residue often exceeded the weight of the package. They found that recycling EPS food service packaging could not be done cost effectively. All six plants were heavily subsidized by NPRC for about two years, but in the end, the NPRC members chose to put the money they were spending in the plants into public relations. When the subsidies ended, the plants closed.

More recently, as discussed in more detail below, attempts in Canada to recycle Food-Service Foam faced the same difficulty and ended similarly. The Canadian Polystyrene Recycling Association (CPRA) funded an EPS recycling plant, but the plant ended up closing in 2008.

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<sup>21</sup> Sexton Consulting Report included in Exhibit D at 19.

<sup>22</sup> See Section 7 of this determination: Research on Cities that Collect Foam with Recycling.

<sup>23</sup> Schedler Report (Exhibit G).

Canadian municipalities were not able to overcome “the bad economics of collecting, handling and shipping Food-Service Foam.”<sup>24</sup> While some municipalities in Ontario have continued to collect Food-Service Foam after the subsidized EPS recycling plant shut down, they have not been successful in finding a market for the material or in having it actually be reused and recycled.<sup>25</sup>

Schedler notes that, since the NRPC attempt, other attempts to create sustainable markets for Food-Service Foam in the United States have continued to fail. Schedler concludes: in both the United States and Canada, “despite the ongoing effort and millions of dollars spent by both the public and private sector, there is no successful, non-subsidized, economically viable ongoing effort that is recycling post-consumer food service EPS packaging” [food service EPS packaging is material such as clamshells and cups].

Schedler’s report is corroborated by a report from DSM Environmental Services, Inc. (DSM)<sup>26</sup> regarding the economic feasibility of adding EPS foodware to the City’s MGP stream. DSM explained that “[p]ast efforts to reclaim soiled EPS single-use food and beverage containers have not succeeded over the long term.”<sup>27</sup> DSM observed that the economics of Food-Service Foam recycling are not favorable and the markets unreliable.”<sup>28</sup>

In regards to the current outlook on recycling Food-Service Foam, Schedler summed up the lack of markets for EPS from commingled municipal collections in discussions with DSNY as follows:

There are no specifications for a mixed bale of post-consumer PS packaging including amongst other materials EPS because no one is buying it. Because no one is buying it no one is making it. Because no transactions are taking place none of the various price reports are tracking it since there is nothing to track.<sup>29</sup>

## **2. No Market Exists for Recycled Post-Consumer Foam**

DSNY consulted with an economist for input on whether a market exists for recycled Food-Service Foam. Christopher Behr observes that recyclables are low-value commodities that are purchased as inputs to a manufacturing process. The recycled materials are typically either substituted for or blended with virgin materials. Behr notes: “Since manufacturing businesses

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<sup>24</sup> Schedler Report at 5.

<sup>25</sup> See Section 7 of this determination: Research on Cities that Collect Foam with Recycling.

<sup>26</sup> DSM Report (Exhibit H).

<sup>27</sup> DSM Report at 8-9.

<sup>28</sup> DSM Report at 12.

<sup>29</sup> DSNY discussions with Mike Schedler.

must remain competitive, their willingness to pay for recyclables rises only up to the price of virgin materials after accounting for any extra costs for using recyclables in the manufacturing process.”<sup>30</sup>

Behr states that “recycling markets for many waste products (including differentiated types of paper, plastics and metals) are well-established in many parts of the country.” However, he observes: “The market for recycled EPS cannot be characterized as active and efficient. The volumes of recycled EPS are extremely low and generally consist of raw materials that are relatively clean, either because they are surplus by-products of EPS production or accumulated bundles of individual customers’ recycling initiatives at say, packaging stores.”

Behr states that “the marketability of recycled EPS depends on whether it is “clean”, which largely characterizes the volumes generated as an excess by-product of manufacturing, or “dirty”, which would be obtained from recycling facilities” such as food service foam that would come out of DSNY’s MGP recycling program.”

In reviewing the status of EPS recycling, Behr states: “Clean recycled EPS has been readily integrated into the manufacturing processes of some businesses. While the traded quantity of clean recycled EPS is relatively low, there is sufficient demand from buyers for a market price to be established in trade journals.” In contrast, Behr finds that “evidence on the handling of dirty post-consumer EPS in the New York City area indicates that there is no reliable source of demand for this product – which means, there is no market. Behr concludes: “Given the lack of demand for recycled post-consumer EPS and the high costs of converting dirty EPS into a marketable product, there is no evidence of a market for this material.”

This finding is confirmed in a recent report from the World Economic Foundation, the Ellen MacArthur Foundation, and McKinsey and Company.<sup>31</sup> These organizations recognized expanded polystyrene as a “hard-to-recycle material” citing problems with contamination, both of the expanded polystyrene from organic matter [food] and problems with expanded polystyrene contaminating other recycling streams.<sup>32</sup> Ultimately, the report suggested that more recyclable plastics material be used in place of polystyrene in order to promote effective recycling.

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<sup>30</sup> Behr Report at 2-3.

<sup>31</sup> [1] World Economic Forum, Ellen MacArthur Foundation and McKinsey & Company, *The New Plastics Economy — Rethinking the future of plastics* (2016, <http://www.ellenmacarthurfoundation.org/publications>), pg. 52.

<sup>32</sup> [https://www.ellenmacarthurfoundation.org/assets/downloads/New-Plastics-Economy\\_Catalysing-Action\\_13-1-17.pdf](https://www.ellenmacarthurfoundation.org/assets/downloads/New-Plastics-Economy_Catalysing-Action_13-1-17.pdf), at 29-30.

### 3. Food-Service Foam Breaks in Sorting; Mixes with Other Valuable Recyclables

#### i. MRF Sorting

##### a. Plastic Partners Material Flow Study<sup>33</sup>

In late 2016, Plastic Partners released a 2015 MRF Material Flow Study Report commissioned by the Carton Council, American Chemistry Council, National Association for PET Container Resources, the Association of Plastic Recyclers, and the Foodservice Packaging Institute. The study was performed by a study team consisting of Resource Recycling Systems and their partners Reclay StewardEdge and Moore Recycling Associates. This report documents a standard type of study performed to allow container and product manufacturers to determine which type of container and material most successfully handles the MRF sorting stage of the recycling process.

The study documented the flow of materials through sorting machines at five MRFs, four processing single-stream collections and one dual-stream. It analyzed how well different types of materials made it successfully into their targeted bale, and what materials, not currently accepted for recycling, could potentially be recycled using the technology in existing MRFs. This report focused on four product forms: plastic bottles, plastic cups, plastic containers, plastic clamshells made of seven plastic resins: PET, colored HDPE, natural HDPE, polypropylene (PP), PS, PS Foam, polylactic acid (PLA).<sup>34</sup>

Comparing the performance of containers, clamshells, and cups (the “Food-Service” categories) PS Foam was by far the worst performer of the seven resins. Only 7 percent of PS Foam ended up in its targeted bales.<sup>35</sup>

Resin	Target Bale	Overall	Bottle Only	Container/ Clamshell/Cup
<b>PET</b>	PET	87%	89%	57%
<b>cHDPE</b>	cHDPE	81%	86%	43%
<b>nHDPE</b>	nHDPE	87%	87%	N/A
<b>PP</b>	Mixed Plastic	40%	30%	42%
<b>PS</b>	Mixed Plastic	22%	N/A	22%
<b>PS Foam</b>	Mixed Plastic	7%	N/A	7%
<b>PLA</b>	Mixed Plastic	29%	N/A	29%

<sup>33</sup> Plastic Partners Report (Exhibit I).

<sup>34</sup> Plastic Partners Report at 2.

<sup>35</sup> Plastic Partners Report at 60.

In particular, PS Foam had high loss rates to the paper stream at the single-stream MRFs, and had a tendency to flatten and break into smaller pieces. None of the PS Foam clamshells studied were found still whole when the material was sorted after going through the MRF equipment. “Most were broken up into small pieces and therefore easily confused with paper. Some pieces were observed in the glass streams as part of the glass mix or one of the screened streams.”<sup>36</sup>

***Since New York City is in the process of planning a switch to single-stream recycling within the next five years, the results of the single-stream MRFs are particularly pertinent to our planning process.*** We would expect, based on the results of this study, that as much as 75 percent of PS Foam clamshells, 60 percent of PS Foam cups,<sup>37</sup> would end contaminating our paper stream. The majority of the rest of the PS Foam cups were directed to residue as ***none of the MRFs had a market that accepted PS Foam as part of the mixed plastic bale.***

PS Foam, by design, is lightweight, and the study concludes that its light weight can increase product loss to the paper streams in a single stream MRF.<sup>38</sup> The Report concluded that packaging sorted more successfully when it maintained its three-dimensional shape. “[T]here is a minimum crushing force that the container would need to withstand and maintain a 3-D shape to reduce likelihood of traveling with the paper.” Food-Service PS Foam, which will never withstand this crushing force, would require manual sorting at a pre-sort stage to have any likely possibility for successful sorting.<sup>39</sup>

However, the report notes that a manual pre-sort is not common and that none of the MRFs were set up to perform such a sort.<sup>40</sup> And since none of the MRFs had a market that accepted PS foam as part of a mixed plastic bale, the expense of pre-sorting foam was unlikely to be worthwhile to a MRF.<sup>41</sup> Moreover, because much foam arrives at the MRF already crushed from collection trucks, pre-sorting is still likely to be of limited effectiveness. At one of the MRFs studied, a pre-sort of foam of foam succeeded in pulling off only 42 percent of the Food-Service Clamshells.<sup>42</sup>

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<sup>36</sup> Plastic Partners Report at 54.

<sup>37</sup> Plastic Partners Report at 54 and 58.

<sup>38</sup> Plastic Partners Report at 4.

<sup>39</sup> Plastic Partners Report, at 61 - 62.

<sup>40</sup> Plastic Partners Report, at 62

<sup>41</sup> Plastic Partners Report at 4.

<sup>42</sup> Plastic Partners Report. at 54.

b. Sims 2016 EPS Throughput Test

To gain an understanding of how EPS would behave in the Sims MRF specifically, DSNY, in partnership with Sims, ran a one-day throughput test on August 30, 2016 to observe how Food-Service Foam would sort using the Sims MRF equipment, and to gain insight into EPS recovery potential at the MRF.<sup>43</sup>

At Sims' direction, Food-Service Foam was mixed with incoming MGP loads on the MRF floor prior to moving the material onto the conveyor for sorting. One of the optical sorters was calibrated to identify and positively sort for polystyrene, including rigid polystyrene, and expanded polystyrene (both Food-Service Foam and non-Food-Service Foam). The recovery belts were run at one-third of the normal speed to allow for better observation of the behavior of Food-Service Foam in the sorting equipment, and to maximize the potential for the optical sorter to successfully identify the Food-Service Foam items. Three test batches were run with different quantities of MGP mixed with the test Food-Service Foam to see how commingling would affect EPS recovery. The test was not designed to ascertain yield rates under normal operating conditions.

Under these test conditions, when accounting for contaminants, an average of 56% of the test Food-Service Foam was recovered appropriately through the optical sorter calibrated for polystyrene. As described in Exhibit J, the Sims Test Summary, the recovery rate decreased as more MGP was mixed with Food-Service Foam. The EPS recovery rate was lowest in the batch that mixed the highest percentage of MGP, which most closely reflects normal operating conditions. As such, DSNY, in consultation with its expert Michael Schedler, concluded that the recovery will be far lower when the EPS is mixed with more material and the belts are run at full speed. This conclusion is consistent with the Plastic Partners Report, which showed only a 7 percent capture rate for Food-Service Foam under normal MRF operating conditions. Sims has also confirmed that the recovery will be lower when the belts are run at full speed.<sup>44</sup>

A significant portion of EPS material in the Sims test sorted improperly with other two-dimensional items, such as paper.<sup>45</sup> Food-Service Foam is lightweight, with a tendency to break into small pieces and flatten, and end up being sorted with paper. This issue is increasingly problematic in single-stream facilities that sort paper recycling commingled with MGP. DSNY plans to move to single stream recycling within the next 5 years. These issues are confirmed by other sources as well. Discussions with other municipalities indicate that that foam collected with recyclable material often ends up being sorted out with paper at their MRFs as well.<sup>46</sup>

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<sup>43</sup> The results of this test are summarized in Sims EPS Sorting Report (Exhibit J).

<sup>44</sup> Sims EPS Sorting Report at 5.

<sup>45</sup> Sims receives paper in the MGP collection from bags that incorrectly contain all streams commingled. Sims endeavors to sort and market this material even though it is not designated for the MGP stream.

<sup>46</sup> Section 7 of this determination



DSM also confirms these concerns in its report on the economic feasibility of adding Food-Service Foam to New York City's recycling system. This report notes that "EPS single-use food and beverage containers can be entrained in the film and paper" during MRF sorting "because it is likely to behave like these materials."<sup>47</sup> DSM concludes that the net result of EPS being sorted to paper and film, combined with other MRF losses such as inaccuracies at the optical sorting stage, "is unknown but can be assumed to run from 20 to 30 percent of the EPS single-use food and beverage containers entering the SIMS facility."<sup>48</sup> As the Plastics Partners Report and the 2016 Sims throughput test shows, DSM's estimate of 70 to 80 percent recovery at the MRF stage is likely overly optimistic, particularly when considering DSNY's transition to single-stream recycling in the near future.

#### 4. DSNY Visit to PRI and Problems at Facility

On April 15, 2016, DSNY, along with plastics recycling expert Mike Schedler, visited the PRI Recycling facility in Indianapolis to determine the facility's capacity to process the Food-Service Foam that would be sent to the facility if New York City designated it as recyclable under LL 142's mandate, under the subsidized program being proposed by Dart.

DSNY's main conclusion after visiting the facility was that PRI's operations to process Food-Service Foam from New York City remained in the Research and Development phase. Mike Schedler confirmed DSNY's conclusion, noting in his report:

The system that was observed at the PRI plant in Indianapolis is not fully operational from either a production, water treatment or safety standpoint. To make it so, extensive retrofits would have to be completed. Even with PRI's proposed retrofits, there is no substitute for continuous running at production volumes to fully understand the wide range of issues that this type of post-consumer feedstock carries with it.<sup>49</sup>

Dart submitted a video to DSNY in February 2016 entitled "Plastic Recycling Inc. Ready to Recycle New York City's EPS" and PRI's Marketing Manager, Brandon Shaw submitted an affidavit that PRI would be prepared to start recycling polystyrene in April 2015 "at the latest" and that its "method for processing polystyrene is not a proprietary technology" and the "process we would use to process Sims' bales is nothing new." Despite these assertions, DSNY's April 2016 site visit to PRI showed that PRI's polystyrene recycling facility was actually *not currently operational*. At the time of DSNY's visit, PRI's facility was still assembling and installing equipment, waiting for new equipment to arrive, determining equipment set-up and layout, and harmonizing the timing of the machines to run in unison together. DSNY and Mike Schedler

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<sup>47</sup> DSM Report at 8.

<sup>48</sup> DSM Report at 8.

<sup>49</sup> Schedler at 11.

also noted engineering and safety issues with the set-up of the facility. Additionally, during the course of our visit, a piece of equipment clogged and the system shut down. There is no back-up equipment, so when one piece shuts down, the entire system goes offline. It took over an hour for the system to get back up and running. PRI did note that they planned to bring in a consultant to help them work through these issues.

It was clear from DSNY's visit that PRI would need to spend significant additional, capital in order to fully operationalize. As of April 2016, the cost to build this facility was \$6.1 million and at that time, many pieces of equipment needed to be replaced. In addition to the capital costs, PRI did not yet have a good understanding of what the ongoing operating costs to run the facility would be since the facility was not yet running beyond the testing stage, and many changes were still needed. Since ongoing operational costs and stability of operations are critical pieces of information to determine the operation's viability, DSNY was unable to conclude whether the operation would ultimately be sustainable.

At the time of DSNY's visit, PRI told us they had tested the operation using clean post-industrial cups from Dunkin Donuts, post-consumer foam cups from Chick-Fil-A (which can be considered clean when compared to dirty Food-Service Foam coming out of a MRF) and clean egg cartons from a Publix supermarket drop-off program. PRI told us they had also run a few bales of mixed PS/EPS from Titus, a secondary MRF in California and the few Sims bales from DSNY's 2014 sort test. DSNY observed that PRI had stockpiled bales from a MRF in Canada (unclear if any were processed), and additional bales of Chik-fil-A and Dunkin Donuts.

PRI revealed during DSNY's visit that taking New York City's Food-Service Foam would be PRI's first experience processing post-consumer MRF EPS. PRI stated that it has not been pursuing a feedstock of foam from other cities. Dart and PRI both indicated that the reason that the facility has not pursued MRF material from other cities on a recurring basis is because the facility needs to reserve the capacity to potentially receive material from New York City. However, in failing to take in PS/EPS bales from other cities, PRI has not tested their system or fine-tuned its equipment. In fact, the PRI facility had only been "operating" since approximately January 2016. To date, over one year later, DSNY has received no updated information indicating that the PRI facility is fully operational nor about the stability of operations or the ongoing operational costs and whether those would be justified after the conclusion of the subsidy.

## **5. The Sexton Report Concludes that Food-Service Foam Is Not Recyclable**

Sexton Consulting (Sexton) investigated the 137 companies mentioned in the Berkley Research Group ("BRG") report submitted to DSNY by the Foodservice Packaging Institute in 2014,<sup>50</sup> BRG had indicated these 137 companies are processors and/or end users of recycled EPS and issued a report on the recyclability of post-consumer Food-Service Foam. Sexton determined that

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<sup>50</sup> BRG Report (Exhibit K).

“we do not find anything resembling an actual market for post-residential consumer plastic foam.”<sup>51</sup>

In fact, 63 of the companies from the BRG list stated that they do not recycle EPS at all. A number of these companies called EPS “garbage” or “trash.” Some of these companies also noted that EPS cannot be recycled. In addition, 18 companies told Sexton that they recycle only clean EPS and do not accept Food-Service Foam, and 14 companies no longer seemed to be in business.<sup>52</sup>

Only 12 of the 137 companies on the BRG list indicated that they accept post-consumer foam. Of these 12, six indicated that they would only take clean packing foam and not Food-Service Foam. Of the remaining six companies, two stated that they would charge to pick up the EPS and that “the cost of picking up the EPS would be more than the cost of the material in the truck.” Additionally, these two companies would only pick up the material in the Boston area. One company indicated that it takes EPS but because of space, it can only take one truckload per week. Another company takes EPS solely through a drop off program in Visalia, California. The remaining two companies indicated that they accept EPS generally but would not pay for it.<sup>53</sup>

As part of its review, Sexton also investigated Nepco and Burrtec, both important to the lower court’s finding that a Food-Service Foam market existed, as well as Rapac, a polystyrene recycler. While Dart has represented that Nepco accepts 800,000 pounds of recycled EPS per month, Nepco own website does not include food service EPS recycling among its services.<sup>54</sup>

In its research on Burrtec, which is a major recycler in California, Sexton found that it had previously conducted subsidized pilot program with Dart to handle used foam coffee cups. The

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<sup>51</sup> Sexton report at 2.

<sup>52</sup> Sexton report at 4 and 19-29.

<sup>53</sup> Sexton report at 19 and 31-34.

<sup>54</sup> DSNY has reviewed Burrtec’s February 2, 2016 letter from Richard Crockett to Bridget Anderson and NEPCO’s February 23, 2016 affidavit from its sales director, Tae Hwang. While Burrtec claims that it has been recycling postconsumer EPS for several years, Burrtec provides no details on how much of the successfully sorted and sold material is comprised of dirty Food-Service Foam. Notably, Burrtec lists Riverside, California as the largest community that Burrtec services; however, Riverside has confirmed in interviews with DSNY, discussed infra, that its dirty Food-Service Foam cannot be effectively recycled and an industry website, [www.homeforfoam.com](http://www.homeforfoam.com), specifies that Riverside has a clean foam collection program only. Further, NEPCO has not indicated that it has any interest in purchasing a bale of Food-Service Foam. Similarly, Dart has submitted February 19, 2016 letter from Styro Recycle LLC, an EPS reclaimer, but Styro’s own website shows that it accepts only clean foam from drop-offs, not bales of dirty Food-Service Foam. <http://www.styrorecycle.com/what-we-accept/>. Styro Recycle will also pick up clean foam from businesses – but charges businesses for this service. <http://www.styrorecycle.com/new-customers/>.

pilot program, however, was discontinued. On its website, Burrtec states that “the Upper and Lower Desert Cities [which includes all or major portions of Los Angeles, San Diego, etc.] are only accepting foam packaging blocks” (such as the foam blocks that protect new televisions or computers).

Similarly, Sexton found that Rapac, a large recycler of EPS, will only take EPS that meets the specifications of the Alliance of Foam Packaging Recyclers (AFPR). Rapac noted that AFPR “does not accept meat trays, cups, egg cartons or disposable food service items for recycling.”<sup>55</sup> Accordingly, Sexton determined that Rapac is not in the business of recycling post-consumer Food-Service Foam.

After investigating the 137 companies listed in the BRG report, Sexton concludes “that recycling dirty polystyrene foam – the household food and beverage containers from the DSNY collection stream – in an environmentally effective and economically feasible manner is not realistic now or for the foreseeable future.”<sup>56</sup>

The DSM Report confirms Sexton’s findings. DSM considered the companies cited as commercial polystyrene processors in the BRG report submitted to DSNY by the Foodservice Packaging Institute in 2014, and concluded that these companies do not process dirty Food-Service Foam. DSM noted that its discussions with Dart and with the consultant Moore Recycling indicate that they know of no other potential buyer for bales of dirty mixed polystyrene aside from PRI’s proposed facility.<sup>57</sup>

## **6. EPS Industry Information Indicates That Only Clean Foam Is Recycled and Not Food-Service Foam**<sup>58</sup>

### *i. EPS Industry Alliance’s Website*

In its research of the Food-Service Foam recycling market, DSNY consulted EPS industry websites, including the EPS Industry Alliance (EPS-IA), the largest industry alliance for EPS. Its website provides an extensive section on “Recycling EPS”, targeted to manufacturers, industry, consumers and businesses, that notably emphasizes recycling of Foam Packing Materials only; in fact, EPS-IA repeatedly cautions consumers and manufacturers that unclean foam and Food-Service Foam are generally not accepted.

The “Recycling Resources for Consumers” section, which provides a search tool for drop-off recycling locations in the United States, EPS-IA states “you can recycle your EPS packaging by

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<sup>55</sup> Sexton Report at 29.

<sup>56</sup> Sexton Report at 18.

<sup>57</sup> DSM Report at 6

<sup>58</sup> Copies of the information obtained from these websites (Exhibit L).

taking it to a specified drop-off location.” It continues, emphasizing that “the majority of EPS recycling locations listed are intended to serve as outlets for EPS packaging only.” In addition, EPS-IA provides collection guidelines for recycling centers that explicitly exclude egg cartons and Food-Service Foam.<sup>59</sup>

Further, in its manual advising entities how to set up an EPS recycling program, EPS-IA does not mention Food-Service foam; instead, it reiterates the importance of EPS being clean and consistent.<sup>60</sup> The manual walks through the decision making process that an entity should take to determine if an EPS recycling program would be feasible, recommending to “[k]eep handling costs down and increase the value of the EPS by providing clean, contaminant-free material. The quality of the EPS is also important. It must be clean EPS packaging that is not contaminated by food, dirt, tape or paint or glued to cardboard or other plastics.” The manual stresses to: “create a system for identifying and eliminating contamination problems. Eliminating contamination is important because materials that can’t be recycled may be sent to the landfill. Some recyclers will charge for or return non-recyclable material.”

This website demonstrates that the EPS industry’s sole focus is on clean packaging recycling, not Food-Service Foam or any source that might be contaminated or variable.

*ii. Dart’s Website*

As part of its research on the recyclability of Food-Service Foam and whether markets exist for this material, DSNY also reviewed Dart’s own website. Dart’s website identifies 48 businesses “interested in purchasing post-consumer foam # 6.” (Post-consumer foam #6 includes single service Food-Service Foam articles.) Dart’s website provides general information about each of these 48 companies, like location and contact information as well as the type of foam that each company accepts. Notably, Dart’s website does not list the PRI facility as an entity interested in purchasing post-consumer foam.

From the 48 companies identified by Dart as having interest in purchasing post-consumer foam, 39 state that they are only interested in clean foam, which can include packaging foam, colored foam, or clean Food-Service Foam. Eight companies indicated “TBD” regarding the type of material they would accept. Six of these eight companies do not have websites. The other two companies had websites. One company’s website indicates that it accepts clean foam in the Madison, Wisconsin area, and it is unclear from the other company’s website that it accepts foam at all. Only one company that lists the type of foam it accepts fails to specify that it accepts clean foam only. That company, American Polymer Corp, located in Ohio, does not accept foam from out of state. It also will not pay for any foam it receives. Moreover, on its own website,

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[http://www.epspackaging.org/index.php?option=com\\_content&view=article&id=30:collection-guidelines&catid=2:recycling-resources-for-consumers&Itemid=30](http://www.epspackaging.org/index.php?option=com_content&view=article&id=30:collection-guidelines&catid=2:recycling-resources-for-consumers&Itemid=30).

<sup>60</sup> [http://www.epspackaging.org/images/stories/EPS\\_Recycling\\_How-To\\_Manual-lores.pdf](http://www.epspackaging.org/images/stories/EPS_Recycling_How-To_Manual-lores.pdf).

American Polymers states that it is a “plastic brokerage firm that specializes in the post-industrial plastic recycling market.”

*iii. Home For Foam Website*

In addition, DSNY reviewed [www.homeforfoam.com](http://www.homeforfoam.com), a website copyrighted by Dart. This website, which is intended to support the growth of foam recycling, contains a section with a detailed interactive map of Municipal Foam Recycling Programs, both Drop-Offs and Municipal Curbside Collection Programs. This interactive map allows the user of the website to click on a city to find out if the city offers a program to recycle foam, and if so, what type of program the city offers (drop-off or curbside) and what type of material the recycling program collects. DSNY clicked on every icon indicating that a City ran a curbside collection program for Food-Service Foam. Each program indicated that every City offering a curbside collection program for Food-Service Foam only accepts “Clean Food Packaging” into the recycling program.

This research of the EPS industry’s own publicly disseminated information confirms that only clean foam is worth the effort to recycle and that markets for Food-Service Foam do not exist.

**7. Research on Cities that Collect Foam with Recycling**

**Jurisdictions Do Collect Foam; the Majority, Though, Fail to Recycle It; and They Are Not Able to Recycle Food-Service Foam At All**

Dart submitted an affidavit listing 42 jurisdictions in both the US and Canada that it claims are recycling foam.<sup>61</sup> DSNY investigated the eight biggest jurisdictions, all with populations over 250,000, and found that these jurisdictions were collecting foam but rarely recycling it. None were recycling Food-Service Foam.

DSNY extensively interviewed the eight jurisdictions listed in the affidavit with the largest populations, four located in California and four in Ontario, Canada. Few accepted Food-Service Foam, having learned that it broke apart in sorting or could not be cleaned affordably. Others accepted only Foam Packing Material, which is not the subject of Local Law 142’s analysis.

Each jurisdiction’s system looked at by DSNY fails test mandated by New York City’s Local Law 142. Without exception, each of the eight jurisdictions confirmed through experience that recycling Food-Service Foam is neither environmentally effective nor economically feasible.

Unlike these jurisdictions, New York City has been mandated by its City Council to examine the recyclability of Food-Service Foam before it can require its collection or the collection of any other foam products, like Foam Packing Material.

DSNY heard one consistent message: these jurisdictions regret having designated Foam as a recyclable due to the costs they currently face trying to process Foam, the complete lack of

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<sup>61</sup> Moore Affidavit included in Exhibit D.

markets for Food-Service Foam, in particular, and the problems MRFs face sorting foam and its propensity to contaminate other valuable commodity streams, like paper.

*i. Jurisdictions in California*

a. Los Angeles, California – Foam Take-Out Containers Found Unrecyclable

Los Angeles, the nation’s second largest city, currently lists Food-Service Foam as accepted in commingled recycling, but does not sort or market Food-Service Foam because the process is cost prohibitive. Today, Food-Service Foam is disposed of as residue, as nearly all of it is soiled with food residue through consumer use or collection in a commingled recycling stream.

In 2006 and 2007, Los Angeles ran a pilot program to attempt to recover and recycle food-soiled EPS at the urging of a private company that makes simulated-wood moldings out of plastics.<sup>62</sup> Los Angeles provided a mixture of clean and food-soiled EPS material to a MRF that used a technology that could clean, melt, and densify the EPS. The cost to clean and create a block of marketable EPS from both clean and dirty Food-Service Foam was twice as much as the cost for the company to make a virgin plastic. The private company, which initially agreed to purchase the processed densified foam at 4 cents per pound, refused to continue this practice. Unpurchased blocks of post-processed Food-Service Foam accumulated on the MRF floor, producing odors. Ultimately, these blocks were disposed of in a landfill as residue and not recycled. In 2007, Los Angeles abandoned its pilot program and moved forward with processing only completely clean foam.

Today, in Los Angeles’s public education materials, it instructs residents to recycle clean foam only, specifically stating that: “All clean polystyrene products (plates, cups, containers, egg cartons, block packaging, and packing materials).”<sup>63</sup> Since Los Angeles only processes clean material, the city carries out a great deal of outreach to residents to discourage them from putting food contaminated EPS in the blue bin.

In a 2013 memo to Los Angeles City Councilman Paul Koretz, Enrique C. Zaldivar, the director of the Los Angeles Bureau of Sanitation noted: “MRFs only recover EPS that is clean and in bulk form because manufacturers and processors of EPS will only purchase post-consumer EPS free of contaminants such as food waste, oil, grease, etc. Contaminated EPS becomes part of the MRFs’ residual waste which is disposed of at a local landfill”<sup>64</sup>

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<sup>62</sup> Timbron International, Inc.

<sup>63</sup> [https://www.lacitysan.org/san/faces/home/portal/s-lsh-wwd/s-lsh-wwd-s/s-lsh-wwd-s-r/s-lsh-wwd-s-r-rybb?\\_adf.ctrl-state=lzfru3aw5\\_4&\\_afLoop=3805086234336331#!](https://www.lacitysan.org/san/faces/home/portal/s-lsh-wwd/s-lsh-wwd-s/s-lsh-wwd-s-r/s-lsh-wwd-s-r-rybb?_adf.ctrl-state=lzfru3aw5_4&_afLoop=3805086234336331#!)

<sup>64</sup> August 28, 2013 Memo To Los Angeles City Councilman Paul Koretz from Enrique C. Zaldivar, Director, Los Angeles Bureau of Sanitation.

DSNY recently confirmed the accuracy of this 2013 memo through conversations with Los Angeles Department of Sanitation staff. DSNY also recently learned that even Foam Packing Materials are failing to be worth the effort. Los Angeles's six processing MRFs sort the foam by hand. Material that gets into the sorter is crushed, breaks apart, and goes to landfill. In the last several months, MRFs processing Los Angeles's recyclables have stopped sorting EPS because the cost for bailing and sorting is too high.

b. Long Beach, California –No Market for Collected Food-Service Foam

Although the City of Long Beach accepts Food-Service Foam in its recycling collection, it struggles to find a market for it. The City of Long Beach instructs residents to recycle "Clean Polystyrene (Styrofoam®)." It notes that this includes foam cups and containers, and foam packaging, such as eggshell cartons, block packing and foam clamshell packaging.

DSNY's conversations with Long Beach's Environmental Services Bureau noted serious challenges with Foam in the recycling stream, particularly in finding an end use for post-consumer Food-Service Foam. The City's MRF informed Long Beach that Food-Service Foam interferes with the MRF sorting process because it breaks up and contaminates other streams, specifically the glass and paper streams. Long Beach has noted that while the recycling program *accepts* all EPS, including Food-Service Foam, the only material not being landfilled is large blocks of Foam Packing Materials.

In Long Beach, the large blocks of Foam Packing Materials are not separated into their own bales, but are combined with mixed rigid bales. These are ultimately exported to Asia. The ultimate fate of Foam Packing Material in exported mixed bales is not known. Officials confirmed that it is entirely possible that Foam Packing is being sorted out and landfilled or incinerated in destination country. There are no local markets for any foam, even Foam Packing Materials, when sorted from commingled collections. For example, a surf board manufacturer in Huntington, California, only uses post-industrial grade foam received straight from manufacturers. They are not interested in the quality of EPS produced in a MRF bale, even Foam Packing Materials.

Recently, Long Beach has been contemplating banning foam. In discussing the possibility of a foam ban, local newspapers report: "City staffers report polystyrene as a 'huge source of litter' that is not easily recycled"<sup>65</sup> and "The foam is not biodegradable, and while technically considered a recyclable material, it rarely finds a second life as a new material because of the high costs associated with cleaning and harvesting it once it's been thrown out."<sup>66</sup>

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<sup>65</sup> [http://www.gazettes.com/news/long-beach-set-to-ban-styrofoam/article\\_4eca9d10-c7bb-11e6-ad86-f7452bb5c933.html](http://www.gazettes.com/news/long-beach-set-to-ban-styrofoam/article_4eca9d10-c7bb-11e6-ad86-f7452bb5c933.html)

<sup>66</sup> <http://lbpost.com/news/city/2000010159-styrofoam-ban-set-in-motion-will-include-public-input-before-becoming-law>



c. Riverside, California – Sends all Dirty Food-Service Foam to Landfill

The City of Riverside, California lists “Styrofoam” or polystyrene as an acceptable recyclable item, and advises residents to rinse containers before placing in the recycling barrel. At Burrtec, the city’s MRF, clean foam, the vast majority of which is Foam Packing Material, is hand-picked from incoming loads. It is then densified and sold to NEPCO, a local buyer.

In conversations with DSNY staff, Riverside officials noted that foam collected at curbside soaks up smells and food contamination. Such material, the majority of all Food-Service Foam received at the MRF, gets treated as residue and is landfilled just like other materials that are soiled with food waste. Most clamshells, for example, are too dirty or contaminated to be recycled and are disposed of as residue. The only foam that the city can consistently recycle and market is clean Foam Packing Materials.

d. Sacramento, California –Landfills its Foam Take-Out Containers

The City of Sacramento instructs residents to recycle “Polystyrene (Styrofoam®) in a clear plastic bag<sup>67</sup>” and place that bag inside the recycling bin with the other loose recycling materials. On its website, it shows only photos of Foam Packing Materials in clear plastic bags.<sup>68</sup> It does not accept Food-Service Foam and does not accept packing peanuts. Interviews with Sacramento revealed that it established this clear-bag separation requirement because Foam Packing Peanuts and Foam Packing Materials were becoming mixed with loads of other recyclables, making the processing of these other materials more costly and complicated.

According to interviews with Sacramento Recycling and Solid Waste Division, Foam Packing Materials collected by Sacramento have absolutely no scrap value. The city preemptively added Foam Packing Materials to the accepted recycling collection list to allow Sacramento to control the collection with the clear-bag rule, reducing the likelihood that the material would mix with other materials in the commingled stream. Clear bags of Foam Packing Materials are sorted by hand from the incoming commingled recycling, densified, and stored until the city amasses enough material to market. Collected EPS is generally marketed once per year and Sacramento indicates that the city has trouble finding a vendor or end market for the collected clean EPS.

MRF Operators for Sacramento have indicated that the cost to separately bale Foam Packing Materials does not equal the value to sell it. Local press coverage indicates that Foam Packing Materials are sent to a landfill rather than being recycled.<sup>69</sup>

ii. *Jurisdictions in Ontario, Canada*

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<sup>67</sup> <https://www.cityofsacramento.org/General-Services/RSW/Collection-Services/Recycling>

<sup>68</sup> <http://www.cityofsacramento.org/public-works/RSW/waste-wizard>

<sup>69</sup> <http://www.sacbee.com/news/politics-government/article2611349.html>

In Ontario, the members of the Canadian Polystyrene Recycling Association (CPRA) attempted for decades to create a subsidized market for expanded polystyrene recycling. However, the industry-funded facility constructed in Mississauga to recycle polystyrene closed in 2008, after the extraordinarily high costs to collect and ship the material made the program unattractive. By that time, several jurisdictions across the province had designated foam for commingled recycling, often under industry pressure. Since the closure of the CPRA facility, these municipalities have failed to find markets for Food-Service Foam from commingled recycling programs, and they have even struggled to market Foam Packing Materials and other clean foam collected in drop-off programs.<sup>70</sup>

a. Toronto, Ontario – Finds no Market for Food-Service Foam, even after approaching re-processors and industry associations in North America.

With a population of 2.6 million people and extensive multi-unit housing, Toronto is perhaps the most comparable city in North America to New York. Its experience follows the experience of other Ontario jurisdictions: heavy industry pressure to add foam to curbside collections, followed by marketing problems after the demise of the Mississauga plant in 2008. Now, faced with a significant cost increase, the City is reviewing its position regarding this material.

Today, Toronto accepts “foam polystyrene (e.g. drinking cups, egg cartons, meat trays, takeout food containers, electronic packaging)” in its blue box commingled recycling collections. Toronto added Food-Service Foam to its curbside recycling collections in 2008, following a period in 2007 in which Food-Service Foam ban was under policy consideration. Industry pressure led to the designation of foam as a curbside recyclable as an alternative. As discussed above, the facility in Mississauga went bankrupt later that year, leaving the city to find markets for the Food-Service Foam it collected.

Between 2008 and 2016, Toronto paid their customer a high cost per ton to accept Food-Service Foam products. Food-Service Foam has a detrimental effect on MRF operations, including fragmentation and the contamination of other recycling streams. In 2017, the sales contract expired. Subsequent bids resulted in pricing well above what the City considered acceptable as mentioned above.

Currently, the City receives hand-sorted Food-Service Foam and Foam Packing Materials back from the MRF and is actively seeking markets for loose, baled and densified foam abroad. That material is currently being stockpiled as the city seeks a buyer. Of particular note to this determination, Toronto has approached companies and industry associations in the foam business as potential outlets for the city’s stockpiled foam, but there has not been any industry interest in taking the material.

Despite this high cost and the contamination of other streams, Toronto is reluctant to remove any designated recyclable from its program, because of the effect on public participation in recycling overall that has been discussed elsewhere in this determination. In the meantime, Toronto is

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<sup>70</sup> Section 7 of this determination: Research on Cities that Collect Foam with Recycling.

stockpiling the Food-Service Foam it has collected as it seeks to find a company to accept the stored material.

b. Hamilton, Ontario – No Market for Food-Service Foam in Commingled Recycling Collections

Like Sacramento, the City of Hamilton instructs residents to recycle clean foam packaging on its own within a clear plastic bag that can be included with other commingled recyclables. It does not accept loose Food-Service Foam or Foam Packing Materials in its curbside collections. In interviews with DSNY, Hamilton representatives noted that the quantity of foam received in commingled recycling collections is exceedingly small. Large, clean pieces of foam are hand-sorted from incoming commingled recycling. Hamilton staff stress that compaction and commingling render nearly all curbside collection foam unmarketable upon arrival at the MRF, even when residents are instructed to set-out the foam in separate plastic bags.

As an alternative, Hamilton encourages residents to drop off clean Food-Service Foam and Foam Packing Materials at recycling depots. Nearly all foam collected by Hamilton is collected from drop-off sites. This material is stockpiled at the Hamilton MRF, along with the occasional pieces of clean Foam Packing Materials hand-sorted from commingled collection and sent to a Canada Fibers MRF elsewhere in Ontario, where the material is densified. Representatives from Hamilton were not aware of whether the material is marketed to end users.

c. Niagara Region, Ontario, Canada – No Market for Foam Collected From Residents

The Niagara Region of Ontario manually sorts its foam at the MRF. The Niagara Region instructs residents to include “Styrofoam”, in their blue box curbside commingled recycling, adding that they should, “[r]emove residue, rinse and place in Blue Box and that if residue cannot be removed, the item should be disposed of as garbage.”<sup>71</sup>

In discussions with DSNY, representatives of Niagara Recycling indicated that after the 2008 closure of the industry-funded polystyrene recycling plant in Mississauga the region was no longer able to find buyers for foam collected in commingled recycling. At that time, Niagara Recycling began mixing foam into mixed rigid plastics bales, which were sold to EFS Plastics, an Ontario-based reclaimer. In an interview with DSNY, this reclaimer noted that it sorted and retained valuable polyethylene from these bales but discarded the remainder, including any Food-Service Foam or Foam Packaging Materials contained in the bales.

In 2014, Niagara began experimenting with the INTCO densification technology for manually-sorted foam, and stockpiled the densified material in city-owned property. Niagara staff noted that removing Foam products from the mixed rigid bales has dramatically improved marketability of those bales, indicating that the inclusion of foam had previously reduced the value of that material. INTCO has reneged on its initial offer to buy back Niagara’s foam, citing

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<sup>71</sup> <https://www.niagararegion.ca/waste/disposal/search.aspx?e=1&id=689&q=Styrofoam>.

food residue contamination in the densified bricks produced at its MRF. Of significant note to this determination, Niagara representatives have approached PRI but as yet that facility has not been interested in purchasing densified foam produced at the Niagara MRF. At present all foam is being stored until a customer can be found.

d. Peel, Ontario – Foam Contaminates Other Commodities and MRF Cannot Market Foam

Contemplating a ban on foam products, Peel, Ontario instead designated foam as recyclable when presented with a subsidized recycling option by the CPRA. After it designated foam as a recyclable, the industry-run facility closed, leaving Peel to try to handle the material in its existing MRF. Peel reports that it must hand-sort the material, and it ends up being landfilled.

Peel accepts foam egg cartons, foam coffee cups, meat trays, and blocks or sheets of Foam Packing Materials in the curbside collection program. Peels' MRF has noted problems with processing foam. The material gets broken up in the collection trucks and by the time it reaches the MRF, the foam products have broken into tiny pieces that fly throughout the MRF like fluff. Foam products are manually sorted from incoming commingled recycling, but foam that makes it past the hand sort often gets caught in the two-dimensional sorter and ends up mixed in with paper. Some foam makes it to the three-dimensional sorter and ends up with mixed plastics.

Since the industry-subsidized facility went out of business, Peel's contracted MRF does not hand-sort for foam or create a separate bale of foam material. Any foam collected as part of the recycling program goes straight to residue and is landfilled. Peel's contract with the MRF specifies target recovery rates for every material and a penalty if the MRF misses the target. However, when it comes to foam, the MRF simply pays the penalty amount because there are no markets for the collected material.

e. Other Ontario Cities Shutting Down Foam Recycling Programs Due to Market Problems

Recently, two cities in Ontario have taken the step of un-designating foam as a recyclable material. In doing so, these cities noted the nonexistence of markets for collected foam material. The city of Owen Sound ended its drop off recycling program for polystyrene foam products including foam clamshell takeout containers and cups due to a lack of demand for the post-consumer products, noting "it's such a marginal material that we haven't been able to find a market for it."<sup>72</sup>

Meanwhile, the city of Peterborough has discontinued the recycling of Styrofoam materials and has asked residents to stop placing the material in their blue [recycling] containers, noting on its website: "Styrofoam is very light and bulky, making it difficult and expensive to ship and process. Costs have continued to escalate over time and markets have virtually disappeared.

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<sup>72</sup> <https://www.rco.on.ca/announcements/pub:283/Styrofoam-recycling-to-end-in-Owen-Sound>.

Consequently, it is simply not feasible to continue collecting, sorting, and processing this material under these conditions.”<sup>73</sup>

*iii. Large Cities Do Not Designate Foam as Recyclable - Those That Do Collect, Do Not Recycle the Material.*

As part of NRDC’s February 2016 submission to DSNY, NRDC included an affidavit from Zac Randell, who researched the 28 largest cities in the United States by population to determine if foam was designated as a recyclable material. Randell concluded that of the twenty eight largest cities in America, only three cities designate foam as recyclable: Los Angeles, CA, San Antonio, TX and Jacksonville, FL.<sup>74</sup>

Randell noted that San Antonio designates foam as recyclable, but that he spoke with a representative from San Antonio’s Solid Waste Management Department who told him that “food contaminated polystyrene, as well as solid blocks of polystyrene, are not accepted or recycled in the city’s program.” He further noted that while foam is a designated recyclable material in Jacksonville, FL, he spoke with an employee from Jacksonville’s Solid Waste Division who stated “there is no local market for polystyrene recycling and that the only reason polystyrene is accepted by the city is because of statewide recycling acceptance goals that the city must meet.”<sup>75</sup> In fact, the City of Jacksonville’s website now states that all types of Styrofoam (polystyrene) are not accepted for recycling.<sup>76</sup> Randell thus concluded that “none of the nation’s largest cities has a successful program for recycling polystyrene foam food and beverage containers.

Indeed, as NRDC has previously documented, many major cities—including San Francisco, Oakland, San Jose, Minneapolis, and Portland, Maine—have banned Food-Service Foam, explicitly finding that this material is not feasibly recyclable.<sup>77</sup>

**8. Foam Contaminates Organics and is the Leading Plastic Pollutant in New York Harbor**

New York City’s Organics Program currently serves 1.2 million residents and is on track to expand through curbside collection and drop-off locations to the entire city by the end of 2018. WeCare, a long-term contractor of DSNY’s composting operations reports that “one of the

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<sup>73</sup>[http://www.peterborough.ca/News/Styrofoam\\_Recycling\\_Ends\\_January\\_1\\_2016.htm?DateTime=635872032000000000&PageMode=View](http://www.peterborough.ca/News/Styrofoam_Recycling_Ends_January_1_2016.htm?DateTime=635872032000000000&PageMode=View).

<sup>74</sup> Randell notes that he did not conduct research into Los Angeles’ polystyrene recycling program because he understood that such program was being discussed in the Sexton report.

<sup>75</sup> Randell affidavit, included in Exhibit D at 6.

<sup>76</sup> <http://www.coj.net/departments/public-works/solid-waste/recycling/curbside-recycling>

<sup>77</sup> Affirmation of Eric Goldstein, dated June 26, 2015, ¶ 21.

contaminants most often found when recycling food waste is polystyrene foam due to its use in many restaurants, convenience stores, and households.”<sup>78</sup> WeCare reports that because Food-Service Foam breaks so easily into very small pieces, it creates significant, unique challenges for composters to remove “even with advanced mechanical equipment.”

Staff of Long Beach’s Environmental Services Bureau cited the Los Angeles and San Gabriel River Watersheds 2014 litter study as a potential catalyst for that city to reverse its decision to collect Food-Service Foam as a recyclable. The study, issued well after Long Beach and other area municipalities had designated foam as recyclable, recommends a ban “on single-use” “polystyrene containers (e.g., Styrofoam),”<sup>79</sup> and lists foam in the top four most common pieces of litter. The study also highlighted that 50% of the litter found as part of the study was single-use food packaging, including Food-Service Foam.<sup>80</sup>

After DSNY’s initial determination on the recyclability of Food-Service Foam, The NY/NJ Baykeeper issued its February 2016 Plastic Collection Report, the first analysis of plastics in the NY-NJ Harbor Estuary. The 2016 Report concludes that there are “165 million plastic particles are floating within NY-NJ Harbor Estuary waters at any given time.” Of these plastic particles, the Plastic Collection Report states that “the most abundant type of plastic present in the samples was foam (38%).”<sup>81</sup> The Report emphasizes that plastics soak up toxins in the water and are often ingested by marine life. Calling the amount of plastics found in the harbor estuary “startling,” the Report concludes based on its sampling that “New York City has a serious single-use plastic pollution problem.”<sup>82</sup>

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<sup>78</sup> Letter from WeCare Organics LLC, March 18, 2013.

<sup>79</sup> *Reducing Plastic Debris in the Los Angeles and San Gabriel River Watersheds Project Brief*, Algalita Marine Research Institute, at 4; <http://www.algalita.org/reducing-plastic-debris-los-angeles-san-gabriel-river-watersheds/>.

<sup>80</sup> *Reducing Plastic Debris in the Los Angeles and San Gabriel River Watersheds Project Brief*, Algalita Marine Research Institute, at 2-3; <http://www.algalita.org/reducing-plastic-debris-los-angeles-san-gabriel-river-watersheds/>

<sup>81</sup> NY/NJ Harbor Estuary Plastic Collection Report, NY/NJ Baykeeper, Feb. 2016 at 6.

<sup>82</sup> NY/NJ Harbor Estuary Plastic Collection Report, NY/NJ Baykeeper, Feb. 2016 at 16.

## E. ANALYSIS

For 30 years, attempts to recycle Food-Service Foam—both subsidized and non-subsidized attempts—have failed at each step in the recycling process.<sup>83</sup> The municipalities researched by DSNY tell this exact story: Food-Service Foam is not capable of being recycled in an environmentally effective or an economically feasible manner.

The municipalities found that Food-Service Foam compacts in collection trucks, breaks into bits, and becomes covered in food residue, making it worthless when it arrives at the MRF.<sup>84</sup> It then blows throughout the MRF,<sup>85</sup> is missed by manual sorters, mistakenly moves with the paper material and contaminates other valuable recycling streams, namely paper,<sup>86</sup> which can be the most consistently valuable commodity in a recycling program. Food-Service Foam is too costly to clean and process compared to virgin material.<sup>87</sup> If some is sorted successfully, the light-weight foam must be stored for months, waiting for enough material to economically ship.<sup>88</sup>

If any Food-Service Foam makes it over these hurdles, the process grinds to a stop due to the struggle to find a buyer. With no buyer, municipalities get stuck and ultimately send the remaining amount of Food-Service Foam that escaped being landfilled after the compacting stage or after the sorting stage to a landfill.

This has been the experience of the largest municipalities researched by DSNY—the same municipalities that Dart suggested DSNY research—and several other small and large municipalities that also attempted to recycle Food-Service Foam. After designating Food-Service Foam, numerous municipalities end up sending the material to a landfill at each step in the recycling process.

There is no basis to expect that New York City's experience will be any different. New York City has the same commingled collection, the same compaction trucks, and the same optical sorting machines that failed in tests reported by Plastic Partners in which only 7 percent of the Food-Service Foam was found to reach the targeted bale. In fact, New York City's own attempt to sort at Sims South Brooklyn Facility resulted in approximately half of the Food-Service Foam failing to sort accurately even when run at a slower, more favorable speed than normal operations. DSNY, its plastic industry consultant, and Sims all agreed that the recovery rate

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<sup>83</sup> Schedler Report.

<sup>84</sup> Section 7 of this determination: Research on Cities that Collect Foam with Recycling.

<sup>85</sup> Section 7 of this determination: Research on Cities that Collect Foam with Recycling.

<sup>86</sup> Plastic Partners at ; Section 7 of this determination: Research on Cities that Collect Foam with Recycling.

<sup>87</sup> Section 7 of this determination: Research on Cities that Collect Foam with Recycling.

<sup>88</sup> Section 7 of this determination: Research on Cities that Collect Foam with Recycling.

would be appreciably lower if the belts were run at full speed, as opposed to the one-third speed used during the City’s test. This low recovery will further decrease when New York City moves to a single-stream recycling program in less than five years, as the Plastic Partners’ study found.

New York City would then face the same market forces that reject Food-Service Foam as a recyclable that Los Angeles, Toronto, Long Beach, Sacramento, Peel, and Hamilton have all encountered. It would find exactly what DSNY’s expert economist did that “[g]iven the lack of demand for recycled post-consumer EPS and the high costs of converting dirty EPS into a marketable product, there is no evidence of a market for this material.” Sexton found no reclaimers willing to buy Food-Service Foam, but instead many who called it “garbage,” commenting that it is sent straight to landfills. DSNY’s research on markets for collected Food-Service Foam found that the industry does not promote Food-Service Foam recycling and that there is no market for the material. All curbside collection programs in North America are focused solely on clean foam according to the industry’s own websites.

A subsidized program is not a market. Subsidy offers to other municipalities disappeared with a foam-industry-sponsored processing facility closing in Ontario.<sup>89</sup> Los Angeles found a buyer that later refused to purchase the Food-Service Foam that the city had sorted, cleaned, melted and densified.<sup>90</sup> With no markets for the material, these municipalities were left, scrambling to find a processor, paying higher fees for processors, landfilling the foam, or storing the foam until it figured out a solution. These are the unwanted consequences that New York City must expect based on other jurisdiction’s experiences. The small and marginally viable market that exists is for Foam Packing Materials, not a part of the analysis mandated by Local Law 142.

Finally, several jurisdictions that designated foam, some incentivized by a subsidized program and some not, plan to reverse their designation of foam as a recyclable or are considering it, citing high costs, contamination issues, shipping inefficiencies, the vanished market, and the fact that foam dominates the plastic litter found in surrounding waters.

The municipalities considering de-designating foam as a recyclable spoke of the problem of doing so since it impacts the public’s confidence that recycling, on the whole, is working. New York City experienced this when it temporarily reversed its designation of glass and plastic in 2002. The consequence was a significant reduction in the overall recycling rate, which took over 15 years to recover. New York City does not want to relive that unfortunate impact to its recycling program again.

## **1. The Mandate of Local Law 142**

Local Law 142 mandates an analysis: can Food-Service Foam be recycled at Sims’ South Brooklyn Marine Terminal location in a manner that is environmentally effective, economically feasible, and safe for employees. Having found that Food-Service Foam can be recycled in a

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<sup>89</sup> Section 7 of this determination: Research on Cities that Collect Foam with Recycling.

<sup>90</sup> Section 7 of this determination: Research on Cities that Collect Foam with Recycling.



manner that is safe for employees, this analysis discusses its environmental effectiveness and its economic feasibility.

*i. Environmentally Effective*

Local Law 142 breaks “environmentally effective” into several components.

→ Environmentally Effective “means not having negative environmental consequences.”

→ Negative environmental consequences include, but are not limited to, having “the capability to be recycled into new and marketable products without a significant amount of material accepted for recycling being delivered to landfills.”<sup>91</sup>

*ii. Economically Feasible*

Similarly, Local Law 142 breaks “economically feasible” into several components.

→ Economically feasible “means cost-effective.”

→ Cost-effective includes factors like “direct and avoided costs.”

→ Cost-effective must include “consideration of markets for the recycled materials”<sup>92</sup>

**2. Food-Service Foam is Being Landfilled by the Jurisdictions Collecting It**

Local Law 142 prohibits a finding of environmental effectiveness if “a significant amount of the material accepted for recycling” is “being delivered to landfills.”<sup>93</sup> DSNY’s research and discussions with jurisdictions that collect foam as part of their residential recycling truck collection lead to one conclusion—Food-Service Foam is being landfilled due to high costs and issues in dealing with dirty Food-Service Foam, significant crushing in collections, failures with sorting, and the lack of any market specifically for Food-Service Foam.<sup>94</sup> The difficulty with sorting Food-Service Foam was found in outside tests and in DSNY’s test at Sims. Sorting machines failed in tests reported by Plastic Partners with only 7 percent of the Food-Service Foam reaching the targeted bale. New York City’s test at Sims failed to sort accurately even when run at slower than normal speeds. Food-Service Foam is being collected as a “designated recyclable,” but after designating it, numerous municipalities end up sending the material to a landfill at each step in the recycling process. Based on the difficulties associated with Food-

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<sup>91</sup> LL 142 of 2013

<sup>92</sup> LL 142 of 2013

<sup>93</sup> LL 142 of 2013.

<sup>94</sup> See Section 7 of this determination: Research on Cities that Collect Foam with Recycling.

Service Foam at each of these required steps in the recycling process, Food-Service Foam cannot be recycled in an environmentally effective manner.

### **3. No Markets Exist for Recycled Food-Service Foam, Failing Economic Feasibility and Environmental Effectiveness**

To be cost-effective and substantiate a finding of economic feasibility under Local Law 142, DSNY must consider “markets for the recycled material.” The viability of the market is also a component of the environmentally effective analysis in that Food-Service Foam must have the “capability of being recycled into new and marketable products” without any negative environmental consequences.

Municipalities in the United States and Canada <sup>95</sup> have struggled to sort Food-Service Foam and then struggled to find any buyer for it. Each municipality emphasized their conclusion that there is no market at all for Food-Service Foam.

This finding is echoed by Behr and Sexton. Again, Behr concluded that “[g]iven the lack of demand for recycled post-consumer EPS and the high costs of converting dirty EPS into a marketable product, there is no evidence of a market for this material.” After investigations into 137 companies identified by Dart and BRG, the Sexton Report found “no evidence of a sustainable market for [Food-Service Foam] now or in the near future.”<sup>96</sup>

Food-Service Foam is not being purchased by reclaimers. Businesses that are using EPS are only interested in purchasing industrial discards or clean post-consumer Foam Packing Materials. The EPS industry itself is not supporting or promoting the recycling of Food-Service Foam. Instead, according to the industry’s own disseminated information, all foam collections programs in North America are focused on the collection of clean Foam Packing Materials.

As such, Food-Service Foam has no viable market and it is not being made into new and marketable products, failing both the economically feasible and the environmentally effective tests under the law’s mandate.

### **4. Processing Food-Service Foam Not Cost-Effective**

Local Law 142 prohibits a finding of economic feasibility if the process is not “cost-effective.” Los Angeles abandoned its attempts to clean, process, and convert Food-Service Foam into a new marketable product because it was twice the price of using virgin material. Peterborough reversed its designation of recyclability due to costs and lack of markets. Both Behr and Schedler conclude the high costs of converting dirty Food-Service Foam into a usable feedstock make it

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<sup>95</sup> See Section 7 of this determination: Research on Cities that Collect Foam with Recycling, discussions of Los Angeles, CA, Long Beach, CA, Riverside, CA, Sacramento, CA Toronto, Toronto, Ontario, Hamilton, Ontario, Niagara Region, Ontario and Peel, Ontario.

<sup>96</sup> Sexton Report, at 4.

an unmarketable item. Due to the high costs, attempts to recycle Food-Service Foam are not economically feasible.

## **5. Food-Service Foam Contaminates Valuable Recycling Streams**

Local Law 142 prohibits a finding of environmental effectiveness if the designation has “negative environmental consequences.” Research and discussions with municipalities and MRFs echoed the story found by the seeded-test sorting runs in the Plastic Partners Report—Food-Service Foam contaminates other valuable recycling streams, like paper.<sup>97</sup> This is a potential negative environmental consequence of collecting, compacting, and running Food-Service Foam through New York City’s processing system. Diminishing the viability of the existing recycling streams is a significant concern to New York City and a potential negative environmental consequence, making Food-Service Foam recycling not viable. Moreover, the continued use of Food-Service Foam in New York City leads to contamination in the City’s organics collection program that is “very challenging for composters to remove, even with advanced mechanical equipment.”<sup>98</sup>

## **6. If New York City designates Food-Service Foam Recyclable, Then Abandons, It Will Reduce the Overall Recycling Rate**

Another potential negative environmental consequence is a reduction in the City’s overall recycling rates if New York City designates Food-Service Foam as a recyclable and then five years from now, removes it from the stream, declaring to the public that it is no longer viable without Dart’s offer to Sims. The research also shows that industry-sponsored foam recycling programs have failed over the last 30 years in the US and in Canada, leaving cities facing huge costs and no buyers. After the subsidized markets failed in Ontario, Canada, many municipalities have paid MRFs to sort the designated Food-Service Foam and then landfilled it. Others have reversed foam’s designation as a recyclable, like Peterborough and Owen Sound. Or they have considered reversing their designation due to the lack of buyers. The City’s recycling rates significantly dropped when New York City altered its recycling requirements temporarily in 2002. This is a negative environmental consequence that the City does not want to experience again.

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<sup>97</sup> Plastic Partners at 54 and 58 and Section 7 of this determination: Research on Cities that Collect Foam with Recycling.

<sup>98</sup> Letter from WeCare Organics LLC, March 18, 2013.

## **F. CONCLUSION**

DSNY concludes that Food-Service Foam is not capable of being recycled at the designated recycling processing at the South Brooklyn Marine Terminal in a manner that is environmentally effective or economically feasible.

As a result of this determination, on and after November 13, 2017, no food service establishment, mobile food commissary, or store shall possess, sell, or offer for use single-service articles that consist of expanded polystyrene (“Food-Service Foam”), unless otherwise exempt under Local Law 142. In addition, no manufacturer or store shall sell or offer for sale polystyrene loose fill packaging (“Foam Packing Peanuts”). In accordance with Local Law 142, DSNY will provide public education and outreach to food service establishments, mobile food commissaries, and stores to inform them of the provisions of this section and provide assistance with identifying replacement material and no violations will be issued under this Law until May 14, 2018.

**LOCAL LAWS  
OF  
THE CITY OF NEW YORK  
FOR THE YEAR 2017**

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**No. 49**

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Introduced by the Public Advocate (Ms. James) and Council Members King, Richards, Lander, Menchaca, Levin, Van Bramer and Barron.

**A LOCAL LAW**

**To amend the administrative code of the city of New York, in relation to voluntary recycling incentive pilot programs in public housing**

*Be it enacted by the Council as follows:*

Section 1. Subchapter 3 of chapter 3 of title 16 of the administrative code of the city of New York is amended by adding a new section 16-316.4 to read as follows:

*16-316.4 Recycling incentive pilot program. a. On or before January 1, 2018, the department, in consultation with the New York city housing authority, shall perform and complete a review of voluntary recycling incentive pilot programs to improve the diversion of designated recyclable materials in public housing, as such term is defined in section 5.100 of title 24 of the code of federal regulations. Such review shall include, but need not be limited to, the following: (i) engaging public housing residents and other stakeholders to identify potential recycling incentive pilot programs and locations where it would be feasible to implement such programs; (ii) examining any potential obstacles to implementing such programs; (iii) exploring financial and other incentives that have been proposed or implemented in other jurisdictions and their potential to increase recycling participation by public housing residents; (iv) determining the steps necessary to implement a recycling incentive pilot program for public housing residents; and (v)*

*prioritizing community districts that have comparatively low rates of recycling in public housing, as determined by the department.*

*b. On or before July 1, 2018, the department shall report to the mayor and the council and post on its website a summary of its review of voluntary recycling incentive pilot programs. The summary shall include the department's recommendation regarding implementing a voluntary recycling incentives pilot program to improve the diversion of designated recyclable materials in public housing.*

*c. If the department determines that a voluntary recycling incentive pilot program is feasible and would be reasonably likely to improve the diversion of designated recyclable materials in public housing, the department shall implement such program by July 1, 2020. Within two years after implementation of such program, the department shall report to the mayor and the council, and post on its website, an assessment of the impact of such program on diversion rates. Such assessment shall include the department's recommendation on expanding or making such program permanent and any other recommended changes to such program.*

§ 2. This local law takes effect immediately.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, s.s.:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council on March 1, 2017 and approved by the Mayor on March 21, 2017.

MICHAEL M. McSWEENEY, City Clerk, Clerk of the Council.

CERTIFICATION OF CORPORATION COUNSEL

I hereby certify that the form of the enclosed local law (Local Law No. 49 of 2017, Council Int. No. 820-A of 2015) to be filed with the Secretary of State contains the correct text of the local law passed by the New York City Council and approved by the Mayor.

STEPHEN LOUIS, Acting Corporation Counsel.

**LOCAL LAWS  
OF  
THE CITY OF NEW YORK  
FOR THE YEAR 2017**

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**No. 60**

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Introduced by Council Members Constantinides, Cornegy, Koo, Rose, Wills, Cumbo, Rodriguez, Mendez, Rosenthal, Deutsch, Treyger, Williams, Palma, King, Johnson, Levin, Dromm, Gentile, Menchaca, Van Bramer, Barron, Chin, Espinal, Lancman, Richards, Vallone, Reynoso, Miller, Koslowitz, Torres, Cohen, Crowley, Levine, Salamanca and Lander.

**A LOCAL LAW**

**To amend the administrative code of the city of New York, in relation to requiring a study of environmental justice areas and the establishment of an environmental justice portal**

*Be it enacted by the Council as follows:*

Section 1. Section 3-1001 of the administrative code of the city of New York, as added by a local law of the city of New York for the year 2017, in relation to identifying and addressing environmental justice issues, as proposed in introduction number 886-A, is amended by adding a new definition for “disproportionate effect” in appropriate alphabetical order to read as follows:

*Disproportionate effect. The term “disproportionate effect” means situations of concern where there exists significantly higher and more adverse health and environmental effects on minority populations or low-income populations.*

§ 2. Paragraphs 5 and 6 of subdivision d of section 3-1002 of the administrative code of the city of New York, as added by a local law of the city of New York for the year 2017, in relation to identifying and addressing environmental justice issues, as proposed in introduction number 886-A, are amended to read as follows and a new paragraph 7 is added to such subdivision to read as follows:



5. Receive and respond to inquiries, including data requests, and recommendations from the advisory board; [and]

6. Develop an environmental justice plan pursuant to section [3-1003.] *3-1003; and*

7. *Conduct a study of environmental justice areas pursuant to section 3-1007.*

§ 3. Subparagraphs (e) and (f) of paragraph 1 of subdivision a of section 3-1003 of the administrative code of the city of New York, as added by a local law of the city of New York for the year 2017, in relation to identifying and addressing environmental justice issues, as proposed in introduction number 886-A, are amended to read as follows and a new subparagraph (g) is added to such paragraph to read as follows:

(e) Methods for promoting equitable distribution of and access to environmental benefits; [and]

(f) Methods for improving research and data collection relating to human health and the environment; *and*

(g) *Recommendations for legislation, policy, budget initiatives and other measures the city can take, either acting alone or in collaboration with other organizations or governmental entities, to (i) mitigate or, to the extent possible, eliminate the disproportionate effects identified in the study required by section 3-1007 and (ii) increase utilization of renewable energy sources and energy efficiency measures in environmental justice areas.*

§ 4. Chapter 10 of title 3 of the administrative code of the city of New York, as added by a local law of the city of New York for the year 2017, in relation to identifying and addressing environmental justice issues, as proposed in introduction number 886-A, is amended by adding a new section 3-1007 to read as follows:

*§ 3-1007 Environmental justice study and portal. a. 1. By no later than December 31, 2018, and by December 31 in every fifth year thereafter, the interagency working group, with the cooperation of all relevant agencies, shall (i) conduct a study which shall identify and describe opportunities for and means of promoting environmental justice in the city, (ii) submit a report to the mayor and the speaker of the council on the findings of such study, and (iii) make a copy of such report publicly available online. Such study shall, at a minimum, evaluate and set forth the following:*

*(a) The locations and boundaries of environmental justice areas;*

*(b) A description of environmental justice concerns that may affect environmental justice areas and, for each such concern, (i) identify locations within the city experiencing such concern, if such locations can be reasonably determined, and (ii) propose data collection, research, or analysis that may be undertaken by a city agency to identify locations within the city experiencing the environmental justice concern;*

*(c) An estimate of the current federal, state and local investment per capita in utilization of renewable energy sources in environmental justice areas as compared to an estimate of such investment per capita for all parts of the city located outside such areas;*

*(d) A description of barriers to meaningful participation in environmental decision-making affecting residents of environmental justice areas;*

*(e) Existing city programs and processes that advance environmental justice goals and may be used by the public to participate in city agency decision-making;*

*(f) Existing city programs and processes that allow for public engagement with and participation in decisions made by city agencies regarding siting facilities and infrastructure;*

*(g) Existing city programs, policies, activities and processes that may otherwise implicate environmental justice concerns;*

*(h) Changes that may be made to existing city programs and policies to facilitate participation by populations in environmental justice areas in decision-making that implicates environmental justice concerns;*

*(i) Available data relating to environmental factors, including but not limited to air and water quality, the location and attributes of infrastructure owned, maintained and operated by the city, and concentrations of violations of city environmental regulations, that may reflect environmental problems in environmental justice areas; and*

*(j) Environmental justice programs proposed or being implemented in other municipalities or states within the United States.*

*2. Before commencing such environmental justice study, the interagency working group shall present a proposed design and scope for such study to the advisory board, which shall return its recommendations or comments within 30 days. The interagency working group shall include in the final design and scope for such study such working group's responses to all recommendations or comments submitted by such board and shall present to the advisory board and make publicly available online the final design and scope for the environmental justice study before commencing such study.*

*3. Before finalizing the environmental justice study, the interagency working group shall present such study in draft form to the advisory board, which shall return its recommendations or comments within 60 days. The interagency working group shall include in the final environmental justice study responses to all recommendations or comments submitted by such board.*

*b. By no later than June 30, 2019, the interagency working group, with the cooperation of all relevant agencies, shall make publicly available online an interactive map that can be used to (i) view the location and boundaries of environmental justice areas; (ii) view the location of facilities and infrastructure identified pursuant to subparagraph (c) of paragraph 1 of subdivision d of section 3-1002, except where identifying the location of such facility or infrastructure would pose a security risk; and (iii) search for such facilities and infrastructure by address, zip code, council district, community district and type of environmental concern. The interagency working group shall thereafter update such map as needed to reflect changes in such data.*

*c. By no later than December 31, 2018, the office of long-term planning and sustainability, or such other office or agency as the mayor may designate, in consultation with the department of environmental protection, the department of health and mental hygiene and other relevant agencies, shall create and maintain an environmental justice portal on the city's website that provides easy access to the following resources:*

- 1. Data, maps and other information from city, state and federal sources, and from other relevant sources, relating to environmental justice concerns;*
- 2. Any study or plan published by the city relating to environmental justice concerns;*
- 3. Agency programs that promote environmental justice and foster community engagement with and participation in agency decision-making that implicates environmental justice concerns;*  
*and*
- 4. New York state and federal programs that promote environmental justice.*

§ 5. This local law takes effect on the same date that a local law of the city of New York for the year 2017, in relation to identifying and addressing environmental justice issues, as proposed

in introduction number 886-A, takes effect. Nothing in this local law shall be deemed to create a private right of action to enforce its provisions. Nothing in this local law shall be construed to create any right or benefit enforceable against the city of New York or any right to judicial review of any action taken by the city of New York.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, s.s.:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council on April 5, 2017 and approved by the Mayor on April 25, 2017.

MICHAEL M. McSWEENEY, City Clerk, Clerk of the Council.

CERTIFICATION OF CORPORATION COUNSEL

I hereby certify that the form of the enclosed local law (Local Law No. 60 of 2017, Council Int. No. 359-A of 2014) to be filed with the Secretary of State contains the correct text of the local law passed by the New York City Council and approved by the Mayor.

STEPHEN LOUIS, Acting Corporation Counsel.

**LOCAL LAWS  
OF  
THE CITY OF NEW YORK  
FOR THE YEAR 2017**

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**No. 61**

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Introduced by Council Members Vacca, Chin, Eugene, Koo, Rosenthal, Grodenchik, Salamanca, Treyger, Menchaca, Palma, Levin, Kallos and Borelli.

**A LOCAL LAW**

**In relation to online submission of applications for permits, licenses and registrations and a single web portal for such applications**

*Be it enacted by the Council as follows:*

Section 1. a. On or before June 1, 2018, an office designated by the mayor shall, in conjunction with the department of information technology and telecommunications and with the cooperation of relevant city agencies, review the feasibility of establishing online applications for all permits, licenses and registrations issued by city agencies. Such review shall include, but need not be limited to, the following:

1. A list of which permits, licenses and registrations may currently be applied for online and which may not;

2. For each permit, license or registration that may not currently be applied for online:

(a) An evaluation of the feasibility of allowing online applications for such permit, license or registration, including but not limited to, an evaluation of (i) technical issues, such as software, information technology infrastructure and web compatibility, (ii) issues related to the privacy or security of information in such applications and (iii) costs of allowing online applications for such permit, license or registration;

(b) If such office determines that allowing online applications for such permit, license or registration would be feasible, a plan and timeline for allowing such online applications;

(c) If such office determines that allowing online applications for such permit, license or registration would not be feasible, a description of the reasons for such determination, including a description of the obstacles to allowing such online applications;

3. A description of any web portals used to apply online for permits, licenses and registrations;

4. An evaluation of the feasibility of creating and maintaining a single web portal that can be used to access the application for each permit, license or registration for which online applications are accepted, including but not limited to technical issues, such as software, information technology infrastructure and web compatibility; and

5. A plan and timeline for creating and maintaining such a portal to the extent feasible.

b. On or before June 1, 2018, such office shall report to the mayor and the council on the findings of such review.

§ 2. This local law takes effect immediately.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, s.s.:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council on April 5, 2017 and approved by the Mayor on April 25, 2017.

MICHAEL M. McSWEENEY, City Clerk, Clerk of the Council.

CERTIFICATION OF CORPORATION COUNSEL

I hereby certify that the form of the enclosed local law (Local Law No. 61 of 2017, Council Int. No. 564-A of 2014) to be filed with the Secretary of State contains the correct text of the local law passed by the New York City Council and approved by the Mayor.

STEPHEN LOUIS, Acting Corporation Counsel.



**LOCAL LAWS  
OF  
THE CITY OF NEW YORK  
FOR THE YEAR 2017**

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**No. 64**

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Introduced by Council Members Barron, Mendez, Miller, Richards, Rose, Constantinides, Cumbo, Chin, Cabrera, Ferreras-Copeland, Cornegy, Williams, Menchaca, King, Rodriguez, Palma, Rosenthal, Levine, Johnson, Vallone, Garodnick, Gibson, Dromm, Reynoso, Espinal, Maisel, Koslowitz, Lander, Van Bramer, Crowley, Levin, Torres, Lancman, Cohen, Deutsch, Treyger, Greenfield, Vacca, Kallos, Eugene, Koo, Salamanca and Ulrich.

**A LOCAL LAW**

**To amend the administrative code of the city of New York, in relation to identifying and addressing environmental justice issues**

*Be it enacted by the Council as follows:*

Section 1. Title 3 of the administrative code of the city of New York is amended by adding a new chapter 10 to read as follows:

*CHAPTER 10*

*ENVIRONMENTAL JUSTICE*

*§ 3-1001 Definitions.*

*§ 3-1002 Interagency working group.*

*§ 3-1003 Environmental justice plan.*

*§ 3-1004 Agency responsibilities.*

*§ 3-1005 Research, data collection and analysis.*

*§ 3-1006 Advisory board.*

*§ 3-1001 Definitions. As used in this chapter:*

*Advisory board. The term “advisory board” means the advisory board created pursuant to section 3-1006.*

*Environmental benefit. The term “environmental benefit” shall include, but not be limited to, access to grants, subsidies, loans and other financial assistance relating to energy efficiency or environmental projects; access to open space, green infrastructure and, where relevant, access to waterfronts; and the implementation of environmental initiatives, including climate resilience measures.*

*Environmental justice. The term “environmental justice” means the fair treatment and meaningful involvement of all persons, regardless of race, color, national origin or income, with respect to the development, implementation and enforcement of environmental laws, regulations, policies and activities and with respect to the distribution of environmental benefits. Fair treatment means that no group of people, including a racial, ethnic or socioeconomic group, should (i) bear a disproportionate share of the negative environmental consequences resulting from industrial, municipal and commercial operations or the execution of federal, state or local programs and policies or (ii) receive an inequitably low share of environmental benefits.*

*Environmental justice area. The term “environmental justice area” means a low-income community located in the city or a minority community located in the city.*

*Environmental justice plan. The term “environmental justice plan” means a plan required by section 3-1003.*

*Interagency working group. The term “interagency working group” means the interagency working group established pursuant to section 3-1002 of this chapter.*

*Low-income community. The term “low-income community” means a census block group, or contiguous area with multiple census block groups, having a low-income population equal to or greater than 23.59 percent of the total population of such block group or groups, or such other*

*percentage as may be determined by the New York state department of environmental conservation in the course of setting parameters for the location of potential environmental justice areas within the state of New York and made publicly available on the website of such department.*

*Low-income population. The term “low-income population” means a population having an annual income that is less than the poverty threshold established by the United States census bureau.*

*Minority community. The term “minority community” means a census block group, or contiguous area with multiple census block groups, having a minority population equal to or greater than 51.1 percent of the total population of such block group or groups, or such other percentage as may be determined by the New York state department of environmental conservation in the course of setting parameters for the location of potential environmental justice areas within the state of New York and made publicly available on the website of such department.*

*Minority population. The term “minority population” means a population that is identified or recognized by the United States census bureau as Hispanic, African-American or Black, Asian and Pacific Islander or American Indian.*

*§ 3-1002 Interagency working group. a. By no later than three months after the effective date of this section, the mayor shall establish an interagency working group consisting of the heads of the following city agencies, or their designees:*

- 1. The department of environmental protection;*
- 2. The department of parks and recreation;*
- 3. The department of transportation;*
- 4. The department of health and mental hygiene;*

5. *The department of city planning;*
6. *The department of buildings;*
7. *The department of housing preservation and development;*
8. *The department of sanitation;*
9. *The office of long-term planning and sustainability;*
10. *The New York city commission on human rights; and*
11. *Such other offices within the office of the mayor and such other city agencies as shall be designated by the mayor, including, when appropriate, such offices or agencies with subject matter expertise in environmental policy and/or data analysis.*

*b. The mayor shall appoint or designate a special coordinator for environmental justice, who may, in the discretion of the mayor, be within the office of the mayor or within any agency, the head of which is appointed by the mayor, and who shall be the chair of the interagency working group.*

*c. Staff assistance for the interagency working group shall be provided by the member agencies and offices within the office of the mayor.*

*d. The interagency working group shall:*

*1. Provide guidance to agencies on criteria for identifying and interpreting:*

*(a) Human health data and analyses relevant to city agency programs, activities and policies;*

*(b) Available data relating to environmental factors within the city, including but not limited to*

*(i) air and water quality and concentrations of violations of city environmental regulations that may reflect environmental justice concerns and (ii) existing studies on environmental justice;*

*(c) Existing city facilities and infrastructure, and to the extent known existing non-city facilities and infrastructure, located in environmental justice areas that may raise environmental justice concerns;*

*(d) Opportunities for promoting environmental justice;*

*2. Coordinate with, provide guidance to, and serve as a clearinghouse for, city agencies as they implement the environmental justice plan, in order to promote consistent and transparent administration, interpretation and enforcement of programs, activities and policies;*

*3. Assist in coordinating research by, and stimulating cooperation among, agencies conducting data collection, research or other activities in accordance with section 3-1005;*

*4. Develop interagency model projects that address environmental justice concerns and that evidence cooperation among agencies;*

*5. Receive and respond to inquiries, including data requests, and recommendations from the advisory board; and*

*6. Develop an environmental justice plan pursuant to section 3-1003.*

*§ 3-1003 Environmental justice plan. a. The interagency working group shall develop an environmental justice plan that provides guidance for incorporating environmental justice concerns into city decision-making, identifies possible citywide initiatives for promoting environmental justice and provides specific recommendations for city agencies represented on the interagency working group. Matters treated by such plan shall include, at a minimum:*

*1. City-wide initiatives:*

*(a) Methods for promoting environmental justice;*

*(b) Methods of encouraging greater public engagement with and participation in decision-making that raises environmental justice concerns;*

*(c) Methods of promoting transparency and consistency in the city's approach to environmental justice;*

*(d) City-wide and/or inter-agency projects that address environmental justice concerns;*

*(e) Methods for promoting equitable distribution of and access to environmental benefits; and*

*(f) Methods for improving research and data collection relating to human health and the environment;*

*2. Agency-specific recommendations:*

*(a) Changes to an agency's programs, policies, activities or processes that will promote environmental justice, including but not limited to:*

*(1) Consideration of capital projects that address environmental justice concerns in or provide environmental improvements to environmental justice areas;*

*(2) Agency enforcement actions that can be strengthened or expanded to address environmental justice concerns;*

*(3) Agency-specific methods of promoting greater public participation and transparency in agency decision-making that raises environmental justice concerns, including the siting of agency facilities; and*

*(b) A description of any amendments to laws or rules that would facilitate implementation of any of the recommendations made pursuant to subparagraph (a) of this paragraph.*

*b. 1. By December 31, 2019, the interagency working group shall (i) provide the advisory board with a draft environmental justice plan, (ii) provide a copy of such plan to the mayor and the*

*speaker of the council and (iii) provide a copy of such plan to each city agency covered by such plan. Upon receiving a copy of such plan, each agency covered by such plan shall publish a copy thereof on its website.*

*2. By June 30, 2020, the advisory board shall:*

*(a) Review such plan;*

*(b) Hold public hearings on such plan in accordance with section 3-1006; and*

*(c) Provide the interagency working group with recommendations and comments relating to such plan and convey public comments received at public hearings conducted by such board on such plan.*

*3. By December 31, 2021, the interagency working group shall (i) finalize the environmental justice plan, which shall include responses to all recommendations submitted to the interagency working group by the advisory board, (ii) provide a copy of such plan to the advisory board, (iii) provide a copy of such plan to the mayor and the speaker of the council and (iv) provide a copy of such plan to each agency covered by such plan. Upon receiving a copy of such plan, each agency covered by such plan shall publish a copy thereof on its website.*

*4. By June 30 in 2022, and by June 30 in every year thereafter, the interagency working group shall report to the advisory board, the mayor and the speaker of the council on progress in implementing the environmental justice plan.*

*c. 1. By December 31, 2024, and by December 31 in every fifth year thereafter, the interagency working group shall (i) provide the advisory board with draft revisions to the most recent environmental justice plan, (ii) provide a copy of such revisions to the mayor and the speaker of the council and (iii) provide a copy of such revisions to each agency covered by such plan. Upon*

*receiving a copy of such revisions, each agency covered by such plan shall publish a copy thereof on its website.*

*2. By June 30, 2025, and by June 30 in every fifth year thereafter, the advisory board shall:*

*(a) Review such revisions;*

*(b) Hold public hearings on such revisions in accordance with section 3-1006; and*

*(c) Provide the interagency working group with recommendations and comments relating to such revisions and convey public comments received at public hearings conducted by such board on such revisions.*

*3. By December 31, 2025, and by December 31 in every fifth year thereafter, the interagency working group shall (i) finalize the revisions to the environmental justice plan, which shall include responses to all recommendations submitted to the interagency working group by the advisory board, (ii) provide a copy of such revised plan to the advisory board, (iii) provide a copy of such revised plan to the mayor and the speaker of the council and (iv) provide a copy of such revised plan to each agency covered by such plan. Upon receiving a copy of such revised plan, each agency covered by such revised plan shall publish a copy thereof on its website.*

*4. The interagency working group may revise the environmental justice plan more frequently than set forth in this subdivision, provided that (i) at least 60 days before finalizing such revision, such working group provides a copy of the proposed revision to the advisory board, (ii) the finalized revision includes responses to all recommendations submitted to the interagency working group by the advisory board, (iii) such working group provides a copy of the finalized revision to the advisory board, the mayor, the speaker of the council and each agency covered by the*



*environmental justice plan as revised. Upon receiving a copy of such plan, each agency covered by such plan shall publish a copy thereof on its website.*

*§ 3-1004 Agency responsibilities. To the extent practicable, each agency covered by the environmental justice plan shall conduct its programs, policies and activities in accordance with the environmental justice plan, provided that the application of such plan to any such agency shall be consistent with the powers and duties of such agency as set forth in the charter and all applicable laws.*

*§ 3-1005 Research, data collection and analysis. a. The interagency working group, in consultation with the advisory board, shall identify and consider existing data, research and analysis that relates to environmental justice concerns raised by city agency programs, policies, facilities, and activities and that may inform city agency decisions regarding programs, policies, facilities, and activities.*

*b. The interagency working group, in consultation with the advisory board, shall identify data collection, research, or analysis that may be undertaken by a city agency that relates to environmental justice concerns and may inform city agency decisions regarding programs, policies, facilities, and activities, and shall work with city agencies to facilitate such data collection, research, or analysis.*

*c. Information collected pursuant to this subdivision shall be made available to the public as practicable, unless prohibited by law.*

*d. City agencies shall, whenever practicable and appropriate, use existing data systems and coordinate with other agencies and with federal, state or other local governments to share information and eliminate unnecessary duplication of efforts.*

*§ 3-1006 Advisory board. a. There is hereby established an advisory board on environmental justice that shall consist of the following members:*

- 1. Seven members appointed by the mayor;*
- 2. Seven members appointed by the speaker of the council; and*
- 3. One member who shall serve as the chair of such board and who shall be appointed by the mayor in consultation with such speaker.*

*b. Each member of the advisory board shall be:*

- 1. An individual who is, at the time of appointment, a director, member or employee of an organization engaged primarily in work promoting environmental justice;*
- 2. A resident of an environmental justice area;*
- 3. A member of a community board representing a community district that is located in whole or in part in an environmental justice area; or*
- 4. A faculty member of an academic institution located within the city and who specializes in one of the environmental sciences, environmental health, environmental justice, human rights or urban planning.*

*c. The mayor and the speaker of the council shall consult and, to the extent practicable, ensure that the advisory board includes at least one member, appointed pursuant to paragraph one or two of subdivision a of this section, who is a resident of or a member of a community board representing a community district located in whole or in part in each borough of the city.*

- d. 1. Advisory board members shall serve without compensation.*
- 2. The initial appointment of advisory board members shall be completed by no later than six months after the effective date of the local law that added this section.*

*3. Advisory board members shall serve terms of three years.*

*4. Any vacancy on the advisory board shall be filled in the manner of original appointment.*

*e. The advisory board shall:*

*1. Consult with the interagency working group in the preparation of the environmental justice plan and any revisions thereto;*

*2. Review and comment on the draft environmental justice plan and any revisions thereto before its finalization by the interagency working group;*

*3. Hold public hearings pursuant to subdivision f of this section;*

*4. Convey public comments received at such hearings as well as its own comments regarding the draft environmental justice plan and any revisions thereto to the interagency working group;*

*5. Make recommendations to the interagency working group concerning any matter considered by, or action to be taken by, the interagency working group or for otherwise promoting environmental justice;*

*6. Review proposed and final environmental justice plans, and proposed revisions thereto, and make recommendations to the interagency working group relating to such plans and proposed revisions; and*

*7. Recommend agencies or offices for inclusion in the interagency working group.*

*f. 1. The advisory board shall hold public meetings, as it deems appropriate, for the purpose of (i) fact-finding, (ii) receiving public comments, (iii) discussing recommendations submitted to, or to be submitted to, the interagency working group and (iv) promoting environmental justice.*

*2. The advisory board shall hold at least two such meetings in each year; provided that if the local law adding this paragraph is enacted on or after June 30 in any year, the advisory board need only hold at least one meeting in such year.*

*3. During the review of a draft environmental justice plan pursuant to paragraph 2 of subdivision b of section 3-1003 or the review of revisions to a final environmental justice plan pursuant to paragraph 2 of subdivision c of such section, the advisory board shall hold at least one such meeting on such plan or revisions in each borough in which all or part of at least one environmental justice area is located.*

*4. The advisory board shall provide notice to the public at least three weeks before such meetings, where practicable.*

§ 2. This local law takes effect immediately. Nothing in this local law shall be deemed to create a private right of action to enforce its provisions. Nothing in this local law shall be construed to create any right or benefit enforceable against the city of New York or any right to judicial review of any action taken by the city of New York.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, s.s.:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council on April 5, 2017 and approved by the Mayor on April 25, 2017.

MICHAEL M. McSWEENEY, City Clerk, Clerk of the Council.

CERTIFICATION OF CORPORATION COUNSEL

I hereby certify that the form of the enclosed local law (Local Law No. 64 of 2017, Council Int. No. 886-A of 2015) to be filed with the Secretary of State contains the correct text of the local law passed by the New York City Council and approved by the Mayor.

STEPHEN LOUIS, Acting Corporation Counsel.

**LOCAL LAWS  
OF  
THE CITY OF NEW YORK  
FOR THE YEAR 2017**

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**No. 70**

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Introduced by Council Members Cornegy, Barron, Cabrera, Constantinides, Eugene, Gentile, Johnson, Koo, Koslowitz, Mealy, Mendez, Rose, Torres, Dromm, Vallone, Rosenthal, Chin, Cohen, Menchaca, Levin, Kallos and Ulrich.

**A LOCAL LAW**

**To amend the administrative code of the city of New York, in relation to notifying a business when the city has received a request for service or complaint about its operation**

*Be it enacted by the Council as follows:*

Section 1. Chapter 3 of Title 23 of the administrative code of the city of New York is amended by adding a new section 23-303 to read as follows:

*§ 23-303 Notifying businesses of requests for service or complaints. Pursuant to the provisions of this section, the department of information technology and telecommunications shall, to the extent practicable, notify business owners by text or email, in accordance with the business owner's preference, each time the address of their business is provided as part of a 311 request for service or complaint if such business owners have opted to receive such notifications via a website maintained by or on behalf of the city of New York. Such notifications shall be offered in the designated citywide languages defined in section 23-1101 of this code. Such notifications shall be delivered within 72 hours, to the extent practicable, and not more than 96 hours after the 311 request for service or complaint is made available as part of a public data set on the single web portal established pursuant to chapter 5 of this title.*

§ 2. This local law takes effect 270 days after enactment.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, s.s.:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council on April 25, 2017 and approved by the Mayor on May 10, 2017.

ALISA FUENTES, Acting City Clerk, Acting Clerk of the Council.

CERTIFICATION OF CORPORATION COUNSEL

I hereby certify that the form of the enclosed local law (Local Law No. 70 of 2017, Council Int. No. 891-A of 2015) to be filed with the Secretary of State contains the correct text of the local law passed by the New York City Council and approved by the Mayor.

STEPHEN LOUIS, Acting Corporation Counsel.

**LOCAL LAWS  
OF  
THE CITY OF NEW YORK  
FOR THE YEAR 2017**

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**No. 97**

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Introduced by Council Members Constantinides, Richards, Gibson, Rosenthal, Johnson, Rodriguez, Lancman, Van Bramer, Vacca, Koslowitz, Torres, Gentile, Espinal, Cohen, Kallos, Vallone, Levin, Crowley, Menchaca, Williams, Rose, Levine, Reynoso, Chin, Eugene, Garodnick, Dromm, Ferreras-Copeland, Cabrera, Greenfield, Maisel, Lander, Koo, Treyger, Cornegy, Salamanca, Deutsch, Barron and Ulrich (by request of the Mayor).

**A LOCAL LAW**

**To amend the New York city charter, the administrative code of the city of New York, the New York city plumbing code and the New York city building code, in relation to water pollution control, including provisions relating to stormwater management and control of discharges into storm sewers**

*Be it enacted by the Council as follows:*

Section 1. Paragraph (2) of subdivision 1 of section 224.1 of the New York city charter, as amended by local law number 31 for the year 2016, is amended to read as follows:

(2) (i) Each capital project that involves the construction of a new city-owned building and each capital project that involves an addition to an existing city-owned building or the substantial reconstruction of an existing city-owned building, where such substantial reconstruction involves substantial work on the building envelope, shall be designed and constructed as a low energy intensity building.

(ii) For each capital project subject to subparagraph (i) of this paragraph the design agency shall consider the feasibility of designing and constructing such project as an onsite energy generating building.

(iii) For each capital project subject to subparagraph (i) of this paragraph with an estimated height of no more than three stories above grade, the design agency shall consider the feasibility of designing and constructing such project as a net zero energy building.

*(iv) For each capital project subject to subparagraph (i) of this paragraph the design agency shall consider the feasibility of designing and constructing such project to incorporate green infrastructure.*

[(iv)] (v) This paragraph shall apply only to capital projects which are added to the capital plan on or after July 1, 2017.

§ 2. Paragraphs 2 and 3 of subdivision a of section 1403 of the New York city charter, as added by local law number 24 for the year 1977, are amended to read as follows:

(2) The commissioner shall examine into the sources of water supply of any private companies supplying the city or any portion thereof or its inhabitants with water to see that the same is wholesome and the supply is adequate, to establish such rules and regulations in respect thereof as are reasonable and necessary for the convenience of the public and to exercise superintendence, regulation and control in respect to the supply of water by such water companies [;

(3) Except as otherwise provided by law and subject to the provisions of this chapter, the commissioner shall regulate and control emissions into water within and about the city of New York of harmful or objectionable substances, contaminants and pollutants; enforce all laws, rules and regulations with respect to such emissions; make such investigations and studies as may be desirable for the purpose of such enforcement and of controlling and eliminating pollution of such waters, and for such purpose shall have the power to compel the attendance of witnesses and to take their testimony under oath].



§ 3. Section 1403 of the New York city charter is amended by adding a new subdivision b-1 to read as follows:

*b-1. Water pollution control.*

*(1) Except as otherwise provided by law and subject to the provisions of this chapter, the commissioner shall have the power to administer and enforce provisions of law, rules and regulations relating to the management and control of discharges and runoff from public and private property, including but not limited to stormwater discharges; regulate and control discharges into water within and about the city of New York of harmful or objectionable substances, contaminants and pollutants that may have an adverse impact on waters of the state; enforce all laws, rules and regulations with respect to discharges described in this paragraph; make such investigations and studies as may be desirable for the purpose of such enforcement and of controlling and eliminating pollution of waters within and about the city of New York; and, for the purposes set forth in this paragraph, compel the attendance of witnesses and take such witnesses' testimony under oath.*

*(2) The commissioner shall have the power to coordinate the actions of city agencies with respect to compliance with the state pollutant discharge elimination system (SPDES) permit for municipal separate storm sewer systems of New York city, SPDES No. NY-0287890 or its successor.*

*(3) City agencies shall have the power to take such actions, including but not limited to the promulgation of rules, as they determine to be necessary to ensure compliance with the provisions of the state pollutant discharge elimination system (SPDES) permit for municipal separate storm sewer systems of New York city, SPDES No. NY-0287890 or its successor, and with provisions of law related thereto.*

§ 4. Subdivision c of section 19-137 of the administrative code of the city of New York is amended by adding a new paragraph 3 to read as follows:

*3. To land contour work for which a stormwater construction permit issued by the department of environmental protection is required pursuant to subchapter 2 of chapter 5-A of title 24 of the administrative code.*

§ 5. Section 24-519 of the administrative code of the city of New York is amended to read as follows:

§ 24-519 Volatile, flammable liquids. It shall be unlawful to use any connection with, opening into, or gutter leading into, any sewer or drain, either public or private, for the conveyance or discharge, directly or indirectly, into such sewer or drain, of any volatile flammable liquid, gas or vapor[;]. [(] A volatile, flammable liquid is any liquid that will emit a flammable vapor at a temperature [below one hundred sixty degrees, Fahrenheit)] *specified in rules of the department.*

§ 6. Chapter 5 of title 24 of the administrative code of the city of New York is amended by adding a new section 24-520.1 to read as follows:

§ 24-520.1 *Non-stormwater discharges prohibited.* a. *For purposes of this section, the following terms have the following meanings:*

*Allowable runoff.* *The term “allowable runoff” means runoff authorized by the rules of the department of environmental protection to enter storm sewers, provided that such rules shall be consistent with the proper maintenance and purpose of such storm sewers and with the state pollutant discharge elimination system (SPDES) permit for municipal separate storm sewer systems of New York city, SPDES No. NY-0287890 or its successor.*

*Storm sewer.* *The term “storm sewer” means a sewer, the primary purpose of which is to carry stormwater.*

*b. No person shall discharge or cause to be discharged, directly or indirectly, into any storm sewer any substance other than stormwater or allowable runoff. Rules governing allowable runoff may require practices and procedures related to such discharges in furtherance of this section. Such rules may also require approval by the department of such discharges.*

*c. For purposes of this section, indirect discharges include but are not limited to discharges to any street, gutter, or other conveyance that could reasonably lead to a storm sewer.*

§ 7. Section 24-524 of the administrative code of the city of New York, subdivisions f and g of such section as amended by local law number 55 for the year 2013, is amended to read as follows:

§ 24-524 Enforcement and penalties. a. *Orders.* Notwithstanding any other provision of law, the commissioner of environmental protection, and the environmental control board *within the office of administrative trials and hearings*, shall enforce the provisions of *subdivisions b and b-1 of section 1403 of the charter and sections 24-504 through [24-522 and] 24-523 of this chapter and the [regulations] rules promulgated pursuant thereto.* Such commissioner and board shall have the power to issue such orders as may be provided for therein and such additional orders as may be necessary for the enforcement of such provisions. *The department of environmental protection shall promulgate rules governing the appeal of orders issued by the commissioner.*

b. *Commissioner's cease and desist orders.* 1. Whenever the commissioner of environmental protection has reasonable cause to believe that: (i) a discharge *has occurred* in violation of the provisions of *subdivision b or b-1 of section 1403 of the charter or sections 24-504 through [24-522 and] 24-523 of this chapter or of any order[,] or rule [or regulation] issued by the board or commissioner pursuant to such provisions or to subdivision a of this section in furtherance of such provisions* or in violation of the conditions of any permit issued pursuant to such provisions *and (ii) that such discharge creates or may create an imminent danger to the sewer system or to the*

public health or to the life or safety of persons, [he or she] *such commissioner* may issue a cease and desist order requiring any person who owns, leases, operates, controls or supervises any building, structure, facility or installation from which the unlawful discharge is emitted to take such action as may be necessary to halt or prevent such discharge.

2. If service of the order cannot be made personally because such person cannot be located at such time then service may be made by delivering a copy to a person of suitable age and discretion at the residence or place of business of the person sought to be served. If service cannot be made personally or by such delivery to a person of suitable age and discretion because of inability to locate or to obtain the name or address of such person at such time, service may be made by conspicuously posting a copy of such order upon the property to which it *relates and mailing the order to the most recent residential or business address of record of the person sought to be served*. The posting *and mailing* of such order shall be sufficient notice of such order to all persons having a duty in relation thereto under the provisions of this subdivision.

3. If the order is not complied with or so far complied with as such commissioner may regard as reasonable, within the time specified therein such commissioner may act to halt or prevent such discharge by:

- i. sealing, blocking or otherwise inactivating any equipment, facility, or device;
- ii. terminating the water supply to the premises;
- iii. sealing, blocking or otherwise inactivating any private sewer or drain emptying directly or indirectly into the sewer system; *or*
- iv. any other means or method that is reasonable under the circumstances. For such purpose, *in accordance with applicable law*, the commissioner of environmental protection or his or her

deputies or such other officers or employees as are designated by the commissioner may enter on any public or private property.

4. Any person affected by such an order may make written application to the environmental control board *within the office of administrative trials and hearings* for a hearing. Such hearing shall be provided, pursuant to the rules [and regulations] of [the] *such* board *within such office*, and shall be held within [forty-eight hours] *two business days* after the receipt of such application. The board may suspend, modify or terminate such order.

d. *Environmental control board cease and desist orders.* 1. In the case of any continued or knowing violation of any of the provisions of *subdivision b or b-1 of section 1403 of the charter or sections 24-504 through [24-522 and] 24-523 of this chapter or any order[,]* or rule [or regulation] issued by the environmental control board *within the office of administrative trials and hearings* or commissioner of environmental protection pursuant [thereto] *to such provisions or subdivision a of this section in furtherance of such provisions* or of the conditions of any permit issued pursuant to such provisions or where the board finds that the violation of any of such provisions or of the conditions of any such permit presents or may present a danger to the environment or threatens to interfere with the operation of the sewer system, the board after notice and the opportunity for a hearing in accordance with the rules [and regulations] of [the] *such* board *within such office*, may issue a cease and desist order requiring any person who owns, leases, operates, controls or supervises any building, structure, facility or installation to cease and desist from any activity or process which causes or is conducted so as to cause such violation within the time specified in such order.

2. Such order may provide that if the order is not complied with or so far complied with as the commissioner of environmental protection may regard as reasonable within the time specified

therein, such commissioner may take such action as shall be specified therein, including but not limited to:

i. sealing, blocking or inactivating any equipment, facility or device;

ii. terminating the water supply to the premises;

iii. sealing, blocking or inactivating any private sewer or drain emptying directly or indirectly into the sewer system; *or*

*iv. any other means or method that is reasonable under the circumstances.*

For such purpose, *in accordance with applicable law*, the commissioner of environmental protection or his or her deputies or such other officers or employees as are designated by such commissioner may enter on any public or private property.

e. *Action by corporation counsel.* If the respondent fails to comply with any order issued by the environmental control board *within the office of administrative trials and hearings* or commissioner of environmental protection or with the conditions of any permit, or such board or commissioner otherwise deems it necessary, the corporation counsel, acting in the name of the city, may maintain an action or proceeding in a court of competent jurisdiction to compel compliance with or restrain by [injunction] *injunction* the violation of any order or permit issued by such board or commissioner.

f. *Civil penalties.* Any person who violates or fails to comply with any of the provisions of *subdivision b or b-1 of section 1403 of the charter or section 24-504 through [24-522 and] 24-523* of this chapter or any order[,] *or of any rule [or regulation]* issued by the environmental control board *within the office of administrative trials and hearings* or [commission] *commissioner* of environmental protection pursuant [thereto] *to such provisions or subdivision a of this section in furtherance of such provisions* or with the conditions of any permit issued pursuant thereto shall be

liable for a civil penalty not exceeding ten thousand dollars for each violation, provided that this subdivision shall not apply to subdivision c of section 24-509 or subdivisions a and b of section 24-521, and provided that the penalty for the removal of a manhole cover in violation of section 24-517 shall be not less than two thousand five hundred dollars. In the case of a continuing violation each day's continuance shall be a separate and distinct offense. The [environmental control board] *office of administrative trials and hearings, pursuant to section 1049-a of the charter*, shall have the power to impose such civil penalties. A proceeding to impose such penalties shall be commenced by the service of a notice of violation returnable to such [board] *office*. Such [board] *office*, after a hearing [as] provided [by the rules and regulations of the board] *in accordance with applicable law and rules*, shall have the power to enforce its final decisions and orders imposing such civil penalties as if they were money judgments pursuant to subdivision d of section [one thousand forty-nine-a] *1049-a* of the [New York city] charter. A civil penalty imposed by [the board] *such office* may also be collected in an action brought in the name of the city in any court of competent jurisdiction. The *environmental control board within the office of administrative trials and hearings*, in its discretion, may, within the limits set forth in this subdivision, establish a schedule of civil penalties indicating the minimum and maximum penalty for each separate offense *or may use a schedule adopted by the department of environmental protection*.

g. *Criminal penalties*. In addition to the civil penalties set forth in subdivision f of this section, any person who knowingly violates or fails to comply with any provision of *subdivision b or b-1 of section 1403 of the charter or sections 24-504 through [24-522 or section] 24-523 of this chapter or any order[,], or rule [or regulation] issued by the environmental control board within the office of administrative trials and hearings or commission of environmental protection pursuant [thereto]*

*to such provisions or subdivision a of this section in furtherance of such provisions* or with the conditions of any permit issued pursuant thereto shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than two hundred fifty nor more than ten thousand dollars, or by imprisonment not exceeding thirty days, or both for each offense, provided that this subdivision shall not apply to subdivision c of section 24-509 or subdivisions a and b of section 24-521, and provided that the punishment for the removal of a manhole cover in violation of section 24-517 shall be a fine of not less than five hundred dollars nor more than ten thousand dollars, or imprisonment not exceeding thirty days, or both for each offense. In the case of a continuing violation each day's continuance shall be a separate and distinct offense. In addition to its application to any other person, the fine provided for in this paragraph shall be deemed a special fine for a corporation within the meaning of section 80.10 of the penal law of the state of New York.

h. *Liability to the city.* Any person who violates or fails to comply with any of the provisions of *subdivision b or b-1 of section 1403 of the charter or sections 24-504 through [24-522 and] 24-523* of this chapter or any order[,] *or of any rule [or regulation] issued pursuant [thereto] to such provisions or subdivision a of this section in furtherance of such provisions* or with the conditions of any permit issued pursuant thereto shall be liable to the city for any expense, *including but not limited to costs for response, remediation and emergency services or any other* loss or damage suffered by the city by reason of such violation.

i. *Service.* Unless otherwise provided in this section, service of any notice or order required by this section may be made either personally or by mail [addressed to the last known address of the person to be served].



*j. Issuance. Officers and employees of the department of environmental protection and of other city agencies designated by the commissioner of environmental protection shall have the power to issue summonses, appearance tickets, orders and notices of violation based upon violations of this chapter or rules of the department promulgated hereunder.*

*k. Entry and inspection. An authorized representative of the department of environmental protection may enter on any property, consistent with applicable law and in accordance with rules of the department related to such entry and inspection, to inspect for compliance with this chapter and rules of the department promulgated hereunder.*

§ 8. Title 24 of the administrative code of the city of New York is amended by adding a new chapter 5-A to read as follows:

*CHAPTER 5-A*

*WATER POLLUTION CONTROL*

*SUBCHAPTER 1*

*GENERAL*

*§ 24-540 Policy. Land development and associated increases in site impervious cover increase stormwater runoff causing flooding, soil erosion, and sediment transport and deposition in waterways. A high percentage of impervious area correlates with a higher rate of stormwater runoff, which generates greater pollutant loadings to the city's separate stormwater and combined sewer systems. Pollutants found in urban runoff include, but are not limited to, nitrogen, phosphorus, silt and sediment, pathogens, floatables, petroleum hydrocarbons, heavy metals, and polycyclic aromatic hydrocarbons (PAHs).*

*Clearing and grading during construction may increase soil erosion and add to the loss of native vegetation necessary for terrestrial and aquatic habitats. Improperly designed and*

*constructed stormwater management practices increase the velocity of stormwater runoff thereby increasing erosion and sedimentation. Impervious surfaces allow less water to percolate into the soil, thereby decreasing groundwater recharge and stream baseflow. Stormwater runoff, soil erosion and nonpoint source pollution can be controlled and minimized through the regulation of stormwater runoff from land development activities. Regulation of land development activities by means of performance standards governing long-term stormwater management and site design produces development compatible with the natural functions of a particular site and thereby mitigates the adverse effects of erosion and sedimentation from development.*

*Material handling and storage, equipment maintenance and cleaning, and other activities at industrial facilities are often exposed to stormwater, which can pick up pollutants and transport them to surface waters directly or via a storm sewer. Appropriate stormwater management at industrial facilities can reduce these impacts.*

*This chapter establishes stormwater management controls meeting the requirements of state and federal law in areas of the city where stormwater does not pass through wastewater treatment plants before it enters the waters of the state. In these areas water borne pollutants in stormwater runoff are more likely to enter and have an adverse impact on the waters of the state.*

*The purpose and intent of this chapter is to (i) reduce pollutants discharged in stormwater runoff from construction activities in such areas to the maximum extent practicable through appropriate erosion and sediment controls; (ii) minimize, to the maximum extent practicable, increases in stormwater runoff volume and velocity, and pollutant loading in stormwater runoff, from development sites in such areas; (iii) ensure the proper maintenance of post-construction stormwater management practices; and (iv) ensure compliance by certain industrial facilities in*

*such areas with applicable requirements to manage stormwater runoff in order to reduce pollutants in stormwater from industrial activities to the maximum extent practicable.*

*§ 24-541 Definitions. As used in this chapter, the following terms have the following meanings:*

*Authorized inspection agent. The term “authorized inspection agent” means an individual who has been authorized pursuant to a contract entered into by the department to conduct inspections on behalf of the department.*

*Commissioner. The term “commissioner” means the commissioner of environmental protection or the authorized representative of such commissioner.*

*Covered development project. The term “covered development project” means development activity that involves or results in an amount of soil disturbance within the MS4 area greater than or equal to one acre or as established pursuant to rules of the department in accordance with subdivision d of section 24-553. Such term includes development activity that is part of a larger common plan of development or sale involving or resulting in soil disturbance within the MS4 area greater than or equal to one acre or as established pursuant to rules of the department in accordance with subdivision d of section 24-553. Such term shall include all development activity within the MS4 area that requires a stormwater pollution prevention plan pursuant to the NYSDEC construction general permit.*

*Department. The term “department” means the department of environmental protection.*

*Detention system. The term “detention system” means a system that slows and temporarily holds storm water runoff so that it can be released at a controlled rate.*

*Developer. The term “developer” means a person that owns or leases land on which development activity that is part of a covered development project is occurring, and/or a person*

*that has operational control over the development activity's construction plans and specifications, including the ability to make modifications to the construction plans and specifications.*

*Development activity. The term "development activity" means soil disturbance on a site including but not limited to land contour work, clearing, grading, excavation, demolition, construction, reconstruction, new development, redevelopment, creation or replacement of impervious surface, stockpiling activities or placement of fill. Clearing activities include but are not limited to the cutting and skidding of trees, stump removal and/or brush root removal. Such term does not include routine maintenance (such as road resurfacing) that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of a facility.*

*Erosion and sediment controls. The term "erosion and sediment controls" means stormwater management practices designed to minimize the discharge of pollutants during development activities including, but not limited to, structural erosion and sediment control practices, construction sequencing to minimize exposed soils, soil stabilization, dewatering control measures, and other pollution prevention and good housekeeping practices appropriate for construction sites.*

*Impaired water. The term "impaired water" includes (i) a water body for which NYSDEC has established a total maximum daily load ("TMDL"), (ii) a water body for which NYSDEC expects that existing controls such as permits will resolve the impairment, and (iii) a water body identified by NYSDEC as needing a TMDL. A list of impaired waters is issued by NYSDEC pursuant to section 303(d) of the federal water pollution control act, chapter 26 of title 33 of the United States code.*

*Industrial stormwater source. The term "industrial stormwater source" means any premises or facility that is subject to the MSGP.*

*Larger common plan of development or sale. The term “larger common plan of development or sale” means a contiguous area where multiple separate and distinct development activities are occurring, or will occur, under one plan. The term “plan” in “larger common plan of development or sale” is broadly defined as any announcement or piece of documentation including a sign, public notice of hearing, sales pitch, advertisement, drawing, permit application, uniform land use review procedure (ULURP) application, state environmental quality review act (SEQRA) or city environmental quality review (CEQR) application, application for a special permit, authorization, variance or certification pursuant to the zoning resolution, subdivision application, computer design, or physical demarcation (including boundary signs, lot stakes, and surveyor markings) indicating that development activities may occur on a specific plot. Such term does not include area-wide rezonings or projects discussed in general planning documents. For discrete development activities that are located within a larger common plan of development or sale that are at least 1/4 mile apart, each activity may be treated as a separate plan of development or sale provided that any interconnecting road, pipeline or utility project that is part of the same “common plan” is not concurrently being disturbed.*

*Multi sector general permit or “MSGP.” The term “multi sector general permit” or “MSGP” means the New York state department of environmental conservation SPDES multi sector general permit for stormwater discharges associated with industrial activity, Permit No. GP-0-12-001 or its successor.*

*MS4 SWPPP acceptance form. The term “MS4 SWPPP acceptance form” means the form developed by NYSDEC to be used to indicate acceptance of a SWPPP by a municipality.*

*MS4 area. The term “MS4 area” means those portions of the city of New York served by separate storm sewers and separate stormwater outfalls owned or operated by the city of New*

*York and areas in which municipal operations and facilities drain by overland flow to waters of the state, as determined by the department and described on maps of the MS4 area set forth in the rules of the department.*

*Municipal operations and facilities. The term “municipal operations and facilities” means any operation or facility serving a New York city governmental purpose and over which the city of New York has operational control.*

*New development. The term “new development” means any construction or disturbance of a parcel of land that is currently undisturbed or unaltered by human activities and in a natural state.*

*Notice of intent or NOI. The term “notice of intent” or “NOI” means the document submitted to NYSDEC to obtain coverage under the NYSDEC construction general permit.*

*Notice of termination or NOT. The term “notice of termination” or “NOT” means the document submitted to NYSDEC to terminate coverage under the NYSDEC construction general permit.*

*NYC MS4 Permit. The term “NYC MS4 permit” means the state pollutant discharge elimination system (SPDES) permit for municipal separate storm sewer systems of New York city, SPDES No. NY-0287890 or its successor.*

*NYSDEC. The term “NYSDEC” means the New York state department of environmental conservation.*

*NYSDEC construction general permit. The term “NYSDEC construction general permit” means the state pollutant discharge elimination system (SPDES) general permit for stormwater discharges from construction activities, Permit No. GP-0-15-002 or its successor.*

*NYSDEC MS4 general permit. The term “NYSDEC MS4 general permit” means the state pollutant discharge elimination system (SPDES) general permit for stormwater discharges from municipal separate storm sewer systems (MS4s), Permit No. GP-0-15-003 or its successor.*

*Owner. The term “owner” means a person having legal title to premises, a mortgagee or vendee in possession, a trustee in bankruptcy, a receiver, or any other person having legal ownership or control of premises.*

*Person. The term “person” means an individual, corporation, partnership, limited liability company or other legal entity.*

*Pollutant. The term “pollutant” means dredged soil, filter backwash, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand and industrial, municipal, and agricultural waste discharged into water; which may cause or might reasonably be expected to cause pollution of the waters of the state in contravention of the standards or guidance values adopted as provided in subdivision a of section 750-1.2 of title 6 of the New York codes, rules and regulations.*

*Pollutants of concern. The term “pollutants of concern” means pollutants that might reasonably be expected to be present in stormwater in quantities that may cause or contribute to an exceedance of water quality standards. These pollutants include but are not limited to nitrogen, phosphorus, silt and sediment, pathogens, floatables, petroleum hydrocarbons, heavy metals, and polycyclic aromatic hydrocarbons (PAHs).*

*Post-construction stormwater management facility or post-construction facility. The term “post-construction stormwater management facility” or “post-construction facility” means a stormwater management practice serving a developed site and consisting of technology or*

*strategies designed to reduce pollutants in stormwater runoff or reduce runoff rate or volume from the developed site through infiltration, retention, detention, or other method or treatment. Such term includes, but is not limited to, detention systems and retention systems.*

*Premises. The term “premises” means any building, lot, parcel of land, or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips.*

*Qualified inspector. The term “qualified inspector” means a person who is knowledgeable in the principles and practices of erosion and sediment control.*

*Qualified professional. The term “qualified professional” means a person who is knowledgeable in the principles and practices of stormwater management and treatment.*

*Redevelopment. The term “redevelopment” means reconstruction of or modification to any existing previously developed land such as residential, commercial, industrial, institutional or road/highway, which involves soil disturbance. Redevelopment is distinguished from new development in that new development refers to construction on land where there had not been previous construction. Redevelopment specifically applies to constructed areas with impervious surface or urban fill.*

*Retention system. The term “retention system” means a system that captures storm water runoff on site with no release.*

*Separate stormwater outfall. The term “separate stormwater outfall” means a point where stormwater from a storm sewer or other source of concentrated stormwater flow, owned or operated by the city of New York, is discharged into a water of the state or to a separate storm sewer system that requires coverage under the NYSDEC MS4 general permit.*

*Storm sewer. The term “storm sewer” means a sewer, the primary purpose of which is to carry stormwater.*



*Stormwater or stormwater runoff.* The term “stormwater” or “stormwater runoff” means runoff that is generated when precipitation from rain events or snowmelt flows overland and does not percolate into the ground.

*Stormwater construction permit.* The term “stormwater construction permit” means a permit issued by the department authorizing development activity on land on which there is a covered development project in accordance with an approved stormwater pollution prevention plan (SWPPP).

*Stormwater maintenance permit.* The term “stormwater maintenance permit” means a permit issued by the department where maintenance of post-construction stormwater management facilities by owners of real property is required.

*Stormwater management practices or SMPs.* The term “stormwater management practices” or “SMPs” means measures to prevent flood damage and/or to prevent or reduce point source or nonpoint source pollution inputs to stormwater runoff and water bodies. Such term includes erosion and sediment controls, post-construction stormwater management facilities, and practices to manage stormwater runoff from industrial activities.

*Stormwater pollution prevention plan or SWPPP.* The term “stormwater pollution prevention plan” or “SWPPP” means (i) when used in connection with a covered development project, a plan for controlling stormwater runoff and pollutants during construction and, where required by department rules, after construction is completed, or (ii) when used in connection with an industrial stormwater source, a plan, which is required by the MSGP, for controlling stormwater runoff and pollutants.

*Waters of the state.* The term “waters of the state” means lakes, bays, sounds, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, inlets, canals, the

*Atlantic ocean within the territorial seas of the state of New York and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the state or within its jurisdiction.*

*§24-542 Entry and inspection. An authorized representative of the department may enter on any property, consistent with applicable law and in accordance with rules of the department related to such entry and inspection, to inspect for compliance with this chapter and rules of the department promulgated hereunder.*

## **SUBCHAPTER 2**

### **CONSTRUCTION AND POST-CONSTRUCTION STORMWATER CONTROLS**

*§24-550 General. This subchapter governs certain land development activities within the MS4 area.*

*§24-551 Stormwater construction permit required. It shall be unlawful to commence or engage in any development activity on the site of a covered development project unless and until a stormwater construction permit has been issued by the department.*

*§24-552 Review of stormwater pollution prevention plan or SWPPP. Before the commencement of development activity on the site of a covered development project the developer must submit to the department for review in accordance with rules of the department a stormwater pollution prevention plan, certified by a qualified professional, and for projects covered by the NYSDEC construction general permit a copy of the NOI. The department or a qualified professional designated by the department shall review the SWPPP within time periods to be specified in the rules of the department. If the department accepts the SWPPP the department shall issue a stormwater construction permit to the developer and, for projects subject to the*

*NYSDEC construction general permit, shall issue an MS4 SWPPP acceptance form for filing with NYSDEC. If the department rejects the SWPPP the department shall send notice of such rejection to the developer indicating the specific deficiencies that caused the department to reject the SWPPP. The department may require that the SWPPP or other documents be submitted electronically.*

*§24-553 Rules. The department shall promulgate rules to carry out the provisions of this subchapter in accordance with the NYC MS4 permit and the NYSDEC construction general permit, including but not limited to rules that:*

*a. Set forth the content of SWPPPs, consistent with the NYSDEC construction general permit, including identifying those development projects requiring only erosion and sediment controls during construction and those development projects requiring erosion and sediment controls and post-construction stormwater management facilities .*

*b. Establish design standards for erosion and sediment controls and post-construction stormwater management facilities which shall not be less stringent than the standards set forth or incorporated by reference in the NYSDEC construction general permit.*

*c. Establish exemptions from permit requirements, consistent with the NYC MS4 permit and the NYSDEC construction general permit.*

*d. After completion of the lot size soil disturbance study required by the NYC MS4 permit, provide for the regulation of development activity of less than one acre, based either on total disturbance of soil or on amount of impervious surface created or replaced, where an appropriate reduction in the threshold is necessary in accordance with the NYC MS4 permit.*

*e. Establish procedures and fees for the review of SWPPPs and the issuance and renewal of permits required by this subchapter.*

*f. Establish training, experience and/or education requirements for qualified professionals and qualified inspectors, which shall not be less stringent than those required by the NYSDEC construction general permit.*

*g. Establish record keeping, inspection and reporting requirements for applicants and permittees to monitor compliance with this subchapter and approved SWPPPs.*

*h. Establish requirements for compliance certifications by contractors to be included with SWPPPs.*

*i. Establish standards for the maintenance, inspection, repair and replacement of required erosion and sediment controls and post-construction stormwater management facilities.*

*§24-554 SWPPP to be retained on site. A copy of the SWPPP shall be retained at the site of the project from the date of initiation of development activities to the date notice of termination is submitted to NYSDEC and shall be made available to officers and employees of the department and/or qualified inspectors authorized by the department in accordance with the rules of the department.*

*§24-555 Recordkeeping. A developer shall keep and maintain records of all inspections and tests required to be performed pursuant to this subchapter and rules of the department, as follows: records of inspections and tests performed during construction must be maintained throughout construction and for 5 years after completion of construction; and records of post-construction inspections and tests must be maintained for 5 years after performance of such inspections or tests. Such records and tests shall be made available to the department in accordance with the rules of the department. The department may require such records to be maintained and provided to the department electronically.*

*§24-556 Compliance with terms and conditions of SWPPP required. Every stormwater construction permit issued by the department shall include the condition that the applicant and all contractors and subcontractors performing work at the site will comply with this subchapter, rules of the department and the terms and conditions of the SWPPP. Any changes in the SWPPP are subject to the prior approval of the department in accordance with rules of the department.*

*§24-557 Suspension or revocation of permit. The department may suspend or revoke a stormwater construction permit, after notice and the opportunity for a hearing in accordance with the rules of the department, when the department or NYSDEC finds that there is substantial non-compliance with this subchapter, the rules of the department, the NYSDEC construction general permit or the SWPPP, including any major change to erosion or sediment controls or any change in a post-construction stormwater management facility during construction that has or could have an effect on the discharge of pollutants, or when a permit was issued in error and conditions are such that a permit should not have been issued. When a permit is revoked or suspended all development activity at the project site shall cease and shall not be resumed until the issuance of a new permit or until such suspension is terminated except that the department may allow performance of work that is necessary to ensure public safety or to stabilize the construction site.*

*§24-558 Stop work order. a. Whenever the department finds that any development activity is being executed in violation of this subchapter, the SWPPP or rules of the department to the extent that work being performed at the site has or could have an effect on the discharge of pollutants or stormwater runoff volume or velocity, the department may issue a stop work order with respect to such work.*

*b. Such order shall be posted at the site and served personally on or mailed to the owner or developer or to the person executing the work at the site or the agent of any of them. When there is an immediate danger of a release of pollutants a verbal order to stop work may be given followed promptly by a written order in accordance with this subdivision.*

*c. Upon issuance of a stop work order, work specified in the order shall immediately cease, except work authorized or required by the commissioner to ensure public safety or to stabilize the construction site.*

*d. No person shall with knowledge or notice of a stop work order allow, authorize, promote, continue or cause to be continued any work covered by the stop work order, except work authorized or required by the commissioner to ensure public safety or to stabilize the construction site.*

*e. Upon application in accordance with the rules of the department, the commissioner shall rescind the stop work order where the commissioner finds (i) that the condition that gave rise to its issuance has been corrected and either all civil penalties or criminal fines assessed for any violation of such order have been paid or, where a violation is pending, security for the payment of such penalties or fines has been posted or, (ii) that the stop work order was issued in error or conditions are such that it should not have been issued. The commissioner may by rule require the payment of a fee in the amount of the expense of additional inspection and administrative expense related to such stop work order.*

*f. It shall be unlawful to tamper with, remove or deface a written posted stop work order from the location where it was affixed unless and until such stop work order has been rescinded by the commissioner. The owner or other person in control of the location shall ensure that the stop work order remains posted until rescinded by the commissioner.*

*§24-559 Post-construction stormwater management facilities. Where post-construction stormwater management facilities are required by the department, the department shall not accept the SWPPP or issue a stormwater construction permit for the project until the execution and recording of a maintenance easement, which shall be binding on all subsequent owners of the real property served by such post-construction stormwater management facility, except where the corporation counsel has determined that such a maintenance easement is not necessary due to the property's ownership or use by a public agency or instrumentality. For post-construction stormwater management facilities subject to such an exception, when there is a subsequent conveyance or cessation of public use, the corporation counsel may require the execution and recording of a maintenance easement at that time. The easement shall provide for access to post-construction stormwater management facilities at reasonable times in accordance with law for periodic inspection by the department or qualified professionals authorized by the department to ensure that such facilities are maintained in good working condition to meet the applicable design standards. The easement shall be recorded by the grantor in the office of the city register or, if applicable, the county clerk after approval by the corporation counsel.*

*§ 24-560 Stormwater maintenance permit. It is the duty of all owners of real property, jointly and severally, served by a post-construction stormwater management facility required by a SWPPP accepted by the department pursuant to this subchapter to provide for the inspection and maintenance of such facility in accordance with this section and the rules of the department. The department shall maintain a record of all such post-construction stormwater management facilities and the property served by each such facility. As soon as practicable after final stabilization of a site, the owner of property served by a post-construction stormwater management facility shall submit to the department a copy of the notice of termination and an*

*application for a stormwater maintenance permit for such facility. Such owner shall provide for the renewal of such permit every 5 years in accordance with the rules of the department. The department shall issue or renew such permit upon receipt of a satisfactory inspection report certified by a qualified professional retained by the owner indicating that the facility has been installed and/or is operated and maintained in good working condition to meet applicable design standards and the rules of the department. A facility shall be maintained in good working condition throughout its useful life and replaced in accordance with the rules of the department.*

### *SUBCHAPTER 3*

#### *INDUSTRIAL STORMWATER SOURCES*

*§ 24-570 Applicability. This subchapter applies only to portions of the city within the MS4 area.*

*§24-571 Authority to enter and inspect. a. The department shall have the authority to enter and inspect any premises or facility, including, but not limited to, its equipment, practices, operations and records, consistent with applicable law and in accordance with rules of the department related to such entry and inspection. Such entry and inspection shall be conducted during normal operating hours for purposes of determining whether such premises or facility generates significant contributions of pollutants of concern to an impaired water.*

*b. The department shall have the authority to enter and inspect industrial stormwater sources including, but not limited to, their equipment, practices, operations and records, consistent with applicable law and in accordance with rules of the department related to such entry and inspection, and shall, at a minimum, conduct inspections of such sources in accordance with the schedule and requirements for such inspections set forth in the NYC MS4 Permit. Such entry and inspection shall be conducted during normal operating hours for purposes of determining*



*compliance with this subchapter and any rule promulgated pursuant thereto. The department may enter and inspect such premises and facilities for purposes including, but not limited to, the following:*

*(1) To conduct a visual observation for evidence of unauthorized discharges, illicit connections, and potential discharges of pollutants to stormwater;*

*(2) To evaluate the facility's compliance with applicable MSGP requirements; and*

*(3) To evaluate the facility's compliance with any other relevant local stormwater requirements.*

*§24-572 Compliance with the MSGP. All industrial stormwater sources must comply with all applicable conditions of the MSGP.*

*§24-573 Recordkeeping. a. Industrial stormwater sources shall, upon the department's request or pursuant to the rules of the department, submit to the department any information or records necessary to determine compliance with the MSGP and this subchapter and any rule promulgated pursuant thereto. Such records may include, but need not be limited to, stormwater pollution prevention plans and reports of monitoring activities and results required pursuant to the MSGP.*

*b. The department may require such records to be maintained and provided to the department electronically.*

#### *SUBCHAPTER 4*

#### *ENFORCEMENT*

*§24-580 General. Notwithstanding any other provision of law, the commissioner, and the environmental control board within the office of administrative trials and hearings, shall enforce the provisions of this chapter and the rules promulgated pursuant thereto.*

*§24-581 Orders. The commissioner, and the environmental control board within the office of administrative trials and hearings, shall have the power to issue such orders as may be provided for in this chapter and the rules promulgated pursuant thereto and such additional orders as may be necessary for the enforcement of such provisions. Such orders may include, but are not limited to, orders requiring (i) inspection by a qualified inspector or qualified professional, (ii) maintenance, repair or replacement of post-construction stormwater management facilities, (iii) compliance with the MSGP through actions including, but not limited to, monitoring, analysis, and reporting or (iv) the installation, implementation and maintenance of SMPs. The department shall promulgate rules governing the appeal of such orders where they are issued by department employees or authorized inspection agents.*

*§24-582 Commissioner's cease and desist orders. a. Whenever the commissioner has reasonable cause to believe that (i) a condition exists in violation of any of the provisions of sections 24-559, 24-560 or 24-572 or in violation of any order or rule issued by the board or commissioner pursuant to such provisions or to section 24-581 in furtherance of such provisions and (ii) that such condition creates or may create an imminent danger to the sewer system or to the public health or to the life or safety of persons, the commissioner may issue a cease and desist order requiring any person who owns, leases, operates, controls or supervises any building, structure, facility or installation in which the condition is located to take such action as may be necessary to halt or prevent such condition.*

*b. If service of the order cannot be made personally because such person cannot be located at such time then service may be made by delivering a copy to a person of suitable age and discretion at the residence or place of business of the person sought to be served. If service cannot be made personally or by such delivery to a person of suitable age and discretion because of inability to*

*locate or to obtain the name or address of such person at such time, service may be made by conspicuously posting a copy of such order upon the property to which it relates and mailing the order to the most recent residential or business address of record of the person sought to be served. The posting and mailing of such order shall be sufficient notice of such order to all persons having a duty in relation thereto under the provisions of this subdivision.*

*c. If the order is not complied with or so far complied with as such commissioner may regard as reasonable, within the time specified therein, such commissioner may act to halt or prevent such condition by:*

*i. sealing, blocking or otherwise inactivating any equipment, facility, or device;*

*ii. sealing, blocking or otherwise inactivating any private sewer or drain emptying directly or indirectly into the sewer system; or*

*iii. any other means or method that is reasonable under the circumstances. For such purpose, in accordance with applicable law, the commissioner may enter on any public or private property.*

*d. Any person affected by such an order may make written application to the environmental control board within the office of administrative trials and hearings for a hearing. Such hearing shall be provided, pursuant to the rules of such board within such office, and shall be held within two business days after the receipt of such application. The board may suspend, modify or terminate such order.*

*§24-583 Environmental control board cease and desist orders. a. In the case of any continued or knowing violation of the provisions of section 24-559, 24-560 or 24-572 or any order or rule issued by the environmental control board within the office of administrative trials and hearings or the commissioner pursuant to such provisions or section 24-581 in furtherance of such provisions or where the board finds that the violation of any of such provisions or conditions*

*presents or may present a danger to the environment or threatens to interfere with the operation of the sewer system, the board, after notice and the opportunity for a hearing in accordance with the rules of such board within such office, may issue a cease and desist order requiring any person who owns, leases, operates, controls or supervises any building, structure, facility or installation to cease and desist from any activity or process which causes or is conducted so as to cause such violation within the time specified in such order.*

*b. Such order may provide that if the order is not complied with or so far complied with as the commissioner may regard as reasonable within the time specified therein, the commissioner may take such action as shall be specified therein including but not limited to:*

*i. sealing, blocking or inactivating any equipment, facility or device;*

*ii. sealing, blocking or inactivating any private sewer or drain emptying directly or indirectly into the sewer system; or*

*iii. any other means or method that is reasonable under the circumstances. For such purpose, in accordance with applicable law, the commissioner may enter on any public or private property.*

*§24-584 Action by corporation counsel. If the respondent fails to comply with any order issued by the environmental control board within the office of administrative trials and hearings, or the commissioner or the board or the commissioner otherwise deems it necessary, the corporation counsel, acting in the name of the city, may maintain an action or proceeding in a court of competent jurisdiction to compel compliance with or restrain by injunction the violation of any order issued by the board or commissioner.*

*§24-585 Civil penalties. Any person who violates or fails to comply with any of the provisions of this chapter or any order or rule issued by the environmental control board within the office of administrative trials and hearings or the commissioner pursuant thereto shall be liable for a civil*

*penalty not exceeding ten thousand dollars for each violation. In the case of a continuing violation each day's continuance shall be a separate and distinct offense. The office of administrative trials and hearings, pursuant to section 1049-a of the charter, shall have the power to impose such civil penalties. A proceeding to impose such penalties shall be commenced by the service of a notice of violation returnable to such office. Such office, after a hearing as provided in accordance with applicable law and rules, shall have the power to enforce its final decisions and orders imposing such civil penalties as if they were money judgments pursuant to subdivision d of section 1049-a of the charter. A civil penalty imposed by such office may also be collected in an action brought in the name of the city in any court of competent jurisdiction. The environmental control board within the office of administrative trials and hearings, in its discretion, may, within the limits set forth in this section, establish a schedule of civil penalties indicating the minimum and maximum penalty for each separate offense or may use a schedule adopted by the department.*

*§24-586 Criminal penalties. In addition to the civil penalties set forth in section 24-585, any person who knowingly violates or fails to comply with any provision of this chapter or any order or rule issued by the commissioner, or the environmental control board within the office of administrative trials and hearings, pursuant thereto shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than two hundred fifty nor more than ten thousand dollars, or by imprisonment not exceeding thirty days, or both for each offense. In the case of a continuing violation each day's continuance shall be a separate and distinct offense. In addition to its application to any other person, the fine provided for in this paragraph shall be deemed a special fine for a corporation within the meaning of section 80.10 of the penal law of the state of New York.*

*§24-587 Liability to the city. Any person who violates or fails to comply with any of the provisions of this chapter or any order or rule issued pursuant thereto shall be liable to the city for any expense, including but not limited to costs for response, remediation and emergency services or any other loss or damage suffered by the city by reason of such violation.*

*§24-588 Service. Unless otherwise provided in this chapter, service of any notice or order required by this subchapter may be made either personally or by mail.*

*§24-589 Issuance. Officers and employees of the department and of other city agencies designated by the commissioner shall have the power to issue summonses, appearance tickets, orders and notices of violation based upon violations of this chapter or rules of the department promulgated hereunder.*

*§ 24-590 Delegation to authorized inspection agents. a. The commissioner shall have the authority to delegate to authorized inspection agents the authority to:*

*(1) Carry out inspections pursuant to this chapter or any rule promulgated pursuant thereto;*

*(2) Issue orders pursuant to section 24-581, or issue orders pursuant to subdivision a of section 24-524 when deemed necessary and appropriate in the course of implementing duties delegated to such authorized inspection agent pursuant to this chapter;*

*(3) Issue notices of violation for civil penalties pursuant to section 24-585, or notices of violation pursuant to subdivision f of section 24-524 when the basis for such notice of violation is observed in the course of implementing duties delegated to such authorized inspection agent pursuant to this chapter.*

*b. Authorized inspection agents shall perform their duties in accordance with this chapter and rules of the department promulgated pursuant thereto, which rules shall set forth the categories of violations for which such notices may be issued by such agents, the categories of orders that may*

*be issued by such agents and the circumstances in which such agents shall obtain department approval or refer matters to the department for further action. In addition, the department shall, through standards imposed by means of procurement or rulemaking, ensure that such agents are subject to appropriate eligibility criteria, training requirements and grounds for revoking inspection and enforcement authority.*

§ 9. Chapter 1 of title 28 of the administrative code of the city of New York is amended by adding a new section 28-104.11 to read as follows:

**§28-104.11 Construction documents for sites within the MS4 area.** *Construction documents shall comply with section 28-104.11.1 through 28-104.11.4 relating to the MS4 area.*

**§28-104.11.1 Definitions.** *As used in this code in connection with provisions relating to the jurisdiction of the department of environmental protection, the terms covered development project, development activity, MS4 area, post-construction stormwater management facility, stormwater construction permit, stormwater maintenance permit, and stormwater pollution prevention plan or SWPPP shall have the same definitions as such terms are defined in subchapter 1 of chapter 5-A of title 24 of the administrative code.*

**§28-104.11.2 Disclosure required.** *It shall be the duty of an applicant for construction document approval to determine whether the site of the proposed work is part of a covered development project located within the MS4 area and to disclose such information on construction documents. Failure to disclose such information on construction documents shall be a violation of this code.*

**§28-104.11.3 Required documentation.** *Applications for construction document approval shall include copies of any required stormwater construction permit issued by the department of environmental protection and the stormwater pollution prevention plan for the covered development project.*

**§28-104.11.4 Revocation of approval of construction documents.** *Where the department finds after the approval of construction documents that the applicant failed to disclose the information required by this section, the department may revoke such approval and any associated work permits in accordance with the provisions of sections 28-104.2.10 and 28-104.2.10.1.*

§ 10. Chapter 1 of title 28 of the administrative code of the city of New York is amended by adding a new section 28-105.1.2 to read as follows:

**§28-105.1.2 Projects for which a stormwater construction permit is required.** *It shall be a violation of this code to engage in any development activity with respect to a covered development project without a stormwater construction permit issued by the department of environmental protection. The issuance of a permit pursuant to this code shall not be construed to be permission for any activity that requires a stormwater construction permit issued by the department of environmental protection pursuant to chapter 5-A of title 24 of the administrative code. The issuance of a stormwater construction permit by the department of environmental protection shall not be construed as permission for work that requires a permit from the department of buildings pursuant to this code.*

§ 11. Chapter 1 of title 28 of the administrative code of the city of New York is amended by adding a new section 28-116.7 to read as follows:

**§28-116.7 Post-construction stormwater management facilities.** *The department shall not issue a certificate of occupancy or letter of completion with respect to a building or premises that is part of a covered development project unless the applicant submits proof that the department of environmental protection has issued a stormwater maintenance permit for any post-construction stormwater management facilities serving such building or premises.*

§12. Chapter 1 of title 28 of the administrative code of the city of New York is amended by adding a new section 28-118.22 to read as follows:

**§28-118.22 Post-construction stormwater management facilities.** *The department shall not issue a certificate of occupancy with respect to a building or premises that is part of a covered development project unless the applicant submits proof that the department of environmental protection has issued a stormwater maintenance permit for any post-construction stormwater management facilities serving such building or premises.*

§ 13. Section 106.6 of chapter 1 of the New York city plumbing code, as amended by local law number 41 for the year 2012, is amended to read as follows:

**106.6 Discharge of sewage and discharge and/or management of stormwater runoff.** Applications for construction document approval shall comply with Sections 106.6.1 [and], 106.6.2 and 106.6.3.

§ 14. Section PC 106 of chapter 1 of the New York city plumbing code is amended by adding a new section 106.6.3 to read as follows:

**106.6.3 Post-construction stormwater management facilities.** *A post-construction stormwater management facility that is constructed as a part of a covered development project located within*



*the MS4 area, shall comply with the rules of the Department of Environmental Protection and with this code.*

§ 15. Section PC 202 of chapter 2 of the New York city plumbing code is amended by adding new definitions of “covered development project,” “MS4 area,” “post-construction stormwater management facility,” and “stormwater pollution prevention plan or SWPPP,” in alphabetical order, to read as follows:

***COVERED DEVELOPMENT PROJECT.*** See Section 28-104.11.1 of the Administrative Code.

***MS4 AREA.*** See Section 28-104.11.1 of the Administrative Code

***POST-CONSTRUCTION STORMWATER MANAGEMENT FACILITY.*** See Section 28-104.11.1 of the Administrative Code.

***STORMWATER POLLUTION PREVENTION PLAN OR SWPPP.*** See Section 28-104.11.1 of the Administrative Code.

§ 16. Section 1101.11 of chapter 11 of the New York city plumbing code, as amended by local law number 41 for the year 2012, is amended to read as follows:

**1101.11 Site grading.** Except as otherwise permitted by this code, no person shall perform site grading or land contour work, as defined in Section [19-146] 19-137 of the Administrative Code, that would cause storm water to flow across sidewalks or onto an adjacent property. *Site grading or land contour work performed on the site of a covered development project shall comply with the rules of the Department of Environmental Protection and this code.*

§ 17. Chapter 11 of the New York city plumbing code is amended by adding a new section 1114.9 to read as follows:

***1114.9 Post-construction stormwater management facilities required by stormwater pollution prevention plan.*** *A post-construction stormwater management facility that is constructed as part of a covered development project shall be designed, installed and maintained in accordance with the rules of the Department of Environmental Protection and this code.*

§ 18. Section 107.11 of chapter 1 of the New York city building code, as amended by local law number 141 for the year 2013, is amended to read as follows:

**107.11 Discharge of sewage and discharge and/or management of stormwater runoff.** Applications for construction document approval shall comply with Sections 107.11.1 [and], 107.11.2 and 107.11.3 .

§ 19. Chapter 1 of the New York city building code is amended by adding a new section 107.11.3 to read as follows:

**107.11.3 Post-construction stormwater management facilities.** *A post-construction stormwater management facility that is constructed as a part of a covered development project located within the MS4 area shall comply with the rules of the Department of Environmental Protection and with this code.*

§ 20. Section BC 202 of chapter 2 of the New York city building code is amended by adding new definitions of “covered development project,” “MS4 area,” “post-construction stormwater management facility,” and “stormwater construction permit” in alphabetical order, to read as follows:

**COVERED DEVELOPMENT PROJECT.** *See Section 28-104.11.1 of the Administrative Code.*

**MS4 AREA.** *See Section 28-104.11.1 of the Administrative Code.*

**POST-CONSTRUCTION STORMWATER MANAGEMENT FACILITY.** *See Section 28-104.11.1 of the Administrative Code.*

**STORMWATER CONSTRUCTION PERMIT.** *See Section 28-104.11.1 of the Administrative Code.*

§ 21. Section 3309.1 of chapter 33 of the New York city building code, as amended by local law number 141 for the year 2013, is amended to read as follows:

**3309.1 Protection required.** Adjoining public and private property, including persons thereon, shall be protected from damage and injury during construction or demolition work in accordance with the requirements of this section. Protection must be provided for footings, foundations, party walls, chimneys, skylights and roofs. Provisions shall be made to control water run-off and erosion during construction or demolition activities. *Where the New York City Department of Environmental Protection has issued a stormwater construction permit for a covered development project, such run-off and erosion controls shall be installed and maintained in accordance with the rules of the Department of Environmental Protection and this code.*

§ 22. This local law takes effect as follows:

1. Sections one, two, three, five, six and seven of this local law take effect 30 days after it becomes law;

2. Except as otherwise provided in this local law, section four and sections eight through twenty-one of this local law take effect on the earliest date or dates upon which it is practicable to commence implementation of such sections consistent with the requirements of the state pollutant discharge elimination system (SPDES) permit for municipal separate storm sewer systems of New York city, SPDES No. NY-0287890 and ensuring an appropriate assumption of regulatory authority by the city of New York pursuant to such permit. Such date or dates shall be determined by the department of environmental protection and set forth in rules implementing the provisions of such sections, provided that such date or dates shall be no earlier than forty-five days after the date of the final approval by the New York state department of environmental conservation of the storm water management program (SWMP) submitted by the department of environmental protection under such permit and no later than six months after the date of such SWMP approval, and provided further that upon the determination of the effective date or dates pursuant to this subdivision, the commissioner of environmental protection shall notify the New York state legislative bill drafting commission, in order that the commission may maintain an accurate and timely effective database of the official text of the New York city charter and administrative code in furtherance of effectuating the provisions of section 70-b of the public officers law, and the corporation counsel, who shall notify relevant publishers in furtherance of effectuating the provisions of section 7-111 of the administrative code, and provided further that failure to provide the notifications described in this section shall not affect the effective date of any

section of this local law; Subchapter 2 of chapter 5-A of title 24 of the administrative code of the city of New York, as added by section eight of this local law, and the amendments set forth in section four and in sections nine through twenty of this local law, shall not apply to any project for which the notice of intent, as such term is defined in subchapter 1 of chapter 5-A of title 24 of the administrative code of the city of New York, as added by section eight of this local law, was submitted to the New York state department of environmental conservation before the effective date of subchapter 2 of such chapter, as provided in paragraph two of this such section;

3. Effective immediately, the department of environmental protection or any other agency may take such actions as are necessary for the timely implementation of this local law, including the promulgation of rules.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, s.s.:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council on May 10, 2017 and approved by the Mayor on May 30, 2017.

MICHAEL M. McSWEENEY, City Clerk, Clerk of the Council.

CERTIFICATION OF CORPORATION COUNSEL

I hereby certify that the form of the enclosed local law (Local Law No. 97 of 2017, Council Int. No. 1346-A of 2016) to be filed with the Secretary of State contains the correct text of the local law passed by the New York City Council and approved by the Mayor.

STEPHEN LOUIS, Acting Corporation Counsel.

**LOCAL LAWS  
OF  
THE CITY OF NEW YORK  
FOR THE YEAR 2017**

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**No. 171**

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Introduced by Council Members Reynoso, Salamanca, Rodriguez, Chin, Kallos and Vallone.

**A LOCAL LAW**

**To amend the administrative code of the city of New York, in relation to requiring agencies to notify a food rescue organization before disposing of food**

*Be it enacted by the Council as follows:*

Section 1. Subchapter 2 of chapter 3 of title 17 of the administrative code of the city of New York is amended by adding a new section 17-323.1 to read as follows:

*§ 17-323.1 Notification concerning seizure of food. In the event that an agency seizes food when an employee or agent of the department of health and mental hygiene is present and determines that such food meets the sanitary requirements in the New York city health code, such agency shall, before disposing of such food, notify at least one food rescue organization that such organization may retrieve all or part of such food at such organization's expense. For the purposes of this section, the term "food rescue organization" means an organization that (i) retrieves, stores or distributes food that would otherwise be discarded, donated food or donated grocery products and (ii) donates such food or such grocery products to individuals, distributes such food or such grocery products to other food rescue organizations or otherwise distributes such food or such grocery products in connection with a food emergency program, food donation program or similar program.*

§ 2. This local law takes effect immediately.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, s.s.:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council on August 24, 2017 and approved by the Mayor on September 8, 2017.

MICHAEL M. McSWEENEY, City Clerk, Clerk of the Council.

CERTIFICATION OF CORPORATION COUNSEL

I hereby certify that the form of the enclosed local law (Local Law No. 171 of 2017, Council Int. No. 1439-A of 2017) to be filed with the Secretary of State contains the correct text of the local law passed by the New York City Council and approved by the Mayor.

STEPHEN LOUIS, Acting Corporation Counsel.

**LOCAL LAWS  
OF  
THE CITY OF NEW YORK  
FOR THE YEAR 2017**

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**No. 176**

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Introduced by Council Members Espinal, The Speaker (Council Member Mark-Viverito), Reynoso, Gentile, Kallos, Grodenchik and Vallone.

**A LOCAL LAW**

**To amend the administrative code of the city of New York, in relation to facilitating food donations**

*Be it enacted by the Council as follows:*

Section 1. Title 16 of the administrative code of the city of New York is amended by adding a new chapter 4-G to read as follows:

*CHAPTER 4-G*

*FOOD DONATION WEB PORTAL*

*§ 16-497 Food donation web portal. Within eighteen months after the effective date of the local law that added this section, the department or another agency or office designated by the mayor, shall, in conjunction with the department of information technology and telecommunications, create or modify and maintain a web portal that will allow prospective food donors and recipients, including but not limited to restaurants, grocery stores, produce markets, dining facilities and food rescue organizations, to post notifications concerning the availability of food, including food that would otherwise go to waste, and to arrange for the transportation or retrieval of such food. Such portal shall, at a minimum, allow (i) a prospective food donor to describe the type and amount of food available, including any information necessary to keep the food safe for human*

*consumption, such as refrigeration requirements, as well as other information necessary to facilitate its donation, (ii) a prospective food recipient to specify the type and amount of food donations it will accept and the areas of the city from which it will accept donations and to receive prompt notification concerning the availability of food satisfying such specifications, and (iii) a prospective food donor and a prospective food recipient to communicate directly through a messaging system within such portal.*

§ 2. This local law takes effect immediately.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, s.s.:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council on August 24, 2017 and approved by the Mayor on September 8, 2017.

MICHAEL M. McSWEENEY, City Clerk, Clerk of the Council.

CERTIFICATION OF CORPORATION COUNSEL

I hereby certify that the form of the enclosed local law (Local Law No. 176 of 2017, Council Int. No. 1514-A of 2017) to be filed with the Secretary of State contains the correct text of the local law passed by the New York City Council and approved by the Mayor.

STEPHEN LOUIS, Acting Corporation Counsel.



**Attachment 4B**

## NEW YORK CITY DEPARTMENT OF SANITATION

### NOTICE OF ADOPTION OF FINAL RULE RELATING TO THE CRITERIA USED IN THE SITING OF SOLID WASTE TRANSFER STATIONS

NOTICE IS HEREBY GIVEN in accordance with the requirements of Sections 1043 of the New York City Charter and pursuant to the authority vested in the Commissioner of the Department of Sanitation by sections 753 and 1043(a) of the New York City Charter and sections 16-130, 16-131, 16-131.1 and 16-131.2 of the New York City Administrative Code that the Department adopts the following rule that would amend a definition relating to the criteria used in the siting of solid waste transfer stations. This rule was not included in DSNY's regulatory agenda for this Fiscal Year because it was not contemplated when DSNY published the agenda. The Department published a Notice of Opportunity to Comment on the proposed rules in the *City Record* on September 18, 2017. On October 19, 2017 the Department held a public hearing on the proposed rule.

#### **Statement of Basis and Purpose**

The Department of Sanitation is amending its rule relating to the criteria used in the siting of solid waste transfer stations. Specifically, this rule would provide that the 400-foot buffer requirement between a proposed transfer station and a public park or parkway would not apply to certain limited Bronx River Parkway lands abutting an active railroad line.

This amendment is very narrowly tailored to modify the Department's siting rules to take into account the particular circumstances of a single industrial district in the northern Bronx. It will allow DSNY to consider a private applicant's proposal to site a non-putrescible solid waste transfer station to process construction and demolition debris waste in this industrial district. The district currently does not have any solid waste transfer stations. The district and proposed transfer station site are within 400 feet of the Bronx River Parkway. A certain strip of the Parkway lands within such 400 feet (Block 5130 Lot 125) is New York City parkland that adjoins the Parkway roadbed that is located in Yonkers. This strip of Parkway land is within the jurisdiction of the Department of Parks and Recreation. The strip is traversed by the Bronx River but has no street or way across it. The strip abuts the Metro North Harlem River Line railroad corridor that includes rail tracks.

This amendment would be consistent with the intent of the transfer station siting rules to avoid the siting of new transfer stations—with a potential for truck traffic and related noise—within 400 feet of sensitive land uses. A Bronx River Parkway lot that is adjacent to the busy multi-lane Parkway roadway and abuts an active railroad line is not a noise-sensitive location for this purpose, and therefore does not warrant an automatic minimum 400-foot buffer distance to a non-putrescible transfer station. The amendment would provide flexibility to DSNY to consider an application for a proposed transfer station within the existing industrial zone that is within 400 feet of Block 5130 Lot 125 of the Bronx River Parkway.

Any proposed transfer station would be sited in an industrial zone consistent with the New York City Zoning Resolution, and would be subject to environmental review, including consideration of potential impacts.

DSNY's authority for these rules is found in sections 753 and 1043 of the New York City Charter, and sections 16-130, 16-131, 16-131.1 and 16-131.2 of the New York City Administrative Code.

New material is underlined.

[Deleted material is in brackets.]

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

The definition of "Public park" as set forth in section 4-31 of Title 16 of the Rules of the City of New York is amended to read as follows:

#### **§4-31 Definitions**

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**Public park.** "Public park" shall mean any publicly-owned park, playground, beach, parkway, or roadway within the jurisdiction and control of the Commissioner of Parks and Recreation of the City of New York, except for Bronx River Parkway lands abutting an active railroad line and Park strips or malls in a street the roadways of which are not within the jurisdiction and control of the Commissioner of Parks and Recreation, or any publicly-owned park or beach within the jurisdiction and control of the federal or New York State government.

## NEW YORK CITY DEPARTMENT OF SANITATION

### NOTICE OF ADOPTION OF FINAL RULE RELATING TO THE EXPANSION OF ORGANIC WASTE SOURCE SEPARATION REQUIREMENTS FOR VARIOUS COMMERCIAL ENTITIES

NOTICE IS HEREBY GIVEN in accordance with the requirements of Sections 1043 of the New York City Charter and pursuant to the authority vested in the Commissioner of the Department of Sanitation by sections 753 and 1043(a) of the New York City Charter and section 16-306.1 of the New York City Administrative Code that the Department adopts the following rule that would expand organic waste source separation requirements for large commercial food retailers and food service establishments. This rule was not included in DSNY's regulatory agenda for this Fiscal Year because it was not contemplated when DSNY published the agenda. The Department published a Notice of Opportunity to Comment on the proposed rule in the *City Record* on September 29, 2017. On October 31, 2017, the Department held a public hearing on the proposed rule.

#### Statement of Basis and Purpose

Food scraps and other organic waste make up more than one-third of all commercial waste in New York City. Diverting this material from landfills to use for soil-enhancing compost, or as an energy source in aerobic and anaerobic digesters, is a key component of the City's goal of sending zero waste to landfills by the year 2030.

Under Local Law 146 of 2013, codified in §16-306.1 of the New York City Administrative Code, the Sanitation Commissioner must evaluate, at least annually, whether there exists sufficient regional organics waste processing capacity to require that certain food-generating businesses in the City, or a subset of them, must engage in alternative methods for handling organic waste separated by the businesses.

DSNY determined that there is currently sufficient organics processing capacity available to allow for an increase in food waste diversion, and will expand the existing requirement to additional large food-generating businesses in the city. These businesses will be required to separate their organic waste for collection and handling by their private carters, transport organic waste themselves, or manage it on-site using in-vessel composting or aerobic or anaerobic digestion systems (subject to compliance with the City's sewer discharge regulations). A designated covered establishment may also donate food that would otherwise be thrown away to a third party, such as a charity, sell or donate the food to a farmer for feedstock, or sell or donate meat by-products to a rendering company, which converts animal fats into lard. Food disposed of through such donations or sales is not within the meaning of "organic waste" under this rule.

DSNY carefully considered all comments received. As a result, this rule provides that the following types of establishments will be "designated covered establishments" and must comply with the source separation, storage, labelling and set out requirements for organic waste set forth under Section 1-11 of Title 16 of the Rules of the City of New York:

- 1) a food service establishment that has a floor area space of at least fifteen thousand square feet;

2) a food service establishment that is part of a chain of one hundred or more locations in the city of New York and that (i) operate under common ownership or control; (ii) are individually franchised outlets of a parent business; or (iii) do business under the same corporate name; and

3) a retail food store that has a floor area space of at least twenty-five thousand square feet.

The rule allows for waivers from the requirements under certain circumstances.

The rule also clarifies the term “floor area” of an establishment to have the same meaning as defined by the New York City Department of City Planning under Section 12-10 of Chapter 2 of Article 1 of the Zoning Resolution, which is the sum of the gross areas of the several floors of a building or buildings, measured from the exterior faces of exterior walls or from the center lines of walls separating two buildings.

The rule also amends the registration requirements for designated covered establishments that provide for a beneficial organic waste use on-site at their premises for some or all of the organic waste they generate. Such designated covered establishments would now have to renew annually their registration of any on-site organic waste processing equipment.

Additionally, the term “sign”, as used in the rule, is clarified to include a decal provided to a designated covered establishment by the private carter that collects organic waste from such covered establishment, or a decal issued by the Department of Sanitation when the designated covered establishment manages organic waste on site at its premises. The area where employees undertake food preparation is also amended to read “employee work area”, but this area does not include break rooms or other areas where employees do not prepare food to be offered for sale by the establishment.

DSNY’s authority for this rule is found in sections 753 and 1043 of the New York City Charter, and sections 16-306.1 of the New York City Administrative Code.

New material is underlined.

[Deleted material is in brackets.]

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

**Section 1. Section 1-11 of Chapter 1 of Title 16 of the Rules of the City of New York is amended relating to the handling of organic waste generated by certain commercial establishments, to read as follows:**

**§1-11 Organic Waste Generated by Commercial Establishments.**

**(a) Designated covered establishments.** Pursuant to §16-306.1(b) of the New York City Administrative Code, the following commercial establishments are “designated covered establishments” for purposes of this section and shall comply with the requirements set forth in this section:

- (1) an arena or stadium having a seating capacity of at least fifteen thousand persons;
  - (2) a food service establishment that (i) is located within a hotel having at least one hundred fifty sleeping rooms (ii) operates under common ownership or control of such hotel, and (iii) receives waste collection from the same private carter as such hotel;
  - (3) a food manufacturer that has a floor area of at least twenty-five thousand square feet;
- [and]
- (4) a food wholesaler that has a floor area of at least twenty thousand square feet[.];
  - (5) a food service establishment that has a floor area of at least fifteen thousand square feet;
  - (6) (i) a food service establishment that is part of a chain of one hundred or more locations in the city of New York and that (i) operate under common ownership or control; (ii) are individually franchised outlets of a parent business; or (iii) do business under the same corporate name.  
(ii) Any person who owns or operates two or fewer food service establishments may request a waiver from the sanitation commissioner of the requirements of this section if no single food service establishment has a floor area of at least seven thousand square feet, the food service establishment or establishments are individually franchised outlets of a parent business covered by this subparagraph, and the owner or operator establishes that the food service establishment or establishments do not receive private carting services through a general carting agreement between a parent business and private carter; and
  - (7) a retail food store that has a floor area of at least twenty-five thousand square feet.

For purposes of this section, the “floor area” of an establishment has the same meaning as defined under Section 12-10 of Chapter 2 of Article 1 of the Zoning Resolution.

**(b) Source separation requirements for designated covered establishments.**

- (1) A designated covered establishment shall source separate organic waste generated at its premises and either:
  - (i) arrange with a private carter for the separate collection of such organic waste directly from its premises for the purpose of a beneficial organic waste use;

(ii) transport its own organic waste directly to:

A) an organic waste processing facility; or

B) to a transfer station authorized by the New York state department of environmental conservation to receive source separated organic waste that will be removed to another location for beneficial organic waste use, provided that the designated covered establishment first registers with the business integrity commission pursuant to subdivision b of section 16-505 of the administrative code of the city of New York; or

(iii) provide for a beneficial organic waste use on-site at its premises, provided that any on-site composting must be in-vessel, and that it arranges for the collection or transport of the remainder of such organic waste, if any, in accordance with clause (i) or (ii) of this subparagraph.

(2) A designated covered establishment that registers with the business integrity commission pursuant to subdivision b of section 16-505 of the administrative code of the city of New York and transports its own organic waste shall enter into a written agreement with an organic waste processing facility that provides for a beneficial organic waste use. A copy of such written agreement shall be submitted by the covered establishment to the Department upon request within five business days of such request either by postal mail or electronic mail to the Department.

(3) A designated covered establishment that provides for a beneficial organic waste use on-site at its premises for some or all of the organic waste it generates shall:

(i) to the extent practicable, weigh and measure by volume the amount of organic waste disposed of by any such method on-site. A designated covered establishment shall maintain records of such weights and measurements for a period of three years, and the records shall be submitted by the covered establishment to the Department upon request within five business days of such request either by postal mail or electronic mail to the Department;

(ii) provide equipment on site that is properly sized to handle and process organic waste generated at the premises in a safe and sanitary manner, together with a contingency plan for handling the organic waste in the event such system becomes inoperable. The designated covered establishment shall ensure that no organic waste or other solid waste storage problem or public nuisance or condition hazardous to public health or safety is created during scheduled or unscheduled equipment maintenance, or equipment breakdown;

(iii) ensure that any such organic waste processing system is installed in accordance with the health code, including but not limited to the provisions of article 143, the New York city building code, including but not limited to subchapters twelve and thirteen of chapter one of title

twenty-seven of the administrative code, if applicable, and all applicable laws and rules governing the discharge of waste and waste water, including section 19-11 of title 15 of the rules of the city of New York governing the discharge of grease into the city sewer system, and any other applicable regulations enforced by the department of environmental protection or the New York state department of environmental conservation. In accordance with section 413.1 of the New York city plumbing code, a commercial food waste grinder unit cannot be used as an organic waste processing system for purposes of this paragraph; and

(iv) within thirty days of the installation of any on-site organic waste processing equipment, report to the Department the manufacturer, model number, size and the minimum and maximum processing capacity of the equipment and the date of installation of such equipment on a registration form [to be] prescribed by the Department, which shall be renewed annually.

**(c) Storage and set-out requirements for containers.**

(1) A designated covered establishment shall provide separate containers for the disposal of organic waste in any employee work area where such organic waste is generated by employees during the preparation of food. Containers for the disposal of organic waste to be used by employees shall be labeled to indicate only organic waste may be properly placed therein. For purposes of this paragraph, "label" means a display of words, which may also include graphics, that is affixed to or placed upon a container.

(2) A designated covered establishment that arranges for the collection of organic waste by a private carter shall ensure that it properly stores and maintains its source separated organic waste separately from all other materials generated at the premises, and shall not allow organic waste that is stored and maintained to be commingled with designated or nondesignated recyclable material or solid waste. All such organic waste shall be stored in a manner that does not create a public nuisance.

(3) A designated covered establishment that arranges for the collection of organic waste by a private carter shall separately set out such organic waste in one or more containers that:

(i) have a lid and a latch, lock, or other fastening or sealing mechanism or cord that keeps the lid closed and is resistant to tampering by rodents or other wildlife;

(ii) have the capacity that meets the disposal needs of the designated covered establishment and its private carter;

(iii) are compatible with the private carters hauling collection practices; and

(iv) are closed and latched at the time any such containers are placed out for collection by the carter and are labeled to indicate organic waste is placed inside.



**(d) [Sign] Decal and [notice] instruction requirements.**

(1) (i) A designated covered establishment shall post a [sign] decal that states clearly and legibly either:

(A) the trade or business name, address, telephone number of, and the day and time of pickup by the private carter that collects the designated covered establishment's organic waste;

(B) the designated covered establishment transports its organic waste to an entity that provides for beneficial organic waste reuse; or

(C) the designated covered establishment provides for on-site processing of organic waste generated at its premises.

(ii) A designated covered establishment shall prominently display such [sign] decal by affixing it to a window near the principal entrance to the designated covered establishment so as to be easily visible from outside the building or, if this is not possible, shall prominently display such [sign] decal inside the designated covered establishment near the principal entrance. If posting a [sign] decal near the designated covered establishment's entrance is not practicable, the owner of such designated covered establishment shall retain a copy of such [sign] decal on its premises and shall furnish a copy to the Department upon request.

(2) A designated covered establishment shall post instructions on the separation requirements for organic waste in an area where such instructions will be visible to employees who are disposing of organic waste. Such instructions shall state that organic waste is required to be source separated and shall explain how to source separate such material.

**(e) Enforcement and compliance.**

(1) The commissioner, together with the commissioner of the department of mental health and hygiene, and the commissioner of the department of consumer affairs, reserves the right to conduct lawful inspections during business hours to ensure compliance with this section. Such inspections may include, but need not be limited to:

(i) inspections of organic waste set out by a designated covered establishment for collection by his or her private carter to determine whether such material has been set out in accordance with paragraph 2 of subdivision c of this section; and

(ii) inspections of putrescible solid waste transfer stations that are authorized to accept source separated organics by the New York state department of environmental conservation.

(2) Any person that violates any provision of this section shall be liable for civil penalties as provided for under paragraphs one, two and three of subdivision e of section 16-324 of the New York City Administrative Code.

§2. This rule shall take effect six months after it is published in the City Record.

**LOCAL LAWS  
OF  
THE CITY OF NEW YORK  
FOR THE YEAR 2019**

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**No. 3**

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Introduced by Council Members Salamanca, Holden, Diaz, Menchaca, Dromm, Koo, Reynoso, Adams, Cabrera, Deutsch, Miller, Lander, Rivera, Powers, Ayala, Grodenchik, Rosenthal, Yeger, Espinal, Kallos, Levin, Rodriguez.

**A LOCAL LAW**

**To amend the administrative code of the city of New York, in relation to suspending alternate side parking regulations on Three Kings' Day**

*Be it enacted by the Council as follows:*

Section 1. Subdivision a of section 19-163 of the administrative code of the city of New York, as amended by local law number 103 for the year 2005, is amended to read as follows:

§ 19-163 Holiday suspensions of parking rules. a. All alternate side of the street parking rules shall be suspended on the following holidays: Christmas, Yom Kippur, Rosh Hashanah, Ash Wednesday, Holy Thursday, Good Friday, Ascension Thursday, Feast of the Assumption, Feast of All Saints, Feast of the Immaculate Conception, first two days of Succoth, Shemini Atzareth, Simchas Torah, Shevuoth, Purim, Orthodox Holy Thursday, Orthodox Good Friday, first two and last two days of Passover, the Muslim holidays of Eid Ul-Fitr and Eid Ul-Adha, Asian Lunar New Year, the Hindu festival of Diwali on the day that Lakshmi Puja is observed, *Three Kings' Day*, and all state and national holidays.

§ 2. This local law takes effect immediately.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, s.s.:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council on November 28, 2018 and returned unsigned by the Mayor on January 2, 2019.

MICHAEL M. McSWEENEY, City Clerk, Clerk of the Council.

CERTIFICATION OF CORPORATION COUNSEL

I hereby certify that the form of the enclosed local law (Local Law No. 3 of 2019, Council Int. No. 370-A of 2018) to be filed with the Secretary of State contains the correct text of the local law passed by the New York City Council, presented to the Mayor and neither approved nor disapproved within thirty days thereafter.

STEVEN LOUIS, Acting Corporation Counsel.

**LOCAL LAWS  
OF  
THE CITY OF NEW YORK  
FOR THE YEAR 2019**

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**No. 5**

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Introduced by Council Members Koo, Chin, Yeger, Holden, Salamanca, Rosenthal, Miller, Kallos, Levin, Rodriguez, Deutsch and Menchaca.

**A LOCAL LAW**

**To amend the administrative code of the city of New York, in relation to suspending alternate side parking regulations on Lunar New Year's Eve**

*Be it enacted by the Council as follows:*

Section 1. Subdivision a of section 19-163 of the administrative code of the city of New York, as amended by a local law amending the administrative code of the city of New York, relating to suspending alternate side parking regulations on Three Kings' Day, as proposed in introduction number 370-A for the year 2018, is amended to read as follows:

§ 19-163 Holiday suspensions of parking rules. a. All alternate side of the street parking rules shall be suspended on the following holidays: Christmas, Yom Kippur, Rosh Hashanah, Ash Wednesday, Holy Thursday, Good Friday, Ascension Thursday, Feast of the Assumption, Feast of All Saints, Feast of the Immaculate Conception, first two days of Succoth, Shemini Atzareth, Simchas Torah, Shevuoth, Purim, Orthodox Holy Thursday, Orthodox Good Friday, first two and last two days of Passover, the Muslim holidays of Eid Ul-Fitr and Eid Ul-Adha, *the day before Lunar New Year*, [Asian] Lunar New Year, the Hindu festival of Diwali on the day that Lakshmi Puja is observed, Three Kings' Day, and all state and national holidays.

§ 2. Subdivision c of section 19-163 of the administrative code of the city of New York, as added by local law number 32 for the year 2002, is amended to read as follows

c. The date of the [Asian] Lunar New Year shall be the first day of the second lunar month after the winter solstice in the preceding calendar year.

§ 3. This local law takes effect on the same date as a local law amending the administrative code of the city of New York, relating to suspending alternate side parking regulations on Three Kings' Day, as proposed in introduction number 370-A for the year 2018, takes effect.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, s.s.:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council on November 28, 2018 and returned unsigned by the Mayor on January 2, 2019.

MICHAEL M. McSWEENEY, City Clerk, Clerk of the Council.

CERTIFICATION OF CORPORATION COUNSEL

I hereby certify that the form of the enclosed local law (Local Law No. 5 of 2019, Council Int. No. 497-A of 2018) to be filed with the Secretary of State contains the correct text of the local law passed by the New York City Council, presented to the Mayor and neither approved nor disapproved within thirty days thereafter.

STEVEN LOUIS, Acting Corporation Counsel.

**LOCAL LAWS  
OF  
THE CITY OF NEW YORK  
FOR THE YEAR 2018**

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**No. 29**

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Introduced by Council Members Rodriguez, Chin, Gentile, Mealy, Mendez, Richards, Lander, Torres, Levine, Johnson, Menchaca, Kallos, Cornegy, Rosenthal, Palma, Levin, Van Bramer, Salamanca, Crowley, Barron, Rose, Reynoso, King, Koo, Gibson, Espinal, Constantinides, Treyger, Lancman, Miller, Perkins, Koslowitz and Dromm.

**A LOCAL LAW**

**To amend the administrative code of the city of New York, in relation to a census of vacant properties**

*Be it enacted by the Council as follows:*

Section 1. Subchapter 1 of chapter 1 of title 3 of the administrative code of the city of New York is amended by adding a new section 3-119.1 to read as follows:

*§ 3-119.1 Citywide census of vacant properties. a. The mayor, or an agency designated by the mayor, shall analyze data provided under subdivisions b and c of this section to provide an estimate of the number of vacant residential buildings and vacant lots located in areas zoned to permit residential use. Such analysis need not be conducted with regard to vacant buildings or vacant lots located in coastal flood zones designated by the federal emergency management agency or other coastal flood zones designated or recognized by the city. The first such analysis shall be initiated no later than 90 days after the effective date of the local law that added this section and shall be completed within three years thereafter. A new vacancy analysis shall be conducted every five years thereafter.*

*b. The departments of housing preservation and development, environmental protection, buildings and sanitation and the fire department, and any other agency upon request of the mayor or such designated agency, shall provide to the mayor or such designated agency such records as may be provided lawfully concerning the physical condition of and services provided to any building or parcel of land within the city in order to aid the mayor or such designated agency in determining whether any building or lot is vacant.*

*c. The mayor or such designated agency shall compile a list of the potentially vacant buildings and potentially vacant lots disclosed as a result of such analysis. Sources of information relating to buildings and lots shall include, but need not be limited to, records of the department of housing preservation and development, the department of finance and the department of buildings, and each agency shall provide to the mayor or such designated agency such information as shall be requested and that may be provided lawfully.*

§ 2. This local law takes effect 180 days after it becomes law, except that the mayor or the agency designated by the mayor under this section may take such actions as are necessary for its implementation, including the promulgation of rules, before such effective date.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, s.s.:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council on December 19, 2017 and approved by the Mayor on January 8, 2018.

MICHAEL M. McSWEENEY, City Clerk, Clerk of the Council.



CERTIFICATION OF CORPORATION COUNSEL

I hereby certify that the form of the enclosed local law (Local Law No. 29 of 2018, Council Int. No. 1036-A of 2015) to be filed with the Secretary of State contains the correct text of the local law passed by the New York City Council and approved by the Mayor.

STEPHEN LOUIS, Acting Corporation Counsel.

**LOCAL LAWS  
OF  
THE CITY OF NEW YORK  
FOR THE YEAR 2018**

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**No. 74**

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Introduced by The Speaker (Council Member Mark-Viverito) and Council Members Cornegy, Kallos, Menchaca and Perkins.

**A LOCAL LAW**

**In relation to requiring the commissioners of sanitation and consumer affairs to study the feasibility of a penalty mitigation program**

*Be it enacted by the Council as follows:*

Section 1. As used in this local law, the following terms have the following meanings:

Food service establishment. The term “food service establishment” means a premises or part of a premises where food is provided directly to the consumer whether such food is provided free of charge or sold, and whether consumption occurs on or off of the premises or is provided from a pushcart, stand or vehicle and shall include, but not be limited to, full-service restaurants, fast food restaurants, cafes, delicatessens, coffee shops, grocery stores, vending trucks or carts and cafeterias.

Penalty mitigation program. The term “penalty mitigation program” means:

(i) For a food service establishment, a program that allows such establishment to have civil penalties waived if such establishment complies with the requirements of a program designed to encourage such food service establishment to donate excess food to an appropriate not-for-profit organization; or

(ii) For a retail establishment, a program that allows such establishment to have civil penalties waived if such establishment complies with the requirements of a program designed to encourage such retail establishment to make their restrooms available to the public.

Retail establishment. The term “retail establishment” means an establishment, other than a food service establishment, that sells products and has a restroom.

§ 2. Within 2 years of the enactment of this section, the commissioner of sanitation shall:

a. Conduct a review of violations enforced by the department of sanitation, pursuant to title 16 of the administrative code of the city of New York, to study the feasibility and appropriateness of establishing a penalty mitigation program regarding any such violations issued to food service establishments or retail establishments;

b. Promulgate a rule authorizing the waiver of civil penalties for such violations based on a food service establishment or retail establishment’s participation in such penalty mitigation program, provided that the review required by subdivision a. of this section has concluded that such a program is feasible and appropriate; and

c. Submit to the mayor and the council a report summarizing the results of the review, which shall include, if the review concluded that a penalty mitigation program is not feasible and appropriate, an explanation for such conclusion; and, if the review concluded that a penalty mitigation program is feasible and appropriate, an explanation for the exclusion of certain violations from the rule.

§ 3. Within 2 years of the enactment of this section, the commissioner of consumer affairs shall:

a. Conduct a review of violations enforced by the department of consumer affairs, pursuant to title 20 of the administrative code of the city of New York, that (i) relate to the display of prices, the accuracy of scanners, or the posting of signage, or (ii) are commonly issued to food service establishments or retail establishments, excluding any violations authorized by chapters 8, 9, 10, 12 or 13 of such title, in order to study the feasibility and appropriateness of establishing a penalty mitigation program regarding any such violations issued to food service establishments or retail establishments;

b. Promulgate a rule authorizing the waiver of civil penalties for such violations based on a food service establishment or retail establishment's participation in such penalty mitigation program, provided that the study required by subdivision a of this section has concluded that such a program is feasible and appropriate; and

c. Submit to the mayor and the council a report summarizing the results of the review, which shall include, if the review concluded that a penalty mitigation program is not feasible and appropriate, an explanation for such conclusion; and, if the review concluded that a penalty mitigation program is feasible and appropriate, an explanation for the exclusion of certain violations from the rule.

§ 4. This local law takes effect immediately.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, s.s.:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council on December 19, 2017 and returned unsigned by the Mayor on January 22, 2018.

MICHAEL M. McSWEENEY, City Clerk, Clerk of the Council.

CERTIFICATION OF CORPORATION COUNSEL

I hereby certify that the form of the enclosed local law (Local Law No. 74 of 2018, Council Int. No. 1499-A of 2017) to be filed with the Secretary of State contains the correct text of the local law passed by the New York City Council, presented to the Mayor and neither approved nor disapproved within thirty days thereafter.

STEVEN LOUIS, Acting Corporation Counsel.

**LOCAL LAWS  
OF  
THE CITY OF NEW YORK  
FOR THE YEAR 2018**

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**No. 131**

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Introduced by Council Members Matteo, Holden, Vallone, Miller and Ulrich.

**A LOCAL LAW**

**To amend the administrative code of the city of New York, in relation to adjusting penalties for littering**

*Be it enacted by the Council as follows:*

Section 1. Paragraph c of subdivision 9 of section 16-118 of the administrative code of the city of New York, as added by local law number 75 for the year 2016, is amended to read as follows:

c. notwithstanding paragraph a of this subdivision, for any natural person violating subdivision 1 of this section:

(1) 75 dollars for a first violation, and

(2) [not less than 250 and not more than 350] 300 dollars for any second violation within any 12 month period, and

(3) [not less than 350 and not more than 450] 400 dollars for any third violation within any 12 month period.

§ 2. This local law takes effect 120 days after it becomes law.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, s.s.:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council on June 28, 2018 and returned unsigned by the Mayor on July 31, 2018.

MICHAEL M. McSWEENEY, City Clerk, Clerk of the Council.

CERTIFICATION OF CORPORATION COUNSEL

I hereby certify that the form of the enclosed local law (Local Law No. 131 of 2018, Council Int. No. 203-B of 2018) to be filed with the Secretary of State contains the correct text of the local law passed by the New York City Council, presented to the Mayor and neither approved nor disapproved within thirty days thereafter.

STEVEN LOUIS, Acting Corporation Counsel.

**LOCAL LAWS  
OF  
THE CITY OF NEW YORK  
FOR THE YEAR 2018**

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**No. 134**

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Introduced by Council Members Matteo, Holden, Yeger, Vallone and Miller.

**A LOCAL LAW**

**To amend the administrative code of the city of New York, in relation to evidence of unlawful dumping**

*Be it enacted by the Council as follows:*

Section 1. Subdivision c of section 16-119 of the administrative code of the city of New York is amended by adding a new paragraph 5 to read as follows:

*(5) If the department, the department of small business services or the department of environmental protection has established that material transported in a dump truck or other vehicle has been dumped, deposited or otherwise disposed of in violation of subdivision a of this section, there shall be a rebuttable presumption that the person whose name, or other identifying information, appears on any such material has violated such subdivision if the department, the department of small business services or the department of environmental protection establishes that such person owns or has control of (i) such dump truck or other vehicle or (ii) any dump truck.*

§ 2. This local law takes effect immediately.



THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, s.s.:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council on June 28, 2018 and returned unsigned by the Mayor on July 31, 2018.

MICHAEL M. McSWEENEY, City Clerk, Clerk of the Council.

CERTIFICATION OF CORPORATION COUNSEL

I hereby certify that the form of the enclosed local law (Local Law No. 134 of 2018, Council Int. No. 655-A of 2018) to be filed with the Secretary of State contains the correct text of the local law passed by the New York City Council, presented to the Mayor and neither approved nor disapproved within thirty days thereafter.

STEVEN LOUIS, Acting Corporation Counsel.

**LOCAL LAWS  
OF  
THE CITY OF NEW YORK  
FOR THE YEAR 2018**

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**No. 135**

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Introduced by Council Members Miller, Holden, Yeger and Borelli.

**A LOCAL LAW**

**To amend the administrative code of the city of New York, in relation to unlawful dumping and the improper placement of discarded material**

*Be it enacted by the Council as follows:*

Section 1. Subdivisions a and b of section 16-119 of the administrative code of the city of New York, subdivision a as amended by local law number 4 for the year 2010 and subdivision b as amended by local law number 29 for the year 1995, are amended to read as follows:

a. It shall be unlawful for any person, his or her agent, employee or any person under his or her control to suffer or permit any *amount of* dirt, sand, gravel, clay, loam, stone, rocks, rubble, building rubbish, sawdust, shavings or trade or household waste, refuse, ashes, manure, garbage, rubbish or debris of any sort or any other organic or inorganic material or thing or other offensive matter being transported in a dump truck or other vehicle to be dumped, deposited or otherwise disposed of in or upon any *sidewalk*, street, lot, park, public place, wharf, pier, dock, bulkhead, slip, navigable waterway or other area whether publicly or privately owned.

b. Any person who violates the provisions of this section *while engaged in commercial activities* shall be liable to arrest and upon conviction thereof shall be deemed guilty of a misdemeanor and shall be punished by a fine of [not less than one thousand five hundred dollars

nor more than ten thousand dollars] *\$4,000 for the first offense and \$9,000 for any subsequent offense* or by imprisonment not to exceed [ninety] *90* days or by both such fine and imprisonment.

§ 2. Paragraph (1) of subdivision c of section 16-119 of the administrative code of the city of New York, as designated by chapter 500 of the laws of 1999, is amended to read as follows:

(1) Any person who violates the provisions of subdivision a of this section shall also be liable for a civil penalty of [not less than one thousand five hundred dollars nor more than ten thousand dollars] *\$4,000* for the first offense, [and not less than five thousand dollars nor more than twenty thousand dollars] *\$9,000 for the second offense within any eighteen-month period and \$18,000* for each subsequent offense *within any eighteen-month period*. In addition, every owner of a dump truck or other vehicle shall be liable for a civil penalty of [not less than one thousand five hundred dollars nor more than ten thousand dollars] *\$4,000* for the first offense- [and not less than five thousand dollars nor more than twenty thousand dollars]- , *\$9,000 for the second offense within any eighteen-month period and \$18,000* for each subsequent offense *within any eighteen-month period* of unlawful dumping described in subdivision a of this section by any person using or operating the [same] *dump truck or other vehicle*, in the business of such owner or otherwise, with the permission, express or implied, of such owner. *It shall not be a defense for any owner of a dump truck or other vehicle that the person using or operating the dump truck or other vehicle in violation of this section is a member of the owner's immediate family, including, but not limited to, spouse, domestic partner, sibling, child, grandchild, parent or grandparent.*

§ 3. Paragraph 2 of subdivision e of section 16-119 of the administrative code of the city of New York is amended to read as follows:

(2) In addition to any other penalties provided in this section, the interest of an owner as defined in subdivision c of this section in any vehicle impounded pursuant to paragraph (1) of this subdivision shall be subject to forfeiture upon notice and judicial determination thereof if such owner (i) has been convicted of or found liable for a violation of this section in a civil or criminal proceeding or in a proceeding before the environmental control board [three] *two* or more times, [all] *both* of which violations were committed within an eighteen month period or (ii) has been convicted of or found liable for a violation of this section in a civil or criminal proceeding or in a proceeding before the environmental control board if the material unlawfully dumped is a material identified as a hazardous waste or an acute hazardous waste in regulations promulgated pursuant to section 27-0903 of the environmental conservation law.

§ 4. Subdivisions e and f of section 16-120 of the administrative code of the city of New York, as amended by local law number 42 for the year 2007, are amended to read as follows:

e. (1) *No person shall deposit household or commercial refuse or liquid wastes in a public litter basket placed on the streets by the department or any other person . There shall be a rebuttable presumption that the person whose name, or other identifying information, appears on any household or commercial refuse or liquid wastes deposited in such public litter basket violated this [subdivision] paragraph.*

(2) *No person shall place household or commercial refuse in or upon any sidewalk, street, lot, park, public place, wharf, pier, dock, bulkhead, slip, navigable waterway or other area whether publicly or privately owned, except in accordance with rules of the department relating to collection (i) by the department or (ii) by a private carter that is required to be licensed or registered pursuant to chapter 1 of title 16-A of the code. There shall be a rebuttable presumption*

*that the person whose name, or other identifying information, appears on any household or commercial refuse placed in or upon any sidewalk, street, lot, park, public place, wharf, pier, dock, bulkhead, slip, navigable waterway or other area whether publicly or privately owned violated this paragraph.*

f. Any person violating the provisions of this section, except subdivision e, shall be liable for a civil penalty of not less than [twenty-five] \$25 nor more than [one hundred dollars] \$100 for the first violation, not less than [one hundred dollars] \$100 nor more than [two hundred dollars] \$200 for a second violation within any twelve-month period, and not less than [two hundred dollars] \$200 nor more than [three hundred dollars] \$300 for a third or subsequent violation [with] *within* any twelve-month period. Any person violating the provisions of *paragraph (1)* of subdivision e of this section shall be liable for a civil penalty of [not less than one hundred dollars nor more than three hundred dollars] \$100 for the first violation, [not less than two hundred fifty dollars nor more than three hundred fifty dollars] \$250 for a second violation within any twelve-month period, and [not less than three hundred fifty dollars nor more than four hundred dollars] \$350 for a third or subsequent violation within any [twelve month] *twelve-month* period. *Any person violating the provisions of paragraph (2) of subdivision e of this section shall be liable for a civil penalty \$75 for the first violation, \$300 for a second violation within any twelve-month period, and \$400 for a third or subsequent violation within any twelve-month period.*

§ 5. Subdivision h of section 16-120 of the administrative code of the city of New York, as amended by local law number 1 for the year 2003, is amended to read as follows:

h. In the event that a person fails to answer such notice of violation within the time provided therefor by the environmental control board, that person shall become liable for additional

penalties. The additional penalties shall [not exceed three hundred dollars] *be* \$300 for each violation.

§ 6. For one year after the effective date of section four of this local law, the commissioner of sanitation shall make reasonable efforts to include information concerning paragraph (2) of subdivision (e) of section 16-120 of the administrative code of the city of New York, as added by this local law, in public outreach or education conducted by the department of sanitation related the improper disposal of household or commercial refuse.

§ 7. This local law takes effect 60 days after it becomes law.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, s.s.:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council on June 28, 2018 and returned unsigned by the Mayor on July 31, 2018.

MICHAEL M. McSWEENEY, City Clerk, Clerk of the Council.

CERTIFICATION OF CORPORATION COUNSEL

I hereby certify that the form of the enclosed local law (Local Law No. 135 of 2018, Council Int. No. 656-A of 2018) to be filed with the Secretary of State contains the correct text of the local law passed by the New York City Council, presented to the Mayor and neither approved nor disapproved within thirty days thereafter.

STEVEN LOUIS, Acting Corporation Counsel.

**LOCAL LAWS  
OF  
THE CITY OF NEW YORK  
FOR THE YEAR 2018**

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**No. 137**

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Introduced by Council Members Matteo, Holden, Vallone, Miller and Ulrich.

**A LOCAL LAW**

**To amend the administrative code of the city of New York, in relation to penalties for littering from a vehicle**

*Be it enacted by the Council as follows:*

Section 1. Subdivision 9 of section 16-118 of the administrative code of the city of New York, as amended by local law number 75 for the year 2016, paragraph c of such subdivision, as amended by a local law for the year 2018 amending the administrative code of the city of New York relating to adjusting penalties for littering, as proposed in introduction number 203-A, is amended to read as follows:

9. Any person violating the provisions of this section shall be liable for a civil penalty in the following amounts, provided that for the purposes of this subdivision, the term “first violation” means any number of violations issued for a single incident:

a. not less than 50 and not more than 250 dollars for a first violation, except that the civil penalty shall be not less than 250 and not more than 350 dollars for a second violation of subdivision 3, 4 or 6 of this section within any 12 month period, and not less than 350 and not more than 450 dollars for a third or subsequent violation of subdivision 3, 4 or 6 of this section within any 12 month period;

b. notwithstanding paragraph a of this subdivision, for any natural person violating subdivision 6 of this section by means of the act of public urination:

(1) 75 dollars for a first violation, and

(2) not less than 250 and not more than 350 dollars for any second violation within any 12 month period, and

(3) not less than 350 and not more than 450 dollars for any third violation within any 12 month period; [and]

c. notwithstanding paragraph a of this subdivision, for any natural person violating subdivision 1 of this section:

(1) 75 dollars for a first violation, and

(2) 300 dollars for any second violation within any 12 month period, and

(3) 400 dollars for any third violation within any 12 month period; *and*

*d. notwithstanding paragraph a of this subdivision, for any natural person violating subdivision 4 of this section:*

*(1) 200 dollars for a first violation; and*

*(2) 350 dollars for any second violation within any 12 month period; and*

*(3) 450 dollars for any third violation within any 12 month period.*

§ 2. This local law takes effect 120 days after it becomes law.



THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, s.s.:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council on June 28, 2018 and returned unsigned by the Mayor on July 31, 2018.

MICHAEL M. McSWEENEY, City Clerk, Clerk of the Council.

CERTIFICATION OF CORPORATION COUNSEL

I hereby certify that the form of the enclosed local law (Local Law No. 137 of 2018, Council Int. No. 850-A of 2018) to be filed with the Secretary of State contains the correct text of the local law passed by the New York City Council, presented to the Mayor and neither approved nor disapproved within thirty days thereafter.

STEVEN LOUIS, Acting Corporation Counsel.

**LOCAL LAWS  
OF  
THE CITY OF NEW YORK  
FOR THE YEAR 2018**

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**No. 138**

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Introduced by Council Members Matteo, Holden, Vallone, Miller and Ulrich.

**A LOCAL LAW**

**In relation to a plan to increase enforcement of littering out of vehicles**

*Be it enacted by the Council as follows:*

Section 1. The commissioner of sanitation shall develop and submit to the mayor and the speaker of the council by April 1, 2019, a plan to increase enforcement of subdivision 4 of section 16-118 of the administrative code of the city of New York. This plan shall include but not be limited to:

- a. a list of locations in the city where litter is commonly thrown from cars, which shall be developed by such commissioner in consultation with council members and community boards;
- b. the number of sanitation officers necessary to enforce such subdivision in such locations;
- c. the number of violations issued annually for littering out of a vehicle, disaggregated by sanitation district;
- d. a description of steps the department of sanitation will take to increase enforcement of such subdivision; and
- e. a timeline for implementation of such plan.

§ 2. This local law takes effect immediately.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, s.s.:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council on June 28, 2018 and returned unsigned by the Mayor on July 31, 2018.

MICHAEL M. McSWEENEY, City Clerk, Clerk of the Council.

CERTIFICATION OF CORPORATION COUNSEL

I hereby certify that the form of the enclosed local law (Local Law No. 138 of 2018, Council Int. No. 851 of 2018) to be filed with the Secretary of State contains the correct text of the local law passed by the New York City Council, presented to the Mayor and neither approved nor disapproved within thirty days thereafter.

STEVEN LOUIS, Acting Corporation Counsel.

**LOCAL LAWS  
OF  
THE CITY OF NEW YORK  
FOR THE YEAR 2018**

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**No. 152**

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Introduced by Council Members Reynoso, Levin, Cumbo, Lander, Richards, Menchaca, Espinal, Rosenthal, Van Bramer, Williams, Perkins, Rodriguez, Chin, Cohen, Brannan, Levine, Kallos, Treyger, Rivera, Ampy-Samuel, Salamanca, Powers and Ayala.

**A LOCAL LAW**

**To amend the administrative code of the city of New York, in relation to reducing permitted capacity at putrescible and non-putrescible solid waste transfer stations in overburdened districts**

*Be it enacted by the Council as follows:*

Section 1. Title 16 of the administrative code of the city of New York is amended by adding a new chapter 4-H to read as follows:

*CHAPTER 4-H - REDUCED PERMITTED CAPACITY AT SOLID WASTE TRANSFER STATIONS*

*16-498 - Definitions*

*16-498.1 - Reduction of Overall Permitted Capacity*

*16-498.2 - Allocating Reductions of Permitted Capacity*

*16-498.3 - Waiver*

*16-498.4 - Overconcentrated Districts*

*16-498.5 - Reporting*

*16-498.6 - Notification*

*16-498.7 - Displaced Employee List*

*§ 16-498 Definitions. When used in this chapter, terms defined in subdivision a of section 16-130 shall have the meanings given therein and the following terms shall have the following meanings:*

*Designated community districts.* The term “designated community districts” means community district one in the borough of Brooklyn, community districts one and two in the borough of the Bronx, and community district 12 in the borough of Queens, as identified on the effective date of the local law that added this section on the map of community districts established pursuant to section 2702 of the New York city charter.

*Emergency.* The term “emergency” means the same as “emergency conditions and potential incidents” as described in subdivision a of section 497 of the New York city charter regardless of whether a multi-agency response is needed.

*Exempted day.* The term “exempted day” means each of the following days: January second; the day after the third Monday in January; February thirteenth; the day after the third Monday in February; the day after the last Monday in May; July fifth; the day after the first Monday in September; the day after the second Monday in October; the Wednesday following the first Monday in November; November twelfth; the day after the fourth Thursday in November; and December twenty-sixth, except that if any such day falls on a Sunday, the exempted day shall be the next following business day.

*Operational date.* The term “operational date” means, for Brooklyn community district one and Queens community district 12, the first date on which a marine transfer station operated by the department and located in the same borough as such district begins accepting residential waste from the department. For Bronx community districts one and two, such term shall mean the date on which the first marine transfer station operated by the department and located in the city begins accepting residential waste from the department.

*Organic waste.* The term “organic waste” has the same meaning as set forth in section 16-303.

*Overconcentrated district. The term “overconcentrated district” means a community district that contains 10 percent or more of the total citywide permitted capacity for putrescible and non-putrescible solid waste transfer stations, including transfer stations operated by or on behalf of the department.*

*Permitted capacity. The term “permitted capacity” means, for a putrescible solid waste transfer station, the total amount of solid waste that is permitted by the department to be delivered to such solid waste transfer station as measured in tons per day, and for a non-putrescible solid waste transfer station, the average tons per day permitted to be delivered to such solid waste transfer station over the quarter year. For purposes of this chapter, a non-putrescible transfer station shall not include a facility permitted as a fill material transfer station by the department pursuant to sections 16-130 and 16-131 of chapter 4 of this title.*

*Quarter year. The term “quarter year” means any of the four three-month periods of a year that begin with the first day in the months of January, April, July and October.*

*Total quarterly capacity. The term “total quarterly capacity” means, for a non-putrescible solid waste transfer station, the total amount of solid waste allowed to be delivered to such transfer station within any quarter year.*

*§ 16-498.1 Reduction of overall permitted capacity. a. By October 1, 2019 or the relevant operational date, whichever is later, the commissioner shall, for each designated community district, set the permitted capacity for each putrescible and non-putrescible solid waste transfer station operating in such designated community district. The permitted capacity of each putrescible and non-putrescible solid waste transfer station in community district one in the borough of Brooklyn shall be reduced by 50 percent below the permitted capacity for such transfer*

*station on the effective date of the local law that added this section. The permitted capacity of each putrescible and non-putrescible solid waste transfer station in community districts one and two in the borough of the Bronx and community district 12 in the borough of Queens shall be reduced by 33 percent below the permitted capacity for such transfer station on the effective date of the local law that added this section.*

*b. Any reductions in permitted capacity required pursuant to this section for a transfer station in a designated community district shall be implemented at the time that the transfer station's permit is renewed.*

*c. On exempted days occurring after the date that reductions under this section are implemented for a designated community district, a putrescible solid waste transfer station in such designated community district may process waste in an amount equivalent to such transfer station's permitted capacity prior to the reductions required by this section.*

*§ 16-498.2 Allocating reductions of permitted capacity.*

*a. The commissioner shall not impose the reductions to permitted capacity required by section 16-498.1 on any putrescible or non-putrescible solid waste transfer station that exports by rail all or the majority of the waste accepted at any such transfer station and which does not use a public street to transport such waste between such transfer station and the rail facility.*

*b. The commissioner shall determine the average daily amount of solid waste transported by barge for the three years preceding October 1, 2019, or the operational date, whichever is later, by each putrescible solid waste transfer station within a designated community district. In calculating any required reduction in permitted capacity for a putrescible solid waste transfer*

*station pursuant to section 16-498.1, the commissioner shall not include, in any amount required to be reduced, such average daily amount of waste transported by barge, provided that:*

*1. On or before April 1, 2019, the owner of such transfer station submits an application to the commissioner to modify its permit to restrict the use of its permitted capacity, or a portion thereof, exclusively to putrescible solid waste that is transported out of the city from such transfer station by barge, and that application is approved by the commissioner; and*

*2. By October 1, 2019, or the relevant operational date, whichever is later, any such transfer station restricts the use of its permitted capacity, or such portion thereof, exclusively to putrescible solid waste that is transported from such transfer station by barge.*

*c. A putrescible solid waste transfer station may reserve up to 20 percent of its permitted capacity exclusively for source separated organic waste to be recycled. Such reserved amount shall not be included in the transfer station's permitted capacity when the commissioner calculates any required reduction in permitted capacity for such putrescible solid waste transfer station pursuant to section 16-498.1, provided that:*

*1. On or before April 1, 2019, the owner of such transfer station submits an application to the commissioner to modify its permit to restrict the use of its permitted capacity, or a portion thereof, exclusively to source separated organic waste, and that application is approved by the commissioner; and*

*2. By October 1, 2019, or the relevant operational date, whichever is later, any such transfer station restricts the use of its permitted capacity, or such portion reserved for source separated organic waste, exclusively to source separated organic waste.*



*d. The commissioner shall determine the average daily amount of metal, glass, plastic, paper and corrugated cardboard recycled for the three years preceding October 1, 2019, or the operational date, whichever is later, by each transfer station within a designated community district. In calculating any required reduction in permitted capacity pursuant to section 16-498.1, the commissioner shall not include, in any amount required to be reduced, the lesser of (i) such average daily amount of recycled metal, glass, plastic, paper and corrugated cardboard or (ii) 20 percent of the transfer station's permitted capacity.*

*e. The commissioner shall determine the average daily amount of construction and demolition debris recycled for the three years preceding October 1, 2019, or the operational date, whichever is later, by each non-putrescible solid waste transfer station within a designated community district. In calculating any required reduction in permitted capacity pursuant to section 16-498.1, the commissioner shall not include, in any amount required to be reduced, 50 percent of such average daily amount of construction and demolition debris.*

*f. After a reduction in permitted capacity required by section 16-498.1 in a designated community district, each non-putrescible solid waste transfer station within such community district shall have a total quarterly capacity equal to the permitted capacity allocated to such transfer station multiplied by 78. The amount of non-putrescible waste that may be delivered to a non-putrescible transfer station on any single day may not exceed such transfer station's daily permitted capacity prior to the reductions required by this section.*

*§ 16-498.3 Waiver. a. The commissioner may waive the reductions to permitted capacity and the limits to total quarterly capacity required by this chapter for the duration of any emergency.*

*b. After the reductions in permitted capacity required by section 16-498.1 have been implemented at a transfer station in a designated community district, the commissioner may, on a one-time basis, increase the permitted capacity of any such transfer station that seeks a modification to its permit solely to increase the amount of organic waste or metal, glass, plastic, paper or corrugated cardboard that is separated for recycling, provided that such increase shall be no greater than 20 percent of the transfer station's then-existing permitted capacity.*

*§ 16-498.4 Overconcentrated districts. After October 1, 2019, the commissioner shall not increase permitted capacity for any putrescible or non-putrescible solid waste transfer station in an overconcentrated district or increase permitted capacity for any community district that would result in such district becoming an overconcentrated district, except in accordance with section 16-498.3, and except the commissioner may allow increased permitted capacity for any putrescible or non-putrescible solid waste transfer station that exports by rail all or the majority of the waste accepted at any such transfer station and which does not use a public street to transport such waste between such transfer station and the rail facility, and except that the commissioner may authorize the transfer of permitted capacity from a putrescible solid waste transfer station within a designated community district to another putrescible solid waste transfer station, within the same community district, for which the commissioner has set a reduced permitted capacity in accordance with subdivision a of section 16-498.1, or from a non-putrescible solid waste transfer station within a designated community district to another non-putrescible solid waste transfer station, within the same community district, for which the commissioner has set a reduced permitted capacity in accordance with subdivision a of section 16-498.1, provided that a transfer station receiving a transfer of permitted capacity may use such transferred permitted capacity only*

*after the implementation, in accordance with subdivision b of section 16-498.1, of such reduction, and provided further that the permitted capacity of any transfer station receiving a transfer of permitted capacity may not exceed the permitted capacity of such transfer station that was in effect before the commissioner set a reduced permitted capacity for such transfer station in accordance with subdivision a of section 16-498.1, and provided further that the transfer station that is transferring its permitted capacity will no longer be operating as a waste transfer station after the transfer.*

*§ 16-498.5 Reporting. On or before October 1, 2020, and annually thereafter, the commissioner shall report to the mayor and the speaker of the council the following information:*

*a. A list of permitted solid waste transfer stations and for each such station, organized by community district:*

*1. The community district in which such transfer station is located;*

*2. The type of material permitted for acceptance at such transfer station;*

*3. The permitted capacity of such transfer station;*

*4. The average amount of waste accepted daily at such transfer station for each quarter year of the previous calendar year; and*

*5. a. Any change to such transfer station's permitted capacity during the previous calendar year, specifying which changes were required pursuant to this chapter.*

*b. The feasibility of reducing truck traffic traveling through residential neighborhoods by means other than reductions to permitted capacity for transfer stations.*

*§ 16-498.6 Notification. No later than 120 days after the end of each quarter year, the commissioner shall notify the mayor and the speaker of the council if the amount of waste*

*delivered to permitted solid waste transfer stations located within any community district is in excess of 90 percent of the total permitted capacity for such transfer stations. Such notification shall include the percentage of the total citywide permitted capacity for putrescible and non-putrescible solid waste transfer stations, including transfer stations operated by or on behalf of the department, in such community district for the quarter year and the percentage of the total citywide putrescible and non-putrescible solid waste delivered to such community district for the quarter year.*

*§ 16-498.7 Displaced employee list. The commissioner shall maintain a list containing the names and contact addresses or telephone numbers of persons formerly employed by a transfer station in a designated community district whose employment ended as a result of the a reduction in permitted capacity required pursuant to section 16-498.1. The addition or deletion of information on such list relating to a person on such list shall be made only upon the request of such person. A copy of such list shall be made available upon request by an owner or operator of a transfer facility and shall be sent to all transfer stations on an annual basis. The provision of such list shall in no way be construed as a recommendation by the city regarding the employment of any person on such list, nor shall the city be responsible for the accuracy of the information set forth therein.*

§ 2. This local law takes effect immediately.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, s.s.:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council on July 18, 2018 and approved by the Mayor on August 16, 2018.

MICHAEL M. McSWEENEY, City Clerk, Clerk of the Council.

CERTIFICATION OF CORPORATION COUNSEL

I hereby certify that the form of the enclosed local law (Local Law No. 152 of 2018, Council Int. No.157-C of 2018) to be filed with the Secretary of State contains the correct text of the local law passed by the New York City Council and approved by the Mayor.

STEPHEN LOUIS, Acting Corporation Counsel.

## **Attachment 4D**

Preconsidered Int. No. 1527

By Council Member Lander, Chin, Treyger and Reynoso

A Local Law to amend the administrative code of the city of New York, in relation to a paper carryout bag reduction fee, and to repeal chapter 4-F of title 16 of such code, relating to carryout bag reduction

Be it enacted by the Council as follows:

1           Section 1. Chapter 4-F of title 16 of the administrative code of the city of New  
2 York is REPEALED and a new chapter 4-F is added to read as follows:

3                           CHAPTER 4-F: PAPER CARRYOUT BAG REDUCTION FEE

4   § 16-490 Definitions  
5   § 16-491 Paper carryout bag reduction fee  
6   § 16-492 Exemptions  
7

8           § 16-490 Definitions. As used in this chapter:

9           Exempt bag. The term “exempt bag” means: (i) a bag used solely to contain or  
10 wrap uncooked meat, fish or poultry; (ii) a bag used by a customer solely to package bulk  
11 items such as fruits, vegetables, grains or candy; (iii) a bag used solely to contain food  
12 sliced or prepared to order; (iv) a bag used solely to contain a newspaper for delivery to a  
13 subscriber of such newspaper; (v) a bag sold in bulk to a consumer at the point of sale;  
14 (vi) a trash bag; (vii) a bag used for food storage; (viii) a garment bag; (ix) a bag  
15 prepackaged for sale to a customer; (x) a plastic carryout bag provided by a restaurant,  
16 tavern or similar food service establishment, as defined in section 14-1.20 of title 10 of  
17 the New York codes, rules and regulations, to carry out or deliver food; or (xi) a bag  
18 provided by a pharmacy to carry prescription drugs.

19 Paper carryout bag. The term “paper carryout bag” means a paper bag, other than  
20 an exempt bag, that is provided to a customer by a person required to collect tax to be  
21 used by the customer to carry tangible personal property, regardless of whether such  
22 person required to collect tax sells any tangible personal property or service to the  
23 customer, and regardless of whether any tangible personal property or service sold is  
24 exempt from tax under article 28 of the tax law.

25 Person required to collect tax. The term “person required to collect tax” means  
26 any vendor of tangible personal property subject to the tax imposed by subdivision (a) of  
27 section 1105 of the tax law.

28 § 16-491 Paper carryout bag reduction fee. a. On and after March 1, 2020, there  
29 shall be a paper carryout bag reduction fee of five cents imposed on each paper carryout  
30 bag provided by any person required to collect tax to a customer.

31 b. Any sales slip, invoice, receipt or other statement of price furnished by a person  
32 required to collect tax to a customer shall separately state and make payable the paper  
33 carryout bag reduction fee and shall state the number of paper carryout bags provided to  
34 the customer.

35 c. Pursuant to paragraph (c) of subdivision 1 of section 27-2805 of the  
36 environmental conservation law, the transfer of a paper carryout bag to a customer by a  
37 person required to collect tax shall not constitute a retail sale and the fee imposed on  
38 paper carryout bags pursuant to this section shall not constitute a receipt for the sale of  
39 tangible personal property.

40 d. Pursuant to subdivision 4 of section 27-2805 of the environmental conservation  
41 law, the paper carryout bag reduction fee shall be reported and paid by a person required



42 to collect tax to the New York state commissioner of taxation and finance, accompanied  
43 by a return in the form and containing the information prescribed by such commissioner,  
44 on a quarterly basis on or before the twentieth day of the month following each quarterly  
45 period ending on the last day of February, May, August and November, respectively.

46       § 16-492 Exemptions. a. Pursuant to subdivision 3 of section 27-2805 of the  
47 environmental conservation law, the paper carryout bag reduction fee imposed pursuant  
48 to section 16-491 shall not apply to any customer using the supplemental nutritional  
49 assistance program, special supplemental nutrition program for women, infants and  
50 children, or any successor programs used as full or partial payment for the items  
51 purchased.

52       b. Pursuant to subparagraph (1) of paragraph (b) of subdivision 6 of section 27-  
53 2805 of the environmental conservation law, the exemptions provided for in section 1116  
54 of the tax law, other than the exemptions in paragraphs (1), (2) and (3) of subdivision (a)  
55 of such section, shall not apply to the paper carryout bag reduction fee imposed pursuant  
56 to section 16-491.

57       § 2. Within five days of the enactment of this local law, the commissioner of  
58 sanitation shall mail a certified copy of this local law by registered or certified mail to the  
59 New York state commissioner of taxation and finance and file a certified copy of this  
60 local law with the New York state tax commission, the city clerk, the secretary of state  
61 and the New York state comptroller pursuant to subdivisions (d) and (e) of section 1210  
62 of the tax law.

63           § 3. This local law takes effect on March 1, 2020, except that the commissioner of  
64 sanitation and the commissioner of finance may take such measures as are necessary for  
65 its implementation prior to such effective date.

KS  
LS 10482  
4/10/19

**S1508-C BUDGET** Same as Uni. A 2008-C Budget

Budget Article VII (Internal # 9 - 2019)

ON FILE: 03/28/19 Budget Bills

TITLE....Enacts into law major components of legislation necessary to implement the state transportation, economic development and environmental conservation budget for the 2019-2020 state fiscal year

01/18/19 REFERRED TO FINANCE  
 02/19/19 AMEND (T) AND RECOMMIT TO FINANCE  
 02/19/19 PRINT NUMBER 1508A  
 03/12/19 AMEND (T) AND RECOMMIT TO FINANCE  
 03/12/19 PRINT NUMBER 1508B  
 03/28/19 AMEND (T) AND RECOMMIT TO FINANCE  
 03/28/19 PRINT NUMBER 1508C  
 03/31/19 ORDERED TO THIRD READING CAL.360  
 03/31/19 PASSED SENATE  
 03/31/19 DELIVERED TO ASSEMBLY  
 03/31/19 referred to ways and means  
 03/31/19 substituted for a2008c  
 03/31/19 ordered to third reading rules cal.46  
 03/31/19 passed assembly  
 03/31/19 returned to senate  
 04/01/19 DELIVERED TO GOVERNOR  
 04/12/19 SIGNED CHAP.58

**BUDGET BILL**

Amd Various Laws, generally

Enacts into law major components of legislation necessary to implement the state transportation, economic development and environmental conservation budget for the 2019-2020 state fiscal year; clarifies the dormitory authority's authorization to finance certain health care facilities (Part A); extends the authority of the dormitory authority to enter into certain design and construction contracts (Part B); transfers and conveys certain property and requires the property to increase access and quality of health care services (Part C); relates to the effectiveness of certain waste tire management and recycling fees and provides for project funding (Part E); relates to unconditional gifts and donations promoting stewardship of state-owned lands and facilities (Part G); establishes guidelines for bag waste reduction; prohibits plastic carryout bags; authorizes fees for recyclable paper bags (Part H); establishes the professional requirements necessary for student loan servicers including but not limited to licensure requirements, grounds for suspension and/or revocation, examinations, and penalties (Part L); relates to effectiveness of certain provisions relating to the submission of reports about autonomous vehicle technology (Part M); extends the effectiveness of provisions of law permitting the secretary of state to provide special handling for all documents filed or issued by the division of corporations and to permit additional levels of such expedited service (Part R); authorizes utility and cable television assessments to provide funds to the department of health from cable television markets, environmental conservation, office of parks, recreation and historic preservation (Part U); authorizes the New York state energy research and development authority to finance a portion of its research, development and demonstration, policy and planning, and Fuel NY programs, and the department of environmental conservation's climate change program and the department of agriculture and markets' Fuel NY program, from an assessment on gas and electric corporations (Part W); relates to the powers of the urban development corporation to make loans (Part Y); extends provisions relating to the empire state development fund (Part Z); provides certain metropolitan transportation commuter district supplemental taxes, surcharges and fees to the metropolitan transportation authority without appropriation (Part FF); extends provisions relating to the resolution of labor disputes (Part HH); authorizes the NY power authority to design, finance, develop, construct, install, lease, operate and maintain electric charging stations (Part KK); provides for renewable power and energy by the Power Authority of the State of New York to authority customers, public entities and the CCA community (Part LL); establishes the parks retail stores fund, and the golf fund, as enterprise funds (Part MM); relates to powers of the New York state Olympic regional development authority to enter into agreements relating to hosting the World University Games (Part NN); relates to the donation of excess food and recycling of food scraps; requires designated food scraps generators to donate excess edible food and recycle food scraps; establishes responsibilities of waste transporters; requires an annual report by the department of environmental conservation on the operation of the food donation and food scraps recycling program (Part SS); extends provisions relating to owner liability for the failure of an operator to comply with traffic-control indications in various cities including but not limited to Mount Vernon, New Rochelle and White Plains and makes changes to certain reporting requirements for traffic-control photo violation monitoring systems (Part TT); creates the Westchester county renewable energy and energy efficiency resources program (Part UU).

EFF. DATE 04/12/2019 (SEE TABLE)

Division of Budget

## LAWS OF NEW YORK, 2019

## CHAPTER 58

AN ACT to amend the public authorities law, in relation to clarifying the dormitory authority's authorization to finance certain health care facilities (Part A); to amend chapter 58 of the laws of 2012 amending the public authorities law relating to authorizing the dormitory authority to enter into certain design and construction management agreements, in relation to extending the effectiveness of such authorization (Part B); to amend the public authorities law, in relation to the transfer and conveyance of certain real property (Part C); intentionally omitted (Part D); to amend the environmental conservation law, in relation to waste tire management and recycling fees (Part E); intentionally omitted (Part F); to amend the environmental conservation law, in relation to establishing authority to solicit funds or gifts and enter into public-private partnerships (Part G); to amend the environmental conservation law, the alcoholic beverage control law and the state finance law, in relation to establishing guidelines for bag waste reduction (Part H); intentionally omitted (Part I); intentionally omitted (Part J); intentionally omitted (Part K); to amend the banking law, in relation to student loan servicers (Part L); to amend part FF of chapter 55 of the laws of 2017 relating to motor vehicles equipped with autonomous vehicle technology, in relation to the submission of reports and in relation to extending the effectiveness thereof (Part M); intentionally omitted (Part N); intentionally omitted (Part O); intentionally omitted (Part P); intentionally omitted (Part Q); to amend chapter 21 of the laws of 2003, amending the executive law relating to permitting the secretary of state to provide special handling for all documents filed or issued by the division of corporations and to permit additional levels of such expedited service, in relation to extending the effectiveness thereof (Part R); intentionally omitted (Part S); intentionally omitted (Part T); authorizing utility and cable television assessments to provide funds to the department of health from cable television assessment revenues and to the departments of agriculture and markets, environmental conservation, office of parks, recreation and historic preservation, and state from utility assessment revenues; and providing for the repeal of such provisions upon expiration thereof (Part U); intentionally omitted (Part V); to authorize the New York state energy research and development authority to finance a portion of its research, development and demonstration, policy and planning, and Fuel NY programs, as well as the department of environmental conservation's climate change program and the department of agriculture and markets' Fuel NY program, from an assessment on gas and electric corporations (Part W); intentionally omitted (Part X); to amend chapter 393 of the laws of 1994, amending the New York state urban development corporation act, relating to the powers of the New York state urban development corporation to make loans, in relation to the effectiveness thereof (Part Y); to amend the New York state urban development corporation act, in relation to extending certain provisions relating to the empire state economic development fund (Part Z); intentionally omitted (Part AA); intentionally omitted (Part BB); intentionally

EXPLANATION--Matter in *italics* is new; matter in brackets [-] is old law to be omitted.

omitted (Part CC); intentionally omitted (Part DD); intentionally omitted (Part EE); to amend the vehicle and traffic law, the public authorities law, the tax law and the state finance law, in relation to providing certain metropolitan transportation commuter district supplemental taxes, surcharges and fees to the metropolitan transportation authority without appropriation (Part FF); intentionally omitted (Part GG); to amend chapter 929 of the laws of 1986 amending the tax law and other laws relating to the metropolitan transportation authority, in relation to extending certain provisions thereof applicable to the resolution of labor disputes (Part HH); intentionally omitted (Part II); intentionally omitted (Part JJ); to amend the public authorities law, in relation to authorizing the New York power authority to develop electric vehicle charging stations (Part KK); to amend the public authorities law, in relation to the provision of renewable power and energy by the Power Authority of the State of New York; and providing for the repeal of certain provisions of such law relating thereto (Part LL); to amend the state finance law, in relation to establishing the parks retail stores fund, and the golf fund, as enterprise funds (Part MM); to amend the public authorities law, in relation to allowing the New York state olympic regional development authority to enter into contracts or agreements containing indemnity provisions in order to host the 2023 World University Games to be held in Lake Placid, New York (Part NN); intentionally omitted (Part OO); intentionally omitted (Part PP); intentionally omitted (Part QQ); intentionally omitted (Part RR); to amend the environmental conservation law, in relation to the donation of excess food and recycling of food scraps (Part SS); to amend chapter 123 of the laws of 2014, amending the vehicle and traffic law, the general municipal law, and the public officers law relating to owner liability for failure of operator to comply with traffic-control indications, in relation to extending the provisions thereof; to amend chapter 101 of the laws of 2014, amending the vehicle and traffic law, the general municipal law, and the public officers law relating to owner liability for failure of operator to comply with traffic-control indications in the city of Mt. Vernon, in relation to extending the effectiveness thereof; to amend chapter 19 of the laws of 2009, amending the vehicle and traffic law and other laws relating to adjudications and owner liability for a violation of traffic-control signal indications, in relation to extending the provisions of such chapter; to amend chapter 99 of the laws of 2014, amending the vehicle and traffic law, the general municipal law, and the public officers law relating to owner liability for failure of operator to comply with traffic-control indications in the city of New Rochelle, in relation to extending the effectiveness thereof; to amend chapter 746 of the laws of 1988, amending the vehicle and traffic law, the general municipal law and the public officers law relating to the civil liability of vehicle owners for traffic control signal violations, in relation to extending the effectiveness thereof; to amend local law number 46 of the city of New York for the year 1989, amending the administrative code of the city of New York relating to civil liability of vehicle owners for traffic control signal violations, in relation to extending the effectiveness thereof; to amend chapter 23 of the laws of 2009, amending the vehicle and traffic law and the public officers law relating to adjudications and owner liability for a violation of traffic-control signal indications, in relation to extending the provisions of such chapter; to amend chapter 222 of the laws of 2015, amending the vehicle and traffic law, the

general municipal law, and the public officers law relating to owner liability for failure of an operator to comply with traffic-control indications in the city of White Plains, in relation to extending the provisions of such chapter; and to amend chapter 20 of the laws of 2009, amending the vehicle and traffic law, the general municipal law, and the public officers law, relating to owner liability for failure of operator to comply with traffic control indications, in relation to extending the provisions thereof; and to amend the vehicle and traffic law, in relation to reporting requirements for traffic-control photo violation monitoring systems (Part TT); and to amend the public service law, in relation to a Westchester county renewable energy and energy efficiency resources program (Part UU)

Became a law April 12, 2019, with the approval of the Governor.  
Passed by a majority vote, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. This act enacts into law major components of legislation which are necessary to implement the state fiscal plan for the 2019-2020 state fiscal year. Each component is wholly contained within a Part identified as Parts A through UU. The effective date for each particular provision contained within such Part is set forth in the last section of such Part. Any provision in any section contained within a Part, including the effective date of the Part, which makes a reference to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Part in which it is found. Section three of this act sets forth the general effective date of this act.

PART A

Section 1. Paragraph (b) of subdivision 6 of section 1699-f of the public authorities law, as added by chapter 83 of the laws of 1995, is amended to read as follows:

(b) The financing of any project initiated on or after the effective date of this section, the entirety of which the agency would be authorized to undertake by the provisions of the medical care facilities finance agency act prior to such effective date, shall be governed by such act.

§ 2. This act shall take effect immediately.

PART B

Section 1. Section 2 of part BB of chapter 58 of the laws of 2012 amending the public authorities law relating to authorizing the dormitory authority to enter into certain design and construction management agreements, as amended by section 1 of part W of chapter 58 of the laws of 2017, is amended to read as follows:

§ 2. This act shall take effect immediately and shall expire and be deemed repealed April 1, [~~2019~~] 2021.

§ 2. The dormitory authority of the state of New York shall provide a report providing information regarding any project undertaken pursuant to a design and construction management agreement, as authorized by part BB of chapter 58 of the laws of 2012, between the dormitory authority of

the state of New York and the department of environmental conservation and/or the office of parks, recreation and historic preservation to the governor, the temporary president of the senate and speaker of the assembly. Such report shall include but not be limited to a description of each such project, the project identification number of each such project, if applicable, the projected date of completion, the status of the project, the total cost or projected cost of each such project, and the location, including the names of any county, town, village or city, where each such project is located or proposed. In addition, such a report shall be provided to the aforementioned parties by the first day of March of each year that the authority to enter into such agreements pursuant to part BB to chapter 58 of the laws of 2012 is in effect.

§ 3. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2019.

## PART C

Section 1. Subdivision 25 of section 1678 of the public authorities law is amended by adding two new paragraphs (e) and (f) to read as follows:

(e) Notwithstanding any other provision of law to the contrary, including but not limited to title five-A of article nine of this chapter, the Atlantic Avenue Healthcare Property Holding Corporation is hereby authorized and empowered to sell, exchange, lease, transfer and convey certain real property located at 483-503 Herkimer Street, 1028-1038 Broadway, 528 Prospect Place and/or 1366 East New York Avenue, all in Brooklyn, New York as directed by the commissioner of New York state division of homes and community renewal, upon such terms and conditions as such commissioner may fix and determine.

Such sale, exchange, lease, transfer and conveyance shall be consistent with and made pursuant to a plan to increase access and quality of health care services and preventative care and create affordable housing approved by the commissioner of New York state division of homes and community renewal, the commissioner of health and the director of the division of the budget to transform the Central Brooklyn region. Such plan shall include any combination of initiatives intended to: increase access to open spaces, transform health care by increasing access and quality of health care services and preventative care, create affordable housing, improve youth development, prevent community violence, address social determinants of health, and provide any ancillary services there-to.

Notwithstanding the foregoing, no such sale, exchange, transfer, lease or conveyance shall be permitted pursuant to this section, unless in the opinion of bond counsel to the authority, such sale, exchange, transfer, lease or conveyance does not impair the tax-exempt status of any outstanding bonds or other obligations, if any, issued by the authority to finance or refinance the subject property. For the purposes of such opinion, the valuation of such property being sold, exchanged, transferred, leased or conveyed may reflect the terms and conditions set forth in the plan.

(f) The description in paragraph (e) of this subdivision of the lands to be transferred and conveyed is not intended to be a legal description, but is intended only to identify the premises to be conveyed. As a condition of transfer and conveyance, the Atlantic Avenue Healthcare Property Holding Corporation shall receive an accurate survey

and description of the lands generally described in paragraph (e) of this subdivision, which may be used in the conveyance thereof.

§ 2. This act shall take effect immediately; provided, however, that the amendments to subdivision 25 of section 1678 of the public authorities law made by section one of this act shall survive the expiration and reversion of such subdivision as provided by section 2 of chapter 584 of the laws of 2011, as amended.

## PART D

Intentionally Omitted

## PART E

Section 1. Subdivision 1 and the opening paragraph of subdivision 2 of section 27-1905 of the environmental conservation law, as amended by section 1 of part T of chapter 58 of the laws of 2016, are amended to read as follows:

1. Until December thirty-first, two thousand [~~nineteen~~] twenty-two, accept from a customer, waste tires of approximately the same size and in a quantity equal to the number of new tires purchased or installed by the customer; and

Until December thirty-first, two thousand [~~nineteen~~] twenty-two, post written notice in a prominent location, which must be at least eight and one-half inches by fourteen inches in size and contain the following language:

§ 2. Subdivisions 1, 2, 3, and paragraph (a) of subdivision 6 of section 27-1913 of the environmental conservation law, as amended by section 2 of part T of chapter 58 of the laws of 2016, are amended to read as follows:

1. Until December thirty-first, two thousand [~~nineteen~~] twenty-two, a waste tire management and recycling fee of two dollars and fifty cents shall be charged on each new tire sold. The fee shall be paid by the purchaser to the tire service at the time the new tire or new motor vehicle is purchased.

The waste tire management and recycling fee does not apply to:

- (a) recapped or resold tires;
- (b) mail-order sales; or
- (c) the sale of new motor vehicle tires to a person solely for the purpose of resale provided the subsequent retail sale in this state is subject to such fee.

2. Until December thirty-first, two thousand [~~nineteen~~] twenty-two, the tire service shall collect the waste tire management and recycling fee from the purchaser at the time of the sale and shall remit such fee to the department of taxation and finance with the quarterly report filed pursuant to subdivision three of this section.

(a) The fee imposed shall be stated as an invoice item separate and distinct from the selling price of the tire.

(b) The tire service shall be entitled to retain an allowance of twenty-five cents per tire from fees collected.

3. Until March thirty-first, two thousand [~~twenty~~] twenty-three, each tire service maintaining a place of business in this state shall make a return to the department of taxation and finance on a quarterly basis, with the return for December, January, and February being due on or before the immediately following March thirty-first; the return for March, April, and May being due on or before the immediately following



June thirtieth; the return for June, July, and August being due on or before the immediately following September thirtieth; and the return for September, October, and November being due on or before the immediately following December thirty-first.

(a) Each return shall include:

- (i) the name of the tire service;
- (ii) the address of the tire service's principal place of business and the address of the principal place of business (if that is a different address) from which the tire service engages in the business of making retail sales of tires;
- (iii) the name and signature of the person preparing the return;
- (iv) the total number of new tires sold at retail for the preceding quarter and the total number of new tires placed on motor vehicles prior to original retail sale;
- (v) the amount of waste tire management and recycling fees due; and
- (vi) such other reasonable information as the department of taxation and finance may require.

(b) Copies of each report shall be retained by the tire service for three years.

If a tire service ceases business, it shall file a final return and remit all fees due under this title with the department of taxation and finance not more than one month after discontinuing that business.

(a) Until December thirty-first, two thousand ~~nineteen~~ twenty-two, any additional waste tire management and recycling costs of the tire service in excess of the amount authorized to be retained pursuant to paragraph (b) of subdivision two of this section may be included in the published selling price of the new tire, or charged as a separate per-tire charge on each new tire sold. When such costs are charged as a separate per-tire charge: (i) such charge shall be stated as an invoice item separate and distinct from the selling price of the tire; (ii) the invoice shall state that the charge is imposed at the sole discretion of the tire service; and (iii) the amount of such charge shall reflect the actual cost to the tire service for the management and recycling of waste tires accepted by the tire service pursuant to section 27-1905 of this title, provided however, that in no event shall such charge exceed two dollars and fifty cents on each new tire sold.

§ 3. Paragraph (b) and (c) of subdivision 1 of section 27-1915 of the environmental conservation law, as amended by section 5 of part DD of chapter 59 of the laws of 2010, are amended and a new paragraph (d) is added to read as follows:

(b) abatement of noncompliant waste tire stockpiles; ~~and~~

(c) administration and enforcement of the requirements of this article, exclusive of titles thirteen and fourteen~~[-]; and~~

(d) conducting an updated market analysis of outlets for waste tire utilization including recycling and energy recovery opportunities, which shall not include the incineration of waste tires.

§ 4. This act shall take effect immediately.

#### PART F

Intentionally Omitted

#### PART G

Section 1. The environmental conservation law is amended by adding a new section 3-0321 to read as follows:

§ 3-0321. Gifts, donations, capital improvements.

1. Notwithstanding the provisions of the state finance law, or any other state law to the contrary, and subject to approval of the director of the budget, the commissioner is authorized to accept an unconditional grant, gift, devise or bequest, either absolutely or in trust, from persons and entities for the maintenance of any educational or recreational facilities or for programs that promote the use or stewardship of state owned lands under the department's jurisdiction or management; establish a special fund or funds consisting of monies so acquired and administer such fund or funds; and expend such monies.

2. Notwithstanding the provisions of the state finance law, or any other state law to the contrary, the commissioner is authorized to:

(a) receive, hold and administer personal property and any income thereof, acquired by grant, unconditional gift, devise or bequest, either absolutely or in trust, for the maintenance of any educational or recreational facilities or for programs that promote the use or stewardship of state owned lands under the department's jurisdiction or management; establish a special fund or funds consisting of monies so acquired and administer such fund or funds; and expend such monies; and

(b) seek investment from private philanthropic interest or not-for-profit corporations for capital improvements at state owned facilities under the department's jurisdiction or management.

3. For purposes of this section, educational or recreational facilities or programs that promote the use or stewardship of state-owned lands under the department's jurisdiction or management shall include, but not be limited to, campgrounds, fish hatcheries, historic areas and facilities, kiosks, signage, programs for maintenance and development of roads and trails, and programs to improve access for persons with disabilities.

4. The commissioner shall not accept any grant, gift, devise or bequest from or enter into any contract or agreement authorized pursuant to subdivisions one, two, and three of this section with persons or entities:

(a) named in a pending lawsuit by or against the department;

(b) under investigation by the department;

(c) with a permit or license application pending before the department or currently holding a department-issued permit or license, except for permits or licenses that are ministerial in nature, such as sporting licenses, use of state land permits, or general permits;

(d) engaged in settlement negotiations with the department regarding any civil, criminal or administrative matter; or

(e) subject to a consent order issued by the department.

§ 2. This act shall take effect immediately.

## PART H

Section 1. This act shall be known and may be cited as the "New York state bag waste reduction act".

§ 2. Article 27 of the environmental conservation law is amended by adding a new title 28 to read as follows:

TITLE 28BAG WASTE REDUCTIONSection 27-2801. Definitions.

27-2803. Plastic carryout bag ban.

27-2805. Paper carryout bag reduction fee.

27-2807. Violations.

27-2809. Preemption of local law.§ 27-2801. Definitions.

As used in this title:

1. "Exempt bag" means a bag: (a) used solely to contain or wrap uncooked meat, fish, or poultry; (b) bags used by a customer solely to package bulk items such as fruits, vegetables, grains, or candy; (c) bags used solely to contain food sliced or prepared to order; (d) bags used solely to contain a newspaper for delivery to a subscriber; (e) bags sold in bulk to a consumer at the point of sale; (f) trash bags; (g) food storage bags; (h) garment bags; (i) bags prepackaged for sale to a customer; (j) plastic carryout bags provided by a restaurant, tavern or similar food service establishment, as defined in the state sanitary code, to carryout or deliver food; or (k) bags provided by a pharmacy to carry prescription drugs.

2. "Plastic carryout bag" means any plastic bag, other than an exempt bag, that is provided to a customer by a person required to collect tax to be used by the customer to carry tangible personal property, regardless of whether such person required to collect tax sells any tangible personal property or service to the customer, and regardless of whether any tangible personal property or service sold is exempt from tax under article twenty-eight of the tax law.

3. "Paper carryout bag" means a paper bag, other than an exempt bag, that is provided to a customer by a person required to collect tax to be used by the customer to carry tangible personal property, regardless of whether such person required to collect tax sells any tangible personal property or service to the customer, and regardless of whether any tangible personal property or service sold is exempt from tax under article twenty-eight of the tax law.

4. "Reusable bag" means a bag: (a) made of cloth or other machine washable fabric that has handles; or (b) a durable bag with handles that is specifically designed and manufactured for multiple reuse.

5. "Person required to collect tax" means any vendor of tangible personal property subject to the tax imposed by subdivision (a) of section eleven hundred five of the tax law.

§ 27-2803. Plastic carryout bag ban.

1. No person required to collect tax shall distribute any plastic carryout bags to its customers unless such bags are exempt bags as defined in subdivision one of section 27-2801 of this title.

2. No person required to collect tax shall prevent a person from using a bag of any kind that they have brought for purposes of carrying goods.

3. Nothing in this section shall be deemed to exempt the provisions set forth in title 27 of this article relating to at store recycling.

§ 27-2805. Paper carryout bag reduction fee.

1. (a) Notwithstanding any other provision of law to the contrary, any city and any county, other than a county wholly within such a city, acting through its local legislative body, is hereby authorized and empowered to adopt and amend local laws, ordinances or resolutions imposing a paper carryout bag reduction fee within the territorial limits of such city or county, to take effect on or after March first, two thousand twenty. Notwithstanding the foregoing, if a county and a city wholly within such county both impose such fee, the fee imposed by such county shall not apply within the territorial limits of such city.

(b) Such paper carryout bag reduction fee, whether or not any tangible personal property is sold therewith, shall be imposed at a rate of five cents on each paper carryout bag provided by a person required to collect tax to a customer in this state; provided, however, that such

paper carryout bag reduction fee shall not be imposed on paper carryout bags that are subject to a fee on the provision of such paper carryout bag pursuant to a local law or ordinance that was adopted prior to the effective date of this section. The paper carryout bag reduction fee must be reflected and made payable on the sales slip, invoice, receipt, or other statement of the price rendered to the customer.

(c) Such paper carryout bag reduction fee shall not constitute a receipt for the sale of tangible personal property subject to tax pursuant to article twenty-eight and pursuant to the authority of article twenty-nine of the tax law, and transfer of a bag to a customer by a person required to collect tax shall not constitute a retail sale.

(d) It shall be unlawful for a municipal corporation to adopt or amend a local law, ordinance or resolution requiring the imposition of any fee on the provision of a paper carryout bag except as expressly authorized by this section. Where a municipal corporation that adopted such a local law, ordinance or resolution prior to the effective date of this section is, or is located in, a county that has imposed a paper carryout bag reduction fee pursuant to this section, such municipal corporation shall be prohibited from requiring the imposition of a fee on any provision of paper carryout bags that occurs more than one year after such county paper carryout bag reduction fee takes effect.

2. Any such local law, ordinance or resolution adopted pursuant to this section shall state the amount of the paper carryout bag reduction fee and the date on which a person required to collect tax shall begin to add such paper carryout bag reduction fee to the sales slip, invoice, receipt, or other statement of the price rendered to its customers. No such local law, ordinance or resolution shall be effective unless a certified copy of such law, ordinance or resolution is mailed by registered or certified mail to the commissioner of taxation and finance in accordance with the provisions of subdivisions (d) and (e) of section twelve hundred ten of the tax law.

3. The paper carryout bag reduction fee imposed by this section shall not apply to any customer using the supplemental nutritional assistance program, special supplemental nutrition program for women, infants and children, or any successor programs used as full or partial payment for the items purchased.

4. The paper carryout bag reduction fee must be reported and paid to the commissioner of taxation and finance on a quarterly basis on or before the twentieth day of the month following each quarterly period ending on the last day of February, May, August and November, respectively. The payments must be accompanied by a return in the form and containing the information the commissioner of taxation and finance may prescribe.

5. Any sales slip, invoice, receipt, or other statement of price furnished by a person required to collect tax to a customer shall separately state the paper carryout bag reduction fee and shall state the number of bags provided to the customer.

6. (a) Except as otherwise provided in this section, any paper carryout bag reduction fee imposed under the authority of this section shall be administered and collected by the commissioner of taxation and finance in a like manner as the taxes imposed by articles twenty-eight and twenty-nine of the tax law. All the provisions of articles twenty-eight and twenty-nine of the tax law, including the provisions relating to definitions, exemptions, returns, personal liability for the tax, collection of tax from the customer, payment of tax and the administration of the taxes imposed by such article, shall apply to the paper

carryout bag reduction fee imposed under the authority of this section, with such modifications as may be necessary in order to adapt the language of those provisions to the paper carryout bag reduction fee imposed under the authority of this section. Those provisions shall apply with the same force and effect as if the language of those provisions had been set forth in full in this section, except to the extent that any of those provisions is either inconsistent with a provision of this section or is not relevant to the paper carryout bag reduction fee imposed under the authority of this section. For purposes of this section, any reference in this chapter to a tax or the taxes imposed by articles twenty-eight and twenty-nine of the tax law shall be deemed also to refer to the paper carryout bag reduction fee imposed under the authority of this section unless a different meaning is clearly required.

(b) Notwithstanding the provisions of paragraph (a) of this subdivision:

(1) the exemptions provided for in section eleven hundred sixteen of the tax law, other than the exemptions in paragraphs one, two and three of subdivision (a) of such section, shall not apply to the paper carryout bag reduction fees imposed under the authority of this section;

(2) the credit provided in subdivision (f) of section eleven hundred thirty-seven of the tax law shall not apply to this section.

(c) Notwithstanding the provisions of paragraph (a) of this subdivision or subdivision (a) of section eleven hundred forty-six of the tax law, the commissioner of taxation and finance may, in his or her discretion, permit the commissioner or his or her authorized representative to inspect any return related to the paper carryout bag reduction fee filed under this section, or may furnish to the commissioner or his or her authorized representative any such return or supply him or her with information concerning an item contained in any such return, or disclosed by any investigation of a liability under this section.

7. All paper carryout bag reduction fee monies and any related penalties and interest remitted to the commissioner of taxation and finance under this section, except as hereinafter provided, shall be deposited daily with such responsible banks, banking houses, or trust companies as may be designated by the state comptroller. Of the revenues deposited, the comptroller shall retain in the comptroller's hands such amount as the commissioner of taxation and finance may determine to be necessary for refunds or reimbursements of the fees collected or received pursuant to this section, out of which the comptroller shall pay any refunds or reimbursements of such fees to which persons shall be entitled under the provisions of this section. The comptroller, after reserving such refund and reimbursement fund shall, on or before the twelfth day of each month, pay to the appropriate fiscal officers of the counties or cities imposing tax under subdivision one of this section an amount equal to forty percent of the paper carryout bag reduction fee monies and any related penalties and interest collected by the commissioner of taxation and finance in respect of each such county or city in the preceding calendar month to be used for the purpose of purchasing and distributing reusable bags, with priority given to low- and fixed-income communities. Provided further that at the end of each fiscal year, any funds which have not been used for the purpose defined in this section shall be returned to the comptroller and be deposited into the general fund to be used for the purpose of purchasing and distributing reusable bags with priority given to low- and fixed-income communities. Any remaining amount of paper carryout bag reduction fee monies and any related penal-

ties and interest shall be deposited monthly into the environmental protection fund established pursuant to section ninety-two-s of the state finance law.

§ 27-2807. Violations.

1. Any person required to collect tax who violates any provision of section 27-2803 of this title shall receive a warning notice for the first such violation. A person required to collect tax shall be liable to the state of New York for a civil penalty of two hundred fifty dollars for the first violation after receiving a warning and five hundred dollars for any subsequent violation in the same calendar year. For purposes of this section, each commercial transaction shall constitute no more than one violation. A hearing or opportunity to be heard shall be provided prior to the assessment of any civil penalty.

2. The department, the department of agriculture and markets, and the attorney general are hereby authorized to enforce the provisions of this title, and all monies collected shall be deposited to the credit of the environmental protection fund established pursuant to section ninety-two-s of the state finance law.

§ 27-2809. Preemption of local law.

Jurisdiction in all matters pertaining to plastic carryout bags is vested exclusively in the state.

§ 3. Subdivision 4 of section 63 of the alcoholic beverage control law, as amended by chapter 360 of the laws of 2017, is amended to read as follows:

4. No licensee under this section shall be engaged in any other business on the licensed premises. The sale of lottery tickets, when duly authorized and lawfully conducted, the sale of reusable bags as defined in section 27-2801 of the environmental conservation law, the sale of corkscrews or the sale of ice or the sale of publications, including prerecorded video and/or audio cassette tapes, or educational seminars, designed to help educate consumers in their knowledge and appreciation of alcoholic beverages, as defined in section three of this chapter and allowed pursuant to their license, or the sale of non-carbonated, non-flavored mineral waters, spring waters and drinking waters or the sale of glasses designed for the consumption of wine, racks designed for the storage of wine, and devices designed to minimize oxidation in bottles of wine which have been uncorked, or the sale of gift bags, gift boxes, or wrapping, for alcoholic beverages purchased at the licensed premises shall not constitute engaging in another business within the meaning of this subdivision. Any fee obtained from the sale of an educational seminar shall not be considered as a fee for any tasting that may be offered during an educational seminar, provided that such tastings are available to persons who have not paid to attend the seminar and all tastings are conducted in accordance with section sixty-three-a of this article.

§ 4. Subdivision 3 of section 92-s of the state finance law, as amended by section 1 of part AA of chapter 58 of the laws of 2018, is amended to read as follows:

3. Such fund shall consist of the amount of revenue collected within the state from the amount of revenue, interest and penalties deposited pursuant to section fourteen hundred twenty-one of the tax law, the amount of fees and penalties received from easements or leases pursuant to subdivision fourteen of section seventy-five of the public lands law and the money received as annual service charges pursuant to section four hundred four-n of the vehicle and traffic law, all moneys required to be deposited therein from the contingency reserve fund pursuant to section two hundred ninety-four of chapter fifty-seven of the laws of

nineteen hundred ninety-three, all moneys required to be deposited pursuant to section thirteen of chapter six hundred ten of the laws of nineteen hundred ninety-three, repayments of loans made pursuant to section 54-0511 of the environmental conservation law, all moneys to be deposited from the Northville settlement pursuant to section one hundred twenty-four of chapter three hundred nine of the laws of nineteen hundred ninety-six, provided however, that such moneys shall only be used for the cost of the purchase of private lands in the core area of the central Suffolk pine barrens pursuant to a consent order with the Northville industries signed on October thirteenth, nineteen hundred ninety-four and the related resource restoration and replacement plan, the amount of penalties required to be deposited therein by section 71-2724 of the environmental conservation law, all moneys required to be deposited pursuant to article thirty-three of the environmental conservation law, all fees collected pursuant to subdivision eight of section 70-0117 of the environmental conservation law, all moneys collected pursuant to title thirty-three of article fifteen of the environmental conservation law, beginning with the fiscal year commencing on April first, two thousand thirteen, nineteen million dollars, and all fiscal years thereafter, twenty-three million dollars plus all funds received by the state each fiscal year in excess of the greater of the amount received from April first, two thousand twelve through March thirty-first, two thousand thirteen or one hundred twenty-two million two hundred thousand dollars, from the payments collected pursuant to subdivision four of section 27-1012 of the environmental conservation law and all funds collected pursuant to section 27-1015 of the environmental conservation law, all moneys required to be deposited pursuant to sections 27-2805 and 27-2807 of the environmental conservation law, and all other moneys credited or transferred thereto from any other fund or source pursuant to law. All such revenue shall be initially deposited into the environmental protection fund, for application as provided in subdivision five of this section.

§ 5. This act shall take effect March 1, 2020.

PART I

Intentionally Omitted

PART J

Intentionally Omitted

PART K

Intentionally Omitted

PART L

Section 1. The banking law is amended by adding a new article 14-A to read as follows:

ARTICLE 14-A

STUDENT LOAN SERVICERS

Section 710. Definitions.

711. Licensing.

712. Application for a student loan servicer license; fees.

713. Application process to receive license to engage in the business of student loan servicing.

714. Changes in officers and directors.

715. Changes in control.

716. Grounds for suspension or revocation of license.

717. Books and records; reports and electronic filing.

718. Rules and regulations.

719. Prohibited practices.

720. Servicing student loans without a license.

721. Responsibilities.

722. Examinations.

723. Penalties for violations of this article.

724. Severability of provisions.

725. Compliance with other laws.

§ 710. Definitions. 1. "Applicant" shall mean any person applying for a license under this article.

2. "Borrower" shall mean any resident of this state who has received a student loan or agreed in writing to pay a student loan or any person who shares a legal obligation with such resident for repaying a student loan.

3. "Borrower benefit" shall mean an incentive offered to a borrower in connection with the origination of a student loan, including but not limited to an interest rate reduction, principal rebate, fee waiver or rebate, loan cancellation, or cosigner release.

4. "Exempt organization" shall mean any banking organization, foreign banking corporation, national bank, federal savings association, federal credit union, or any bank, trust company, savings bank, savings and loan association, or credit union organized under the laws of any other state, any public postsecondary educational institution or private nonprofit postsecondary educational institution or any person licensed or supervised by the department and exempted by the superintendent pursuant to regulations promulgated in accordance with this article.

5. "Person" shall mean any individual, association, corporation, limited liability company, partnership, trust, unincorporated organization, government, and any other entity.

6. "Servicer" or "student loan servicer" shall mean a person engaged in the business of servicing student loans owed by one or more borrowers residing in this state.

7. "Servicing" shall mean:

(a) receiving any payment from a borrower pursuant to the terms of any student loan;

(b) applying any payment to the borrower's account pursuant to the terms of a student loan or the contract governing the servicing of any such loans;

(c) providing any notification of amounts owed on a student loan by or on account of any borrower in conjunction with performing such activities as described in paragraphs (a), (b), or (d) of this subdivision;

(d) during a period where a borrower is not required to make a payment on a student loan, maintaining account records for the student loan and communicating with the borrower regarding the student loan on behalf of the owner of the student loan promissory note;

(e) interacting with a borrower with respect to or regarding any attempt to avoid default on the borrower's student loan, or facilitating the activities described in paragraph (a) or (b) of this subdivision in conjunction with performing such activities as described in paragraphs (a), (b), or (d) of this subdivision; or



(f) performing other administrative services with respect to a borrower's student loan in conjunction with performing such activities as described in paragraphs (a), (b), or (d) of this subdivision.

8. "Student loan" shall mean any loan to a borrower to finance postsecondary education or expenses related to postsecondary education.

9. "Federal student loan" means (a) any student loan issued pursuant to the William D. Ford Federal Direct Loan Program; (b) any student loan issued pursuant to the Federal Family Education Loan Program, which was purchased by the government of the United States pursuant to the federal Ensuring Continued Access to Student Loans Act and is presently owned by the government of the United States; and (c) any other student loan issued pursuant to a federal program that is identified by the superintendent as a "federal student loan" in a regulation.

§ 711. Licensing. 1. Except as provided in subdivisions two, three, and four of this section, no person shall engage in the business of servicing student loans owed by one or more borrowers residing in this state without first being licensed by the superintendent as a student loan servicer in accordance with this article and such regulations as may be prescribed by the superintendent.

2. The licensing provisions of this article shall not apply to any exempt organization that is a student loan servicer; provided that unless preempted by federal law such exempt organization notifies the superintendent that it is servicing student loans in this state and complies with sections seven hundred seventeen, seven hundred nineteen, seven hundred twenty-one, seven hundred twenty-three and seven hundred twenty-five of this article and any regulation applicable to student loan servicers promulgated by the superintendent.

3. Any person that services federal student loans owed by one or more borrowers residing in this state shall be automatically deemed by operation of law to have been issued a license to service federal student loans by the superintendent as of April first, two thousand nineteen. Such person shall notify the superintendent that it is servicing federal student loans in this state and comply with sections seven hundred seventeen, seven hundred nineteen, seven hundred twenty-one, seven hundred twenty-two, seven hundred twenty-three and seven hundred twenty-five of this article and any regulation applicable to student loan servicers promulgated by the superintendent. The provisions of sections thirty-three, thirty-nine, and forty-four of this chapter shall also apply to such person. The license automatically issued pursuant to this section shall only authorize the servicing of federal student loans. A person that services both federal student loans and non-federal student loans shall be required to be licensed pursuant to subdivision one of this section and sections seven hundred twelve and seven hundred thirteen of this article in order to be authorized to service non-federal student loans unless such person is also an exempt organization.

4. A person, other than an exempt organization, that services federal student loans owed by one or more borrowers residing in this state and that is not otherwise required to be licensed under this section shall notify the superintendent that it is servicing federal student loans in this state and shall comply with sections seven hundred seventeen, seven hundred nineteen, seven hundred twenty-one, seven hundred twenty-two, seven hundred twenty-three, and seven hundred twenty-five of this article and any regulations applicable to student loan servicers promulgated by the superintendent.

§ 712. Application for a student loan servicer license; fees. 1. The application for a license to engage in the business of servicing student

loans shall be in writing, under oath, and in the form prescribed by the superintendent. Notwithstanding article three of the state technology law or any other law to the contrary, the superintendent may require that an application for a license or any other submission or application for approval as may be required by this article be made or executed by electronic means if he or she deems it necessary to ensure the efficient and effective administration of this article. The application shall include a description of the activities of the applicant, in such detail and for such periods as the superintendent may require; including:

(a) an affirmation of financial solvency noting such capitalization requirements as may be required by the superintendent, and access to such credit as may be required by the superintendent;

(b) a financial statement prepared by a certified public accountant, the accuracy of which is sworn to under oath before a notary public by an officer or other representative of the applicant who is authorized to execute such documents;

(c) an affirmation that the applicant, or its members, officers, partners, directors and principals as may be appropriate, are at least twenty-one years of age;

(d) information as to the character, fitness, financial and business responsibility, background and experiences of the applicant, or its members, officers, partners, directors and principals as may be appropriate;

(e) any additional detail or information required by the superintendent.

2. An application to become a licensed student loan servicer or any application with respect to a student loan servicer shall be accomplished by a fee as prescribed pursuant to section eighteen-a of this chapter.

§ 713. Application process to receive license to engage in the business of student loan servicing. 1. Upon the filing of an application for a license, if the superintendent shall find that the financial responsibility, experience, character, and general fitness of the applicant and, if applicable, the members, officers, partners, directors and principals of the applicant are such as to command the confidence of the community and to warrant belief that the business will be operated honestly, fairly, and efficiently within the purpose of this article, the superintendent shall thereupon issue a license in duplicate to engage in the business of servicing student loans described in section seven hundred ten of this article in accordance with the provisions of this article. If the superintendent shall not so find, the superintendent shall not issue a license, and the superintendent shall so notify the applicant. The superintendent shall transmit one copy of a license to the applicant and file another in the office of the department of financial services. Upon receipt of such license, a student loan servicer shall be authorized to engage in the business of servicing student loans in accordance with the provisions of this article. Such license shall remain in full force and effect until it is surrendered by the servicer or revoked or suspended as hereinafter provided.

2. The superintendent may refuse to issue a license pursuant to this article if he or she shall find that the applicant, or any person who is a director, officer, partner, agent, employee, member, or substantial stockholder of the applicant:

(a) within the last ten years prior to the date of application, has committed any act involving dishonesty, fraud, deceit, or has been convicted of, or pleaded nolo contendere to, a crime directly related to

the qualifications, functions, or duties related to servicing student loans, provided that any criminal conviction be evaluated consistent with article twenty-three-A of the correction law;

(b) has had a license or registration revoked by the superintendent or any other regulator or jurisdiction;

(c) has been an officer, director, partner, member or substantial stockholder of an entity which has had a license or registration revoked by the superintendent or any other regulator or jurisdiction; or

(d) has been an agent, employee, officer, director, partner or member of an entity which has had a license or registration revoked by the superintendent where such person shall have been found by the superintendent to bear responsibility in connection with the revocation.

3. The term "substantial stockholder", as used in this section, shall be deemed to refer to a person owning or controlling directly or indirectly ten per centum or more of the total outstanding stock of a corporation.

§ 714. Changes in officers and directors. Upon any change of any of the executive officers, directors, partners or members of any student loan servicer required to be licensed under section seven hundred eleven of this article, the student loan servicer shall submit to the superintendent the name, address, and occupation of each new officer, director, partner or member, and provide such other information as the superintendent may require.

§ 715. Changes in control. 1. It shall be unlawful except with the prior approval of the superintendent for any action to be taken which results in a change of control of the business of a student loan servicer required to be licensed under section seven hundred eleven of this article. Prior to any change of control, the person desirous of acquiring control of the business of a student loan servicer shall make written application to the superintendent and pay an investigation fee as prescribed pursuant to section eighteen-a of this chapter to the superintendent. The application shall contain such information as the superintendent, by rule or regulation, may prescribe as necessary or appropriate for the purpose of making the determination required by subdivision two of this section. This information shall include but not be limited to the information and other material required for a student loan servicer by subdivision one of section seven hundred twelve of this article.

2. The superintendent shall approve or disapprove the proposed change of control of a student loan servicer required to be licensed under section seven hundred eleven of this article in accordance with the provisions of section seven hundred thirteen of this article.

3. For a period of six months from the date of qualification thereof and for such additional period of time as the superintendent may prescribe, in writing, the provisions of subdivisions one and two of this section shall not apply to a transfer of control by operation of law to the legal representative, as hereinafter defined, of one who has control of a student loan servicer. Thereafter, such legal representative shall comply with the provisions of subdivisions one and two of this section. The provisions of subdivisions one and two of this section shall be applicable to an application made under such section by a legal representative. The term "legal representative", for the purposes of this subdivision, shall mean one duly appointed by a court of competent jurisdiction to act as executor, administrator, trustee, committee, conservator or receiver, including one who succeeds a legal represen-

tative and one acting in an ancillary capacity thereto in accordance with the provisions of such court appointment.

4. As used in this section the term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a student loan servicer, whether through the ownership of voting stock of such student loan servicer, the ownership of voting stock of any person which possesses such power or otherwise. Control shall be presumed to exist if any person, directly or indirectly, owns, controls or holds with power to vote ten per centum or more of the voting stock of any student loan servicer or of any person which owns, controls or holds with power to vote ten per centum or more of the voting stock of any student loan servicer, but no person shall be deemed to control a student loan servicer solely by reason of being an officer or director of such student loan servicer. The superintendent may in his or her discretion, upon the application of a student loan servicer or any person who, directly or indirectly, owns, controls or holds with power to vote or seeks to own, control or hold with power to vote any voting stock of such student loan servicer, determine whether or not the ownership, control or holding of such voting stock constitutes or would constitute control of such student loan servicer for purposes of this section.

§ 716. Grounds for suspension or revocation of license. 1. After notice and hearing, the superintendent may revoke or suspend any license to engage in the business of a student loan servicer issued pursuant to this article if he or she shall find that:

(a) a servicer has violated any provision of this article, any rule or regulation promulgated by the superintendent under and within the authority of this article, or any other applicable law;

(b) any fact or condition exists which, if it had existed at the time of the original application for such license, would have warranted the superintendent refusing originally to issue such license;

(c) a servicer does not cooperate with an examination or investigation by the superintendent;

(d) a servicer engages in fraud, intentional misrepresentation, or gross negligence in servicing a student loan;

(e) the competence, experience, character, or general fitness of the servicer, an individual controlling, directly or indirectly, ten percent or more of the outstanding interests, or any person responsible for servicing a student loan for the servicer indicates that it is not in the public interest to permit the servicer to continue servicing student loans;

(f) the servicer engages in an unsafe or unsound practice;

(g) the servicer is insolvent, suspends payment of its obligations, or makes a general assignment for the benefit of its creditors; or

(h) a servicer has violated the laws of this state, any other state or any federal law involving fraudulent or dishonest dealing, or a final judgement has been entered against a student loan servicer in a civil action upon grounds of fraud, misrepresentation or deceit.

2. The superintendent may, on good cause shown, or where there is a substantial risk of public harm, suspend any license for a period not exceeding thirty days, pending investigation. "Good cause", as used in this subdivision, shall exist when a student loan servicer has defaulted or is likely to default in performing its financial engagements or engages in dishonest or inequitable practices which may cause substantial harm to the persons afforded the protection of this article.

3. Except as provided in subdivision two of this section, no license shall be revoked or suspended except after notice and hearing thereon. Any order of suspension issued after notice and a hearing may include as a condition of reinstatement that the student loan servicer make restitution to consumers of fees or other charges which have been improperly charged or collected, including but not limited to by allocating payments contrary to a borrower's direction or in a manner that fails to help a borrower avoid default, as determined by the superintendent. Any hearing held pursuant to the provisions of this section shall be noticed, conducted and administered in compliance with the state administrative procedure act.

4. Any student loan servicer may surrender any license by delivering to the superintendent written notice that it thereby surrenders such license, but such surrender shall not affect such servicer's civil or criminal liability for acts committed prior to such surrender. If such surrender is made after the issuance by the superintendent of a statement of charges and notice of hearing, the superintendent may proceed against the servicer as if such surrender had not taken place.

5. No revocation, suspension, or surrender of any license shall impair or affect the obligation of any pre-existing lawful contract between the student loan servicer and any person, including the department of financial services.

6. Every license issued pursuant to this article shall remain in force and effect until the same shall have been surrendered, revoked or suspended in accordance with any other provisions of this article.

7. Whenever the superintendent shall revoke or suspend a license issued pursuant to this article, he or she shall forthwith execute in duplicate a written order to that effect. The superintendent shall file one copy of such order in the office of the department and shall forthwith serve the other copy upon the student loan servicer. Any such order may be reviewed in the manner provided by article seventy-eight of the civil practice law and rules.

§ 717. Books and records; reports and electronic filing. 1. Each student loan servicer shall keep and use in its business such books, accounts and records as will enable the superintendent to determine whether such servicer or exempt organization is complying with the provisions of this article and with the rules and regulations lawfully made by the superintendent. Every servicer shall preserve such books, accounts, and records, for at least three years.

2. (a) Each student loan servicer, other than an exempt organization, shall annually, on or before a date to be determined by the superintendent, file a report with the superintendent giving such information as the superintendent may require concerning the business and operations during the preceding calendar year of such servicer under authority of this article. Such report shall be subscribed and affirmed as true by the servicer under the penalties of perjury and shall be in the form prescribed by the superintendent.

(b) In addition to annual reports, the superintendent may require such additional regular or special reports as he or she may deem necessary to the proper supervision of student loan servicers under this article. Such additional reports shall be subscribed and affirmed as true by the servicer under the penalties of perjury and shall be in the form prescribed by the superintendent.

3. Notwithstanding article three of the state technology law or any other law to the contrary, the superintendent may require that any submission or approval as may be required by the superintendent be made

or executed by electronic means if he or she deems it necessary to ensure the efficient administration of this article.

§ 718. Rules and Regulations. 1. In addition to such powers as may otherwise be prescribed by law, the superintendent is hereby authorized and empowered to promulgate such rules and regulations as may in the judgment of the superintendent be consistent with the purposes of this article, or appropriate for the effective administration of this article, including, but not limited to:

(a) Such rules and regulations in connection with the activities of student loan servicers as may be necessary and appropriate for the protection of borrowers in this state.

(b) Such rules and regulations as may be necessary and appropriate to define unfair, deceptive or abusive acts or practices in connection with the activities of student loan servicers.

(c) Such rules and regulations as may define the terms used in this article and as may be necessary and appropriate to interpret and implement the provisions of this article.

(d) Such rules and regulations as may be necessary for the enforcement of this article.

2. The superintendent is hereby authorized and empowered to make such specific rulings, demands and findings as the superintendent may deem necessary for the proper conduct of the student loan servicing industry.

§ 719. Prohibited practices. No student loan servicer shall:

1. Employ any scheme, device or artifice to defraud or mislead a borrower;

2. Engage in any unfair, deceptive or predatory act or practice toward any person or misrepresent or omit any material information in connection with the servicing of a student loan, including, but not limited to, misrepresenting the amount, nature or terms of any fee or payment due or claimed to be due on a student loan, the terms and conditions of the loan agreement or the borrower's obligations under the loan;

3. Misapply payments to the outstanding balance of any student loan or to any related interest or fees;

4. Provide inaccurate information to a consumer reporting agency;

5. Refuse to communicate with an authorized representative of the borrower who provides a written authorization signed by the borrower, provided that the servicer may adopt procedures reasonably related to verifying that the representative is in fact authorized to act on behalf of the borrower;

6. Make any false statement or make any omission of a material fact in connection with any information or reports filed with a governmental agency or in connection with any investigation conducted by the superintendent or another governmental agency;

7. Fail to respond within fifteen calendar days to communications from the department, or within such shorter, reasonable time as the department may request in his or her communication; or

8. Fail to provide a response within fifteen calendar days to a consumer complaint submitted to the servicer by the department. If necessary, a student loan servicer may request additional time up to a maximum of forty-five calendar days, provided that such request is accompanied by an explanation why such additional time is reasonable and necessary.

§ 720. Servicing student loans without a license. 1. Whenever, in the opinion of the superintendent, a person is engaged in the business of servicing student loans, either actually or through subterfuge, without

a license from the superintendent, the superintendent may order that person to desist and refrain from engaging in the business of servicing student loans in the state. If, within thirty days after an order is served, a request for a hearing is filed in writing and the hearing is not held within sixty days of the filing, the order shall be rescinded.

2. This section does not apply to exempt organizations.

§ 721. Responsibilities. 1. If a student loan servicer regularly reports information to a consumer reporting agency, the servicer shall accurately report a borrower's payment performance to at least one consumer reporting agency that compiles and maintains files on consumers on a nationwide basis as defined in Section 603(p) of the federal Fair Credit Reporting Act (15 U.S.C. Sec. 1681a(p)), upon acceptance as a data furnisher by that consumer reporting agency.

2. (a) Except as provided in federal law or required by a student loan agreement, a student loan servicer shall inquire of a borrower how to apply a borrower's nonconforming payment. A borrower's direction on how to apply a nonconforming payment shall remain in effect for any future nonconforming payment during the term of a student loan until the borrower provides different directions.

(b) For purposes of this subdivision, "nonconforming payment" shall mean a payment that is either more or less than the borrower's required student loan payment.

3. (a) If the sale, assignment, or other transfer of the servicing of a student loan results in a change in the identity of the person to whom the borrower is required to send subsequent payments or direct any communications concerning the student loan, a student loan servicer shall transfer all information regarding a borrower, a borrower's account, and a borrower's student loan, including but not limited to the borrower's repayment status and any borrower benefits associated with the borrower's student loan, to the new student loan servicer servicing the borrower's student loan within forty-five days.

(b) A student loan servicer shall adopt policies and procedures to verify that it has received all information regarding a borrower, a borrower's account, and a borrower's student loan, including but not limited to the borrower's repayment status and any borrower benefits associated with the borrower's student loan, when the servicer obtains the right to service a student loan.

4. If a student loan servicer sells, assigns, or otherwise transfers the servicing of a student loan to a new servicer, the sale, assignment or other transfer shall be completed at least seven days before the borrower's next payment is due.

5. (a) A student loan servicer that sells, assigns, or otherwise transfers the servicing of a student loan shall require as a condition of such sale, assignment or other transfer that the new student loan servicer shall honor all borrower benefits originally represented as being available to a borrower during the repayment of the student loan and the possibility of such benefits, including any benefits that were represented as being available but for which the borrower had not yet qualified.

(b) A student loan servicer that obtains the right to service a student loan shall honor all borrower benefits originally represented as being available to a borrower during the repayment of the student loan and the possibility of such benefits, including any benefits that were represented as being available but for which the borrower had not yet qualified.

6. A student loan servicer shall respond within thirty days after receipt to a written inquiry from a borrower or a borrower's representative.

7. A student loan servicer shall preserve records of each student loan and all communications with borrowers for not less than two years following the final payment on such student loan or the sale, assignment or other transfer of the servicing of such student loan, whichever occurs first, or such longer period as may be required by any other provision of law.

§ 722. Examinations. 1. The superintendent may at any time, and as often as he or she may determine, either personally or by a person duly designated by the superintendent, investigate the business and examine the books, accounts, records, and files used therein of every student loan servicer. For that purpose the superintendent and his or her duly designated representative shall have free access to the offices and places of business, books, accounts, papers, records, files, safes and vaults of all such servicers. The superintendent and any person duly designated by him or her shall have authority to require the attendance of and to examine under oath all persons whose testimony he or she may require relative to such business.

2. No person subject to investigation or examination under this section may knowingly withhold, abstract, remove, mutilate, destroy or secrete any books, records, computer records or other information.

3. The expenses incurred in making any examination pursuant to this section shall be assessed against and paid by the student loan servicer so examined, except that travelling and subsistence expenses so incurred shall be charged against and paid by servicers in such proportions as the superintendent shall deem just and reasonable, and such proportionate charges shall be added to the assessment of the other expenses incurred upon each examination. Upon written notice by the superintendent of the total amount of such assessment, the servicer shall become liable for and shall pay such assessment to the superintendent.

4. In any hearing in which a department employee acting under authority of this chapter is available for cross-examination, any official written report, worksheet, other related papers, or duly certified copy thereof, compiled, prepared, drafted, or otherwise made by said department employee, after being duly authenticated by said employee, may be admitted as competent evidence upon the oath of said employee that said worksheet, investigative report, or other related documents were prepared as a result of an examination of the books and records of a servicer or other person, conducted pursuant to the authority of this chapter.

5. Unless it is an exempt organization, affiliates of a student loan servicer are subject to examination by the superintendent on the same terms as the servicer, but only when reports from, or examination of, a servicer provides evidence of unlawful activity between a servicer and affiliate benefitting, affecting, or arising from the activities regulated by this article.

6. This section shall not apply to exempt organizations. To the extent the superintendent is authorized by any other law to make an examination into the affairs of any exempt organization, this subdivision shall not be construed to limit in any way the superintendent's authority, regarding the subjects of such an examination, or otherwise.

§ 723. Penalties for violation of this article. 1. In addition to such penalties as may otherwise be applicable by law, including but not limited to the penalties available under section forty-four of this



chapter, the superintendent may, after notice and hearing, require any person found violating the provisions of this article or the rules or regulations promulgated hereunder to pay to the people of this state a penalty for each violation of the article or any regulation or policy promulgated hereunder a sum not to exceed the greater of (i) two thousand dollars or where such violation is willful ten thousand dollars for each offense; (ii) a multiple of two times the aggregate damages attributable to the violation; or (iii) a multiple of two times the aggregate economic gain attributable to the violation.

2. Nothing in this article shall limit any statutory or common-law right of any person to bring any action in any court for any act, or the right of the state to punish any person for any violation of any law.

§ 724. Severability of provisions. If any provision of this article, or the application of such provision to any person or circumstance, shall be held invalid, illegal or unenforceable, the remainder of the article, and the application of such provision to persons or circumstances other than those as to which it is held invalid, illegal or unenforceable, shall not be affected thereby.

§ 725. Compliance with other laws. 1. Student loan servicers shall engage in the business of servicing student loans in conformity with the provisions of the financial services law, this chapter, such rules and regulations as may be promulgated by the superintendent thereunder and all applicable federal laws and the rules and regulations promulgated thereunder.

2. Nothing in this section shall be construed to limit any otherwise applicable state or federal law or regulations.

§ 2. Subdivision 10 of section 36 of the banking law, as amended by chapter 182 of the laws of 2011, is amended to read as follows:

10. All reports of examinations and investigations, correspondence and memoranda concerning or arising out of such examination and investigations, including any duly authenticated copy or copies thereof in the possession of any banking organization, bank holding company or any subsidiary thereof (as such terms "bank holding company" and "subsidiary" are defined in article three-A of this chapter), any corporation or any other entity affiliated with a banking organization within the meaning of subdivision six of this section and any non-banking subsidiary of a corporation or any other entity which is an affiliate of a banking organization within the meaning of subdivision six-a of this section, foreign banking corporation, licensed lender, licensed casher of checks, licensed mortgage banker, registered mortgage broker, licensed mortgage loan originator, licensed sales finance company, registered mortgage loan servicer, licensed student loan servicer, licensed insurance premium finance agency, licensed transmitter of money, licensed budget planner, any other person or entity subject to supervision under this chapter, or the department, shall be confidential communications, shall not be subject to subpoena and shall not be made public unless, in the judgment of the superintendent, the ends of justice and the public advantage will be subserved by the publication thereof, in which event the superintendent may publish or authorize the publication of a copy of any such report or any part thereof in such manner as may be deemed proper or unless such laws specifically authorize such disclosure. For the purposes of this subdivision, "reports of examinations and investigations, and any correspondence and memoranda concerning or arising out of such examinations and investigations", includes any such materials of a bank, insurance or securities regulatory agency or any unit of the federal government or that of this state

any other state or that of any foreign government which are considered confidential by such agency or unit and which are in the possession of the department or which are otherwise confidential materials that have been shared by the department with any such agency or unit and are in the possession of such agency or unit.

§ 3. Section 39 of the banking law, as amended by section 1 of part FF of chapter 59 of the laws of 2004, subdivisions 1, 2 and 5 as amended by chapter 123 of the laws of 2009, subdivision 3 as amended by chapter 155 of the laws of 2012 and subdivision 6 as amended by chapter 217 of the laws of 2010, is amended to read as follows:

§ 39. Orders of superintendent. 1. To appear and explain an apparent violation. Whenever it shall appear to the superintendent that any banking organization, bank holding company, registered mortgage broker, licensed mortgage banker, licensed student loan servicer, registered mortgage loan servicer, licensed mortgage loan originator, licensed lender, licensed casher of checks, licensed sales finance company, licensed insurance premium finance agency, licensed transmitter of money, licensed budget planner, out-of-state state bank that maintains a branch or branches or representative or other offices in this state, or foreign banking corporation licensed by the superintendent to do business or maintain a representative office in this state has violated any law or regulation, he or she may, in his or her discretion, issue an order describing such apparent violation and requiring such banking organization, bank holding company, registered mortgage broker, licensed mortgage banker, licensed student loan servicer, licensed mortgage loan originator, licensed lender, licensed casher of checks, licensed sales finance company, licensed insurance premium finance agency, licensed transmitter of money, licensed budget planner, out-of-state state bank that maintains a branch or branches or representative or other offices in this state, or foreign banking corporation to appear before him or her, at a time and place fixed in said order, to present an explanation of such apparent violation.

2. To discontinue unauthorized or unsafe and unsound practices. Whenever it shall appear to the superintendent that any banking organization, bank holding company, registered mortgage broker, licensed mortgage banker, licensed student loan servicer, registered mortgage loan servicer, licensed mortgage loan originator, licensed lender, licensed casher of checks, licensed sales finance company, licensed insurance premium finance agency, licensed transmitter of money, licensed budget planner, out-of-state state bank that maintains a branch or branches or representative or other offices in this state, or foreign banking corporation licensed by the superintendent to do business in this state is conducting business in an unauthorized or unsafe and unsound manner, he or she may, in his or her discretion, issue an order directing the discontinuance of such unauthorized or unsafe and unsound practices, and fixing a time and place at which such banking organization, bank holding company, registered mortgage broker, licensed mortgage banker, licensed student loan servicer, registered mortgage loan servicer, licensed mortgage loan originator, licensed lender, licensed casher of checks, licensed sales finance company, licensed insurance premium finance agency, licensed transmitter of money, licensed budget planner, out-of-state state bank that maintains a branch or branches or representative or other offices in this state, or foreign banking corporation may voluntarily appear before him or her to present any explanation in defense of the practices directed in said order to be discontinued.

3. To make good impairment of capital or to ensure compliance with financial requirements. Whenever it shall appear to the superintendent that the capital or capital stock of any banking organization, bank holding company or any subsidiary thereof which is organized, licensed or registered pursuant to this chapter, is impaired, or the financial requirements imposed by subdivision one of section two hundred two-b of this chapter or any regulation of the superintendent on any branch or agency of a foreign banking corporation or the financial requirements imposed by this chapter or any regulation of the superintendent on any licensed lender, registered mortgage broker, licensed mortgage banker, licensed student loan servicer, licensed cashier of checks, licensed sales finance company, licensed insurance premium finance agency, licensed transmitter of money, licensed budget planner or private banker are not satisfied, the superintendent may, in the superintendent's discretion, issue an order directing that such banking organization, bank holding company, branch or agency of a foreign banking corporation, registered mortgage broker, licensed mortgage banker, licensed student loan servicer, licensed lender, licensed cashier of checks, licensed sales finance company, licensed insurance premium finance agency, licensed transmitter of money, licensed budget planner, or private banker make good such deficiency forthwith or within a time specified in such order.

4. To make good encroachments on reserves. Whenever it shall appear to the superintendent that either the total reserves or reserves on hand of any banking organization, branch or agency of a foreign banking corporation are below the amount required by or pursuant to this chapter or any other applicable provision of law or regulation to be maintained, or that such banking organization, branch or agency of a foreign banking corporation is not keeping its reserves on hand as required by this chapter or any other applicable provision of law or regulation, he or she may, in his or her discretion, issue an order directing that such banking organization, branch or agency of a foreign banking corporation make good such reserves forthwith or within a time specified in such order, or that it keep its reserves on hand as required by this chapter.

5. To keep books and accounts as prescribed. Whenever it shall appear to the superintendent that any banking organization, bank holding company, registered mortgage broker, licensed mortgage banker, licensed student loan servicer, registered mortgage loan servicer, licensed mortgage loan originator, licensed lender, licensed cashier of checks, licensed sales finance company, licensed insurance premium finance agency, licensed transmitter of money, licensed budget planner, agency or branch of a foreign banking corporation licensed by the superintendent to do business in this state, does not keep its books and accounts in such manner as to enable him or her to readily ascertain its true condition, he or she may, in his or her discretion, issue an order requiring such banking organization, bank holding company, registered mortgage broker, licensed mortgage banker, licensed student loan servicer, registered mortgage loan servicer, licensed mortgage loan originator, licensed lender, licensed cashier of checks, licensed sales finance company, licensed insurance premium finance agency, licensed transmitter of money, licensed budget planner, or foreign banking corporation, or the officers or agents thereof, or any of them, to open and keep such books or accounts as he or she may, in his or her discretion, determine and prescribe for the purpose of keeping accurate and convenient records of its transactions and accounts.

6. As used in this section, "bank holding company" shall have the same meaning as that term is defined in section one hundred forty-one of this chapter.

§ 4. Paragraph (a) of subdivision 1 of section 44 of the banking law, as amended by chapter 155 of the laws of 2012, is amended to read as follows:

(a) Without limiting any power granted to the superintendent under any other provision of this chapter, the superintendent may, in a proceeding after notice and a hearing, require any safe deposit company, licensed lender, licensed casher of checks, licensed sales finance company, licensed insurance premium finance agency, licensed transmitter of money, licensed mortgage banker, licensed student loan servicer, registered mortgage broker, licensed mortgage loan originator, registered mortgage loan servicer or licensed budget planner to pay to the people of this state a penalty for any violation of this chapter, any regulation promulgated thereunder, any final or temporary order issued pursuant to section thirty-nine of this article, any condition imposed in writing by the superintendent in connection with the grant of any application or request, or any written agreement entered into with the superintendent.

§ 5. This act shall take effect on the one hundred eightieth day after it shall have become a law.

PART M

Section 1. Section 2 of part FF of chapter 55 of the laws of 2017 relating to motor vehicles equipped with autonomous vehicle technology, as amended by section 2 of part H of chapter 58 of the laws of 2018, is amended to read as follows:

§ 2. The commissioner of motor vehicles shall, in consultation with the superintendent of state police, submit a report to the governor, the temporary president of the senate, the speaker of the assembly, and the chairs of the senate and assembly transportation committees on the demonstrations and tests authorized by section one of this act. Such report shall include, but not be limited to, a description of the parameters and purpose of such demonstrations and tests, the location or locations where demonstrations and tests were conducted, the demonstrations' and tests' impacts on safety, traffic control, traffic enforcement, emergency services, and such other areas as may be identified by such commissioner. Such commissioner shall submit such report on or before June 1, 2018 ~~and~~, June 1, 2019, and June first of each year this section remains in effect.

§ 2. Section 3 of part FF of chapter 55 of the laws of 2017 relating to motor vehicles equipped with autonomous vehicle technology, as amended by section 3 of part H of chapter 58 of the laws of 2018, is amended to read as follows:

§ 3. This act shall take effect April 1, 2017; provided, however, that section one of this act shall expire and be deemed repealed April 1, ~~2019~~ 2021.

§ 3. This act shall take effect immediately.

PART N

Intentionally Omitted

PART O

Intentionally Omitted

PART P

Intentionally Omitted

PART Q

Intentionally Omitted

PART R

Section 1. Section 2 of chapter 21 of the laws of 2003, amending the executive law relating to permitting the secretary of state to provide special handling for all documents filed or issued by the division of corporations and to permit additional levels of such expedited service, as amended by section 1 of part S of chapter 58 of the laws of 2018, is amended to read as follows:

§ 2. This act shall take effect immediately, provided however, that section one of this act shall be deemed to have been in full force and effect on and after April 1, 2003 and shall expire March 31, ~~2019~~ 2020.

§ 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after March 31, 2019.

PART S

Intentionally Omitted

PART T

Intentionally Omitted

PART U

Section 1. Expenditures of moneys appropriated in a chapter of the laws of 2019 to the department of agriculture and markets from the special revenue funds-other/state operations, miscellaneous special revenue fund-339, public service account shall be subject to the provisions of this section. Notwithstanding any other provision of law to the contrary, direct and indirect expenses relating to the department of agriculture and markets' participation in general ratemaking proceedings pursuant to section 65 of the public service law or certification proceedings pursuant to article 7 or 10 of the public service law, shall be deemed expenses of the department of public service within the meaning of section 18-a of the public service law. No later than August 15, 2020, the commissioner of the department of agriculture and markets shall submit an accounting of such expenses, including, but not limited to, expenses in the 2019--2020 state fiscal year for personal and non-personal services and fringe benefits, to the chair of the public service commission for the chair's review pursuant to the provisions of section 18-a of the public service law.

§ 2. Expenditures of moneys appropriated in a chapter of the laws of 2019 to the department of state from the special revenue funds-other/state operations, miscellaneous special revenue fund-339, public service account shall be subject to the provisions of this section.

Notwithstanding any other provision of law to the contrary, direct and indirect expenses relating to the activities of the department of state's utility intervention unit pursuant to subdivision 4 of section 94-a of the executive law, including, but not limited to participation in general ratemaking proceedings pursuant to section 65 of the public service law or certification proceedings pursuant to article 7 or 10 of the public service law, shall be deemed expenses of the department of public service within the meaning of section 18-a of the public service law. No later than August 15, 2020, the secretary of state shall submit an accounting of such expenses, including, but not limited to, expenses in the 2019--2020 state fiscal year for personal and non-personal services and fringe benefits, to the chair of the public service commission for the chair's review pursuant to the provisions of section 18-a of the public service law.

§ 3. Expenditures of moneys appropriated in a chapter of the laws of 2019 to the office of parks, recreation and historic preservation from the special revenue funds-other/state operations, miscellaneous special revenue fund-339, public service account shall be subject to the provisions of this section. Notwithstanding any other provision of law to the contrary, direct and indirect expenses relating to the office of parks, recreation and historic preservation's participation in general ratemaking proceedings pursuant to section 65 of the public service law or certification proceedings pursuant to article 7 or 10 of the public service law, shall be deemed expenses of the department of public service within the meaning of section 18-a of the public service law. No later than August 15, 2020, the commissioner of the office of parks, recreation and historic preservation shall submit an accounting of such expenses, including, but not limited to, expenses in the 2019--2020 state fiscal year for personal and non-personal services and fringe benefits, to the chair of the public service commission for the chair's review pursuant to the provisions of section 18-a of the public service law.

§ 4. Expenditures of moneys appropriated in a chapter of the laws of 2019 to the department of environmental conservation from the special revenue funds-other/state operations, environmental conservation special revenue fund-301, utility environmental regulation account shall be subject to the provisions of this section. Notwithstanding any other provision of law to the contrary, direct and indirect expenses relating to the department of environmental conservation's participation in state energy policy proceedings, or certification proceedings pursuant to article 7 or 10 of the public service law, shall be deemed expenses of the department of public service within the meaning of section 18-a of the public service law. No later than August 15, 2020, the commissioner of the department of environmental conservation shall submit an accounting of such expenses, including, but not limited to, expenses in the 2019--2020 state fiscal year for personal and non-personal services and fringe benefits, to the chair of the public service commission for the chair's review pursuant to the provisions of section 18-a of the public service law.

§ 5. Notwithstanding any other law, rule or regulation to the contrary, expenses of the department of health public service education program incurred pursuant to appropriations from the cable television account of the state miscellaneous special revenue funds shall be deemed expenses of the department of public service. No later than August 15, 2020, the commissioner of the department of health shall submit an accounting of expenses in the 2019--2020 state fiscal year to the chair

of the public service commission for the chair's review pursuant to the provisions of section 217 of the public service law.

§ 6. Any expense deemed to be expenses of the department of public service pursuant to sections one through four of this act shall not be recovered through assessments imposed upon telephone corporations as defined in subdivision 17 of section 2 of the public service law.

§ 7. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2019 and shall be deemed repealed April 1, 2020.

## PART V

Intentionally Omitted

## PART W

Section 1. Expenditures of moneys by the New York state energy research and development authority for services and expenses of the energy research, development and demonstration program, including grants, the energy policy and planning program, the zero emissions vehicle and electric vehicle rebate program, and the Fuel NY program shall be subject to the provisions of this section. Notwithstanding the provisions of subdivision 4-a of section 18-a of the public service law, all moneys committed or expended in an amount not to exceed \$19,700,000 shall be reimbursed by assessment against gas corporations, as defined in subdivision 11 of section 2 of the public service law and electric corporations as defined in subdivision 13 of section 2 of the public service law, where such gas corporations and electric corporations have gross revenues from intrastate utility operations in excess of \$500,000 in the preceding calendar year, and the total amount which may be charged to any gas corporation and any electric corporation shall not exceed one cent per one thousand cubic feet of gas sold and .010 cent per kilowatt-hour of electricity sold by such corporations in their intrastate utility operations in calendar year 2017. Such amounts shall be excluded from the general assessment provisions of subdivision 2 of section 18-a of the public service law. The chair of the public service commission shall bill such gas and/or electric corporations for such amounts on or before August 10, 2019 and such amounts shall be paid to the New York state energy research and development authority on or before September 10, 2019. Upon receipt, the New York state energy research and development authority shall deposit such funds in the energy research and development operating fund established pursuant to section 1859 of the public authorities law. The New York state energy research and development authority is authorized and directed to: (1) transfer \$1 million to the state general fund for services and expenses of the department of environmental conservation, \$150,000 to the state general fund for services and expenses of the department of agriculture and markets, and \$825,000 to the University of Rochester laboratory for laser energetics from the funds received; and (2) commencing in 2016, provide to the chair of the public service commission and the director of the budget and the chairs and secretaries of the legislative fiscal committees, on or before August first of each year, an itemized record, certified by the president and chief executive officer of the authority, or his or her designee, detailing any and all expenditures and commitments ascribable to moneys received as a result of this assessment by the chair of the department of public service pursuant to section 18-a

of the public service law. This itemized record shall include an itemized breakdown of the programs being funded by this section and the amount committed to each program. The authority shall not commit for any expenditure, any moneys derived from the assessment provided for in this section, until the chair of such authority shall have submitted, and the director of the budget shall have approved, a comprehensive financial plan encompassing all moneys available to and all anticipated commitments and expenditures by such authority from any source for the operations of such authority. Copies of the approved comprehensive financial plan shall be immediately submitted by the chair to the chairs and secretaries of the legislative fiscal committees. Any such amount not committed by such authority to contracts or contracts to be awarded or otherwise expended by the authority during the fiscal year shall be refunded by such authority on a pro-rata basis to such gas and/or electric corporations, in a manner to be determined by the department of public service, and any refund amounts must be explicitly lined out in the itemized record described above.

§ 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2019.

PART X

Intentionally Omitted

PART Y

Section 1. Section 2 of chapter 393 of the laws of 1994, amending the New York state urban development corporation act, relating to the powers of the New York state urban development corporation to make loans, as amended by section 1 of part P of chapter 58 of the laws of 2018, is amended to read as follows:

§ 2. This act shall take effect immediately provided, however, that section one of this act shall expire on July 1, [~~2019~~] 2020, at which time the provisions of subdivision 26 of section 5 of the New York state urban development corporation act shall be deemed repealed; provided, however, that neither the expiration nor the repeal of such subdivision as provided for herein shall be deemed to affect or impair in any manner any loan made pursuant to the authority of such subdivision prior to such expiration and repeal.

§ 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2019.

PART Z

Section 1. Subdivision 3 of section 16-m of section 1 of chapter 174 of the laws of 1968 constituting the New York state urban development corporation act, as amended by section 1 of part O of chapter 58 of the laws of 2018, is amended to read as follows:

3. The provisions of this section shall expire, notwithstanding any inconsistent provision of subdivision 4 of section 469 of chapter 309 of the laws of 1996 or of any other law, on July 1, [~~2019~~] 2020.

§ 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after July 1, 2019.

PART AA



Intentionally Omitted

PART BB

Intentionally Omitted

PART CC

Intentionally Omitted

PART DD

Intentionally Omitted

PART EE

Intentionally Omitted

PART FF

Section 1. Paragraphs (b-1) and (c-3) of subdivision 2 of section 503 of the vehicle and traffic law, paragraph (b-1) as added by section 1 and paragraph (c-3) as added by section 2 of part A of chapter 25 of the laws of 2009, are amended to read as follows:

(b-1) Supplemental learner permit/license fee in the metropolitan commuter transportation district. (i) Upon passage of the knowledge test required to obtain a learner's permit, an applicant for a driver's license who resides in the metropolitan commuter transportation district established by section one thousand two hundred sixty-two of the public authorities law shall be required to pay a supplemental fee of one dollar for each six months or portion thereof of the period of validity of a learner's permit or license which is or may be issued pursuant to the provisions of subparagraph (i) or (ii) of paragraph (b) of this subdivision.

(ii) The commissioner shall deposit daily all funds collected pursuant to subparagraph (i) of this paragraph with such responsible banks, banking houses or trust companies as may be designated by the state comptroller, ~~[to the credit of the comptroller]~~ in trust for the credit of the metropolitan transportation authority. An account may be established in one or more of such depositories. Such deposits shall be kept separate and apart from all other money in the possession of the comptroller. On or before the twelfth day of each month, the commissioner shall certify to the comptroller the amount of all revenues received pursuant to subparagraph (i) of this paragraph during the prior month as a result of the supplemental fee imposed, including any interest and penalties thereon. The revenues so certified over the prior three months in total shall be ~~[deposited by the state comptroller in the metropolitan transportation authority aid trust account of the metropolitan transportation authority financial assistance fund established pursuant to section ninety two ff of the state finance law for deposit, subject to] paid over by the fifteenth day of the last month of each calendar quarter from such account, without~~ appropriation, ~~[in]~~ into the corporate transportation account of the metropolitan transportation authority special assistance fund established by section twelve hundred seventy-a of the public authorities law, to be applied as provided in paragraph (e) of subdivision four of such section. Any money collected pursuant to

this section that is deposited by the comptroller in the ~~[metropolitan transportation authority aid trust account]~~ corporate transportation account of the metropolitan transportation authority ~~[financial]~~ special assistance fund shall be held in such fund free and clear of any claim by any person or entity paying an additional fee pursuant to this section, including, without limiting the generality of the foregoing, any right or claim against the metropolitan transportation authority, any of its bondholders, or any subsidiary or affiliate of the metropolitan transportation authority.

(c-3) (i) Supplemental renewal fee in the metropolitan commuter transportation district. In addition to the fees required to be paid pursuant to paragraph (c) of this subdivision, a supplemental fee of one dollar for each six months or portion thereof of the validity of the license shall be paid for renewal of a license of a person who resides in the metropolitan commuter transportation district established by section one thousand two hundred sixty-two of the public authorities law issued by the commissioner.

(ii) The commissioner shall deposit daily all funds collected pursuant to this paragraph with such responsible banks, banking houses or trust companies as may be designated by the state comptroller, ~~[to the credit of the comptroller]~~ in trust for the credit of the metropolitan transportation authority. An account may be established in one or more of such depositories. Such deposits shall be kept separate and apart from all other money in the possession of the comptroller. On or before the twelfth day of each month, the commissioner shall certify to the comptroller the amount of all revenues received pursuant to this paragraph during the prior month as a result of the supplemental fees imposed, including any interest and penalties thereon. The revenues so certified ~~over the prior three months in total~~ shall be ~~[deposited by the state comptroller in the metropolitan transportation authority aid trust account of the metropolitan transportation authority financial assistance fund established pursuant to section ninety two ff of the state finance law for deposit, subject to]~~ paid over by the fifteenth day of the last month of each calendar quarter from such account, without appropriation, [in] into the corporate transportation account of the metropolitan transportation authority special assistance fund established by section twelve hundred seventy-a of the public authorities law, to be applied as provided in paragraph (e) of subdivision four of such section. Any money collected pursuant to this section that is deposited by the comptroller in the [metropolitan transportation authority aid trust account] corporate transportation account of the metropolitan transportation authority [financial] special assistance fund shall be held in such fund free and clear of any claim by any person or entity paying an additional fee pursuant to this section, including, without limiting the generality of the foregoing, any right or claim against the metropolitan transportation authority, any of its bondholders, or any subsidiary or affiliate of the metropolitan transportation authority.

§ 2. Section 499-d of the vehicle and traffic law, as added by section 1 of part B of chapter 25 of the laws of 2009, is amended to read as follows:

§ 499-d. Deposit and disposition of revenue from supplemental fee. The commissioner shall deposit daily all funds derived from the collection of the supplemental fee established pursuant to this article with such responsible banks, banking houses or trust companies as may be designated by the state comptroller, ~~[to the credit of the comptroller]~~ in trust for the credit of the metropolitan transportation authority. An

account may be established in one or more of such depositories. Such deposits shall be kept separate and apart from all other money in the possession of the comptroller. On or before the twelfth day of each month, the commissioner shall certify to the comptroller the amount of all revenues received pursuant to this article during the prior month as a result of the supplemental fee imposed, including any interest and penalties thereon. The revenues so certified over the prior three months in total shall be ~~deposited by the state comptroller in the metropolitan transportation authority aid trust account of the metropolitan transportation authority financial assistance fund established pursuant to section ninety-two ff of the state finance law for deposit, subject to~~ paid over by the fifteenth day of the last month of each calendar quarter from such account, without appropriation, ~~into~~ into the corporate transportation account of the metropolitan transportation authority special assistance fund established by section twelve hundred seventy-a of the public authorities law, to be applied as provided in paragraph (e) of subdivision four of such section. Any money collected pursuant to this section that is deposited by the comptroller in the ~~metropolitan transportation authority aid trust account~~ corporate transportation account of the metropolitan transportation authority ~~financial~~ special assistance fund shall be held in such fund free and clear of any claim by any person or entity paying an additional fee pursuant to this section, including, without limiting the generality of the foregoing, any right or claim against the metropolitan transportation authority, any of its bondholders, or any subsidiary or affiliate of the metropolitan transportation authority.

§ 3. Section 1288 of the tax law, as added by section 1 of part E of chapter 25 of the laws of 2009, is amended to read as follows:

§ 1288. Deposit and disposition of revenue. Notwithstanding any provision of law to the contrary: (a) All taxes, interest and penalties collected or received by the commissioner pursuant to this article shall be deposited daily with such responsible banks, banking houses or trust companies, as may be designated by the comptroller, ~~to the credit of the comptroller~~ in trust for the credit of the metropolitan transportation authority. ~~Such an~~ An account may be established in one or more of such depositories. Such deposits shall be kept separate and apart from all other money in the possession of the comptroller. The comptroller shall require adequate security from all such depositories. Of the total revenue collected or received under this section, the comptroller shall retain in the comptroller's hands such amount as the commissioner may determine to be necessary for refunds under this article. The commissioner is authorized and directed to deduct from such amounts collected or received under this article, before deposit into the accounts specified by the comptroller, a reasonable amount necessary to effectuate refunds of appropriations of the department to reimburse the department for the costs to administer, collect and distribute the taxes imposed by this article.

(b) On or before the twelfth day following the end of each month, after reserving such amount for such refunds and such costs, the commissioner shall certify to the comptroller the amount of all revenues so received pursuant to this article during the prior month as a result of the taxes, interest and penalties so imposed.

(c) ~~By the fifteenth day of the last month of each calendar quarter the~~ By the fifteenth day of the last month of each calendar quarter the comptroller shall pay over the amount of revenues from the prior three months in total so certified by the commissioner ~~to the metropolitan transportation authority aid trust account of the metropol-~~

~~itan transportation authority financial assistance fund established by section ninety-two ff of the state finance law for deposit, subject to~~, without appropriation, [~~in~~ into the corporate transportation account of the metropolitan transportation authority special assistance fund established by section twelve hundred seventy-a of the public authorities law to be applied as provided in paragraph (e) of subdivision four of such section twelve hundred seventy-a. Any money collected pursuant to this article that is deposited by the comptroller in the [~~metropolitan transportation authority aid trust account~~] corporate transportation account of the metropolitan transportation authority [~~financial~~] special assistance fund shall be held in such fund free and clear of any claim by any person or entity paying the tax pursuant to this article, including, without limiting the generality of the foregoing, any right or claim against the metropolitan transportation authority, any of its bondholders, or any subsidiary or affiliate of the metropolitan transportation authority.

§ 4. Section 1167 of the tax law, as amended by section 3 of part F of chapter 25 of the laws of 2009, is amended to read as follows:

§ 1167. Deposit and disposition of revenue. 1. All taxes, interest and penalties collected or received by the commissioner under this article shall be deposited and disposed of pursuant to the provisions of section one hundred seventy-one-a of this chapter, except that after reserving amounts in accordance with such section one hundred seventy-one-a of this chapter, the remainder shall be paid by the comptroller to the credit of the highway and bridge trust fund established by section eighty-nine-b of the state finance law, provided, however, taxes, interest and penalties collected or received pursuant to section eleven hundred sixty-six-a of this article shall be [~~paid to the credit of the metropolitan transportation authority aid trust account of the metropolitan transportation authority financial assistance fund established by section ninety-two ff of the state finance law~~] deposited and disposed of pursuant to subdivision two of this section.

2. All taxes, interest, and penalties collected or received by the commissioner pursuant to section eleven hundred sixty-six-a of this article shall be deposited daily with such responsible banks, banking houses or trust companies, as may be designated by the comptroller, in trust for the credit of the metropolitan transportation authority. An account may be established in one or more of such depositories. Such deposits will be kept separate and apart from all other money in the possession of the comptroller. Of the total revenue collected or received under this article, the comptroller shall retain such amount as the commissioner may determine to be necessary for refunds under this article. On or before the twelfth day of each month, after reserving such amount for such refunds and deducting such amounts for such costs, the commissioner shall certify to the comptroller the amount of all revenues received pursuant to this article during the prior month as a result of the tax imposed, including any interest and penalties thereon. The amount of revenues so certified over the prior three months in total shall be paid over by the fifteenth day of the last month of each calendar quarter from such account, without appropriation, into the corporate transportation account of the metropolitan transportation authority special assistance fund established by section twelve hundred seventy-a of the public authorities law, to be applied as provided in paragraph (e) of subdivision four of such section.

§ 5. Subdivision 3 and paragraph (a) of subdivision 6 of section 92-ff of the state finance law, subdivision 3 as amended by section 14

of part UU of chapter 59 of the laws of 2018 and paragraph (a) of subdivision 6 as added by section 1 of part G of chapter 25 of the laws of 2009, are amended to read as follows:

3. Such fund shall consist of all moneys collected therefor or credited or transferred thereto from any other fund, account or source [~~including, without limitation, the revenues derived from the special supplemental tax on passenger car rentals imposed by section eleven hundred sixty-six-a of the tax law; revenues derived from the transportation surcharge imposed by article twenty-nine-A of the tax law; the supplemental registration fees imposed by article seventeen-C of the vehicle and traffic law; and the supplemental metropolitan commuter transportation district license fees imposed by section five hundred three of the vehicle and traffic law~~]. Any interest received by the comptroller on moneys on deposit in the metropolitan transportation authority financial assistance fund shall be retained in and become a part of such fund.

(a) The "metropolitan transportation authority aid trust account" shall consist of [~~revenues required to be deposited therein pursuant to the provisions of section eleven hundred sixty-six-a of the tax law; article twenty-nine-A of the tax law; article seventeen-C of the vehicle and traffic law; and section five hundred three of the vehicle and traffic law, and all other~~] moneys credited or transferred thereto from any other [~~fund or~~] source pursuant to law.

§ 6. Section 4 of the state finance law is amended by adding a new subdivision 13 to read as follows:

13. Notwithstanding subdivision one of this section and any other law to the contrary, the revenue (including fees, taxes, interest and penalties) from the metropolitan commuter transportation district supplemental fees and taxes imposed pursuant to paragraph (b-1) of subdivision two of section five hundred three of the vehicle and traffic law, paragraph (c-3) of subdivision two of section five hundred three of the vehicle and traffic law, article seventeen-C of the vehicle and traffic law, article twenty-nine-A of the tax law and section eleven hundred sixty-six-a of the tax law which are paid in accordance with subparagraph (ii) of paragraph (b-1) of subdivision two of section five hundred three of the vehicle and traffic law, subparagraph (ii) of paragraph (c-3) of subdivision two of section five hundred three of the vehicle and traffic law, section twelve hundred eighty-eight of the tax law and section eleven hundred sixty-seven of the tax law into the corporate transportation account of the metropolitan transportation authority special assistance fund established by section twelve hundred seventy-a of the public authorities law shall be made pursuant to statute but without an appropriation.

§ 7. Subdivision 1 and paragraph (e) of subdivision 4 of section 1270-a of the public authorities law, subdivision 1 as amended by section 14 and paragraph (e) of subdivision 4 as added by section 15 of part H of chapter 25 of the laws of 2009, are amended to read as follows:

1. The authority shall create and establish a fund to be known as the "metropolitan transportation authority special assistance fund" which shall be kept separate from and shall not be commingled with any other moneys of the authority. The special assistance fund shall consist of three separate accounts: (i) the "transit account", (ii) the "commuter railroad account" and (iii) the "corporate transportation account".

The authority shall make deposits in the transit account and the commuter railroad account of the moneys received by it pursuant to the

provisions of subdivision one of section two hundred sixty-one of the tax law in accordance with the provisions thereof, and shall make deposits in the corporate transportation account of the moneys received by it pursuant to the provisions of subdivision two of section two hundred sixty-one of the tax law and section ninety-two-ff of the state finance law. The comptroller shall deposit, without appropriation, into the corporate transportation account the revenue fees, taxes, interest and penalties collected in accordance with paragraph (b-1) of subdivision two of section five hundred three of the vehicle and traffic law, paragraph (c-3) of subdivision two of section five hundred three of the vehicle and traffic law, article seventeen-C of the vehicle and traffic law, article twenty-nine-A of the tax law and section eleven hundred sixty-six-a of the tax law.

(e) Notwithstanding the foregoing provisions of this subdivision, any moneys in the corporate transportation account that are received by the authority: (i) without appropriation pursuant to subdivision one of this section, or (ii) pursuant to the provisions of section ninety-two-ff of the state finance law may be pledged by the authority, or pledged to the Triborough bridge and tunnel authority, to secure bonds, notes or other obligations of the authority or the Triborough bridge and tunnel authority, as the case may be, and, if so pledged to the Triborough bridge and tunnel authority, shall be paid to the Triborough bridge and tunnel authority in such amounts and at such times as necessary to pay or to reimburse that authority for its payment of debt service and reserve requirements, if any, on that portion of special Triborough bridge and tunnel authority bonds and notes issued by that authority pursuant to section five hundred fifty-three-d of this chapter. Subject to the provisions of any such pledge, or in the event there is no such pledge, any moneys in the corporate transportation account received by the authority: (i) without appropriation pursuant to subdivision one of this section, or (ii) pursuant to the provisions of section ninety-two-ff of the state finance law may be used by the authority for payment of operating costs of, and capital costs, including debt service and reserve requirements, if any, of or for the authority, the New York city transit authority and their subsidiaries as the authority shall determine. No moneys in the corporate transportation account that are reserved by the authority: (i) without appropriation pursuant to subdivision one of this section; or (ii) pursuant to the provisions of section ninety-two-ff of the state finance law may be used for making any payment to the Dutchess, Orange and Rockland fund created by section twelve hundred seventy-b of this title or considered in calculating the amounts required to be paid into such fund.

§ 8. This act shall take effect immediately.

PART GG

Intentionally Omitted

PART HH

Section 1. Section 45 of chapter 929 of the laws of 1986 amending the tax law and other laws relating to the metropolitan transportation authority, as amended by chapter 63 of the laws of 2017, is amended to read as follows:

§ 45. This act shall take effect immediately; except that: (a) paragraph (d) of subdivision 3 of section 1263 of the public authorities

law, as added by section twenty-six of this act, shall be deemed to have been in full force and effect on and after August 5, 1986; (b) sections thirty-three and thirty-four of this act shall not apply to a certified or recognized public employee organization which represents any public employees described in subdivision 16 of section 1204 of the public authorities law and such sections shall expire on July 1, ~~2019~~ 2021 and nothing contained within these sections shall be construed to divest the public employment relations board or any court of competent jurisdiction of the full power or authority to enforce any order made by the board or such court prior to the effective date of this act; (c) the provisions of section thirty-five of this act shall expire on March 31, 1987; and (d) provided, however, the commissioner of taxation and finance shall have the power to enforce the provisions of sections two through nine of this act beyond December 31, 1990 to enable such commissioner to collect any liabilities incurred prior to January 1, 1991.

§ 2. This act shall take effect immediately.

PART II

Intentionally Omitted

PART JJ

Intentionally Omitted

PART KK

Section 1. Section 1005 of the public authorities law is amended by adding a new subdivision 9-a to read as follows:

9-a. As deemed feasible and advisable by the trustees, to design, finance, develop, construct, install, lease, operate and maintain electric vehicle charging stations throughout the state for use by the public. The authority shall annually post on their website a report on those activities undertaken pursuant to this subdivision, including but not limited to: the total number of electric vehicle charging stations in operation pursuant to such authorization, the locations of such charging stations, and the total costs to the authority associated with such activities.

§ 2. Nothing in this act is intended to limit, impair, or affect the legal authority of the Power Authority of the State of New York under any other provision of title 1 of article 5 of the public authorities law.

§ 3. This act shall take effect immediately.

PART LL

Section 1. Section 1005 of the public authorities law is amended by adding a new subdivision 26 to read as follows:

26. (a) As deemed feasible and advisable by the trustees, to plan, finance, construct, acquire, operate, improve and maintain, either alone or jointly with one or more other entities, transmission facilities for the purpose of transmitting power and energy generated by renewable wind energy generation projects that are located in state territorial waters, and/or in waters under the jurisdiction or regulation of the United States, which supplies electric power and energy to the state of New York that the authority deems necessary and desirable in order to: (i)

provide, support and maintain an adequate and reliable supply of electric power and energy in the state of New York, and/or (ii) assist the state in meeting state energy-related goals and standards.

(b) The source of any financing and/or loans provided by the authority for any of the actions authorized in paragraph (a) of this subdivision may be the proceeds of notes issued pursuant to section one thousand nine-a of this title, the proceeds of bonds issued pursuant to section one thousand ten of this title, or any other available authority funds.

(c) The authority shall complete and submit a report, on or before January thirty-first, two thousand twenty, and annually thereafter, on those activities undertaken pursuant to this subdivision to the governor, the speaker of the assembly, the temporary president of the senate, the minority leader of the senate, the minority leader of the assembly, the chair of the senate finance committee, the chair of the assembly ways and means committee, the chair of the assembly energy committee, and the chair of the senate energy and telecommunications committee. Such report shall be posted on the authority's website and accessible for public review.

§ 2. Section 1005 of the public authorities law is amended by adding a new subdivision 27 to read as follows:

27. (a) Notwithstanding any other provision of this title, as deemed feasible and advisable by the trustees, the authority is authorized to undertake the following actions when it deems it necessary or desirable to address the energy-related needs of any (i) authority customer, (ii) public entity, or (iii) CCA community:

(1) (A) supply power and energy procured from competitive market sources to any (i) authority customer, (ii) public entity, or (iii) CCA community through the supply of such products through an energy services company or other entity that is authorized by the public service commission to procure and sell energy products to participants of a CCA program, provided, however, that the authority shall not supply at any point more than a total of four hundred megawatts of power and energy to authority customers and public entities pursuant to the authority of this clause;

(B) supply renewable power, energy, or related credits or attributes procured through a competitive process, from competitive market sources, or through negotiation when a competitive procurement is not reasonably feasible and such products can be procured on reasonably competitive terms to (i) any authority customer, (ii) any public entity, or (iii) any CCA community through the supply of such products through an energy services company or other entity that is authorized by the public service commission to procure and sell energy products to participants of a CCA program; and

(2) (A) alone or jointly with one or more other entities, finance the development of renewable energy generating projects that are located in the state, including its territorial waters, and/or on property or in waters under the jurisdiction or regulatory authority of the United States, (B) purchase power, energy or related credits or attributes produced from such renewable energy generating projects, and (C) allocate and sell any such products to (i) any authority customer, (ii) any public entity, and (iii) any CCA community through an energy services company or other entity that is authorized by the public service commission to procure and sell energy products to participants of a CCA program, provided that the authority shall not, pursuant to the authority in this subparagraph, finance more than six renewable energy gener-



ation projects and have a per-project electric generating capacity in excess of twenty-five megawatts.

(b) Nothing in this subdivision authorizes the authority to act as an energy supply company or administrator for CCA programs.

(c) Power and energy sold pursuant to the authority provided in paragraph (a) of this subdivision shall only be sold for use at facilities located in the state.

(d) Any public entity is hereby authorized to contract with the authority for the purchase of power, energy, or related credits or attributes which the authority is authorized to supply under paragraph (a) of this subdivision.

(e) The source of any financing and/or loans provided by the authority for any of the actions authorized in paragraph (a) of this subdivision may be the proceeds of notes issued pursuant to section one thousand nine-a of this title, the proceeds of bonds issued pursuant to section one thousand ten of this title, or any other available authority funds.

(f) The authority shall complete and submit a report, on or before January thirty-first, two thousand twenty, and annually thereafter on those actions undertaken pursuant to this subdivision to the governor, the speaker of the assembly, the temporary president of the senate, the chair of the assembly ways and means committee, the chair of the senate finance committee, the chair of the assembly energy committee and the chair of the senate energy and telecommunications committee. Such report, at a minimum, shall include: (i) an accounting of the total amount of power, energy, and related credits and attributes procured from competitive market sources and supplied to authority customers, public entities, and CCA communities; (ii) an accounting of the total amount of renewable power, energy, and related credits and attributes procured through negotiation and supplied to authority customers, public entities, and CCA communities; (iii) a description of all renewable energy generating projects financed by the authority, including the aggregate amount of financing; (iv) an accounting of all power, energy, and related credits and attributes purchased by the authority from such projects; and (v) an identification of all public entities, authority customers, and CCA communities to which the authority supplied, allocated or sold any power, energy or related credits or attributes.

(g) For purposes of this subdivision, the following terms shall have the meanings indicated in this paragraph unless the context indicates another meaning or intent:

(i) "Authority customer" means an entity located in the state to which the authority sells or is under contract to sell power or energy under the authority in this title or any other law.

(ii) "CCA community" means one or more municipal corporations located within the state that have provided for the purchase of power, energy, or related credits or other attributes under a CCA program.

(iii) "CCA program" means a community choice aggregation program approved by the public service commission.

(iv) "Public entity" has the meaning ascribed to that term by subparagraph five of paragraph (b) of subdivision seventeen of this section.

(v) "Renewable energy resources" means solar power, wind power, hydroelectric, and any other generation resource authorized by any renewable energy standard adopted by the state for the purpose of implementing any state clean energy standard.

(vi) "Renewable energy generating project" means a project that generates power and energy by means of renewable energy resources, or that stores and supplies power and energy generated by means of renewable

energy resources, and includes the construction, installation and/or operation of ancillary facilities or equipment done in connection with any such renewable energy generating projects, provided, however, that such term shall not include the authority's Saint Lawrence hydroelectric project or Niagara hydroelectric project.

(vii) "State" means the state of New York.

§ 3. Nothing in this act is intended to limit, impair, or affect the legal authority of the Power Authority of the State of New York under any other provision of law.

§ 4. This act shall take effect immediately; provided, however, that the provisions of sections two and three of this act shall expire on June 30, 2024 when upon such date the provisions of such sections shall be deemed repealed, provided that such repeal shall not affect or impair any act done, any right, permit or authorization accrued or acquired, or any liability incurred, prior to the time such repeal takes effect, and provided further that any project or contract that was awarded by the power authority of the state of New York prior to such repeal shall be permitted to continue under this act notwithstanding such repeal.

PART MM

Section 1. The state finance law is amended by adding a new section 99-ff to read as follows:

§ 99-ff. Parks retail stores fund. 1. Notwithstanding sections eight, eight-a and seventy of this chapter and any other provision of law, rule, regulation or practice to the contrary, there is hereby established in the joint custody of the state comptroller and the commissioner of tax and finance a parks retail stores fund, which shall be classified by the state comptroller as an enterprise fund, and which shall consist of all moneys received from private entities and individuals from retail operations at state parks, recreational facilities and historic sites operated by the office of parks, recreation and historic preservation.

2. Moneys within the parks retail stores fund shall be made available to the commissioner of parks, recreation and historic preservation for services and expenses relating to the operation of retail stores and in support of the sale of retail goods at state parks, recreational facilities and historic sites.

§ 2. The state finance law is amended by adding a new section 99-gg to read as follows:

§ 99-gg. Golf fund. 1. Notwithstanding sections eight, eight-a and seventy of this chapter and any other provision of law, rule, regulation or practice to the contrary, there is hereby established in the joint custody of the state comptroller and the commissioner of tax and finance a golf fund, which shall be classified by the state comptroller as an enterprise fund, and which shall consist of all moneys collected from private entities and individuals for the use of state-owned golf courses, any other miscellaneous fees associated with the use of such golf courses, and sale of retail goods and services at state owned golf courses.

2. Moneys within the golf fund shall be made available to the commissioner of parks, recreation and historic preservation for services and expenses of the office of parks, recreation and historic preservation relating to the direct maintenance and operation of state owned golf courses, and in support of the sale of retail goods and services at state owned golf courses.

§ 3. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2019.

PART NN

Section 1. Subdivision 7 of section 2611 of the public authorities law, as amended by section 3 of part C of chapter 60 of the laws of 2012, is amended to read as follows:

7. To enter into contracts, leases and subleases and to execute all instruments necessary or convenient for the conduct of authority business, including agreements with the park district and any state agency which administers, owns or supervises any olympic facility or Belleayre Mountain ski center, as provided in sections twenty-six hundred twelve and twenty-six hundred fourteen of this title, and including contracts or other agreements to plan, prepare for and host the two thousand twenty-three World University Games to be held in Lake Placid, New York where such contracts or agreements would obligate the authority to defend, indemnify and/or insure third parties in connection with, arising out of, or relating to such games, such authority to be limited by the amount of any lawful appropriation or other funding such as a performance bond surety, or other collateral instrument for that purpose. With respect to the two thousand twenty-three World University Games, the amount of such appropriation shall be no more than sixteen million dollars;

§ 2. This act shall take effect immediately.

PART OO

Intentionally Omitted

PART PP

Intentionally Omitted

PART QQ

Intentionally Omitted

PART RR

Intentionally Omitted

PART SS

Section 1. Approximately 40 percent of the food produced in the United States today goes uneaten. Much of this organic waste is disposed of in solid waste landfills, where its decomposition accounts for over 15 percent of our nation's emissions of methane, a potent greenhouse gas. Meanwhile, an estimated 2.8 million New Yorkers are facing hunger and food insecurity. Recognizing the importance of food scraps to our environment, economy, and the health of New Yorkers, this act establishes a food scraps hierarchy for the state of New York. The first tier of the hierarchy is source reduction, reducing the volume of surplus food generated. The second tier is recovery, feeding wholesome food to hungry people. Third is repurposing, feeding animals. Fourth is recycling, processing any leftover food such as by composting or anaerobic

digestion to create a nutrient-rich soil amendment. This legislation is designed to address each tier of the hierarchy by: encouraging the prevention of food waste generation by commercial generators and residents; directing the recovery of excess edible food from high-volume commercial food waste generators; and ensuring that a significant portion of inedible food waste from large volume food waste generators is managed in a sustainable manner, and does not end up being sent to landfills or incinerators. In addition, the state has supported the recovery of wholesome food by providing grants from the environmental protection fund to increase capacity of food banks, conduct food scraps audits of high-volume generators of food scraps, support implementation of pollution prevention projects identified by such audits, and expand capacity of generators and municipalities to donate and recycle food.

§ 2. Article 27 of the environmental conservation law is amended by adding a new title 22 to read as follows:

TITLE 22

FOOD DONATION AND FOOD SCRAPS RECYCLING

Section 27-2201. Definitions.

27-2203. Designated food scraps generator responsibilities.

27-2205. Waste transporter responsibilities.

27-2207. Transfer facility.

27-2209. Food scraps disposal prohibition.

27-2211. Department responsibilities.

27-2213. Regulations.

27-2215. Exclusions.

27-2217. Annual Report.

27-2219. Severability.

§ 27-2201. Definitions.

1. "Designated food scraps generator" means a person who generates at a single location an annual average of two tons per week or more of food scraps based on a methodology established by the department pursuant to regulations, including, supermarkets, large food service businesses, higher educational institutions, hotels, food processors, correctional facilities, and sports or entertainment venues. For a location with multiple independent food service businesses, such as a mall or college campus, the entity responsible for contracting for solid waste hauling services is responsible for managing food scraps from the independent businesses.

2. "Food scraps" means inedible food, trimmings from the preparation of food, food-soiled paper, and edible food that is not donated. Food scraps shall not include used cooking oil, yellow grease or food from residential sources, or any food identified in regulations promulgated by the department in consultation with the department of agriculture and markets or any food which is subject to a recall or seizure due to the presence of pathogens, including but not limited to: Listeria Monocytogenes, confirmed Clostridium Botulinum, E. coli 0157:H7 and all salmonella in ready-to-eat foods.

3. "Organics recycler" means a facility, permitted by the department, that recycles food scraps through use as animal feed or a feed ingredient, rendering, land application, composting, aerobic digestion, anaerobic digestion, fermentation, or ethanol production. Animal scraps, food soiled paper, and post-consumer food scraps are prohibited for use as animal feed or as a feed ingredient. The proportion of the product created from food scraps by a composting or digestion facility, including a wastewater treatment plant that operates a digestion facility, or

other treatment system, must be used in a beneficial manner as a soil amendment and shall not be disposed of or incinerated.

4. "Person" means any business entity, partnership, company, corporation, not-for-profit corporation, association, governmental entity, public benefit corporation, public authority, firm, or organization.

5. "Single location" means contiguous property under common ownership, which may include one or more buildings.

6. "Incinerator" shall have the same meaning as provided in section 72-0401 of this chapter.

7. "Landfill" shall have the same meaning as provided in section 72-0401 of this chapter.

8. "Transfer facility" means a solid waste management facility, whether owned or operated by a private or public entity, other than a recycling handling and recovery facility, used oil facility, or a construction and demolition debris processing facility, where solid waste is received for the purpose of subsequent transfer to another solid waste management facility for processing, treating, disposal, recovery, or further transfer.

§ 27-2203. Designated food scraps generator responsibilities.

1. Effective January first, two thousand twenty-two:

(a) all designated food scraps generators shall separate their excess edible food for donation for human consumption to the maximum extent practicable, and in accordance with applicable laws, rules and regulations related to food donation; and

(b) except as provided in paragraph (c) of this subdivision, each designated food scraps generator that is within twenty-five miles of an organics recycler, to the extent that the recycler has capacity to accept all of such generator's food scraps based on the department's yearly estimate of an organic recycler's capacity pursuant to section 27-2211 of this title, shall:

(i) separate its remaining food scraps from other solid waste;

(ii) ensure proper storage for food scraps on site which shall preclude such materials from becoming odorous or attracting vectors, such as a container that has a lid and a latch that keeps the lid closed and is resistant to tampering by rodents or other wildlife and has sufficient capacity;

(iii) have information available and provide training for employees concerning the proper methods to separate and store food scraps; and

(iv) obtain a transporter that will deliver food scraps to an organics recycler, self-haul its food scraps to an organics recycler, or provide for organics recycling on-site via in vessel composting, aerobic or anaerobic digestion or any other method of processing organic waste that the department approves by regulation, for some or all of the food waste it generates on its premises, provided that the remainder is delivered to an organics recycler.

(c) The provisions of paragraph (b) of this subdivision shall not apply to any designated food scraps generator that has all of its food scraps processed in a mixed solid waste composting or mixed solid waste anaerobic digestion facility.

2. All designated food scraps generators shall submit an annual report to the department on or before March first, two thousand twenty-three, and annually thereafter, in an electronic format. The annual report must summarize the amount of edible food donated, the amount of food scraps recycled, the organics recycler or recyclers and associated transporters used, and any other information as required by the department.

3. A designated food scraps generator may petition the department for a temporary waiver from some or all of the requirements of this title. The petition must include evidence of undue hardship based on:

(a) the designated food scraps generator does not meet the two tons per week threshold;

(b) the cost of processing organic waste is not reasonably competitive with the cost of disposing of waste by landfill;

(c) the organics recycler does not have sufficient capacity, despite the department's calculation; or

(d) the unique circumstances of the generator.

A waiver shall be no longer than one year in duration provided, however, the department may renew such waiver.

§ 27-2205. Waste transporter responsibilities.

1. Any waste transporter that collects food scraps for recycling from a designated food scraps generator shall:

(a) deliver food scraps to a transfer facility that will deliver such food scraps to an organics recycler unless such generator has received a temporary waiver under subdivision three of section 27-2203 of this title; or

(b) deliver such food scraps directly to an organics recycler.

2. Any waste transporter that collects food scraps from a designated food scraps generator shall take all reasonable precautions to not deliver those food scraps to an incinerator or a landfill nor commingle the material with any other solid waste unless such commingled waste can be processed by an organics recycler or unless such generator has received a temporary waiver under subdivision three of section 27-2203 of this title.

§ 27-2207. Transfer facility.

Any transfer facility that receives food scraps from a designated food scraps generator must ensure that the food scraps are taken to an organics recycler unless such generator has received a temporary waiver under subdivision three of section 27-2203 of this title. A transfer facility shall take all reasonable precautions to not commingle the material with any other solid waste unless such commingled waste can be processed by an organics recycler.

§ 27-2209. Food scraps disposal prohibition.

Incinerators and landfills shall take all reasonable precautions to not accept food scraps from designated food scraps generators required to send their food scraps to an organics recycler as outlined under section 27-2203 of this title, after January first, two thousand twenty-two, unless the designated food scraps generator has received a temporary waiver under subdivision three of section 27-2203 of this title.

§ 27-2211. Department responsibilities.

1. The department shall publish on its website: (a) the methodology the department will use to determine who is a designated food scrap generator; (b) the waiver process; (c) procedures to minimize odors and vectors; and (d) a list of all designated food scraps generators, organics recyclers, and all waste transporters that manage source-separated organics.

2. No later than June first, two thousand twenty-one and annually thereafter, the department shall assess the capacity of each organic recycler and notify designated food scraps generators if they are required to comply with the provisions of paragraph (b) of subdivision one of section 27-2203 of this title.

3. The department shall develop and make available educational materials to assist designated food scraps generators with compliance with this title. The department shall also develop education materials on food waste minimization and encourage municipalities to disseminate these materials both on their municipal websites and in any such future mailings to their residents as they may distribute.

4. The department shall regulate organics recyclers to ensure that their activities do not impair water quality or otherwise harm human health and the environment.

§ 27-2213. Regulations.

The department shall, after one or more public hearings, promulgate rules and regulations necessary to implement the provisions of this title including: (a) the methodology the department will use to determine who is a designated food scraps generator; (b) the waiver process; (c) procedures to minimize odors and vectors; (d) a list of all designated food scraps generators, organics recyclers, and all waste transporters that manage source-separated organics; and (e) how designated food scraps generators shall comply with the provisions of paragraph (a) and subparagraph (i) of paragraph (b) of subdivision one of section 27-2203 of this title.

§ 27-2215. Exclusions.

1. This title shall not apply to any designated food scraps generators located in a city with a population of one million or more which has a local law, ordinance or regulation in place which requires the diversion of edible food and food scraps from disposal.

2. This title does not apply to hospitals, nursing homes, adult care facilities, and elementary and secondary schools.

§ 27-2217. Annual report.

No later than January first, two thousand twenty-three, and on an annual basis thereafter, the department shall submit an annual report to the governor and legislature describing the operation of the food donation and food scraps recycling program including amount of edible food donated, amount of food scraps recycled, sample educational materials, and number of waivers provided.

§ 27-2219. Severability.

The provisions of this title shall be severable and if any portion thereof or the applicability thereof to any person or circumstance is held invalid, the remainder of this title and the application thereof shall not be affected thereby.

§ 3. This act shall take effect immediately.

PART TT

Section 1. The opening paragraph of section 15 of chapter 123 of the laws of 2014, amending the vehicle and traffic law, the general municipal law, and the public officers law relating to owner liability for failure of an operator to comply with traffic-control indications, is amended to read as follows:

This act shall take effect on the thirtieth day after it shall have become a law and shall expire [~~5 years after such effective date when upon such date the provisions of this act shall~~] and be deemed repealed December 1, 2024; and provided further that any rules necessary for the implementation of this act on its effective date shall be promulgated on or before such effective date, provided that:

§ 2. The opening paragraph of section 15 of chapter 101 of the laws of 2014, amending the vehicle and traffic law, the general municipal law,

and the public officers law relating to owner liability for failure of an operator to comply with traffic-control indications in the city of Mt. Vernon, is amended to read as follows:

This act shall take effect on the thirtieth day after it shall have become a law and shall expire ~~[5 years after such effective date when upon such date the provisions of this act shall]~~ and be deemed repealed December 1, 2024; and provided further that any rules necessary for the implementation of this act on its effective date shall be promulgated on or before such effective date, provided that:

§ 3. Section 10 of chapter 19 of the laws of 2009, amending the vehicle and traffic law and other laws relating to adjudications and owner liability for a violation of traffic-control signal indications, as amended by chapter 133 of the laws of 2014, is amended to read as follows:

§ 10. This act shall take effect on the thirtieth day after it shall have become a law and shall expire December 1, ~~[2019]~~ 2024 when upon such date the provisions of this act shall be deemed repealed; provided that the amendments to paragraph a of subdivision 5-a of section 401 of the vehicle and traffic law made by section one of this act shall be subject to the expiration and reversion of such paragraph pursuant to section 17 of chapter 746 of the laws of 1988, as amended, when upon such date the provisions of section two of this act shall take effect; provided that the amendments to the opening paragraph and paragraph (c) of subdivision 1 of section 1809 of the vehicle and traffic law made by section four of this act shall be subject to the expiration and reversion of such subdivision pursuant to chapter 166 of the laws of 1991, as amended, when upon such date the provisions of section five of this act shall take effect; provided, however, that the amendments to the opening paragraph of subdivision 1 of section 1809 of the vehicle and traffic law made by section five of this act shall not affect the expiration of such subdivision and shall expire therewith; provided, however, that the amendments to subdivision 2 of section 371 of the general municipal law made by section seven of this act shall not affect the expiration of such section and shall be deemed to expire therewith; and provided, further, that any such local laws as may be enacted pursuant to this act shall remain in full force and effect only until December 1, ~~[2019]~~ 2024.

§ 4. The opening paragraph of section 15 of chapter 99 of the laws of 2014, amending the vehicle and traffic law, the general municipal law, and the public officers law relating to owner liability for failure of an operator to comply with traffic-control indications in the city of New Rochelle, is amended to read as follows:

This act shall take effect on the thirtieth day after it shall have become a law and shall expire ~~[5 years after such effective date when upon such date the provisions of this act shall]~~ and be deemed repealed December 1, 2024; and provided further that any rules necessary for the implementation of this act on its effective date shall be promulgated on or before such effective date, provided that:

§ 5. Section 17 of chapter 746 of the laws of 1988, amending the vehicle and traffic law, the general municipal law, and the public officers law relating to the civil liability of vehicle owners for traffic control signal violations, as amended by chapter 134 of the laws of 2014, is amended to read as follows:

§ 17. This act shall take effect on the thirtieth day after it shall have become a law and shall remain in full force and effect until December 1, ~~[2019]~~ 2024 when upon such date the amendments and provisions



made by this act shall be deemed repealed; provided, however, any such local laws as may be enacted pursuant to this act shall remain in full force and effect only until the expiration on December 1, ~~[2019]~~ 2024.

§ 6. Section 2 of local law number 46 of the city of New York for the year 1989 amending the administrative code of the city of New York relating to civil liability of vehicle owners for traffic control signal violations, as amended by chapter 134 of the laws of 2014, is amended to read as follows:

§ 2. This local law shall take effect immediately and shall expire on December 1, ~~[2019]~~ 2024.

§ 7. Section 9 of chapter 23 of the laws of 2009, amending the vehicle and traffic law and other laws relating to adjudications and owner liability for a violation of traffic-control signal indications, as amended by chapter 127 of the laws of 2014, is amended to read as follows:

§ 9. This act shall take effect on the thirtieth day after it shall have become a law and shall expire December 1, ~~[2019]~~ 2024 when upon such date the provisions of this act shall be deemed repealed; provided that the amendments to paragraph a of subdivision 5-a of section 401 of the vehicle and traffic law made by section one of this act shall be subject to the expiration and reversion of such paragraph pursuant to section 17 of chapter 746 of the laws of 1988, as amended, when upon such date the provisions of section two of this act shall take effect; provided that the amendments to the opening paragraph and paragraph (c) of subdivision 1 of section 1809 of the vehicle and traffic law made by section four of this act shall be subject to the expiration and reversion of such subdivision pursuant to chapter 166 of the laws of 1991, as amended, when upon such date the provisions of section five of this act shall take effect; provided, however, that the amendments to the opening paragraph of subdivision 1 of section 1809 of the vehicle and traffic law made by section five of this act shall not affect the expiration of such subdivision and shall expire therewith; and provided, further, that any such local laws as may be enacted pursuant to this act shall remain in full force and effect only until December 1, ~~[2019]~~ 2024.

§ 8. The opening paragraph of section 15 of chapter 222 of the laws of 2015, amending the vehicle and traffic law, the general municipal law, and the public officers law relating to owner liability for failure of an operator to comply with traffic-control indications in the city of White Plains, is amended to read as follows:

This act shall take effect on the thirtieth day after it shall have become a law and shall expire ~~[5 years after such effective date when upon such date the provisions of this act shall]~~ and be deemed repealed ~~December 1, 2024~~; and provided further that any rules necessary for the implementation of this act on its effective date shall be promulgated on or before such effective date, provided that:

§ 9. The opening paragraph and paragraph (k) of section 24 of chapter 20 of the laws of 2009, amending the vehicle and traffic law, the general municipal law, and the public officers law relating to owner liability for failure of operator to comply with traffic control indications, as amended by chapter 128 of the laws of 2014, are amended to read as follows:

This act shall take effect on the thirtieth day after it shall have become a law and shall expire December 1, ~~[2019]~~ 2024 when upon such date the provisions of this act shall be deemed repealed; provided that:

(k) any such local laws as may be enacted pursuant to this act shall remain in full force and effect only until December 1, ~~[2019]~~ 2024.

§ 10. Subdivision (m) of section 1111-a of the vehicle and traffic law, as amended by chapter 658 of the laws of 2006, is amended to read as follows:

(m) ~~[in any]~~ Any city ~~[which]~~ that adopts a demonstration program pursuant to subdivision (a) of this section~~[, such city]~~ shall submit an annual report ~~[on]~~ detailing the results of the use of ~~[a]~~ such traffic-control signal photo violation-monitoring system to the governor, the temporary president of the senate and the speaker of the assembly on or before June first, two thousand seven and on the same date in each succeeding year in which the demonstration program is operable. Such report shall include, but not be limited to:

1. a description of the locations where traffic-control signal photo violation-monitoring systems were used;

2. within each borough of such city, the aggregate number, type and severity of accidents reported at intersections where a traffic-control signal photo violation-monitoring system is used for the ~~[year]~~ three years preceding the installation of such system, to the extent the information is maintained by the department of motor vehicles of this state;

3. within each borough of such city, the aggregate number, type and severity of accidents reported at intersections where a traffic-control signal photo violation-monitoring system is used for the reporting year, as well as for the preceding three years that the traffic-control signal photo violation-monitoring system has been operational, to the extent the information is maintained by the department of motor vehicles of this state;

4. the number of events and number of violations recorded at each intersection where a traffic-control signal photo violation-monitoring system is used and in the aggregate on a daily, weekly and monthly basis;

5. the ~~[total]~~ number of notices of liability issued for violations recorded by such ~~[systems]~~ system at each intersection where a traffic-control signal photo violation-monitoring system is used;

6. the number of fines imposed and total amount of fines paid after first notice of liability issued for violations recorded by such systems;

7. the number and percentage of violations adjudicated and results of such adjudications including breakdowns of dispositions made for violations recorded by such systems;

8. the total amount of revenue realized by such city from such adjudications including a breakdown of revenue realized by such city for each year since deployment of its traffic-control signal photo violation-monitoring system since 2014;

9. expenses incurred by such city in connection with the program; and

10. quality of the adjudication process and its results.

§ 11. Subdivision (n) of section 1111-b of the vehicle and traffic law, as added by chapter 19 of the laws of 2009, is amended to read as follows:

(n) ~~[in any such]~~ Any county ~~[which]~~ that adopts a demonstration program pursuant to subdivision (a) of this section~~[, such county]~~ shall submit an annual report ~~[on]~~ detailing the results of the use of ~~[a]~~ such traffic-control signal photo violation-monitoring system to the governor, the temporary president of the senate and the speaker of the assembly on or before June first, two thousand ten and on the same date in each succeeding year in which the demonstration program is operable. Such report shall include, but not be limited to:

1. a description of the locations where traffic-control signal photo violation-monitoring systems were used;
2. the aggregate number, type and severity of accidents reported at intersections where a traffic-control signal photo violation-monitoring system is used for the ~~[year]~~ three years preceding the installation of such system, to the extent the information is maintained by the department of motor vehicles of this state;
3. the aggregate number, type and severity of accidents reported at intersections where a traffic-control signal photo violation-monitoring system is used for the reporting year, as well as for each year that the traffic-control signal photo violation-monitoring system has been operational, to the extent the information is maintained by the department of motor vehicles of this state;
4. the number of events and number of violations recorded at each intersection where a traffic-control signal photo violation-monitoring system is used and in the aggregate on a daily, weekly and monthly basis;
5. the ~~[total]~~ number of notices of liability issued for violations recorded by such ~~[systems]~~ system at each intersection where a traffic-control signal photo violation-monitoring system is used;
6. the number of fines imposed and total amount of fines paid after first notice of liability;
7. the number and percentage of violations adjudicated and results of such adjudications including breakdowns of disposition made for violations recorded by such systems;
8. the total amount of revenue realized by such county from such adjudications including a breakdown of revenue realized by such county for each year since deployment of its traffic-control signal photo violation-monitoring system;
9. expenses incurred by such county in connection with the program; and
10. quality of the adjudication process and its results.

§ 12. Subdivision (m) of section 1111-b of the vehicle and traffic law, as added by chapter 20 of the laws of 2009, is amended to read as follows:

(m) ~~[in any such]~~ Any city ~~[which]~~ that adopts a demonstration program pursuant to subdivision (a) of this section ~~[, such city]~~ shall submit an annual report ~~[on]~~ detailing the results of the use of ~~[a]~~ such traffic-control signal photo violation-monitoring system to the governor, the temporary president of the senate and the speaker of the assembly on or before June first, two thousand ten and on the same date in each succeeding year in which the demonstration program is operable. Such report shall include, but not be limited to:

1. a description of the locations where traffic-control signal photo violation-monitoring systems were used;
2. the aggregate number, type and severity of accidents reported at intersections where a traffic-control signal photo violation-monitoring system is used for the ~~[year]~~ three years preceding the installation of such system, to the extent the information is maintained by the department of motor vehicles of this state;
3. the aggregate number, type and severity of accidents reported at intersections where a traffic-control signal photo violation-monitoring system is used for the reporting year, as well as for each year that the traffic-control signal photo violation-monitoring system has been operational, to the extent the information is maintained by the department of motor vehicles of this state;

4. the number of events and number of violations recorded at each intersection where a traffic-control signal photo violation-monitoring system is used and in the aggregate on a daily, weekly and monthly basis;

5. the ~~total~~ number of notices of liability issued for violations recorded by such ~~systems~~ system at each intersection where a traffic-control signal photo violation-monitoring system is used;

6. the number of fines imposed and total amount of fines paid after first notice of liability issued for violations recorded by such systems;

7. the number and percentage of violations adjudicated and results of such adjudications including breakdowns of dispositions made for violations recorded by such systems;

8. the total amount of revenue realized by such city from such adjudications including a breakdown of revenue realized by such city for each year since deployment of its traffic-control signal photo violation-monitoring system;

9. expenses incurred by such city in connection with the program; and  
10. quality of the adjudication process and its results.

§ 13. Subdivision (n) of section 1111-b of the vehicle and traffic law, as added by chapter 23 of the laws of 2009, is amended to read as follows:

(n) ~~in any such~~ Any county ~~which~~ that adopts a demonstration program pursuant to subdivision (a) of this section ~~such county~~ shall submit an annual report ~~on~~ detailing the results of the use of ~~a~~ such traffic-control signal photo violation-monitoring system to the governor, the temporary president of the senate and the speaker of the assembly on or before June first, two thousand ten and on the same date in each succeeding year in which the demonstration program is operable. Such report shall include, but not be limited to:

1. a description of the locations where traffic-control signal photo violation-monitoring systems were used;

2. the aggregate number, type and severity of accidents reported at intersections where a traffic-control signal photo violation-monitoring system is used for the ~~year~~ three years preceding the installation of such system, to the extent the information is maintained by the department of motor vehicles of this state;

3. the aggregate number, type and severity of accidents reported at intersections where a traffic-control signal photo violation-monitoring system is used for the reporting year, as well as for each year that the traffic-control signal photo violation-monitoring system has been operational, to the extent the information is maintained by the department of motor vehicles of this state;

4. the number of events and number of violations recorded at each intersection where a traffic-control signal photo violation-monitoring system is used and in the aggregate on a daily, weekly and monthly basis;

5. the ~~total~~ number of notices of liability issued for violations recorded by such ~~systems~~ system at each intersection where a traffic-control signal photo violation-monitoring system is used;

6. the number of fines imposed and total amount of fines paid after first notice of liability;

7. the number and percentage of violations adjudicated and results of such adjudications including breakdowns of disposition made for violations recorded by such systems;

8. the total amount of revenue realized by such county from such adjudications including a breakdown of revenue realized by such county for each year since deployment of its traffic-control signal photo violation-monitoring system;

9. expenses incurred by such county in connection with the program;

and

10. quality of the adjudication process and its results.

§ 14. Subdivision (m) of section 1111-d of the vehicle and traffic law, as added by chapter 99 of the laws of 2014, is amended to read as follows:

(m) ~~[in any such]~~ Any city ~~[which]~~ that adopts a demonstration program pursuant to subdivision (a) of this section~~[-, such city]~~ shall submit an annual report ~~[on]~~ detailing the results of the use of ~~[a]~~ such traffic-control signal photo violation-monitoring system to the governor, the temporary president of the senate and the speaker of the assembly on or before June first, two thousand fifteen and on the same date in each succeeding year in which the demonstration program is operable. Such report shall include, but not be limited to:

1. a description of the locations where traffic-control signal photo violation-monitoring systems were used;

2. the aggregate number, type and severity of accidents reported at intersections where a traffic-control signal photo violation-monitoring system is used for the ~~[year]~~ three years preceding the installation of such system, to the extent the information is maintained by the department of motor vehicles of this state;

3. the aggregate number, type and severity of accidents reported at intersections where a traffic-control signal photo violation-monitoring system is used for the reporting year, as well as for each year that the traffic-control signal photo violation-monitoring system has been operational, to the extent the information is maintained by the department of motor vehicles of this state;

4. the number of events and number of violations recorded at each intersection where a traffic-control signal photo violation-monitoring system is used and in the aggregate on a daily, weekly and monthly basis;

5. the ~~[total]~~ number of notices of liability issued for violations recorded by such ~~[systems]~~ system at each intersection where a traffic-control signal photo violation-monitoring system is used;

6. the number of fines imposed and total amount of fines paid after first notice of liability issued for violations recorded by such systems;

7. the number and percentage of violations adjudicated and results of such adjudications including breakdowns of dispositions made for violations recorded by such systems;

8. the total amount of revenue realized by such city from such adjudications including a breakdown of revenue realized by such city for each year since deployment of its traffic-control signal photo violation-monitoring system;

9. expenses incurred by such city in connection with the program; and

10. quality of the adjudication process and its results.

§ 15. Subdivision (m) of section 1111-d of the vehicle and traffic law, as added by chapter 101 of the laws of 2014, is amended to read as follows:

(m) ~~[in any such]~~ Any city ~~[which]~~ that adopts a demonstration program pursuant to subdivision (a) of this section~~[-, such city]~~ shall submit an annual report ~~[on]~~ detailing the results of the use of ~~[a]~~ such traff-

ic-control signal photo violation-monitoring system to the governor, the temporary president of the senate and the speaker of the assembly on or before June first, two thousand fifteen and on the same date in each succeeding year in which the demonstration program is operable. Such report shall include, but not be limited to:

1. a description of the locations where traffic-control signal photo violation-monitoring systems were used;
2. the aggregate number, type and severity of accidents reported at intersections where a traffic-control signal photo violation-monitoring system is used for the [year] three years preceding the installation of such system, to the extent the information is maintained by the department of motor vehicles of this state;
3. the aggregate number, type and severity of accidents reported at intersections where a traffic-control signal photo violation-monitoring system is used for the reporting year, as well as for each year that the traffic-control signal photo violation-monitoring system has been operational, to the extent the information is maintained by the department of motor vehicles of this state;
4. the number of events and number of violations recorded at each intersection where a traffic-control signal photo violation-monitoring system is used and in the aggregate on a daily, weekly and monthly basis;
5. the [total] number of notices of liability issued for violations recorded by such [systems] system at each intersection where a traffic-control signal photo violation-monitoring system is used;
6. the number of fines imposed and total amount of fines paid after first notice of liability issued for violations recorded by such systems;
7. the number and percentage of violations adjudicated and results of such adjudications including breakdowns of dispositions made for violations recorded by such systems;
8. the total amount of revenue realized by such city from such adjudications including a breakdown of revenue realized by such city for each year since deployment of its traffic-control signal photo violation-monitoring system;
9. expenses incurred by such city in connection with the program; and
10. quality of the adjudication process and its results.

§ 16. Subdivision (m) of section 1111-d of the vehicle and traffic law, as added by chapter 123 of the laws of 2014, is amended to read as follows:

(m) [in-any-such] Any city [which] that adopts a demonstration program pursuant to subdivision (a) of this section~~[, such city]~~ shall submit an annual report [on] detailing the results of the use of [a] such traffic-control signal photo violation-monitoring system to the governor, the temporary president of the senate and the speaker of the assembly on or before June first, two thousand fifteen and on the same date in each succeeding year in which the demonstration program is operable. Such report shall include, but not be limited to:

1. a description of the locations where traffic-control signal photo violation-monitoring systems were used;
2. the aggregate number, type and severity of accidents reported at intersections where a traffic-control signal photo violation-monitoring system is used for the [year] three years preceding the installation of such system, to the extent the information is maintained by the department of motor vehicles of this state;

3. the aggregate number, type and severity of accidents reported at intersections where a traffic-control signal photo violation-monitoring system is used for the reporting year, as well as for each year that the traffic-control signal photo violation-monitoring system has been operational, to the extent the information is maintained by the department of motor vehicles of this state;

4. the number of events and number of violations recorded at each intersection where a traffic-control signal photo violation-monitoring system is used and in the aggregate on a daily, weekly and monthly basis;

5. the ~~total~~ number of notices of liability issued for violations recorded by such ~~systems~~ system at each intersection where a traffic-control signal photo violation-monitoring system is used;

6. the number of fines imposed and total amount of fines paid after first notice of liability issued for violations recorded by such systems;

7. the number and percentage of violations adjudicated and results of such adjudications including breakdowns of dispositions made for violations recorded by such systems;

8. the total amount of revenue realized by such city from such adjudications including a breakdown of revenue realized by such city for each year since deployment of its traffic-control signal photo violation-monitoring system;

9. expenses incurred by such city in connection with the program; and

10. quality of the adjudication process and its results.

§ 17. Subdivision (m) of section 1111-e of the vehicle and traffic law, as added by chapter 222 of the laws of 2015, is amended to read as follows:

(m) ~~In any such~~ Any city ~~which~~ that adopts a demonstration program pursuant to subdivision (a) of this section~~, such city~~ shall submit an annual report ~~on~~ detailing the results of the use of ~~a~~ such traffic-control signal photo violation-monitoring system to the governor, the temporary president of the senate and the speaker of the assembly on or before the first day of June next succeeding the effective date of this section and on the same date in each succeeding year in which the demonstration program is operable. Such report shall include, but not be limited to:

1. a description of the locations where traffic-control signal photo violation-monitoring systems were used;

2. the aggregate number, type and severity of accidents reported at intersections where a traffic-control signal photo violation-monitoring system is used for the ~~year~~ three years preceding the installation of such system, to the extent the information is maintained by the department of motor vehicles of this state;

3. the aggregate number, type and severity of accidents reported at intersections where a traffic-control signal photo violation-monitoring system is used for the reporting year, as well as for each year that the traffic-control signal photo violation-monitoring system has been operational, to the extent the information is maintained by the department of motor vehicles of this state;

4. the number of events and number of violations recorded at each intersection where a traffic-control signal photo violation-monitoring system is used and in the aggregate on a daily, weekly and monthly basis;

5. the ~~[total]~~ number of notices of liability issued for violations recorded by such ~~[systems]~~ system at each intersection where a traffic-control signal photo violation-monitoring system is used;

6. the number of fines imposed and total amount of fines paid after first notice of liability issued for violations recorded by such systems;

7. the number and percentage of violations adjudicated and results of such adjudications including breakdowns of dispositions made for violations recorded by such systems;

8. the total amount of revenue realized by such city from such adjudications including a breakdown of revenue realized by such city for each year since deployment of its traffic-control signal photo violation-monitoring system;

9. expenses incurred by such city in connection with the program; and  
10. quality of the adjudication process and its results.

§ 18. This act shall take effect immediately; provided, however, that the amendments to section 1111-a of the vehicle and traffic law made by section ten of this act shall not affect the repeal of such section and shall be deemed repealed therewith; provided, however, that the amendments to section 1111-b of the vehicle and traffic law made by section eleven of this act shall not affect the repeal of such section and shall be deemed repealed therewith; provided, however, that the amendments to section 1111-b of the vehicle and traffic law made by section twelve of this act shall not affect the repeal of such section and shall be deemed repealed therewith; provided, however, that the amendments to section 1111-d of the vehicle and traffic law made by section fourteen of this act shall not affect the repeal of such section and shall be deemed repealed therewith; provided, however, that the amendments to section 1111-d of the vehicle and traffic law made by section fifteen of this act shall not affect the repeal of such section and shall be deemed repealed therewith; provided, however, that the amendments to section 1111-d of the vehicle and traffic law made by section sixteen of this act shall not affect the repeal of such section and shall be deemed repealed therewith; provided, however, that the amendments to section 1111-e of the vehicle and traffic law made by section seventeen of this act shall not affect the repeal of such section and shall be deemed repealed therewith.

#### PART UU

Section 1. The public service law is amended by adding a new section 74-a to read as follows:

§ 74-a. Westchester county renewable energy and energy efficiency resources program. 1. Within ninety days of the effective date of this section, the commission shall, in consultation with the New York state energy research and development authority, after a hearing held on notice, establish by order, rules, and regulations, a program to encourage the installation of renewable energy resources and energy efficiencies in the county of Westchester.

2. For the purposes of this section, renewable energy resources and energy efficiency shall have the same meaning as defined by the commission and consistent with the most recent state energy plan pursuant to article six of the energy law.



§ 2. This act shall take effect immediately.

§ 2. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 3. This act shall take effect immediately provided, however, that the applicable effective date of Parts A through UU of this act shall be as specifically set forth in the last section of such Parts.

The Legislature of the STATE OF NEW YORK ss:

Pursuant to the authority vested in us by section 70-b of the Public Officers Law, we hereby jointly certify that this slip copy of this session law was printed under our direction and, in accordance with such section, is entitled to be read into evidence.

ANDREA STEWART-COUSINS

Temporary President of the Senate

CARL E. HEASTIE

Speaker of the Assembly

Memo Text Not Found for Bill S1508C

## **Attachment 5**



# The City of New York Department of Sanitation



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## 2018 Annual Report on Alternative Fuel Vehicle Programs Pursuant to Local Law 38 of 2005

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*Model Year 2014 Hybrid-Electric Street Sweeper*

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Steven Costas, Acting Commissioner  
March 2019

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# DSNY Annual Report on Alternative Fuel Vehicle Programs Pursuant to LL38/2005

## I. Introduction

The Department of Sanitation (DSNY) operates a sizeable fleet of trucks and other vehicles to carry out its mission to keep New York City healthy, safe and clean by collecting, recycling and disposing of waste, cleaning streets and vacant lots, and clearing snow and ice. In 2005, the City Council enacted Local Law 38 (LL38/2005), which, among other things, directs DSNY to test alternative fuel street sweeping vehicles, and report annually on its use and testing of alternative fuel vehicles.<sup>1</sup> This report, which is submitted to the Mayor, the Comptroller and the City Council in accordance with LL38/2005, discusses the testing, analyses and assessments of DSNY's alternative fuel sanitation collection vehicles and street sweepers, and the feasibility of incorporating new alternative fuel sanitation vehicles and technology into DSNY's fleet. It also reviews the results of DSNY's pilot program that used alternative fuel street sweeping vehicles in four sanitation districts, with one district in an area with high rates of asthma among residents.<sup>2</sup>

DSNY endeavors to operate the cleanest possible fleet and therefore seeks to minimize emissions of concern from such operations, notably particulate matter (PM), nitrogen oxides (NOx), and greenhouse gases such as carbon dioxide.<sup>3</sup> As of January 2019, DSNY's active fleet includes 2,366 collection trucks, 445 street sweepers, 429 salt/sand spreaders, 450 front end loaders and 2,493 various other support vehicles. Based on Fiscal Year 2018 figures, the entire diesel fleet used approximately 10.4 million gallons of diesel fuel. As discussed below, thanks to new technologies DSNY has achieved great success in minimizing emissions of PM and NOx from its fleet. DSNY strives to operate the cleanest big city fleet and in 2013 won the prestigious federal USEPA "Breathe Easy Leadership Award." DSNY was nominated for the 2019 ACT Expo Fleet Award recognizing government fleets that have shown true leadership deploying alternative fuel vehicles and achieve sustainability in fleet operations. Since LL 38/2005 was passed, DSNY's heavy-duty truck fleet relies mostly on clean diesel technology and ultra-low sulfur fuel while the Department's light-duty fleet incorporates hybrid-electric, plug-in hybrid-electric and all-electric technology to minimize vehicular emissions.

This report includes the total number of alternative fuel "sanitation vehicles" owned or operated by DSNY by type of alternative fuel used, discusses the notable advances in DSNY's clean diesel fleet, and provides information regarding DSNY efforts to further incorporate alternative fuel vehicles into its fleet. "Sanitation vehicles" are defined by LL38/2005 as vehicles used by DSNY "for street cleaning purposes or for the collection of solid waste or recyclable materials."<sup>4</sup>

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<sup>1</sup> NYC Administrative Code § 24-163.2(c)(1) & (2).

<sup>2</sup> This pilot was required by LL38/2005. Id.

<sup>3</sup> While not known to cause asthma, PM, especially fine PM 2.5 microns in diameter or smaller (PM2.5) is associated with increased respiratory symptoms, while NOx can be a precursor in the formation of ground-level ozone (regional smog) which is associated with exacerbation of asthma-related symptoms. *Control of Air Pollution from New Motor Vehicles: Heavy-Duty Engine and Vehicle Standards and Highway Diesel Fuel Sulfur Control Requirements*, 66 Federal Register at 5012 (Jan. 18, 2001); "Public Health" chapter in *New York City Comprehensive Solid Waste Management Plan Final Environmental Impact Statement* (April 2005).

<sup>4</sup> NYC Administrative Code § 24-163.2(a)(6).

## II. Air Quality

New York City's air quality has improved and since 2013 met federal standards for fine particulate matter (PM<sub>2.5</sub>), but it remains out of compliance with standards for ozone. The USEPA proposed a new, more restrictive annual standard for PM<sub>2.5</sub> in June 2012, which took effect in December 2012. The new annual standard declined from 15 micrograms per cubic meter to 12 micrograms per cubic meter. Based on 2015-2018 measurements, New York City's air meets the new standard.<sup>5</sup> In 2010, USEPA set a new 1-hour NO<sub>2</sub> standard of 100 parts per billion (ppb). The form for the 1-hour NO<sub>2</sub> standard is the 3-year average of the 98<sup>th</sup> percentile of the annual distribution of daily maximum 1-hour average concentrations. The City complies with this standard. In October 2015, USEPA strengthened the annual standard for ozone. The new 8-hour primary standard for ozone declined from 0.075 parts per million (ppm) to 0.070 ppm, averaged over three years. New York City, like the surrounding counties in the metropolitan area, does not meet this standard.

## III. Dramatic Improvements in DSNY's Fleet Emissions

DSNY's fleet is achieving greater than *90% reduction in PM and 95% reduction in NOx emissions* fleet-wide compared with DSNY's heavy duty diesel fleet in 2005, while the newest trucks achieve *98% reductions* in each pollutant as compared with pre-1988 diesel engines.<sup>6</sup> DSNY's fleet has cut annual diesel fuel use by 5.5% on average since 2005 levels. In addition, DSNY has cut its light duty fleet gasoline use by 49% since 2005.

### A. ULSD Fuel, New Vehicle Standards, Diesel Particulate Filters, and Retrofits

Currently all of the Department's light, medium and heavy-duty diesel vehicles utilize the industry's latest computer-controlled and regulated clean-diesel engines for their respective engine model years. DSNY has gone even further: its Clean Fleet Program of testing and development of state-of-the-art technology and alternative fuels helped pioneer the improvements in heavy duty diesel emissions that are now taking place nationwide. This Program includes obtaining research grants, partnering with industry to test vehicles under real world conditions, and operating a vehicle testing facility for heavy duty trucks. DSNY's state-of-the-art heavy-duty Vehicles Testing Laboratory, one of only two east of the Mississippi, conducts research and development projects, and performs independent exhaust emissions testing of various advanced environmentally friendly technologies, alternative fuels and novel diesel fuel blends.

- The Department pioneered the use of ultra-low sulfur diesel fuel (ULSD)—limited to 15 ppm of sulfur—in July of 2001 in certain districts and expanded its use to its entire fleet in 2004 in advance of the USEPA June 2006 nationwide ULSD mandate. The new standard represents a *reduction of 97%* from the previous low sulfur standard for on-road diesel fuel of 500 ppm that took effect in 1993. Prior to 1993, the average sulfur content for on-road diesel fuel was 2500 ppm

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<sup>5</sup> The annual PM<sub>2.5</sub> NAAQS is the 3-year average annual mean concentration.

<sup>6</sup> For NO<sub>x</sub>, DSNY collection trucks have now achieved a 93.5% reduction and street sweepers have achieved a 95% reduction from their respective 2005 levels.

- ULSD allowed DSNY to expand its use of various advanced emission-control after-treatment technologies, such as diesel particulate filters and diesel oxidation catalysts. Previously, higher sulfur content fuel would have clogged these devices. These controls reduce particulate matter by 90% or better, as verified in DSNY testing.
- Since mid-2006, all of DSNY's new diesel truck purchases have met the stringent 2007 USEPA new-truck standards limiting particulate matter to 0.01 grams per brake horsepower-hour (g/bhp-hr), a reduction of 90% from the 2006 model year limit of 0.1 g/bhp-hr.<sup>7</sup> As of 2010 NOx is limited to 0.2 g/bhp-hr, compared to 2.0 g/bhp-hr in the 2006 model year and 4.0 g/bhp-hr in the 2003 model year. NOx emission reductions are achieved mainly by diesel exhaust after-treatment technology called selective catalytic reduction (SCR). SCR technology utilizes diesel exhaust fluid (urea) to treat the exhaust and remove the NOx.
- To address the legacy of emissions from older trucks, DSNY mechanics have installed Best Available Retrofit Technology (BART) devices such as particulate filters on pre-2007 trucks, as mandated by Local Law 73 of 2013 (LL 73/2013). These devices achieve reductions of up to 90% in PM and up to 25% in NOx. According to LL 73/2013, by January 1, 2017, at least 90% of DSNY's diesel-powered on-road fleet were required to utilize a diesel particulate filter or be equipped with an engine that meets USEPA 2007 PM standards. DSNY has exceeded this target. Including both factory-installed equipment and retrofits, as of January 1, 2019, more than 96% of DSNY's entire on-road diesel fleet was so equipped.

#### B. Greenhouse Gas Emissions

Greenhouse gas (GHG) emissions from human activities cause climate change and global warming. The USEPA and the National Highway Traffic Safety Administration jointly developed a GHG emissions program and fuel efficiency standards applicable to all heavy- and medium-duty vehicles.<sup>8</sup> The GHG/fuel economy standards were adopted in two phases. Under the Phase 1 and Phase 2 regulations, different CO<sub>2</sub> and fuel consumption standards are applicable to different categories of vehicles, including combination tractors, trailers, vocational vehicles, and heavy-duty pickups and vans. Phase 1 regulations, adopted in 2011, require vocational vehicles (such as DSNY collection trucks) to achieve up to a 10% reduction in fuel consumption and CO<sub>2</sub> emissions by model year (MY) 2017 over the 2010 baselines. Phase 2 regulations, published in 2016, apply to MY 2021-2027 vehicles.

In FY2018, DSNY ordered 446 new collection trucks and received delivery of 300 trucks in CY2018; the remainder will be delivered in CY2019. The 446 new collection trucks will be in compliance with EPA Phase-1 GHG standards. The new trucks will augment DSNY's fleet of environmentally friendly collection trucks and aid DSNY in complying with NYC's OneNYC

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<sup>7</sup> 66 Fed. Reg 5001, 5005 (Jan. 18, 2001). By comparison, the 1990 federal standard for particulate matter for heavy duty diesel highway engines was 0.60 g/bhp-hr. NOx standards have been reduced over time from 10.7 g/bhp-hr in 1988 to 0.2 g/bhp-hr starting in 2007, with a phase-in allowed until 2010, yielding an effective limit of 1.2 g/bhp-hr for 2007-2009 model years.

<sup>8</sup> The standards are applicable to all on-road vehicles rated at a gross vehicle weight  $\geq$ 8,500 lbs, and the engines that power them.

GHG reduction goals of 50% by 2035 and 80% by 2050, measured against the 2005 baseline.

#### **IV. Alternative Fuel Vehicles**

Despite the clear success of DSNY's Clean Diesel Program in minimizing fleet emissions, DSNY believes further improvements are possible as technology advances. DSNY therefore continues an active program of testing other kinds of fuels and technologies. Under LL38/2005, "alternative fuels" include natural gas, liquefied petroleum gas, hydrogen, electricity, and any other fuel which is at least eighty-five percent, singly or in combination, methanol, ethanol, any other alcohol or ether. Including collection trucks, sweepers, and light duty vehicles that are not used to collect refuse or recyclables, DSNY currently has 877 vehicles that operate on various alternative fuels, including electric and hybrid-electric vehicles.

In December 2015, Mayor de Blasio announced the launch of NYC Clean Fleet, a comprehensive plan which will: (1) add 2,000 electric vehicles (EVs) to its municipal vehicle fleet by 2025, which would give New York City the largest EV fleet in the country; and (2) achieve a 50% reduction in GHG emissions from fleet operations below 2005 levels by 2025, and an 80% reduction by 2035. DSNY is adapting its fleet to this important initiative.

##### *A. Light-Duty Vehicles*

DSNY's light duty fleet currently includes 747 advanced low- or zero-emission vehicles, such as hybrid-electric, plug-in hybrid-electric, and electric vehicles. Hybrid-electric vehicles operate on gasoline assisted by battery technology; electric vehicles operate on electric battery power alone. Consistent with LL38/2005 and NYC Clean Fleet, DSNY expects to increase its fleet of light-duty electric and hybrid-electric vehicles.

##### **1. Hybrid-Electric Vehicles**

DSNY currently owns and operates 627 hybrid-electric vehicles, such as Ford Fusion<sup>9</sup> and Escape, and Toyota Prius. In FY2018, DSNY took delivery of 51 Toyota RAV4 hybrid-electric vehicles. In FY2019, DSNY ordered 70 additional Toyota RAV4 hybrid-electric vehicles. The 70 new Model Year 2019 hybrid RAV4s will replace 70 older DSNY snow-fighting SUVs that have reached the end of their useful life. The 70 Model Year 2019 RAV4s have an EPA rating of 41 mpg (combined) and will benefit DSNY by increasing the SUV fleet average fuel economy.

##### **2. Plug-In Hybrid-Electric Vehicles**

DSNY currently owns and operates 101 plug-in hybrid-electric vehicles, 18 of which are Chevrolet Volt sedans and 83 of which are Ford Fusion Energi Plug-in Hybrids. The Chevrolet Volt sedans are capable of running entirely on battery power for an extended range of up to 40 miles before a gasoline engine starts up to charge the battery.<sup>10</sup> Ford Fusion Energi Plug-in Hybrids are capable of running entirely on battery power for an extended range of up to 19 miles before a gasoline engine starts up to charge the battery. In FY2018, DSNY took delivery of 13

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<sup>9</sup> EPA mileage estimates for the Fusion Hybrid MY2014 are 41 mpg highway and 44 mpg city.

<sup>10</sup> Newer Chevrolet Volts (2018) can run on battery power alone for up to 53 miles.



additional Ford Fusion Energi plug-in hybrid-electric vehicles.

### 3. *Plug-in Hybrid vs. Conventional Hybrid*

The Ford Fusion Energi Plug-in Hybrid has the same California Air Resources Board (CARB) emissions rating (Alternate Technology Partial Zero Emission Vehicle, or AT-PZEV) as the Chevrolet Volt and the Toyota Prius. As such, the Fusion Energi Plug-in Hybrid, the Volt and the Prius are capable of zero emissions when running only on battery power, but the Toyota Prius battery-only range is rated by the USEPA at under one mile. As a DSNY sedan shift averages 33 miles of driving, a Toyota Prius will utilize its internal combustion engine for almost all of it and have higher direct emissions than a Fusion Energi Plug-in Hybrid or a Volt, which have longer all-electric mode ranges. The Fusion Energi Plug-in Hybrids in DSNY's current fleet will utilize its battery for approximately 19 miles, and will use its internal combustion engine for the remaining 14 miles. The Volt will operate in electric mode for the entire 33-mile shift.

The plug-in hybrids have performed well in the field. The primary advantage of the plug-in hybrid over a conventional hybrid is their ability to run on pure electric battery mode for an extended range, therefore emitting fewer direct air pollutant and carbon emissions during a typical duty cycle than a conventional hybrid. For example, according to the USEPA, a 2015 Fusion Energi Plug-in Hybrid gets the equivalent of 88 miles per gallon when operating in all-electric mode (MPGe), and 38 mpg when operating in gasoline mode. The USEPA rated the 2017 Volt for 53 miles of electric range and 106 MPGe in all-electric mode. The USEPA rated the 2017 Prius for 52 mpg combined/54 mpg City/50 mpg highway. In addition to the emission benefits, costs to be considered include fuel, depreciation and maintenance. As the City self-insures, any differential cost in insurance rates for these vehicles is not relevant.

Ford Fusion Energi Plug-in Hybrids (at \$30,680) or Chevrolet Volts (at \$33,220)<sup>11</sup> cost the City significantly more up front than a Toyota Prius Hybrid (at \$21,862), absent subsidies. As a public agency that does not pay income tax, DSNY is not eligible for the \$4,007 federal tax credit available to federal income tax payers per Fusion Energi Plug-in Hybrid for the first 200,000 vehicles sold, or for the similar tax credit of \$7,500 that was available for the purchase of a Volt until January 1, 2019. Previously, DSNY has used federal Congestion Mitigation and Air Quality (CMAQ) grant funding to cover the incremental cost of the Volts over the cost of a Fusion Energi Plug-in Hybrid, Prius or Fusion. As for operational costs, at current rates, a 2017 Prius that is driven 10,000 miles annually (the average for a DSNY sedan, which is equivalent to 33 miles/day) for 8 years (the useful vehicle life for a DSNY sedan) will require 192 gallons of gasoline per year at a cost of \$1.70 per gallon as of January 2019, for a total of \$326.91 in annual fuel costs (excluding oil changes, etc). A Fusion Energi Plug-in Hybrid that is driven the same daily distances would drive 19 miles in pure electric mode and 14 miles in gasoline mode and would have \$190.67 in gasoline costs, plus the cost of electricity consumed (0.36 kWh/mile at \$0.14/kWh), which comes to approximately \$299.52, for a total annual fuel and electricity cost of \$490.19. Annual maintenance costs in CY 2018 were calculated to be \$893.31 for the Prius

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<sup>11</sup> The price is the 2017 MSRP, which decreased by \$5,000 since FY2013. The Volt was not included in the City's FY2014, FY2015, FY2016, or FY2017, or FY2018 contracts. The price of the Volt in the 2019 Citywide Requirement Contract is \$35,369.

Hybrid and \$496.73 for the Fusion Energi Plug-in.<sup>12</sup> At this annual rate, and assuming constant fuel and electricity rates, the Fusion Energi Plug-in Hybrid would cost an estimated \$6,951 more than the Prius Hybrid over the life of the car, absent subsidies.<sup>13</sup> Fusion Energi Plug-in gasoline use would be reduced by 42% as compared to the Prius Hybrid, for a savings of 641 gallons over that period. The carbon reduction from this fuel savings would be partially offset by the carbon emissions from the natural gas used to produce about 74% of New York City's electricity to charge the plug-in vehicle.<sup>14</sup> However, the net reduction in carbon would still be substantial.<sup>15</sup> There would be comparable incremental costs and gas and carbon savings for the Prius Hybrid Plug-in as compared to the Prius Hybrid.

DSNY has observed no significant difference in performance in the field between the Fusion Energi Plug-in Hybrid, the Volt, the Prius or the Fusion Hybrid. The Fusion Energi Plug-in Hybrid, the Fusion and Prius have more cargo space than a Volt but this difference is not material for typical DSNY sedan operations. The requirement of charging the Fusion Energi Plug-in Hybrid and Volt creates certain operational issues not posed by the Prius or Fusion Hybrid, including a comparatively long charge time (about three hours at 240V), the limited number of parking spots with charging equipment at DSNY facilities, and the need for electrical upgrades at certain DSNY facilities to accommodate the required amperage for vehicle charging. Furthermore, the required charge time for the Fusion Energi Plug-in Hybrid and Volt is inadequate for the Department's 12-hour shifts during snow operations. The environmental benefits of operating a plug-in hybrid over a conventional hybrid for DSNY's fleet (with lower local emissions and lower carbon emissions) can only be obtained via an adequate infrastructure and flexibility in charging time.

The Department expects to take further advantage of the advances in plug-in hybrid electric vehicles, in accordance with the Clean Fleet directive of Mayor de Blasio and consistent with the Department's operational needs. In addition, as DSNY continues to install solar arrays, this clean, renewable source of electricity will further reduce the carbon footprint of plug-in vehicles and all-electric vehicles in the fleet.

#### 4. Zero-Emission Vehicles

DSNY operates certain zero-emission all-electric vehicles in its fleet under the mandate of LL 38/2005. In CY2013, DSNY acquired 18 all-electric Nissan Leafs (\$29,929) for light duty use. Zero-emission vehicles have the potential to bring further benefits to local air quality, as

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<sup>12</sup> City of New York, Department of Citywide Administrative Services, NYC Fleet Newsletter, Issue 255 (March 8, 2019)

<sup>13</sup> The salvage value of the two vehicles is roughly comparable, and not included in this analysis.

<sup>14</sup> Of the electricity used in the downstate region that includes New York City, 74% is from fossil fuel (primarily natural gas), 23% is from zero emission sources (mainly nuclear, some wind and solar), 2% from other renewables such as waste-to-energy plants, and 1% from hydroelectric pumped storage. Figures are for 2016. The Indian Point Energy Center nuclear power plant supplying the region is scheduled to close by April 2021. Source: New York Independent Service Operator, *Power Trends 2017*, p. 31.

<sup>15</sup> Taking into account the generation mix for New York City, the CO<sub>2</sub>-equivalent emissions (grams per mile) are estimated to be 185 for a 2015 Toyota Prius Plug-in, 197 for a 2018 Ford Energi Plug-in, 143 for a 2018 Prius Prime Plug-in, 148 for a 2018 Chevy Volt, 109 for a 2016 Nissan Leaf (EV) and 101 for 2018 Chevy Bolt (EV). Source: Union of Concerned Scientists, EV Emissions Tool, accessed on March 20, 2019: <https://www.ucsusa.org/clean-vehicles/electric-vehicles/ev-emissions-tool>.

well as fuel cost savings and GHG reduction, compared to DSNY's current hybrid fleet. The improvement over the Fusion Energi Plug-in Hybrid or Volt may be insignificant however, when DSNY sedan usage stays under 19 miles per driving shift, so that the Fusion Energi Plug-in Hybrid or Volt operates primarily in electric mode, as noted above. Moreover, such all-electric vehicles require additional charging infrastructure, and may limit DSNY's operational flexibility for such sedans and be impractical in winter emergency snow situations due to relatively slow charging times and lack of four-wheel drive capability that is essential in responding to winter emergency weather.

When a major snowstorm hits the City of New York, DSNY's light-duty fleet (passenger cars and SUVs) become part of the Department's snow-removal operation. DSNY's Field Supervisors utilize light-duty vehicles to survey, assess and assist in the snow-removal operation throughout the five boroughs. When snow accumulation reaches six inches or higher, Field Supervisors forced to drive passenger cars experience great difficulty navigating through heavy snow due to low ground clearance and poor traction-control of front-wheel drive passenger cars. Passenger cars that lack four-wheel drive capability can get stuck in the snow, which further hampers the snow removal response as resources must be dedicated to tow these vehicles out, and DSNY loses the function of that Field Supervisor to manage the snow fighting response within the assigned area. Passenger cars impede the Department's ability to safely and effectively survey, assess and assist in the snow-removal operations. As a result, DSNY generally uses light-duty hybrid SUVs with four-wheel drive capability in lieu of electric and/or plug-in hybrid cars (lacking such capability) for all jurisdictions responsible for snow-removal operations.

DSNY currently has 93 Level 2 electric vehicle charging stations citywide, which include a total of 136 charging ports.

In CY2011, DSNY also purchased and is testing two Ford Transit Connects (pure plug-in electric vans). Both vehicles have been discontinued by the manufacturer. One vehicle was condemned in CY2018; the remaining vehicle will remain as part of DSNY's fleet until the end of its useful life.

As new zero-emission vehicles come on the market, DSNY intends to conduct further studies on the economic and operational feasibility of incorporating more alternative fuel light-duty sanitation vehicles into its fleet.

## *B. Heavy-Duty Vehicles*

### *1. Compressed Natural Gas (CNG)*

DSNY currently owns and operates 39 dedicated CNG sanitation collection trucks (see Appendix 1). DSNY phased out its older fleet (2001-2003 vintage) of CNG collection trucks that were problematic. CNG-fueled trucks are longer than conventional sanitation vehicles, making it more difficult to access certain narrower streets because of their wider turning radius. In CY 2008, DSNY put into service 10 new CNG collection trucks from Crane Carrier Corporation equipped with the new generation of the Cummins ISL-gas CNG engines to replace 10 of the oldest CNG trucks in the fleet. In CY 2009, DSNY put into service one front-loading Crane

Carrier Corporation CNG collection truck equipped with a Cummins ISL-gas CNG engine. Also in CY 2009, DSNY ordered 10 additional CNG trucks from Crane Carrier Corporation, which were delivered in November/December 2009. In order to address the repeated failed cold starts of the fleet of Crane Carrier CNG trucks, at DSNY's request Cummins made improvements to the engine calibration software. With the problem corrected, DSNY formally added the last 10 Crane Carrier CNG trucks to the fleet in the third quarter of CY 2010. The cold-weather operation of the newest CNG trucks with the Cummins ISL-Gas CNG engines has been satisfactory. In CY 2013, DSNY ordered and received delivery of 23 additional CNG trucks from Mack Trucks, equipped with a Cummins ISL-gas CNG engine. DSNY put these 23 additional trucks into service in January 2014.

From an operational perspective, preliminary results on testing the latest generation of CNG collection trucks indicate they have improved in reliability from earlier model CNG trucks, but they are still not as reliable as clean diesel trucks. NOx emissions from the two technologies have been comparable; with CNG truck NOx emissions slightly lower than the NOx emissions from diesel trucks with advanced after-treatment technologies.<sup>16</sup> As a result of the use of ULSD and new emissions control technologies, heavy duty diesel truck PM emissions are very low, and are comparable to those from CNG-fueled heavy duty vehicles. On the other hand, GHG emissions from CNG trucks are reportedly 20-23% lower than those from diesel trucks.<sup>17</sup> It has been noted that CNG trucks are somewhat quieter than diesel trucks,<sup>18</sup> but compaction noise from CNG collection trucks and diesel collection trucks is generally comparable.

From an economic perspective, with increased recoverable domestic reserves due to new technology natural gas prices have fallen below current diesel prices and may offer stability advantages. As of February 25, 2019, a gallon of diesel fuel cost \$2.56 while a gallon-equivalent of CNG cost approximately \$2.60; whereas one year earlier in January 2018, a gallon of diesel fuel cost \$2.65 while a gallon-equivalent of CNG cost approximately \$2.58. CNG-fueled vehicles have lower fuel efficiency and a CNG-fueled collection truck costs approximately \$36,087<sup>19</sup> more per unit than a diesel collection truck. For a collection truck that drives 6900 miles in a year at an average 2.5 miles per gallon, the annual diesel fuel cost at \$2.56/gal is \$6,738 (versus last year's annual cost of \$7,314); the equivalent in CNG fuel at \$2.60/gal eq. is \$7,176 (versus last year's annual cost of \$7,121). Further, DSNY has only one CNG fueling station for its 59 district garages,<sup>20</sup> and the handful of private CNG filling stations in the City are generally not equipped for rapid filling of heavy duty trucks. Thus any move to significantly expand DSNY's CNG truck fleet would require additional investment in capital funds to build CNG fueling infrastructure and in facility modifications as required by the New York City Building Code.

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<sup>16</sup> Ayala, *et al.*, *CNG and Diesel Transit Bus Emissions in Review* (August 2003); Ayala, *et al.*, *Diesel and CNG Heavy-Duty Transit Bus Emissions over Multiple Driving Schedules: Regulated Pollutants and Project Overview* (Society of Automotive Engineers, 2002).

<sup>17</sup> Peter Hildebrandt, "NGVs & Onboard Equipment," *MSW Management*, March/April 2011, *NGV Fleet Manager Supplement*, at 14 (citing figures from Clean Vehicle Education Foundation).

<sup>18</sup> INFORM, Inc., *Greening Garbage Trucks: New Technologies for Cleaner Air* (2003).

<sup>19</sup> Cost as of 2018. In 2019, CNG-fueled collection trucks will be redesigned and the cost has not been released yet.

<sup>20</sup> This project was undertaken as part of a settlement of a lawsuit brought against the City and DSNY by the United States for violations of the Clean Air Act. *United States v. City of New York*, 99 Civ. 2207 (LAK) (S.D.N.Y.).

In October 2015, Cummins announced that the new ISL G Near Zero (NZ) NO<sub>x</sub> natural gas engine is the first Mid-Range engine in North America to receive emission certifications from both USEPA and CARB as meeting the 0.02 g/bhp-hr optional Near Zero NO<sub>x</sub> Emissions standards for collection trucks. Cummins ISL GNZ NO<sub>x</sub> emissions will be 90% lower than the current USEPA NO<sub>x</sub> limit of 0.2 g/bhp-hr. From an air emissions/public health perspective, only the recently introduced Cummins ISL GNZ CNG engine offers a significant advantage over clean diesel in terms of its 90% NO<sub>x</sub> emissions reduction. In FY2018, DSNY purchased 6 new Mack Trucks powered by the Cummins ISL GNZ CNG engine for its fleet, and testing and evaluation are on-going.

As explained in prior annual reports, DSNY has discontinued the evaluation pilot study of CNG sweepers. At this time, DSNY has no plans to purchase additional CNG sweepers.

## 2. Hybrid-Electric Heavy Duty Vehicles

DSNY is currently testing 20 diesel-powered hybrid-electric street sweepers in eight districts (see Appendix 2). In CY2010, DSNY put into service the world's first Class-7 hybrid-electric street sweeper. In CY2013 and CY2014, DSNY increased its fleet of diesel powered hybrid-electric street sweepers to fourteen; however, one was condemned in 2015. In CY 2016, two diesel-powered hybrid-electric street sweepers were condemned. In FY2016, DSNY purchased seven additional diesel-powered hybrid-electric street sweepers that were put into service in CY2017. DSNY purchased an additional seven diesel-powered hybrid-electric street sweepers in FY2018; the sweepers were delivered in FY2019. In FY2019, DSNY purchased seven more diesel-powered hybrid-electric street sweepers, at \$379,800 per vehicle (five of which were subsidized by \$30,000 in CMAQ funds each), which is \$125,000 more than the purchase price of a conventional diesel sweeper. Preliminary test results indicate that these hybrid-electric street sweepers have better fuel mileage and are approximately 42% more fuel efficient than the latest Clean Diesel engines. DSNY continues to collect service records throughout the evaluation process.

## 3. Hybrid-Hydraulic Diesel Collection Trucks

*2018 Update.* Due to the dramatic drop in the price of diesel fuel that ultimately eliminated the potential for return on investment for hybrid-hydraulic system manufacturers, these manufacturers have discontinued production of the hybrid-hydraulic trucks. Therefore, currently DSNY has no viable option for new hybrid-hydraulic heavy duty trucks. Because the manufacturer can no longer support this first-generation design, the hybrid-hydraulic technology had to be disabled on the first two Crane Carrier diesel-powered collection trucks. The 47 hybrid-hydraulic collection trucks in the fleet will continue in service until they reach the end of their operational life.

*Background.* DSNY ordered two experimental (prototype) hybrid-hydraulic diesel trucks from Crane Carrier Corporation in 2008, which were put into service in October 2009 (see Appendix 3). This initiative was sponsored by the New York State Energy Research and Development Authority and the Hybrid Truck Users Forum. The hybrid-hydraulic diesel trucks utilize Bosch Rexroth's HRB System technology. These were the first such trucks in North America; they have also been tested in Germany. In CY2013, DSNY put into service 17

additional next-generation Bosch Rexroth hybrid-hydraulic trucks. DSNY applied for and obtained federal CMAQ grant funds for 80% of the cost of these new purchases. Also in CY2013, DSNY successfully applied for federal CMAQ grant funding to purchase 32 additional diesel-powered hybrid- hydraulic trucks from Mack Trucks for CY2014 delivery. Currently, DSNY has a total of 47 hybrid-hydraulic diesel trucks in service. As noted above, this hybrid technology has the potential to reduce fuel use and related emissions by capturing and reusing energy that is otherwise wasted during the frequent braking of collection vehicles.

The hybrid-hydraulic diesel collection trucks generally outperformed the hybrid-electric diesel collection trucks, with less downtime. DSNY's testing of this first generation hybrid-hydraulic technology indicated a fuel savings of approximately 10%, a corresponding reduction in pollutants and GHG emissions and a savings in brake replacement frequency and associated labor. DSNY mechanics are already familiar with servicing hydraulic technology from standard rear-loading collection trucks that have hydraulic compaction systems, which help minimize retraining needed for the new technology. The trucks were also found to result in less braking "squeal" noise than from conventional diesel collection trucks. Following successful testing in 10 European cities and New York City, the manufacturer put the hybrid-hydraulic technology into mass production in October 2010. As a result, the incremental additional cost of hybrid-hydraulic technology dropped to \$47,000 when applied to a diesel truck. Thus, for a collection truck that drives 6900 miles in a year at an average 2.5 miles per gallon, the annual diesel fuel cost at \$2.56/gal is \$6,738; a 10% savings in fuel amounts to approximately \$674/year compared to a conventional clean diesel collection truck, assuming stable fuel costs.

### *C. Testing of Biodiesel Blends*

Biodiesel is a renewable, biodegradable fuel manufactured domestically from vegetable oils, animal fats, or recycled restaurant grease. It is a cleaner-burning replacement for petroleum diesel fuel. The biodiesel fuel used by DSNY comes from soybeans. Biodiesel reduces GHG emissions because CO<sub>2</sub> released from biodiesel combustion is largely offset by the CO<sub>2</sub> absorbed from growing soybeans or other feedstocks used to product the fuel.<sup>21</sup> LL 73/2013 requires the use of biodiesel fuel in diesel fuel-powered motor vehicles owned or operated by the city of New York. According to LL 73/2013, for fiscal year beginning July 1, 2014, these vehicles must use at least five percent biodiesel (B5) by volume. In March 2007, DSNY launched a biodiesel (B5) initiative citywide on all diesel-powered equipment (on- highway and off-highway), utilizing 5% biodiesel (made from soybeans) and 95% (petroleum- based) ULSD. To date, the B5 initiative resulted in no change in vehicle performance, no operator or mechanic complaints, no increase in down rate, and good winter operability.

Pursuant to LL 73/2013, beginning July 1, 2016, all diesel fuel-powered motor vehicles owned or operated by the city of New York must use B5 from December through March, and at least B20 (20% biodiesel) from April through November. LL 73/2013 also established a pilot program beginning December 1, 2016 whereby at least five percent of all city-owned diesel fuel-powered motor vehicles utilize at least B20 from December through March.

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<sup>21</sup> About 22.4 pounds of CO<sub>2</sub> is produced from burning a gallon of ULSD; about 17.9 pounds of CO<sub>2</sub> is produced from burning a gallon of B20. Source: U.S. Energy Information Agency, accessed March 21, 2018 <https://www.eia.gov/tools/faqs/faq.php?id=307&t=11>.

Previously, in August 2007, DSNY implemented its B20 pilot study (April through November) in the Queens District 6 and based on those encouraging results, in July 2010 DSNY expanded the study to the Brooklyn District 5. In advance of the LL 73/2013 mandate beginning July 1, 2016, DSNY expanded the B20 pilot study (April through November) citywide in CY 2013, for a total of 59 districts.

Since July 2016, DSNY has consumed well over 31 million gallons of B20 biodiesel across its entire fleet of on-road and off-road vehicles. Over the past few years, DSNY gradually increased the use of B20 (winter pilot) at various districts during winter months (December through March). This past winter (2018-2019), DSNY dispensed B20 throughout 21 district locations citywide. During the B20 winter pilot, DSNY took proactive steps to mitigate/prevent potential operational issues with vehicles and fuel dispensers. About a month into the 2018-2019 B20 winter pilot, DSNY suspended B20 deliveries to all three locations utilizing above ground fuel storage tanks due to persistent plugging and replacement of the fuel dispenser filters. To reduce the risk of fuel gelling/crystallization of the B20 product during extreme single-digit ambient temperatures, DSNY proactively dispensed an anti-gel diesel fuel additive in all vehicle fuel tanks operating on B20. These proactive steps helped DSNY to continue and complete the B20 winter pilot without any further operational issues. Test results of random fuel samples indicated the B20 biodiesel met all ASTM testing specifications during the winter and summer months. B20 did not have a negative impact on DSNY's fleet or operation and no adjustments were made to the preventive maintenance schedule of the DSNY fleet due to the use of B20 biodiesel.

B5 biodiesel costs about the same as standard ULSD, while B20 biodiesel costs approximately \$0.02 more per gallon. DSNY uses B20 generally from April 1 through November 1 and B5 during the remainder of the year (colder weather). In FY 2018 DSNY used 10,324,777 gallons of diesel of various blends, of which 65.2% was B20 biodiesel and 34.7% was B5 biodiesel. The use of these grades of biodiesel reduced GHG emissions from the fleet in 2018 by 15,481.9 metric tons of CO<sub>2</sub>, from the FY2005 baseline fleet GHG emissions from diesel, a 14.5% reduction. Using B20 yielded a net reduction in carbon emissions of approximately 22.9% compared to conventional fossil fuel diesel use.<sup>22</sup> To date, DSNY has displaced well over ten million gallons of petroleum-based diesel fuel. Good housekeeping of underground storage tanks (UST) and proper vehicle maintenance are key to a successful biodiesel program.

#### *D. Renewable Diesel*

Hydrogenation-derived Renewable Diesel, also known as Renewable Diesel (RD), is produced from soybean, palm, canola, or rapeseed oil; animal tallow; vegetable oil waste or brown trap grease; and other fats or vegetable oils. It can be used alone (100%) or blended with petroleum, and refined by a hydro treating process. RD meets the petroleum diesel ASTM specification (D975), which allows it to be used in existing diesel infrastructure and vehicles. RD derived from domestic biological materials is considered an alternative fuel under the Energy Policy Act of 1992 (Public Law 102-486). The benefits of using RD include:

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<sup>22</sup> To date, since 2006 DSNY's use of B20 has resulted in the saving of approximately 140,382,936 pounds of CO<sub>2</sub> emissions.

- **Fewer emissions**—Carbon dioxide captured by growing feedstocks reduces overall GHG emissions by balancing carbon dioxide released from burning renewable diesel. Blends of RD can reduce carbon monoxide and hydrocarbons. In addition, RD’s ultra-low sulfur content should enable the use of advanced emission control devices.
- **More flexibility**—RD that meets quality standards can fuel modern diesel vehicles. This fuel is compatible with existing diesel distribution infrastructure (not requiring new pipelines, storage tanks, or retail station pumps), can be produced using existing oil refinery capacity, and does not require extensive new production facilities.
- **Higher performance**—RD’s high combustion quality results in similar or better vehicle performance compared to conventional diesel.

DSNY is one of several city agencies participating in the NYC Renewable Diesel pilot, which utilizes a blend of 99% RD with 1% petroleum diesel. The pilot commenced upon receiving a June 13, 2018 Letter of No Objection from the New York City Fire Department. DSNY was the first city agency to receive a delivery of RD at the Queens West-6 District Garage in Woodside, Queens. DSNY gradually expanded the RD pilot to 17 district garages in all five boroughs. DSNY consumed 653,218 gallons of RD throughout the five month period of the pilot program (June 2018 through October 2018). Test results of random fuel samples indicated that the RD met all ASTM testing specifications. RD did not negatively impact DSNY’s fleet or its operation, and no adjustments were necessary to the preventive maintenance schedule of the DSNY fleet. RD is a carbon-friendly renewable fuel which has the potential to reduce GHG emissions over 60% compared to traditional petroleum-based diesel. DSNY hopes that the use of RD will help the agency achieve OneNYC’s fleet GHG reduction goals.

#### *E. Heavy Duty Battery Electric Vehicles*

In the past few years, there has been growing interest in the development of heavy-duty Battery Electric Vehicles (BEVs). Cummins, Freightliner, Kenworth and Mack Trucks are among the few truck manufacturers who announced on-going development of Class-8 BEVs. Light-duty BEVs, such as the Nissan Leaf and Chevrolet Bolt, have gained popularity due to tax incentives, reduced costs, and the desire to drive zero-emission vehicles. DSNY’s EV charging infrastructure has grown over the years to accommodate the increased number of plug-in vehicles in the DSNY fleet.

To build on DSNY’s experience and success in deploying a fleet of light-duty EVs and continue the progress of reducing GHG emissions from heavy-duty vehicles, DSNY expressed interest to Mack Trucks and Global Environmental Products about exploring the development of a BEV collection truck and street sweeper, respectively. Based on DSNY’s pioneering R&D record and expressed interest, both Mack Trucks and Global Environmental Products agreed to begin development of a BEV collection truck and BEV street sweeper, respectively. The pilot/prototype BEV street sweeper and collection truck will be among the first in the country in their weight-class. Delivery of the BEV street sweeper and collection truck is projected for the fourth-quarter of CY2019. As Mack Trucks and Global Environmental Products continue their



work on the development of the BEV street sweeper and collection truck, DSNY in parallel will work towards preparing the charging infrastructure to accommodate the two heavy duty BEVs. DSNY looks forward to commencing the pilot study on both the BEV street sweeper and collection truck.

## **V. Conclusion**

DSNY endeavors to operate its fleet in the most environmentally sustainable manner, consistent with available resources, and therefore seeks to minimize emissions of concern from such operations, notably PM, NOx, and greenhouse gases such as CO<sub>2</sub>. DSNY is nationally recognized for its experience with alternative fuels and pioneering efforts with low emission technologies and has received a number of awards for operating one of the greenest municipal fleets in the country. The Department is currently working with various manufacturers to help advance the commercialization of environmentally-friendly technologies designed for use in heavy-duty vehicles.

The NYC Clean Fleet Plan seeks to expand on NYC's leadership in fleet sustainability and will allow NYC to serve as a national model for other 21<sup>st</sup> century cities in fighting climate change. The Plan will be highlighted by a number of key steps including, but not limited to:

- Replace approximately 2,000 fossil fuel sedans with plug-in electric vehicles,
- Expand the use of anti-idling, hybrid, and stop-start technologies in medium- and heavy-duty vehicles,
- Increase the use of alternatives to traditional diesel fuels, including higher biodiesel blends, and renewable diesel.

DSNY has dramatically reduced fuel consumption and GHG emissions from its fleet of light-duty vehicles from the 2005 baseline. DSNY will continue to participate in research and development of new technologies and to evaluate the mechanical reliability and operability of alternative fuel collection trucks to assess their respective environmental and economic performances. DSNY's B20 initiative citywide has met with positive results and testing is ongoing. This initiative has the potential to further reduce truck emissions, including greenhouse gases. Also, DSNY hopes to add RD to its portfolio of greenhouse gas renewable fuels. DSNY is committed to achieving the goals of the NYC Clean Fleet Plan and sustainable fleet GHG reduction.

\* \* \*

Appendix 1: DSNY's CNG Collection Trucks

<b>Vehicle ID</b>	<b>Make / Model</b>	<b>Vehicle Type</b>	<b>VIN #</b>
25CNG-503	Crane Carrier LET2	Rear Loading	1CYCCZ4828T048570
25CNG-505	Crane Carrier LET2	Rear Loading	1CYCCZ4868T048572
25CNG-506	Crane Carrier LET2	Rear Loading	1CYCCZ4888T048573
25CNG-507	Crane Carrier LET2	Rear Loading	1CYCCZ48X8T048574
25CNG-508	Crane Carrier LET2	Rear Loading	1CYCCZ4818T048575
25CNG-509	Crane Carrier LET2	Rear Loading	1CYCCZ4838T048576
25CNG-510	Crane Carrier LET2	Rear Loading	1CYCCZ4858T048577
25CNG-601	Crane Carrier LET2	Rear Loading	1CYCCZ4819T049419
25CNG-602	Crane Carrier LET2	Rear Loading	1CYCCZ4889T049420
25CNG-603	Crane Carrier LET2	Rear Loading	1CYCCZ48X9T049421
25CNG-604	Crane Carrier LET2	Rear Loading	1CYCCZ4819T049422
25CNG-605	Crane Carrier LET2	Rear Loading	1CYCCZ4839T049423
25CNG-606	Crane Carrier LET2	Rear Loading	1CYCCZ4859T049424
25CNG-607	Crane Carrier LET2	Rear Loading	1CYCCZ4879T049425
25CNG-608	Crane Carrier LET2	Rear Loading	1CYCCZ4899T049426
25CNG-609	Crane Carrier LET2	Rear Loading	1CYCCZ4809T049427
25CNG-701	Mack	Rear Loading	1M2AU14C4DM001603
25CNG-702	Mack	Rear Loading	1M2AU14C6DM001604
25CNG-703	Mack	Rear Loading	1M2AU14C8DM001605
25CNG-721	Mack	Rear Loading	1M2AU14C9DM001709
25CNG-722	Mack	Rear Loading	1M2AU14C5DM001710
25CNG-723	Mack	Rear Loading	1M2AU14C7DM001711
25CNG-724	Mack	Rear Loading	1M2AU14C9DM001712
25CNG-725	Mack	Rear Loading	1M2AU14C0DM001713
25CNG-726	Mack	Rear Loading	1M2AU14C2DM001714
25CNG-727	Mack	Rear Loading	1M2AU14C4DM001715
25CNG-728	Mack	Rear Loading	1M2AU14C6DM001716
25CNG-729	Mack	Rear Loading	1M2AU14C8DM001717
25CNG-730	Mack	Rear Loading	1M2AU14CXDM001718
25CNG-731	Mack	Rear Loading	1M2AU14C9DM001726
25CNG-732	Mack	Rear Loading	1M2AU14C0DM001727
25CNG-733	Mack	Rear Loading	1M2AU14C2DM001728
25CNG-734	Mack	Rear Loading	1M2AU14C4DM001729
25CNG-735	Mack	Rear Loading	1M2AU14C0DM001730
25CNG-736	Mack	Rear Loading	1M2AU14C2DM001731
25CNG-737	Mack	Rear Loading	1M2AU14C4DM001732
25CNG-738	Mack	Rear Loading	1M2AU14C6DM001733
25CNG-739	Mack	Rear Loading	1M2AU14C8DM001734
25CNG-740	Mack	Rear Loading	1M2AU14CXDM001735

Appendix 2 : DSNY's Hybrid-Electric Street Sweepers

<b>Vehicle ID</b>	<b>Make</b>	<b>Vehicle Type</b>	<b>VIN #</b>
20XE-301	Global Environmental Products	Street Sweeper	1G9GH4LM1ES462002
20XE-302	Global Environmental Products	Street Sweeper	1G9GH4LMXES462001
20XE-303	Global Environmental Products	Street Sweeper	1G9GH4LM8FS462001
20XE-304	Global Environmental Products	Street Sweeper	1G9GH4LMXFS462002
20XE-305	Global Environmental Products	Street Sweeper	1G9GH4LM1FS462003
20XE-306	Global Environmental Products	Street Sweeper	1G9GH4LM3FS462004
20XE-307	Global Environmental Products	Street Sweeper	1G9GH4LM5FS462005
20XF-001	Global Environmental Products	Street Sweeper	1G9GM4LM1HS462002
20XF-002	Global Environmental Products	Street Sweeper	1G9GM4LM3HS462003
20XF-003	Global Environmental Products	Street Sweeper	1G9GM4LM5HS462004
20XF-004	Global Environmental Products	Street Sweeper	1G9GM4LM7HS462005
20XF-005	Global Environmental Products	Street Sweeper	1G9GM4LM9HS462006
20XF-006	Global Environmental Products	Street Sweeper	1G9GM4LMXHS462001
20XG-001	Global Environmental Products	Street Sweeper	1G9GM4LL3JS462063
20XG-002	Global Environmental Products	Street Sweeper	1G9GM4LL5JS462064
20XG-003	Global Environmental Products	Street Sweeper	1G9GM4LL7JS462065
20XG-004	Global Environmental Products	Street Sweeper	1G9GM4LL9JS462066
20XG-005	Global Environmental Products	Street Sweeper	1G9GM4LL0JS462067
20XG-006	Global Environmental Products	Street Sweeper	1G9GM4LL2JS462068
20XG-007	Global Environmental Products	Street Sweeper	1G9GM4LL4JS462069

Appendix 3: DSNY's Hybrid Collection Trucks

<b>Chassis Mfg</b>	<b>Fuel</b>	<b>Hybrid Sys</b>	<b>Series/Parallel</b>	<b># of Units in Service</b>
Mack	Diesel	Hydraulic	Parallel	47

## **Attachment 6**

## **Updates on Fresh Kills Landfill Closure, Post-Closure and End-Use Initiatives**

### **Fresh Kills Landfill Closure**

#### *Overview*

All activities at the Fresh Kills Landfill are performed under a 1990 Order on Consent, as amended (“Consent Order”), with the New York State Department of Environmental Conservation (NYSDEC) (DEC Case # D2-9001-89-03).

In March 1996, DSNY submitted an application to NYSDEC for a 6 NYCRR Part 360 permit (“Part 360”) to continue operating two landfill sections (6/7 and 1/9). Under the provisions of the Consent Order, the City had agreed to early closure dates for the other operating sections. Sections 3/4 and 2/8 ceased accepting waste in November 1992 and June 1993 respectively; closure construction was completed in 1996 and 1997 respectively. On May 15, 1996, NYSDEC issued a Notice of Complete Application to DSNY. However, Governor Pataki and Mayor Giuliani agreed to close Fresh Kills Landfill to further receipt of waste by December 31, 2001 in state legislation on June 2, 1996.

Accordingly, the Consent Order was modified in April 2000 to formalize the withdrawal of the Part 360 application and to accommodate an accelerated closure schedule. It was modified again in January 2002 to allow the acceptance of World Trade Center debris from September 11, 2001 and to extend the closure deadlines for Sections 6/7 and 1/9. A Final Closure Report was approved by NYSDEC in 2003. Closure construction of Section 6/7 was completed in September 2011, three months ahead of schedule.

The environmental management systems at the closed sections continue to operate subject to the requirements of the Consent Order and Part 360 post-closure monitoring and maintenance operations

The Consent Order was further modified in December 2016 to, among other things:

- Remove all Consent Order provisions no longer needed due to satisfactory completion of their requirements by DSNY and approval thereof by NYSDEC or as a result of the

incorporation of textual changes made by previous modifications into the Consent Order document;

- Establish a publicly accessible document repository through a City of New York website; and
- Extend the closure completion date for Section 1/9 to the end of 2021.

Modifications to Part 360 municipal solid waste regulations took effect on November 4, 2017. Although certain provisions of the new regulations apply to closed, as well as new landfills, obligations at Fresh Kills Landfill will remain under the engineering construction and closure designs previously approved by NYSDEC and as contained in the transition rules for landfills that ceased accepting waste between October 9, 1993 and the effective date of the new Part 360 and Part 363 regulations (Part 360.4(o)(3). The Fresh Kills Landfill falls under the Part 360 regulations made effective on November 26, 1996.

### **On-Going Closure Construction**

As of the commencement of this Reporting Period, Section 1/9 is the only solid waste management unit undergoing closure construction.

The sequence of closure construction for Section 1/9 has been established as follows:

- Phase 1: Muldoon Avenue Mound (approximately 39 acres plus the reclamation of an additional five acres for beneficial use, which will support the Staten Island 3 garage expansion);
- Phase 2: Muldoon Avenue Corridor (approximately 44 acres);
- Phases 3-7: Main Mound (approximately 314 acres)

### **During this Reporting Period**

Design: Previously approved adjustments to the *Section 1/9 Final Cover Design Report* and contract for *Engineering and Design Services for the Closure of Section 1/9 and Related Activities at Fresh Kills Landfill* provided the basis for construction activities during this Reporting Period. The revised phasing plan continues to be implemented as memorialized in Modification 10 to the Consent Order and as depicted in the following illustrations.

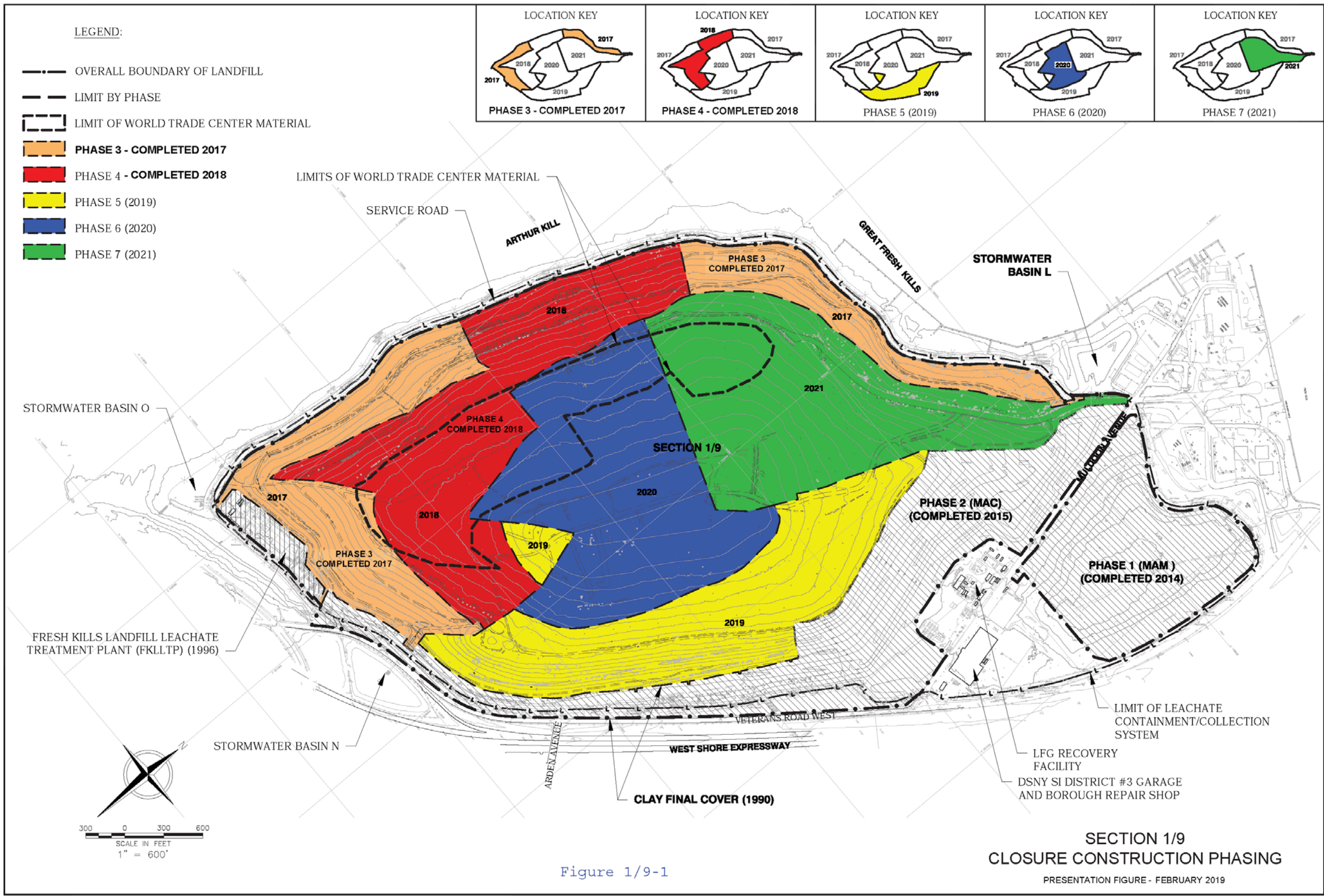


Figure 1/9-1



Section 1/9 Final Cover Construction Completed for 2018 and Planned for 2019

URS Corporation - New York  
1/28/2019

Figure 1/9-2

Photo by Bernstein Associates  
dated 12/1/2018



Construction: During the Reporting Period, the closure of Section 1/9 progressed as follows:

- The Construction Certification Report for the closure of Muldoon Avenue Corridor (Phase 2) was approved by NYSDEC in July 2017;
- Closure construction of Phase 3 (approximately 60 acres) was completed and a Construction Certification Report was submitted to NYSDEC in May 2018;
- Closure construction of Phase 4 (approximately 63 acres) was completed in November 2018; and
- Planned limits of Phase 5 construction were confirmed.

In all:

<b>Section 1/9— Limits of new final cover</b>	<b>Completed through 2018 (Phases 1-4 + existing cover)</b>	<b>Remaining area to cover</b>
446 acres	256 acres	190 acres

Permitting: In support of DSNY’s ongoing environmental monitoring program and the approved design revisions required to complete the Section 1/9 closure construction, the following regulatory actions, permits and/or modifications were issued during this Reporting Period:

- Renewal No. 3 of the Title V Air Pollution Control Permit (2-6499-00029/00151) , effective February 14, 2018
- Modification to SPDES permit (2-6499-00029/00037) authorizing the cessation of monitoring requirements for three outfalls in the Phase 4 closure area: these are protected with erosion control materials and an established growth of grasses, hence they are no longer subject to incursions of stormwater from uncovered landfill. The modification was approved on October 10, 2018, with an effective date of November 1, 2018.

## **Post-Closure**

### Overview

Federal and State solid waste regulations stipulate that landfill environmental control systems continue to operate for a minimum of 30 years beyond the closure of the landfill and that the integrity and effectiveness of the systems are monitored and maintained. These post-closure care

requirements apply to the operation and maintenance of the landfill gas control, leachate control, final cover and stormwater control systems and require monitoring of the performance of these systems for changes in the quality of groundwater and surface water, gas emissions from the surface of the landfill, and gas concentrations in perimeter soils.

DSNY prepared a comprehensive *Post-Closure Monitoring and Maintenance Manual* that defines the inspection, monitoring and reporting schedules for each component of environmental control systems, and has complied with all requirements in accordance with the Fresh Kills Consent Order and Part 360 regulations. DSNY continues to update NYSDEC on its Post-Closure Care Plans and the status of ongoing monitoring and operations.

## **Leachate Management**

### *Overview*

Landfill leachate is a wastewater created when rain percolates through garbage. The regulatory concern is that contaminants picked up in the leachate could impair the quality of surface and groundwater; therefore its release into the surface and ground waters must be controlled.

Under the Consent Order, DSNY conducted comprehensive investigations to characterize the hydrogeological, surface water, groundwater and leachate flows and proposed leachate mitigation strategies that included containment, collection and treatment. The principal contaminants of concern were ammonia (a bi-product of the decomposition of organic matter), copper, lead, nickel and zinc. The leachate management system consists of a perimeter leachate collection system, around the circumference of the landfill, collection wells, monitoring wells, and pipes that convey the leachate to a dedicated treatment facility at the base of Section 1/9, constructed in 1994 with a design capacity of 1.3 million gallons per day based on estimated discharges at that time. The pollutants are removed through a combination of biological and chemical processes then discharged to the Arthur Kill under the allowable conditions of a SPDES permit issued by NYSDEC.

### *During this Reporting Period*

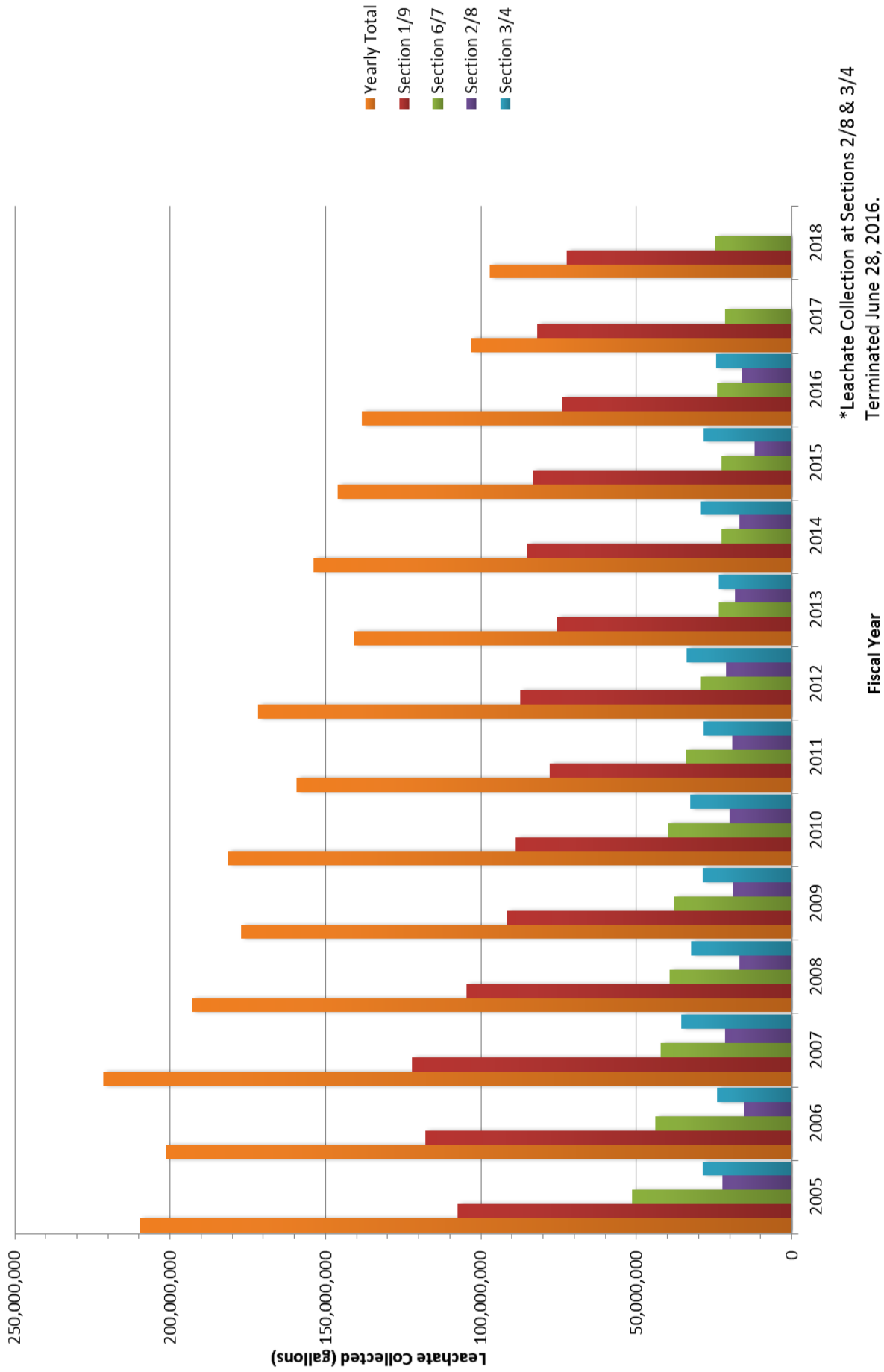
Leachate generation has declined with the installation of final cover at each of the landfill mounds, as reflected in the graph below. For the previous Reporting Period, it was reported that an average

of, 380,000 gallons per day (approximately 138 million gallons per year) were generated and treated at the plant during FY15 and FY16. During FY17 and FY18 (7/1/2016 through 6/30/2018), those quantities dropped to an average of about 275,000 gallons per day (approximately 100 million gallons per year) being generated and treated.

*Leachate controls.* Monitoring and analyses of leachate flows and characteristics at Sections 3/4 and 2/8, where final cover has been in place since 1996 and 1997, respectively, demonstrated that leachate in these areas has been controlled to the maximum extent practicable so that passive leachate controls could suffice. NYSDEC approved DSNY's petition to begin the transition from active to passive controls. Leachate collection and treatment were terminated at Sections 2/8 and 3/4 in June 2016, subject to contingency monitoring for two years. Two years of quarterly monitoring have shown no adverse impacts as of the end of this Reporting Period.

During 2018, a preliminary leachate control assessment report was prepared for Section 6/7, where final cover and closure were completed in 2011. The feasibility of developing alternative control mechanisms that will continue to meet established performance criteria will be pursued further.

Fresh Kills Landfill  
 Leachate Collection by Landfill Section  
 DSNY Fiscal Years 2005-2018



\*Leachate Collection at Sections 2/8 & 3/4  
 Terminated June 28, 2016.

## Landfill Gas Management

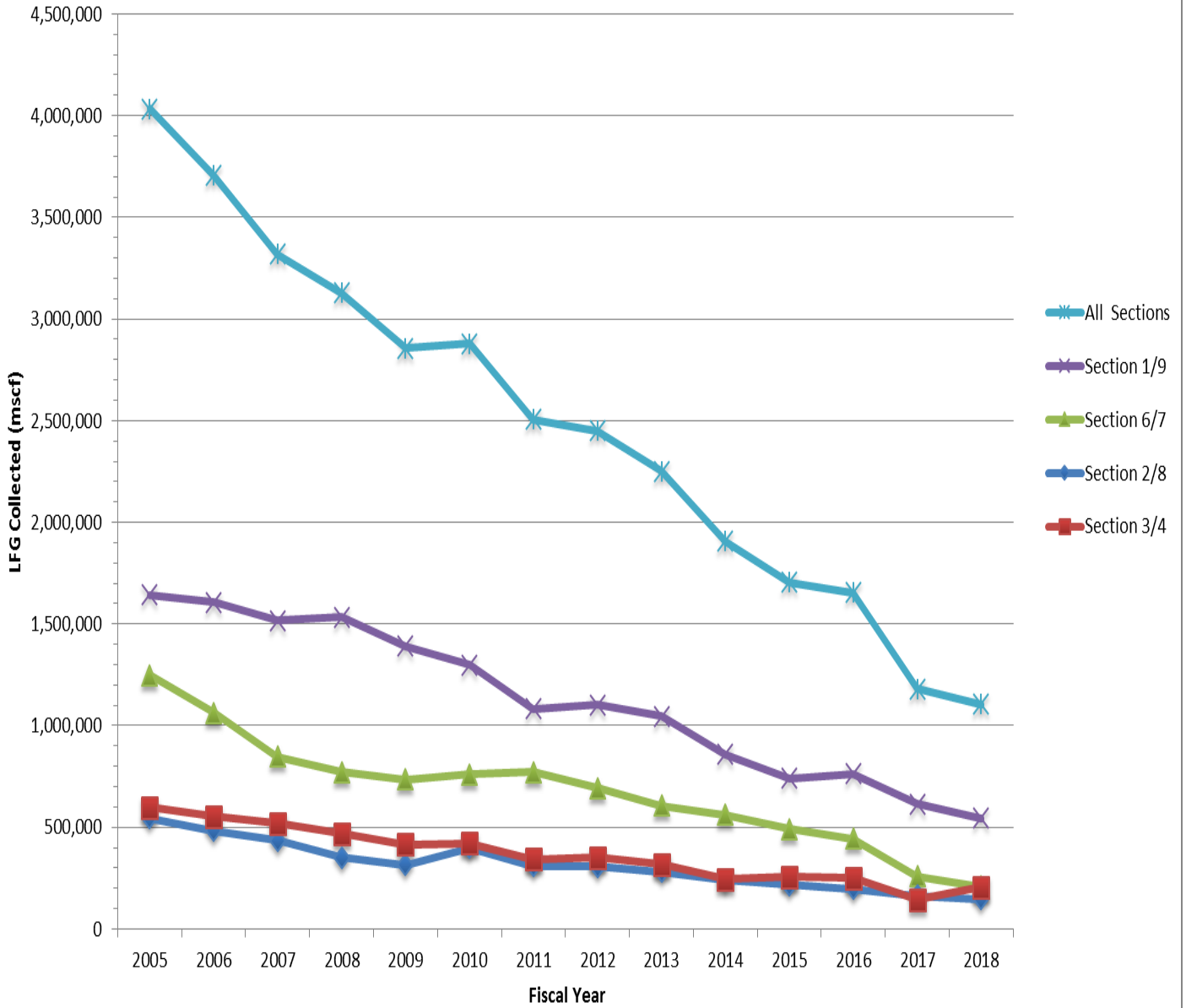
### Overview for this Reporting Period

Landfill gas (LFG) is generated as garbage decomposes. At Fresh Kills, LFG contains approximately 60% methane and 40% Carbon Dioxide, a regulated greenhouse gas emission, and is managed through active collection, purification and flaring, passive venting systems, regular monitoring and reporting for all four landfill units. The LFG purification plant was designed to process a maximum of 14.1 million standard cubic feet (Mscf)/day and produce up to 7.0 Mscf of pipeline quality LFG for sale.

The LFG generation rate has continued to decline. Typically, the peak of LFG generation occurs one to two years after a landfill stops receiving municipal solid waste and then decreases over time. These trends are reflected in the attached graph and chart. Whereas an estimated 15 million standard cubic feet (MMscf) per day of LFG were being generated at the landfill in FY2000, the FY2018 collection rate was about 3.02 million standard cubic feet (MMscf) per day. The total annual LFG collection at Fresh Kills Landfill has declined approximately 12% per year over the last few years. Based on these trends, it is estimated that the LFG purification plant is operating at about 20% capacity.

The LFG collection wells at Fresh Kills landfill are connected by pipeline to flare stations at Sections 2/8, 3/4 and 6/7, and to a gas transmission pipeline leading to the Landfill Gas Purification Plant at Section 1/9. During FY2018 (July 1, 2017-June 30, 2018) approximately 1,104 MMscf of landfill gas were collected from Fresh Kills. Of that, 1,093 MMscf, i.e., 99.01% of the gas, was processed at the Landfill Gas Purification Plant where methane (natural gas) was separated from the carbon dioxide, purified and sold to *National Grid*, generating approximately \$1.16 million in revenue. During planned DSNY maintenance at the plant, *National Grid's* work on its distribution system, and periods following electrical outages or other disruptions to the plant or gas quality, the gas is directed to the flare stations to be burned. The landfill gas that was burned at the flare stations during FY2018 was 0.99% of the gas collected during the year. The percent of collected gas that was purified and sold in FY2018 (99.01%) was higher than the average quantities for the previous ten years (96.16%).

**Fresh Kills Landfill**  
**LFG Collection Volumes By Landfill Section**  
**DSNY Fiscal Years 2005 Through 2018**



### *Conditions for future LFG management*

Air emissions from the Fresh Kills Landfill are regulated under a Title V Facility permit issued by NYSDEC and pursuant to 6 NYCRR Part 208: Landfill Gas Collection and Controls Systems for Certain Municipal Solid Waste Landfills. Under Part 208.3(b)(2)(v), a landfill operator may petition the State to cap or remove a LFG collection and control system subject to three conditions, all of which DSNY has now met:

- 1) the landfill no longer accepts solid waste and is permanently closed under the requirements of Part 360 [Fresh Kills stopped accepting municipal waste in 2001 and then permanently ended all activities in 2002 following the conclusion of 9/11 sorting operations];
- 2) The collection and control system must have been in operation a minimum of 15 years [the systems at Fresh Kills have operated for 30+ years]; and
- 3) The calculated non-methane organic compounds (NMOC) emission rate must be less than 50 megagrams (Mg) per year on three successive test dates. The test dates must be no less than 90 days apart and no more than 180 days apart.

DSNY met the third condition during this Reporting Period by conducting its final round of emission rate tests in January, May and August of 2017. The results, reported to NYSDEC in August 2018, demonstrated that the emission rates of NMOCs continued to fall well below the annual 50 Mg threshold.

With such dramatic reductions in LFG production over the years, and a successful track record of emissions compliance, DSNY proposes to develop a pilot program to demonstrate the long-term feasibility of transitioning from active to passive controls throughout the landfill. In consultation with NYSDEC, DSNY will establish an appropriate monitoring and contingency program to demonstrate an adequate factor of safety and ensure that potential odors from LFG emissions do not create an off-site nuisance.

## **Generation and Marketing of Renewable Fuel Credits**

During the Reporting Period, EM Gas Marketing, LLC, a DSNY consultant, continued to manage biogas produced at the Fresh Kills Landfill to generate and sell Federal Renewable Fuel Standard (RFS) and California-based Low-Carbon Fuel Standard (LCFS) credits for DSNY.

The revenue contract between EM Gas Marketing and DSNY was awarded in April 2015 and the registration of the Fresh Kills landfill as a biogas facility under the RFS program, administered by the United States Environmental Protection Agency, was completed in June 2015. Under the multi-year agreement, EM Gas Marketing is responsible for the generation (contracting for processing the biogas into CNG or LNG), marketing and sale of all Federal RFS and California LCFS credits from the landfill's biogas, as well as the maintenance of the Fresh Kills Landfill registration under these programs and the validation of the renewable fuel credits. Though the landfill ceased accepting waste in 2001, the facility continues to produce renewable biogas as the waste in place continues to degrade and the captured waste is processed and injected into the common carrier pipeline.

Through the EM Gas Marketing contract, DSNY is getting added value from the processing and sale of Fresh Kills biogas – DSNY realized revenue in the amount of \$10,876,257 in 2017 and \$11,815,537 in 2018 as a result of renewable fuel credits sold during the Reporting Period and expects to realize similar revenue in 2019. The contract also makes New York City part of efforts by some states and USEPA to foster profitable renewable fuel markets in the U.S.



## Change of Landfill End Use – Freshkills Park Development

### Overview

Prior to the NYC Department of Parks and Recreation's (DPR) formal commencement of plans to develop Freshkills Park, the approved *Fresh Kills Landfill Final Closure Plan (2003)* proposed an end-use landscaping plan that incorporated a permanent, stabilizing ground cover with the potential for long-term placement of herbaceous and woody plant communities. Because any change of land use modifies the landfill post-closure care plans, whether classified as a major or minor modification, a proposed action cannot interfere with DSNY's infrastructure or ability to execute its post-closure obligations under the Fresh Kills Consent Order and Part 360 or Part 363 regulations. Any proposed change in land use also requires an appropriate level of environmental review and technical analysis. All such analyses and reports must be approved by NYSDEC.

Although DPR is responsible for preparing such demonstration reports related to park development, DSNY, as the regulated entity, is responsible for reviewing the plans prior to their submittal to NYSDEC. DPR's ambitious, multi-phased plans for Freshkills Park are at varying stages of development.

### During this Reporting Period:

North Park Phase 1: Site preparations and importation of clean soils began in mid-2017, with an official groundbreaking thereafter. Construction completion of this 21-acre parcel is anticipated for 2020. Once opened, it will contain a pedestrian connection to Schmul Park on the northern edge of Section 3/4, a vehicular entrance and parking lot adjacent to Wild Avenue, a bird tower, waterfront overlook deck near the restored wetlands, multi-use paths, picnic areas and other amenities.

South Park Anchor Park: As part of the Mayor's Anchor Park initiatives for each borough, DPR received funding in late 2016 to develop additional recreational facilities and connections to the active Owl Hollow ball fields along Arthur Kill Road at the southern edge of Section 2/8. The conceptual designs include walking paths, a vehicular entrance and parking lot, multi-purpose recreational fields, playgrounds, and comfort stations within an approximately 45-acre footprint.

During this reporting period, DPR conducted multiple investigations and inventories, prepared preliminary designs for Public Design Commission approval and proposed initial scopes of work for their environmental reviews and Change of End Use (“CEU”) reports to NYSDEC. Anchor Park will be Phase 1 of the full South Park design. DPR anticipates the start of construction in late 2020.

#### Other Change of Landfill End Use

The Office of the Chief Medical Examiner for the City of New York (“OCME”) maintains a cache of disaster response equipment, which is stored at sites throughout the City for use during response functions required by the Citywide Incident Management System. OCME must relocate the contents of one of its storage sites, known as Memorial Park, and proposes to construct a temporary tent structure within an approximately 32,700 square foot footprint of Plant 1 at the Fresh Kills Landfill. In the event of a catastrophic event, OCME would mobilize the necessary equipment for use at the site of the event. Although Plant 1 falls outside the limits of the former Section 1/9 solid waste management unit, it remains within the Consent Order boundaries and is subject to current regulations governing closed landfills.

#### *During this Reporting Period*

The New York City Economic Development Corporation (EDC) and OCME prepared a request to modify the Fresh Kills Landfill post-closure care plan and demonstrated to NYSDEC’s satisfaction that the temporary facility would not intrude on or compromise DSNY’s obligations or the environmental integrity of the site. The report was approved in November 2018 following the execution of an MOU between DSNY and OCME. The relocation and construction will be done by EDC, on OCME’s behalf, during the second half of CY 2019. The facility would operate through 2026.

**Attachment 7A**

## **UPDATE: USACE Dredging and Drift and Floatables Collection Programs And Processed Dredge Use at Fresh Kills Landfill**

### **USACE New York District Dredging Projects and Regulatory Program**

The United States' national waterway network which supports U.S. commerce, national security and recreational uses must be carefully managed and continuously improved to keep water borne traffic moving efficiently and operating safely. The United States Army Corps of Engineers (USACE) has the responsibility to both maintain and improve the network which consists of approximately 12,000 miles of shallow-draft (9'-14') inland and intra-coastal waterways, 13,000 miles of deep-draft (14' and greater) coastal channels, and 400 ports, harbors, and turning basins.

To keep the network sufficiently deep, most channels are first excavated to a congressionally mandated depth and then dredged as needed. As such, dredging keeps the U.S. network passable so that national security interests can be maintained, commercial vessels can effectively navigate to bring goods to our ports and harbors, and recreational pursuits on the water can continue.

### **USACE New York District Dredging Projects**

USACE New York District contracted for four dredging projects to be completed during the Reporting Period. In 2017, East Rockaway Inlet and Sandy Hook Channel were dredged. These two projects cost \$9,012,904 and resulted in the removal of 638,400 cubic yards of dredge spoils. In 2018, a 50-foot maintenance dredging project was completed in Newark Bay and maintenance dredging was undertaken in NY-NJ Channels in the vicinity of Ward Point. The cost of these projects totaled approximately \$19,776,000 and resulted in the removal of an estimated 453,110 cubic yards of dredge spoils. The Dredge Material Management Plan remains in place; information on the USACE dredge disposal locations for these projects was requested, but not provided. <https://www.iwr.usace.army.mil/About/Technical-Centers/NDC-Navigation-and-Civil-Works-Decision-Support/>

### **USACE Regulatory Program**

Because water is a valuable resource, USACE has been regulating activities in U.S. waters since 1890. In this role, USACE issues permits related to waters of the U.S. which include navigable waters, non-navigable waterbodies, perennial and intermittent streams, wetlands, mudflats, and

ponds. A primary component of the USACE Regulatory Program is to ensure water quality and prevent unregulated discharges of dredged or fill material that could permanently alter or destroy water resources.

USACE issues Individual, Nationwide and Regional permits and its regulatory authorities and responsibilities are governed by Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403 or Section 10), the Clean Water Act (33 U.S.C. 1344), Section 103 of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended (33 U.S.C. 1413) and Section 307(c) of the Coastal Zone Management Act of 1972, as amended (Section 307 of the CZM). Section 10 prohibits the obstruction or alteration of navigable waters of the U.S. without a USACE permit. Activities that require Section 10 permits include construction of piers, wharves, bulkheads, dolphins, marinas, ramps, floats, intake structures, and cable or pipeline crossings. Dredging and excavation regulatory responsibilities are governed by Section 404 of the Clean Water Act which prohibits the discharge of dredged or fill material into U.S. waters without a USACE permit. Typical activities that require Section 404 permits are the depositing of fill or dredged material for utility installations, stream relocations, culverting, site development fills for residential, commercial, or recreational developments, construction of revetments, groins, breakwaters, levees, dams, dikes, and weirs, and placement of riprap and road fills. Section 103 of the Marine Protection, Research, and Sanctuaries Act of 1972 authorizes USACE to issue permits to transport dredged material for ocean disposal. Section 307(c) of the CZM requires applicants to obtain a certification or waiver that the activity complies with the state's coastal zone management program for activities affecting a state's coastal zone.

### **USACE New York District Regulatory Program**

USACE New York District is responsible for the issuance of permits for the U.S. waters in and around New York and New Jersey. Information on the quantities of dredge removed as a result of permits issued by the New York District during the Reporting Period and associated disposal locations for the dredge debris was requested, but not provided.

With respect to New York State waters, the New York State Department of Environmental Conservation (NYSDEC) issues permits for dredging and dredge disposal, and for the construction or rehabilitation of structures on or in tidal wetlands pursuant to the New York State Environmental

Conservation Law. In addition, Section 401 of the Clean Water Act requires applicants to obtain a certification or waiver from NYSDEC for any activity that may result in a discharge of a pollutant into waters of the U.S., including any dredged or fill material; NYSDEC has the responsibility to review the effect of these activities on water quality standards.

### **New York Harbor and New Jersey Drift and Floatables Collection Program**

The U.S. Army Corps of Engineers, New York District (USACE) is responsible for the management of the New York Harbor and New Jersey Drift and Floatables Collection Program. Under the Program, USACE manages the removal, and contracts for the disposal of drift and floatables (floating debris that has washed into the waterways) in the New York and New Jersey Harbor Estuary. The majority of the debris is collected within the Harbor Complex including the Kill Van Kull, Newark Bay, Hackensack and Passaic Rivers, Gravesend Bay, and the North and East Rivers. Debris is also collected east to Execution Rocks, Jamaica Bay, south to Sandy Hook and Ambrose Channel, Raritan and Sandy Hook Bays. The debris collected typically consists of wood, trees, pilings, wreckage, derelict boats, plastics, polystyrene foam, sea grass and rubber tires.

USACE uses three drift collection vessels which work daily (one vessel works on each weekend day) to collect the floating drift which poses a threat to vessels in navigation. The Program, authorized by the Water Resources Development Act of 1990, also ensures that floatables, especially increased floatables brought on by heavy rain events, are effectively and efficiently collected to protect the shoreline of New York and New Jersey beaches.

The Program, which is an ongoing year-round maintenance effort, consists of locating, collecting, removing and disposing of up to 530,000 cubic feet of drift and floatables per year, which equates to 450 TEUs (Twenty-Foot Equivalent Units) of intermodal cargo containers or 225 forty foot highway tractor trailers. During calendar year 2017, 363,640 cubic feet of drift and floatables were collected, and in calendar year 2018, 349,181 cubic feet were collected.

Drift and floatables collected through the Program are stored in a barge. Once the barge is full, USACE contracts for disposal of the materials. No information was provided on the disposal location(s) for debris collected in the Reporting Period.

Removing drift and floatables each year results in the avoidance of approximately \$25,000,000 of damages to the many cargo vessels, tankers, barges, passenger commuter ferries, cruise ships, and recreational vessels. The Program is 100% federally funded. The estimated annual cost of the Program in 2017 was \$9,300,000. Since USACE's implementation of the Program, there has not been a major beach closure because of fugitive drift and debris from the areas covered by the Program (according to the U.S. Environmental Protection Agency Region 2 Floatables Action Plan annual report). Before the Program was in place, area beaches were often closed because of wash ups of fugitive debris and drift.

### **Processed Dredge Use at Fresh Kills Landfill**

Prior to SWMP approval, the Fresh Kills Landfill received a Beneficial Use Determination from NYSDEC for the use of processed dredged material as an alternative grading material to assist in the closure of the landfill. An estimated three to four million cubic yards of material were potentially available for use as part of this effort. Initial materials for use at the landfill were projected to come from access dredging within Fresh Kills Creek and approximately 680,000 cubic yards from Phase 1 of the Harbor Deepening Project.

DSNY stopped placing processed dredge material at Fresh Kills Landfill during FY 2009 or by the end of CY 2009. DSNY has not accepted and does not plan to accept additional processed dredge material at Fresh Kills. In all, DSNY accepted about 900,000 cubic yards of processed dredge material for alternative grading material.

## **Attachment 7B**



## **UPDATE: Biosolids Management/Disposal**

New York City's wastewater system, operated by the New York City Department of Environmental Protection (NYCDEP), relies on 14 wastewater treatment plants located throughout the City which produce sludge as a waste byproduct that is then digested to produce anaerobic digester gas. When the sludge is dewatered, the remaining solids are referred to as biosolids. Approximately 525,000 tons of biosolids were produced in the City annually during the Reporting Period. The City's biosolids are managed by outside contractors that have been awarded long- and short-term contracts for biosolids reuse and disposal by NYCDEP. Approximately 88 percent of the City's biosolids are either trucked or rail-hauled to landfills on the East Coast. The remaining 12 percent of biosolids are composted for reuse at various sites.

One of the City's wastewater treatment facilities, the Newtown Creek plant in Brooklyn, not only digests 650,000 gallons of liquid sludge each day, but also co-digests processed organics. Specifically, about 25,000 gallons/day of processed organics in 2017 (equivalent to about 100 tons of food scraps) and 33,000 gallons/day of processed organics in 2018 (equivalent to about 130 tons of food scraps) were delivered through DSNY's source separated organics program to Waste Management's CORE® facility at its Varick Avenue transfer station in Brooklyn. At the CORE® facility, organic wastes are processed into an Engineered BioSlurry (EBS) and then transported via tanker truck to Newtown Creek. The EBS helps to increase the production of biogas at Newtown Creek's digesters. While the biogas is currently used for internal building needs at Newtown Creek, it will eventually be purified into pipeline quality renewable natural gas for use by residential and commercial customers.

The Mayor's 2015 OneNYC, the plan to make New York City the most sustainable, resilient and equitable city in the world, established a goal to co-digest 250 tons of food scraps each day in 2019, and to phase out the disposal of biosolids at landfills by 2030. Plans to meet the 2019 goal for food scrap co-digestion are underway; Waste Management expects to contract with new commercial organics customers in 2019 that will bring new organics volume to the CORE® facility and additional EBS to Newtown Creek.

More information on NYCDEP's biosolids management contracts is provided below:

## NYCDEP Biosolids Management Contract Coverage

Biosolids Management Contract Number (Renewal Status)	Dewatering Locations Serviced	Maximum Allowable Daily Tonnage As Per Contract (Wet Tons/day)	Daily Tonnage Received from WRRFs (Range of Wet Tons/day, on average)	Contract End Date	Transporters Utilized & Part 364 Permit Numbers	Utilization of ETS Transfer Station*
1436-BIO-1 (REN-1)	2	500	230-275	6/5/2021	Tully: 2A-263	Yes
1436-BIO-2 (REN-1)	2	500	270-325	7/17/2021	Action: 3A-823	No
1436-BIO-3 (REN-1)	2	400	300-350	6/5/2021	Tully: 2A-263	No
1425-BIO (REN-1)	6	500	350-400	9/7/2020	EPIC: NJ-532	Yes
<b>End sites</b>						
<b>Location of Treatment or Disposal Locations By State</b>	<b>% of Total Wet Tons Produced delivered**</b>	<b>End Uses</b>				
PA	39%	<b>Disposition</b>				
NY	9%	Landfill				
OH	49%	Composting				
GA	3%	Alkaline Stabilization/Agricultural use				
		Total				
		FY 19 Wet Tons			% of Total	
		438,500			84%	
		81,017			15%	
		4,811			1%	
		524,327				

\* ETS is Environmental Transload Services

\*\* this is a running average for FY 19; there is variation year to year

## **Attachment 7C**

## **Plastic Floatables Programs**

When it rains, trash and debris on the street can end up in the city's catch basins. While DSNY is responsible for street sweeping to keep trash and debris from reaching the City's sewers, the New York City Department of Environmental Conservation (NYCDEP) is responsible for the City's sewer system and implements a variety of programs to intercept trash and debris before it becomes waterborne and to manage debris and trash that enters the City's waterways (floatables), including plastics. These programs are ongoing and are expected to be continued through the end of the SWMP planning period (though some aspects of NYCDEP's programs may be affected or suspended due to budget cuts as a result of the COVID-19 epidemic).

Specifically, DEP implements a Catch Basin Inspection Program, operates the City's wastewater treatment plants and manages end-of-pipe controls, education and outreach to keep trash and debris, including plastics, out of waterways. These programs are described in detail on NYCDEP's website at <https://www1.nyc.gov/site/dep/water/how-nyc-is-keeping-our-waterways-trash-free.page>.

Information about NYCDEP's plastic floatables and harbor monitoring programs appears at <https://www1.nyc.gov/site/dep/water/harbor-water-quality.page>. NYCDEP's 2018 Floatables Monitoring Progress Report appears at <https://www1.nyc.gov/assets/dep/downloads/pdf/water/nyc-waterways/harbor-water-quality-report/2018-new-york-harbor-water-quality-report.pdf>.

## **Attachment 8**

# **Report on the Delivery of Commercial Waste to Converted Marine Transfer Stations**

Issued Pursuant to the 2006 Comprehensive New York City Solid Waste Management Plan

April 1, 2019

Steven Costas  
Acting Commissioner  
New York City Department of Sanitation

## **I. Introduction**

New York City's Comprehensive Solid Waste Management Plan (SWMP), adopted by the New York City Council and approved by the New York State Department of Environmental Conservation in 2006, outlines the Department's long-term plan to achieve a more sustainable and equitable system for recycling and disposing waste. Recognizing that the systems for managing residential waste and commercial waste are interdependent, the SWMP lays out an ambitious strategy of utilizing a network of sites, both public and private, across the City to support both systems. Another critical component of the SWMP is the continuing growth of a robust and diverse recycling program for residential, institutional, and commercial generators in New York City.

The 2006 SWMP includes projected waste quantities and identification of the facilities that would manage the transfer of residential and commercial waste, including designated recyclables, putrescible waste, construction and demolition debris, and fill material such as dirt, concrete, brick and rock. The adopted SWMP emphasizes three broad categories of goals: (1) transitioning from a system reliant on trucks to export waste from local waste transfer stations to one that takes advantage of barge and rail transport, reducing local waste truck traffic; (2) the improvement of conditions around transfer stations upon which both public and private carters currently rely; and (3) ensuring that waste is redistributed to facilities outside of the communities that are historically overburdened with transfer stations. In addition, the SWMP set ambitious goals for recycling within the City that will reduce the exportation of waste.

The current SWMP is in effect through 2025, at which time a new plan will be evaluated, undergo a public review process, and become implemented. Under the SWMP, the Department of Sanitation provides biennial updates to the State DEC, with the next update report due May 1, 2019 covering the period from January 1, 2017 through December 31, 2018. This Report is being submitted pursuant to Section 4.3.1.4 of the SWMP.

## **II. Completion of Marine Transfer Station Infrastructure**

The SWMP provides for the conversion of four Department marine transfer stations (MTSs) where Department-managed waste would be delivered for containerization and export out of the City. Construction of the converted MTSs has been completed and each began accepting waste delivered by the Department as follows:

North Shore MTS (Queens Community Districts 7, 8, 9, 10, 11, 12, 13, 14)

- Began 90-day ramp up operation in March 2015; and
- Full operation began at the end of October 2015.

Hamilton Avenue MTS (Brooklyn Community Districts 2, 6, 7, 8, 9, 10, 14, 16, 17, 18)

- Began operating in September 2017, accepting half of the DSNY-managed waste from its watershed; and
- Full operation began in September 2018.

Southwest Brooklyn MTS (Brooklyn Community Districts 11, 12, 13, 15)

- Began 90-day ramp up operation in October 2018; and
- Full operation began at the end of December 2018.

East 91<sup>st</sup> Street MTS (Manhattan Community Districts 5, 6, 8 and 11)

- Began 90-day ramp up operation on March 25, 2019; and
- Full operation is expected to begin at the end of June 2019.

With the converted MTS infrastructure system now in place, there will be approximately 55 million vehicle miles traveled saved from the City's roads and regional highways annually. By eliminating the City's reliance on a network of land-based transfer stations and long-haul trucking to export residential waste, the SWMP allows us to achieve greater equity in communities across the City.

### **III. Delivery of Commercial Waste to Converted MTSs**

The SWMP contemplates that the four converted MTSs could accept a portion of commercial waste between the hours of 8:00 p.m. and 8:00 a.m., which are the hours when Department collections are very limited and when commercial carters typically collect. Commercial waste trucks deliveries would be limited pursuant to the Final Environmental Impact Statement for the SWMP to specific numbers in each hour of the delivery period to avoid exceeding noise levels during the quiet nighttime hours.

To date, the Department has not accepted any commercial waste at the four converted MTSs. During this period, the Department has focused on fine-tuning operations at these facilities, training staff on the safe and efficient operation of equipment, and completing the construction of the remaining converted MTSs.

Since adoption of the SWMP nearly 13 years ago the City has evolved and become more complex, and new challenges for the trade waste industry have arisen. Today collection routes are too long, disorganized and inefficient. There are many crashes involving private carting hauling trucks that have resulted in serious injuries and deaths to pedestrians, cyclists, motorists, and the drivers and laborers working on such trucks. Now more than ever, a workable structure for this industry is necessary that addresses safety, environmental and infrastructure concerns.

### **IV. Commercial Waste Reform in New York City**

It is estimated that commercial establishments in the City generate approximately 3 million tons of refuse and recyclables every year. Today's commercial waste collection system achieves its basic goal of collecting and handling the City's commercial waste, but the competitive market has resulted in inefficiencies, with overlapping carting routes and resulting externalities that must be borne by the public, including extra truck traffic, an increased risk to pedestrian safety, traffic congestion, air and noise pollution, road wear, and increased use of fossil fuels and greenhouse gas emissions, contributing to climate change.



In 2016, the Department, in collaboration with the New York City Business Integrity Commission, set out to evaluate the City's commercial waste collection system. Following a robust and lengthy stakeholder engagement process, the Administration proposes a wholesale reform of the commercial waste industry to improve commercial waste carting by implementing a Commercial Waste Zone (CWZ) program across the five boroughs of the City. The framework for the CWZ program consists of 20 non-exclusive geographic zones with 3 to 5 private carters authorized to operate within each zone. The CWZ program will involve an implementation plan and contract-award process to establish such zoned commercial waste system, for a total of up to 68 zone contracts. The CWZ program will regulate the collection of commercial refuse, designated recyclables, and source-separated organic waste.

Private carters will competitively bid for the right to service businesses in each zone. Carters that win zone contracts would be obligated to meet certain contractual requirements aligned with the City's program goals and objectives. The CWZ program will standardize the carting contract process by requiring written service agreements between carters and customers and by making the pricing structure more transparent.

The CWZ program will be implemented through the enactment of a new local law to be developed through mutual efforts of this Administration and the New York City Council. The new local law would include provisions for the program, including the Request for Proposal (RFP) requirements and contract-award procedures. The RFP would provide details on the program goals, methods for implementation, and requirements that carters would respond to in order to apply for contracts with the City to collect waste within specific zones. The CWZ program would encourage carters to comply with existing recycling and source separation regulations so they could compete for business within the CWZ program.

Specifically, as part of the solicitation process, the CWZ program would require carters to develop zero waste plans and identify innovative practices to support waste reduction, reuse, and recycling and provide for additional oversight and reporting requirements to ensure that these practices are being followed. The CWZ program would also require carters to develop waste management plans, identifying the transfer stations, disposal facilities and recycling processing facilities they plan to use. Such plans may propose the use of Department-operated MTSs. Once contract agreements with the City are executed, business customer transition will begin with completion anticipated around the end of 2023.

Implementing a CWZ program will preserve customer choice, keep prices competitive and the quality of service high while substantially reducing truck traffic associated with commercial waste collection.

## **V. Conclusion**

Reducing the impact that the City's waste has on our communities and the environment is a critical part of the Department's mission to keep New York City healthy, safe, and clean. A large part of meeting this objective includes the initiation of commercial waste collection reform.

Consistent with the SWMP, the Department has completed constructing and opening up all four converted MTSs as of this calendar year. The Department is now addressing commercial waste reform of the City's trade waste hauling industry, which has existed and remains unchanged for nearly 65 years, in order to improve the quality of life for New Yorkers. With the implementation of commercial waste zones in New York City, the Department plans to continue to evaluate how commercial waste could be accepted at these facilities, consistent with the 2006 SWMP and associated FEIS. The Department is committed to working with the City Council on our mutual, ambitious plans to address commercial waste management in New York City and advancing the implementation plan for this new, bold strategy.

## **Attachment 9A**

**Quarterly Recap- Tons per Day**  
Calendar Year 2017

	Permitted Capacity	C & D Tons	MSW Tons	SSR Tons	Total Waste	DOS Material	From Outside Of NYC	Material Betw. Tr. Station	Total Commercial Waste Stream	Recycling Tons	Residue Tons	Total Output	Input Over (under) Output
<b>Trans. Station Fill</b>													
<b>BRONX</b>													
39 ALL CITY RECYCLING (4974)		850 E 133 STREET	395.43	0.00	0.00	395.43	0.00	0.00	0.00	395.43	498.93	0.00	498.93 (103.49)
40 BRONX CITY RECYCLING (1059)		1390 VIELE AVENUE	189.79	0.00	0.24	190.03	0.00	0.00	29.91	160.11	168.92	0.00	168.92 (8.81)
41 CASTLE HILL RECYCLING (5610)		1000 ZEREGA AVENUE	308.30	0.00	0.00	308.30	0.00	0.00	0.00	308.30	297.04	0.00	297.04 11.26
42 JUSTUS RECYCLING CORP. (1080)		3300 PROVOST AVE	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00 0.00
43 NEW YORK RECYCLING, LLC (1025)		475 EXTERIOR ST	503.30	0.00	0.00	503.30	0.00	0.00	19.81	483.49	590.65	5.19	595.84 (112.35)
44 PETRO RECYCLING (5578)		290 EAST 132 ST	21.74	0.00	0.00	21.74	0.00	0.00	0.00	21.74	32.28	0.00	32.28 (10.54)
45 TILCON (CON AGG RECYCLING CORP.) (1038)		980 E 149TH ST	158.23	0.00	0.00	158.23	0.00	0.00	0.00	158.23	230.27	0.32	230.59 (72.36)
<b>SubTotal BRONX</b>			1,576.79	0.00	0.24	1,577.02	0.00	0.00	49.73	1,527.30	1,818.08	5.52	1,823.60 (296.30)
<b>Percent Of Total</b>						9.11%				9.22%			
<b>BROOKLYN</b>													
46 ALLOCCO RECYCLING (2218)		540 KINGSLAND AVE	3,044.97	0.00	0.00	3,044.97	0.00	0.00	162.71	2,882.26	2,763.10	0.00	2,763.10 119.15
47 KEYSpan ENERGY dba NATIONAL GRID (2058)		287 MASPETH AVE	199.89	0.00	0.00	199.89	0.00	0.00	0.00	199.89	125.91	49.46	175.37 24.52
<b>SubTotal BROOKLYN</b>			3,244.86	0.00	0.00	3,244.86	0.00	0.00	162.71	3,082.15	2,889.01	49.46	2,938.47 143.67
<b>Percent Of Total</b>						18.74%				18.60%			
<b>NEW YORK</b>													
48 CON EDISON (3204)		276-290 AVE C	43.06	0.00	0.00	43.06	0.00	0.00	0.00	43.06	43.06	0.00	43.06 0.00
<b>SubTotal NEW YORK</b>			43.06	0.00	0.00	43.06	0.00	0.00	0.00	43.06	43.06	0.00	43.06 0.00
<b>Percent Of Total</b>						0.25%				0.26%			
<b>QUEENS</b>													
49 DURANTE BROTHERS (4331)		31-40 123RD ST	1,813.11	0.00	0.00	1,813.11	0.00	0.00	255.84	1,557.27	1,562.34	0.00	1,562.34 (5.07)
50 EVERGREEN RECYCLING OF CORONA (3414)		MTA CORONA MEADOWS YARD	2,402.20	0.00	0.00	2,402.20	0.00	0.00	70.87	2,331.33	2,136.55	0.00	2,136.55 194.78
51 HUNTERS POINT RECYCLING (3479)		29-55 HUNTERS POINT AVE	653.40	0.00	0.00	653.40	0.00	0.00	0.00	653.40	838.68	2.20	840.88 (187.48)
52 MASPETH RECYCLING (3345)		58-08 48TH ST	301.44	0.00	11.52	312.96	0.00	0.00	0.12	312.84	266.34	0.00	266.34 46.51
53 NEW YORK PAVING (3416)		37-18 RAILROAD AVE	79.18	0.00	0.00	79.18	0.00	0.00	0.00	79.18	79.18	0.00	79.18 0.00
54 PEBBLE LANE ASSOCIATES (3319)		5700 47TH STREET	770.37	0.00	0.00	770.37	0.00	0.00	0.00	770.37	832.62	0.36	832.98 (62.61)
55 WHIP (RUSSO RECYCLING INC.) (3365)		248-12 BROOKVILLE BLVD	400.79	0.00	0.00	400.79	0.00	0.00	0.00	400.79	452.86	0.00	452.86 (52.07)
<b>SubTotal QUEENS</b>			6,420.51	0.00	11.52	6,432.03	0.00	0.00	326.83	6,105.19	6,168.56	2.56	6,171.12 (65.93)
<b>Percent Of Total</b>						37.16%				36.85%			
<b>STATEN ISLAND</b>													
56 FAZTEC INDUSTRIES (4782)		200 BLOOMFIELD AVENUE	2,717.52	0.00	0.00	2,717.52	0.00	0.00	113.07	2,604.45	3,201.41	0.00	3,201.41 (596.97)
57 J. BRUNO & SONS, INC. (3444)		280 MEREDITH AVENUE	360.21	0.00	59.76	419.97	0.00	0.00	0.00	419.97	580.76	0.00	580.76 (160.79)
58 SOUTH SHORE RECYCLING (3478)		18 ZARELLI CT	488.20	0.00	0.00	488.20	0.00	0.00	89.81	398.40	203.34	0.00	203.34 195.05
59 T.M. MAINTENANCE (4457)		451 SPENCER STREET	1,024.59	0.00	0.00	1,024.59	0.00	0.00	0.00	1,024.59	1,016.87	0.00	1,016.87 7.72
60 VANBRO CORP. (3508)		1900 SOUTH AVE	1,363.52	0.00	0.00	1,363.52	0.00	0.00	0.00	1,363.52	1,018.75	8.42	1,027.17 336.35
<b>SubTotal STATEN ISLAND</b>			5,954.05	0.00	59.76	6,013.81	0.00	0.00	202.88	5,810.93	6,021.14	8.42	6,029.56 (218.63)
<b>Percent Of Total</b>						34.74%				35.07%			
<b>Total for Transfer Station: Fill</b>			17,239.25	0.00	71.52	17,310.77	0.00	0.00	742.15	16,568.62	16,939.85	65.96	17,005.81 (437.18)
<b>Percent Of Grand Total</b>						45.66%				53.64%			

Calculated Fill Transfer Station Diversion Rate:	102.24%
Effective Fill Transfer Station Diversion Rate:	100.00%

<b>Reported Total</b>	<b>Grand Total:</b>	<b>25,664.22</b>	<b>11,754.45</b>	<b>495.16</b>	<b>37,913.83</b>	<b>6,209.40</b>	<b>0.00</b>	<b>817.37</b>	<b>30,887.06</b>	<b>20,521.77</b>	<b>10,769.79</b>	<b>31,291.55</b>	<b>(404.49)</b>
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Gross Total Diversion Rate:	66.44%
(Effective Total Recycling Tons)	20,150.54 (using Fill Commercial Waste Stream, not Fill Recycling Output)
Effective Total Diversion Rate:	65.24%

		Putrescible & Non-Putrescible			
	Permitted Capacity	% of Total	Total Waste	% of Boro Cap. Used	
Bronx	11,784.00	25.4%	6,360.61	54.0%	
Brooklyn	24,455.00	52.6%	10,088.89	41.3%	
Queens	7,128.00	15.3%	3,199.11	44.9%	
Manhattan					
Staten Island	3,094.00	6.7%	954.46	30.8%	
<b>Total</b>	<b>46,461.00</b>		<b>20,603.06</b>		

		Commercial Waste Stream	
		All Transfer Stations	
	Total	% of Total	
Bronx	5,923.82	19.18%	
Brooklyn	10,168.73	32.92%	
Queens	7,986.14	25.86%	
Manhattan	43.06	0.14%	
Staten Island	6,765.31	21.90%	
<b>Total</b>	<b>30,887.06</b>	<b>100.0%</b>	

	Fresh Kills	Total	Tons Per Day
Fill	93,632	300.10	
Road Bldg Mat	46,661	149.55	
<b>Total</b>	<b>140,293.22</b>	<b>449.66</b>	

**Quarterly Recap- Tons per Day**  
Calendar Year 2017

	Permitted Capacity	C & D Tons	MSW Tons	SSR Tons	Total Waste	DOS Material	From Outside Of NYC	Material Betw. Tr.Station	Total Commercial Waste Stream	Recycling Tons	Residue Tons	Total Output	Input Over (under) Output	Input Over (under) Capacity
<b>Trans.Station Non-Putr.</b>														
<b>BRONX</b>														
17 A J RECYCLING INC. (4280) 325 FAILE ST	1,200	785.17	0.00	16.43	<b>801.60</b>	0.00	0.00	2.46	<b>799.14</b>	348.24	414.77	<b>763.00</b>	36.13	(400.86)
18 JD RECYCLING (4402) 216-222 MANIDA ST	330	323.30	0.00	0.00	<b>323.30</b>	0.00	0.00	0.00	<b>323.30</b>	77.01	215.25	<b>292.25</b>	31.05	(6.70)
19 JOHN DANNA & SONS, INC. (1104) 318 BRYANT AVE	405	202.36	0.00	0.00	<b>202.36</b>	0.00	0.00	0.00	<b>202.36</b>	64.40	151.25	<b>215.65</b>	(13.29)	(202.64)
20 ASPHA LLC. (1120) 1264 VIELE AVE	750	97.20	0.00	0.00	<b>97.20</b>	0.00	0.00	0.00	<b>97.20</b>	1.21	102.12	<b>103.34</b>	(6.14)	(652.80)
21 ZEVEL TRANSFER, LLC (1113) 636 TRUXTON ST	1,050	430.63	0.00	0.00	<b>430.63</b>	0.00	0.00	21.64	<b>408.98</b>	237.94	193.23	<b>431.17</b>	(22.19)	(641.02)
<b>SubTotal BRONX</b>	<b>3,735</b>	<b>1,838.66</b>	<b>0.00</b>	<b>16.43</b>	<b>1,855.09</b>	<b>0.00</b>	<b>0.00</b>	<b>24.10</b>	<b>1,830.99</b>	<b>728.80</b>	<b>1,076.62</b>	<b>1,805.42</b>	<b>25.57</b>	<b>(1,904.01)</b>
<b>Percent Of Total</b>					<b>22.20%</b>				<b>22.04%</b>					
<b>BROOKLYN</b>														
22 ASTORIA CARTING CO., INC. (2117) 538-545 STEWART AVE	300	247.03	0.00	0.00	<b>247.03</b>	0.00	0.00	0.00	<b>247.03</b>	65.09	191.70	<b>256.79</b>	(9.76)	(52.97)
23 ATLAS ROLL-OFF CORP. (2053) 889 ESSEX ST	1,125	424.45	0.00	0.00	<b>424.45</b>	0.00	0.00	0.00	<b>424.45</b>	193.71	138.59	<b>332.30</b>	92.16	(700.55)
24 CITY RECYCLING CORP. (2118) 151 ANTHONY ST	1,500	1,239.70	0.00	0.00	<b>1,239.70</b>	0.00	0.00	0.00	<b>1,239.70</b>	386.58	845.28	<b>1,231.86</b>	7.83	(260.30)
25 COOPER TANK & WELDING INC. (4233) 222 MASPETH AVE	1,875	735.65	0.00	0.00	<b>735.65</b>	0.00	0.00	16.27	<b>719.38</b>	563.45	191.12	<b>754.57</b>	(35.19)	(1,155.62)
26 DECOSTOLE CARTING CO. (2011) 1481 TROY AVE	750	568.24	0.00	0.00	<b>568.24</b>	0.00	0.00	0.00	<b>568.24</b>	77.02	445.99	<b>523.01</b>	45.23	(181.76)
27 GADS (SAB) (BFI WASTE SYSTEMS) (4218) 594 SCHOLEST ST	1,500	802.08	0.00	0.00	<b>802.08</b>	0.00	0.00	0.00	<b>802.08</b>	673.39	175.63	<b>849.01</b>	(46.93)	(697.92)
28 BROOKLYN C&D, LLC. (4266) 548 VARICK AVE	1,350	297.52	0.00	0.00	<b>297.52</b>	0.00	0.00	0.00	<b>297.52</b>	27.33	268.06	<b>295.39</b>	2.13	(1,052.48)
29 POINT RECYCLING, LTD. (2115) 686 MORGAN AVE	300	193.99	0.00	0.00	<b>193.99</b>	0.00	0.00	0.00	<b>193.99</b>	61.37	95.66	<b>157.02</b>	36.97	(106.01)
30 WASTE MANAGEMENT OF NY, LLC (2222) 75 THOMAS ST	1,500	0.00	0.00	0.00	<b>0.00</b>	0.00	0.00	0.00	<b>0.00</b>	0.00	0.00	<b>0.00</b>	0.00	(1,500.00)
31 WASTE MANAGEMENT OF NY, LLC (4267) 123 VARICK AVE	5,250	273.98	0.00	0.00	<b>273.98</b>	0.00	0.00	10.30	<b>263.68</b>	185.86	71.71	<b>257.57</b>	6.11	(4,986.32)
<b>SubTotal BROOKLYN</b>	<b>15,450</b>	<b>4,782.64</b>	<b>0.00</b>	<b>0.00</b>	<b>4,782.64</b>	<b>0.00</b>	<b>0.00</b>	<b>26.58</b>	<b>4,756.06</b>	<b>2,233.79</b>	<b>2,423.72</b>	<b>4,657.52</b>	<b>98.55</b>	<b>(10,693.94)</b>
<b>Percent Of Total</b>					<b>57.23%</b>				<b>57.26%</b>					
<b>QUEENS</b>														
32 AMERICAN RECYCLING (3662) 172-33 DOUGLAS AVE	750	81.63	0.00	0.00	<b>81.63</b>	0.00	0.00	0.00	<b>81.63</b>	1.73	79.90	<b>81.63</b>	0.00	(668.37)
33 CROWN CONTAINER CO. (3613) 126-46 34TH AVE	375	126.36	0.00	0.00	<b>126.36</b>	0.00	0.00	0.00	<b>126.36</b>	4.53	122.49	<b>127.02</b>	(0.66)	(248.64)
34 NEW STYLE RECYCLING CORP. (3327) 49-10 GRAND AVENUE	337	127.99	0.00	0.56	<b>128.55</b>	0.00	0.00	0.00	<b>128.55</b>	16.87	116.44	<b>133.31</b>	(4.76)	(208.45)
35 REGAL RECYCLING CO. INC. (4336) 172-06 DOUGLAS AVE	266	246.53	0.00	0.00	<b>246.53</b>	0.00	0.00	0.00	<b>246.53</b>	61.47	184.76	<b>246.23</b>	0.30	(19.47)
36 THOMAS NOVELLI CONTRACTING CORP. (4247) 94-20 MERRICK BLVD	375	179.77	0.00	2.33	<b>182.10</b>	0.00	0.00	0.00	<b>182.10</b>	54.84	114.90	<b>169.74</b>	12.36	(192.90)
<b>SubTotal QUEENS</b>	<b>2,103</b>	<b>762.28</b>	<b>0.00</b>	<b>2.89</b>	<b>765.17</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>765.17</b>	<b>139.45</b>	<b>618.49</b>	<b>757.93</b>	<b>7.24</b>	<b>(1,337.83)</b>
<b>Percent Of Total</b>					<b>9.16%</b>				<b>9.21%</b>					
<b>STATEN ISLAND</b>														
37 FLAG CONTAINER SERVICES, INC. (3419) 11 FERRY ST	2,250	554.62	0.00	0.00	<b>554.62</b>	0.00	0.00	0.08	<b>554.54</b>	56.37	585.93	<b>642.31</b>	(87.77)	(1,695.46)
38 STOKES WASTE PAPER CO., INC. (3476) 17-25 VAN ST	844	399.84	0.00	0.00	<b>399.84</b>	0.00	0.00	0.00	<b>399.84</b>	16.82	395.11	<b>411.93</b>	(12.10)	(444.16)
<b>SubTotal STATEN ISLAND</b>	<b>3,094</b>	<b>954.46</b>	<b>0.00</b>	<b>0.00</b>	<b>954.46</b>	<b>0.00</b>	<b>0.00</b>	<b>0.08</b>	<b>954.38</b>	<b>73.19</b>	<b>981.05</b>	<b>1,054.24</b>	<b>(99.86)</b>	<b>(2,139.62)</b>
<b>Percent Of Total</b>					<b>11.42%</b>				<b>11.49%</b>					
<b>Total for Transfer Station: Non-Putr.</b>	<b>24,382</b>	<b>8,338.04</b>	<b>0.00</b>	<b>19.32</b>	<b>8,357.35</b>	<b>0.00</b>	<b>0.00</b>	<b>50.76</b>	<b>8,306.59</b>	<b>3,175.23</b>	<b>5,099.88</b>	<b>8,275.11</b>	<b>31.49</b>	<b>(16,075.41)</b>
<b>Percent Of Grand Total</b>					<b>22.25%</b>				<b>27.58%</b>					

Non-Putrescible Transfer Station Diversion Rate

38.23%

**Quarterly Recap- Tons per Day**  
Calendar Year 2017

	Permitted Capacity	C & D Tons	MSW Tons	SSR Tons	Total Waste	DOS Material	From Outside Of NYC	Material Betw. Tr.Station	Total Commercial Waste Stream	Recycling Tons	Residue Tons	Total Output	Input Over (under) Output	Input Over (under) Capacity
<b>Trans.Station Putr.</b>														
<b>BRONX</b>														
1 ACTION ENVIRONMENTAL SYSTEMS (5504) 920 E 132ND ST	2,999	28.73	1,387.31	399.36	<b>1,815.39</b>	0.00	0.00	24.04	<b>1,791.36</b>	280.36	1,494.06	<b>1,774.41</b>	16.94	(1,207.64)
2 IESI NY CORP. (1114) 325 CASANOVA	225	0.00	0.02	0.00	<b>0.02</b>	0.00	0.00	0.00	<b>0.02</b>	0.00	0.02	<b>0.02</b>	0.00	(224.98)
3 METROPOLITAN TRANSFER STATION (1117 287 HALLECK ST	825	0.00	681.88	0.00	<b>681.88</b>	0.00	0.00	0.00	<b>681.88</b>	0.23	682.93	<b>683.16</b>	(1.28)	(143.12)
4 USA WASTE SERVICES OF NYC, INC. (1032) 98 LINCOLN AVE (HARLEM RVR YD)	4,000	3.53	2,004.69	0.00	<b>2,008.23</b>	1,915.51	0.00	0.43	<b>92.28</b>	0.00	91.84	<b>91.84</b>	0.44	(3,907.72)
SubTotal BRONX	8,049	32.26	4,073.90	399.36	<b>4,505.52</b>	1,915.51	0.00	24.46	<b>2,565.54</b>	280.58	2,268.85	<b>2,549.43</b>	16.11	(5,483.46)
<b>Percent Of Total</b>					<b>36.79%</b>				<b>42.67%</b>					
<b>BROOKLYN</b>														
5 ACTION ENVIRONMENTAL LLC (5503) 941 STANLEY AVE	375	0.01	385.39	0.12	<b>385.53</b>	247.60	0.00	0.00	<b>137.93</b>	0.82	137.52	<b>138.34</b>	(0.41)	(237.07)
6 BROOKLYN TRANSFER LLC (5511) 115 THAMES ST	560	0.00	484.84	0.00	<b>484.84</b>	115.43	0.00	0.00	<b>369.41</b>	0.62	358.17	<b>358.79</b>	10.61	(190.59)
7 HI-TECH RESOURCE RECOVERY (2213) 130 VARICK AVE	500	0.00	489.12	0.00	<b>489.12</b>	0.00	0.00	0.00	<b>489.12</b>	1.75	481.71	<b>483.46</b>	5.66	(10.88)
8 IESI NY CORP. (2163) 577 COURT ST	745	0.00	723.90	0.00	<b>723.90</b>	607.38	0.00	0.00	<b>116.52</b>	0.06	112.37	<b>112.43</b>	4.09	(628.48)
9 IESI NY CORP. (4263) 110-120 50TH ST.	1,075	0.00	983.74	0.00	<b>983.74</b>	691.47	0.00	0.00	<b>292.28</b>	0.11	277.52	<b>277.63</b>	14.65	(782.72)
10 WASTE MANAGEMENT OF NY, LLC (2128) 485 SCOTT AVE	1,500	45.16	841.85	4.84	<b>891.85</b>	0.00	0.00	0.00	<b>891.85</b>	49.49	841.15	<b>890.64</b>	1.21	(608.15)
11 WASTE MANAGEMENT OF NY, LLC (2211) 215-221 VARICK AVE	4,250	9.50	1,337.77	0.00	<b>1,347.27</b>	1,313.85	0.00	0.00	<b>33.42</b>	0.05	89.89	<b>89.93</b>	(56.51)	(4,216.58)
SubTotal BROOKLYN	9,005	54.68	5,246.61	4.96	<b>5,306.25</b>	2,975.73	0.00	0.00	<b>2,330.52</b>	52.90	2,298.32	<b>2,351.22</b>	(20.70)	(6,674.48)
<b>Percent Of Total</b>					<b>43.33%</b>				<b>38.77%</b>					
<b>QUEENS</b>														
12 A & L CESSPOOL SERVICE (5512) 38-40 REVIEW AVE	80	0.00	0.00	0.00	<b>0.00</b>	0.00	0.00	0.00	<b>0.00</b>	0.00	0.00	<b>0.00</b>	0.00	(80.00)
13 AMERICAN RECYCLING (4314) 172-33 DOUGLAS AVE	850	0.00	602.81	0.00	<b>602.81</b>	221.79	0.00	0.00	<b>381.03</b>	2.13	392.26	<b>394.39</b>	(13.36)	(468.97)
14 REGAL RECYCLING CO., INC. (3402) 172-02 DOUGLAS AVE	600	0.00	568.70	0.00	<b>568.70</b>	19.93	0.00	0.00	<b>548.76</b>	70.99	453.57	<b>524.56</b>	24.20	(51.24)
15 TULLY ENVIRONMENTAL INC. (4404) 127-20 34TH AVE	1,395	0.00	396.74	0.00	<b>396.74</b>	210.74	0.00	0.00	<b>185.99</b>	0.09	190.96	<b>191.05</b>	(5.05)	(1,209.01)
16 WASTE MANAGEMENT OF NY, LLC (3214) 38-50 REVIEW AVE	2,100	0.00	865.69	0.00	<b>865.69</b>	865.69	0.00	0.00	<b>0.00</b>	0.00	0.00	<b>0.00</b>	0.00	(2,100.00)
SubTotal QUEENS	5,025	0.00	2,433.94	0.00	<b>2,433.94</b>	1,318.16	0.00	0.00	<b>1,115.78</b>	73.20	1,036.78	<b>1,109.99</b>	5.79	(3,909.22)
<b>Percent Of Total</b>					<b>19.88%</b>				<b>18.56%</b>					
<b>Total for Transfer Station: Putr.</b>	<b>22,079</b>	<b>86.93</b>	<b>11,754.45</b>	<b>404.32</b>	<b>12,245.70</b>	<b>6,209.40</b>	<b>0.00</b>	<b>24.46</b>	<b>6,011.84</b>	<b>406.68</b>	<b>5,603.95</b>	<b>6,010.64</b>	<b>1.20</b>	<b>(16,067.16)</b>
<b>Percent Of Grand Total</b>					<b>32.60%</b>				<b>19.96%</b>					
<b>Putrescible Transfer Station Diversion Rate</b>									<b>6.76%</b>					

**Attachment 9B**

**Quarterly Recap- Tons per Day**  
2018 Calendar

	Permitted Capacity	C & D Tons	MSW Tons	SSR Tons	Total Waste	DOS Material	From Outside Of NYC	Material Betw. Tr.Station	Total Commercial Waste Stream	Recycling Tons	Residue Tons	Total Output	Input Over (under) Output	
<b>Trans.Station Fill</b>														
<b>BRONX</b>														
40 ALL CITY RECYCLING (4974)		850 E 133 STREET	174.03	0.00	0.00	174.03	0.00	0.00	0.00	174.03	234.56	0.00	234.56	(60.54)
41 BRONX CITY RECYCLING (1059)		1390 VIELE AVENUE	204.24	0.00	0.32	204.55	0.00	0.00	15.50	189.06	190.12	0.00	190.12	(1.06)
42 CASTLE HILL RECYCLING (5610)		1000 ZEREGA AVENUE	312.89	0.00	0.00	312.89	0.00	0.00	0.00	312.89	285.04	0.00	285.04	27.85
43 JUSTUS RECYCLING CORP. (1080)		3300 PROVOST AVE	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
44 NEW YORK RECYCLING, LLC (1025)		475 EXTERIOR ST	519.81	0.00	0.00	519.81	0.00	0.00	18.76	501.05	686.66	14.86	701.51	(200.46)
45 PETRO RECYCLING (5578)		290 EAST 132 ST	72.45	0.00	0.00	72.45	0.00	0.00	0.00	72.45	94.56	0.00	94.56	(22.12)
46 TILCON (CON AGG RECYCLING CORP.) (1038)		980 E 149TH ST	216.43	0.00	0.00	216.43	0.00	0.00	0.00	216.43	556.04	0.79	556.83	(340.40)
<b>SubTotal BRONX</b>			1,499.84	0.00	0.32	1,500.16	0.00	0.00	34.26	1,465.90	2,046.98	15.65	2,062.63	(596.73)
<b>Percent Of Total</b>						11.06%				11.21%				
<b>BROOKLYN</b>														
47 ALLOCCO RECYCLING (2218)		540 KINGSLAND AVE	2,281.15	0.00	0.00	2,281.15	0.00	0.00	77.06	2,204.09	2,256.19	0.00	2,256.19	(52.10)
48 KEYSAN ENERGY dba NATIONAL GRID (2058)		287 MASPETH AVE	180.33	0.00	0.00	180.33	0.00	0.00	0.00	180.33	138.86	59.18	198.04	(17.71)
<b>SubTotal BROOKLYN</b>			2,461.48	0.00	0.00	2,461.48	0.00	0.00	77.06	2,384.42	2,395.05	59.18	2,454.23	(69.81)
<b>Percent Of Total</b>						18.15%				18.24%				
<b>NEW YORK</b>														
49 CON EDISON (3204)		276-290 AVE C	33.82	0.00	0.00	33.82	0.00	0.00	0.00	33.82	33.82	0.00	33.82	0.00
<b>SubTotal NEW YORK</b>			33.82	0.00	0.00	33.82	0.00	0.00	0.00	33.82	33.82	0.00	33.82	0.00
<b>Percent Of Total</b>						0.25%				0.26%				
<b>QUEENS</b>														
50 DURANTE BROTHERS (4331)		31-40 123RD ST	1,465.12	0.00	0.00	1,465.12	0.00	0.00	9.47	1,455.65	1,031.80	0.00	1,031.80	423.85
51 EVERGREEN RECYCLING OF CORONA (3414)		MTA CORONA MEADOWS YARD	1,548.23	0.00	0.00	1,548.23	0.00	0.00	63.31	1,484.92	1,335.49	0.00	1,335.49	149.44
52 HUNTERS POINT RECYCLING (3479)		29-55 HUNTERS POINT AVE	658.21	0.00	0.00	658.21	0.00	0.00	0.92	657.29	833.63	1.57	835.20	(177.91)
53 MASPETH RECYCLING (3345)		58-08 48TH ST	420.34	0.00	1.54	421.88	0.00	0.00	1.22	420.66	417.77	0.00	417.77	2.90
54 NEW YORK PAVING (3416)		37-18 RAILROAD AVE	89.36	0.00	0.00	89.36	0.00	0.00	0.00	89.36	89.36	0.00	89.36	0.00
55 PEBBLE LANE ASSOCIATES (3319)		5700 47TH STREET	360.50	0.00	0.00	360.50	0.00	0.00	0.00	360.50	432.42	0.13	432.55	(72.04)
56 WHIP (RUSSO RECYCLING INC.) (3365)		248-12 BROOKVILLE BLVD	378.42	0.00	0.00	378.42	0.00	0.00	0.00	378.42	529.35	0.00	529.35	(150.93)
<b>SubTotal QUEENS</b>			4,920.17	0.00	1.54	4,921.71	0.00	0.00	74.92	4,846.79	4,669.80	1.70	4,671.50	175.30
<b>Percent Of Total</b>						36.29%				37.07%				
<b>STATEN ISLAND</b>														
57 FAZTEC INDUSTRIES (4782)		200 BLOOMFIELD AVENUE	2,356.45	0.00	0.00	2,356.45	0.00	0.00	39.14	2,317.32	2,931.97	0.00	2,931.97	(614.65)
58 J. BRUNO & SONS, INC. (3444)		280 MEREDITH AVENUE	362.21	0.00	39.09	401.30	0.00	0.00	0.00	401.30	489.20	0.00	489.20	(87.90)
59 SOUTH SHORE RECYCLING (3478)		18 ZARELLI CT	326.25	0.00	0.00	326.25	0.00	0.00	249.96	76.30	247.77	0.00	247.77	(171.48)
60 T.M. MAINTENANCE (4457)		451 SPENCER STREET	454.75	0.00	0.00	454.75	0.00	0.00	2.66	452.09	403.26	0.00	403.26	48.83
61 VANBRO CORP. (3508)		1900 SOUTH AVE	1,106.55	0.00	0.00	1,106.55	0.00	0.00	8.76	1,097.78	1,171.98	13.49	1,185.47	(87.69)
<b>SubTotal STATEN ISLAND</b>			4,606.20	0.00	39.09	4,645.29	0.00	0.00	300.51	4,344.78	5,244.18	13.49	5,257.67	(912.89)
<b>Percent Of Total</b>						34.25%				33.23%				
<b>Total for Transfer Station: Fill</b>			13,521.50	0.00	40.95	13,562.45	0.00	0.00	486.74	13,075.71	14,389.81	90.02	14,479.84	(1,404.13)
<b>Percent Of Grand Total</b>						40.04%				46.29%				

Calculated Fill Transfer Station Diversion Rate: 110.05%  
Effective Fill Transfer Station Diversion Rate: 100.00%

<b>Reported Total</b>	<b>Grand Total:</b>		22,259.56	11,152.32	456.19	33,868.07	5,108.21	0.00	509.71	28,250.15	18,046.92	11,587.67	29,634.59	(1,384.43)
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Gross Total Diversion Rate: 63.88%  
(Effective Total Recycling Tons) 16,732.81 (using Fill Commercial Waste Stream, not Fill Recycling Output)  
Effective Total Diversion Rate: 59.23%

Putrescible & Non-Putrescible			
	Permitted Capacity	% of Total	Total Waste % of Boro Cap. Used
Bronx	11,784.00	26.0%	6,374.69 54.1%
Brooklyn	24,045.00	53.0%	9,638.14 40.1%
Queens	6,448.00	14.2%	3,370.12 52.3%
Manhattan			
Staten Island	3,094.00	6.8%	922.68 29.8%

Commercial Waste Stream All Transfer Stations		
	Total	% of Total
Bronx	5,954.59	21.08%
Brooklyn	10,059.82	35.61%
Queens	6,934.47	24.55%
Manhattan	33.82	0.12%
Staten Island	5,267.46	18.65%

	Fresh Kills	Total	Tons Per Day
Fill		3,018	38.69
Road Bldg Mat.		7,497	96.11
<b>Total</b>		10,514.24	134.80



**Quarterly Recap- Tons per Day**  
2018 Calendar

	Permitted Capacity	C & D Tons	MSW Tons	SSR Tons	Total Waste	DOS Material	From Outside Of NYC	Material Betw. Tr.Station	Total Commercial Waste Stream	Recycling Tons	Residue Tons	Total Output	Input Over (under) Output
	45,371.00		20,305.62				28,250.15	100.0%					

**Quarterly Recap- Tons per Day**  
2018 Calendar

	Permitted Capacity	C & D Tons	MSW Tons	SSR Tons	Total Waste	DOS Material	From Outside Of NYC	Material Betw. Tr.Station	Total Commercial Waste Stream	Recycling Tons	Residue Tons	Total Output	Input Over (under) Output	Input Over (under) Capacity
<b>Trans.Station Non-Putr.</b>														
<b>BRONX</b>														
18 A J RECYCLING INC. (4280)		325 FAILE ST	1,200	805.40	15.34	<b>820.74</b>		2.16	<b>818.58</b>	305.76	504.69	<b>810.45</b>	8.13	(381.42)
19 JD RECYCLING (4402)		216-222 MANIDA ST	330	332.91		<b>332.91</b>			<b>332.91</b>	79.28	218.01	<b>297.28</b>	35.63	2.91
20 JOHN DANNA & SONS, INC. (1104)		318 BRYANT AVE	405	194.58		<b>194.58</b>			<b>194.58</b>	57.77	167.53	<b>225.29</b>	(30.71)	(210.42)
21 ASPHA LLC. (1120)		1264 VIELE AVE	750	89.15		<b>89.15</b>			<b>89.15</b>	1.21	96.95	<b>98.15</b>	(9.01)	(660.86)
22 ZEVEL TRANSFER, LLC (1113)		620 TRUXTON ST	1,050	499.00		<b>499.00</b>		10.26	<b>488.75</b>	218.60	284.62	<b>503.22</b>	(14.47)	(561.25)
<b>SubTotal BRONX</b>	<b>3,735</b>		<b>1,921.04</b>	<b>0.00</b>	<b>15.34</b>	<b>1,936.38</b>	<b>0.00</b>	<b>0.00</b>	<b>12.42</b>	<b>1,923.96</b>	<b>662.61</b>	<b>1,271.79</b>	<b>1,934.39</b>	<b>(10.43)</b>
<b>Percent Of Total</b>						<b>22.28%</b>			<b>22.19%</b>					
<b>BROOKLYN</b>														
23 ASTORIA CARTING CO., INC. (2117)		538-545 STEWART AVE	300	257.04		<b>257.04</b>			<b>257.04</b>	104.02	159.18	<b>263.20</b>	(6.16)	(42.97)
24 ATLAS ROLL-OFF CORP. (2053)		889 ESSEX ST	1,125	631.81		<b>631.81</b>			<b>631.81</b>	246.92	198.47	<b>445.39</b>	186.42	(493.19)
25 CITY RECYCLING CORP. (2118)		151 ANTHONY ST	1,500	1,254.50		<b>1,254.50</b>			<b>1,254.50</b>	452.39	802.88	<b>1,255.27</b>	(0.77)	(245.50)
26 COOPER TANK & WELDING INC. (4233)		222 MASPETH AVE	1,875	0.00		<b>0.00</b>			<b>0.00</b>	0.00	0.00	<b>0.00</b>	0.00	(1,875.00)
27 DECOSTOLE CARTING CO. (2011)		1481 TROY AVE	750	508.43		<b>508.43</b>			<b>508.43</b>	59.42	401.48	<b>460.90</b>	47.53	(241.57)
28 GADS (SAB) (BFI WASTE SYSTEMS) (4218)		594 SCHOLLES ST	1,090	770.19		<b>770.19</b>			<b>770.19</b>	579.75	235.64	<b>815.39</b>	(45.20)	(319.81)
29 BROOKLYN C&D, LLC. (4266)		548 VARICK AVE	1,350	285.11		<b>285.11</b>			<b>285.11</b>	40.35	236.26	<b>276.61</b>	8.49	(1,064.90)
30 POINT RECYCLING, LTD. (2115)		686 MORGAN AVE	300	162.02		<b>162.02</b>			<b>162.02</b>	71.82	90.53	<b>162.35</b>	(0.33)	(137.98)
31 WASTE MANAGEMENT OF NY, LLC (2222)		75 THOMAS ST	1,500	0.00		<b>0.00</b>			<b>0.00</b>			<b>0.00</b>	0.00	(1,500.00)
32 COOPER RECYCLING. (4267)		123 VARICK AVE	5,250	1,196.52		<b>1,196.52</b>		8.98	<b>1,187.54</b>	809.18	391.62	<b>1,200.80</b>	(13.26)	(4,062.46)
<b>SubTotal BROOKLYN</b>	<b>15,040</b>		<b>5,065.61</b>	<b>0.00</b>	<b>0.00</b>	<b>5,065.61</b>	<b>0.00</b>	<b>0.00</b>	<b>8.98</b>	<b>5,056.63</b>	<b>2,363.86</b>	<b>2,516.06</b>	<b>4,879.91</b>	<b>176.72</b>
<b>Percent Of Total</b>						<b>58.29%</b>			<b>58.33%</b>					
<b>QUEENS</b>														
33 AMERICAN RECYCLING (3662)		172-33 DOUGLAS AVE	150	108.98		<b>108.98</b>			<b>108.98</b>	2.13	108.08	<b>110.21</b>	(1.23)	(41.02)
34 CROWN CONTAINER CO. (3613)		126-46 34TH AVE	375	138.34		<b>138.34</b>			<b>138.34</b>	27.80	111.56	<b>139.36</b>	(1.02)	(236.67)
35 NEW STYLE RECYCLING CORP. (3327)		49-10 GRAND AVENUE	337	118.87	0.33	<b>119.19</b>			<b>119.19</b>	9.26	115.92	<b>125.18</b>	(5.99)	(217.81)
36 REGAL RECYCLING CO. INC. (4336)		172-06 DOUGLAS AVE	266	260.58		<b>260.58</b>			<b>260.58</b>	77.89	182.41	<b>260.30</b>	0.28	(5.42)
37 THOMAS NOVELLI CONTRACTING CORP. (4247)		94-20 MERRICK BLVD	375	136.51	1.92	<b>138.42</b>			<b>138.42</b>	18.98	103.02	<b>121.99</b>	16.43	(236.58)
<b>SubTotal QUEENS</b>	<b>1,503</b>		<b>763.27</b>	<b>0.00</b>	<b>2.24</b>	<b>765.51</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>136.05</b>	<b>620.98</b>	<b>757.03</b>	<b>8.48</b>	<b>(737.50)</b>
<b>Percent Of Total</b>						<b>8.81%</b>			<b>8.83%</b>					
<b>STATEN ISLAND</b>														
38 FLAG CONTAINER SERVICES, INC. (3419)		11 FERRY ST	2,250	564.34		<b>564.34</b>			<b>564.34</b>	79.33	603.10	<b>682.42</b>	(118.09)	(1,685.67)
39 STOKES WASTE PAPER CO., INC. (3476)		17-25 VAN ST	844	358.34		<b>358.34</b>			<b>358.34</b>	45.70	377.30	<b>422.99</b>	(64.65)	(485.66)
<b>SubTotal STATEN ISLAND</b>	<b>3,094</b>		<b>922.68</b>	<b>0.00</b>	<b>0.00</b>	<b>922.68</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>125.02</b>	<b>980.40</b>	<b>1,105.42</b>	<b>(182.74)</b>	<b>(2,171.33)</b>
<b>Percent Of Total</b>						<b>10.62%</b>			<b>10.64%</b>					
<b>Total for Transfer Station: Non-Putr.</b>	<b>23,372</b>		<b>8,672.58</b>	<b>0.00</b>	<b>17.58</b>	<b>8,690.16</b>	<b>0.00</b>	<b>0.00</b>	<b>21.40</b>	<b>8,668.77</b>	<b>3,287.53</b>	<b>5,389.21</b>	<b>8,676.74</b>	<b>(7.98)</b>
<b>Percent Of Grand Total</b>						<b>25.66%</b>			<b>30.69%</b>					

Non-Putrescible Transfer Station Diversion Rate 37.92%

**Quarterly Recap- Tons per Day**  
2018 Calendar

	Permitted Capacity	C & D Tons	MSW Tons	SSR Tons	Total Waste	DOS Material	From Outside Of NYC	Material Betw. Tr.Station	Total Commercial Waste Stream	Recycling Tons	Residue Tons	Total Output	Input Over (under) Output	Input Over (under) Capacity
<b>Trans.Station Putr.</b>														
<b>BRONX</b>														
1 ACTION ENVIRONMENTAL SYSTEMS (5504) 920 E 132ND ST	2,999	32.23	1,277.66	391.75	<b>1,701.64</b>	0.00	0.00	1.37	<b>1,700.26</b>	269.75	1,418.45	<b>1,688.20</b>	12.06	(1,298.74)
2 IESI NY CPRP. (1114) 325 CASANOVA	225	0.00	0.01	0.00	<b>0.01</b>	0.00	0.00	0.00	<b>0.01</b>	0.00	0.01	<b>0.01</b>	0.00	(224.99)
3 METROPOLITAN TRANSFER STATION (1117) 287 HALLECK ST	825	0.00	675.17	0.00	<b>675.17</b>	0.00	0.00	0.00	<b>675.17</b>	0.00	677.74	<b>677.74</b>	(2.57)	(149.83)
4 USA WASTE SERVICES OF NYC, INC. (1032) 98 LINCOLN AVE (HARLEM RVR YD)	4,000	0.72	2,060.79	0.00	<b>2,061.50</b>	1,872.13	0.00	0.08	<b>189.29</b>	0.00	189.29	<b>189.29</b>	0.00	(3,810.71)
<b>SubTotal BRONX</b>	<b>8,049</b>	<b>32.95</b>	<b>4,013.62</b>	<b>391.75</b>	<b>4,438.32</b>	<b>1,872.13</b>	<b>0.00</b>	<b>1.45</b>	<b>2,564.74</b>	<b>269.75</b>	<b>2,285.50</b>	<b>2,555.25</b>	<b>9.49</b>	<b>(5,484.27)</b>
<b>Percent Of Total</b>					<b>38.21%</b>				<b>39.42%</b>					
<b>BROOKLYN</b>														
5 ACTION ENVIRONMENTAL LLC (5503) 941 STANLEY AVE	375	0.08	369.10	1.43	<b>370.62</b>	164.12	0.00	0.00	<b>206.50</b>	0.43	207.38	<b>207.81</b>	(1.31)	(168.51)
6 BROOKLYN TRANSFER LLC (5511) 115 THAMES ST	560	0.00	418.80	0.00	<b>418.80</b>	0.00	0.00	0.00	<b>418.80</b>	0.76	412.81	<b>413.57</b>	5.23	(141.20)
7 HI-TECH RESOURCE RECOVERY (2213) 130 VARICK AVE	500	0.00	484.92	0.00	<b>484.92</b>	0.00	0.00	0.00	<b>484.92</b>	21.04	456.57	<b>477.61</b>	7.31	(15.08)
8 IESI NY CORP. (2163) 577 COURT ST	745	0.00	678.65	0.00	<b>678.65</b>	403.62	0.00	0.00	<b>275.04</b>	0.08	266.90	<b>266.98</b>	8.06	(469.96)
9 IESI NY CORP. (4263) 110-120 50TH ST.	1,075	0.00	798.55	0.00	<b>798.55</b>	411.52	0.00	0.00	<b>387.03</b>	0.09	369.13	<b>369.22</b>	17.81	(687.97)
10 WASTE MANAGEMENT OF NY, LLC (2128) 485 SCOTT AVE	1,500	28.11	707.47	4.48	<b>740.06</b>	0.00	0.00	0.13	<b>739.94</b>	43.73	694.31	<b>738.03</b>	1.90	(760.07)
11 WASTE MANAGEMENT OF NY, LLC (2211) 215-221 VARICK AVE	4,250	4.35	1,076.60	0.00	<b>1,080.94</b>	974.38	0.00	0.00	<b>106.56</b>	0.00	150.31	<b>150.31</b>	(43.75)	(4,143.44)
<b>SubTotal BROOKLYN</b>	<b>9,005</b>	<b>32.54</b>	<b>4,534.09</b>	<b>5.92</b>	<b>4,572.54</b>	<b>1,953.64</b>	<b>0.00</b>	<b>0.13</b>	<b>2,618.77</b>	<b>66.12</b>	<b>2,557.40</b>	<b>2,623.52</b>	<b>(4.74)</b>	<b>(6,386.23)</b>
<b>Percent Of Total</b>					<b>39.37%</b>				<b>40.25%</b>					
<b>QUEENS</b>														
13 A & L CESSPOOL SERVICE (5512) 38-40 REVIEW AVE	20	0.00	0.00	0.00	<b>0.00</b>	0.00	0.00	0.00	<b>0.00</b>	0.00	0.00	<b>0.00</b>	0.00	(20.00)
14 AMERICAN RECYCLING (4314) 172-33 DOUGLAS AVE	850	0.00	674.83	0.00	<b>674.83</b>	202.62	0.00	0.00	<b>472.21</b>	2.90	486.98	<b>489.88</b>	(17.67)	(377.79)
15 REGAL RECYCLING CO., INC. (3402) 172-02 DOUGLAS AVE	600	0.00	589.09	0.00	<b>589.09</b>	4.48	0.00	0.00	<b>584.61</b>	29.76	514.54	<b>544.29</b>	40.32	(15.39)
16 TULLY ENVIRONMENTAL INC. (4404) 127-20 34TH AVE	1,395	0.00	451.07	0.00	<b>451.07</b>	185.72	0.00	0.00	<b>265.36</b>	1.06	264.02	<b>265.08</b>	0.28	(1,129.65)
17 WASTE MANAGEMENT OF NY, LLC (3214) 38-50 REVIEW AVE	2,100	0.00	889.63	0.00	<b>889.63</b>	889.63	0.00	0.00	<b>0.00</b>	0.00	0.00	<b>0.00</b>	0.00	(2,100.00)
<b>SubTotal QUEENS</b>	<b>4,945</b>	<b>0.00</b>	<b>2,604.61</b>	<b>0.00</b>	<b>2,604.61</b>	<b>1,282.44</b>	<b>0.00</b>	<b>0.00</b>	<b>1,322.18</b>	<b>33.71</b>	<b>1,265.54</b>	<b>1,299.25</b>	<b>22.93</b>	<b>(3,642.83)</b>
<b>Percent Of Total</b>					<b>22.42%</b>				<b>20.32%</b>					
<b>Total for Transfer Station: Putr.</b>	<b>21,999</b>	<b>65.49</b>	<b>11,152.32</b>	<b>397.66</b>	<b>11,615.46</b>	<b>5,108.21</b>	<b>0.00</b>	<b>1.58</b>	<b>6,505.68</b>	<b>369.58</b>	<b>6,108.43</b>	<b>6,478.01</b>	<b>27.68</b>	<b>(15,513.32)</b>
<b>Percent Of Grand Total</b>					<b>34.30%</b>				<b>23.03%</b>					

Putrescible Transfer Station Diversion Rate      5.68%