

Testimony of the New York State Conference of Mayors  
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Hon. Pete Harckham, Chair

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Standing Committee on Environmental Conservation  
Hon. Deborah J. Glick, Chair

Hearing on Legislative Solutions to Reduce Packaging

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Thank you for affording NYCOM the opportunity to express our views related to legislative solutions to reduce packaging. Our testimony is informed by the experiences and input of our 575 city and village members throughout the State of New York, many of which operate or manage waste management programs and collection systems. Founded in 1910, NYCOM is a nonpartisan, voluntary membership organization that trains, educates, and advocates for cities, villages, and their local officials.

### **Recycling Crisis and Recent History**

According to the National League of Cities (NLC), municipal solid waste programs in the United States handle more refuse than any other country in the world. Additionally, nearly every municipality in America has implemented a recycling program to assist in the management and mitigation of solid waste disposal. In New York State, General Municipal Law § 120-aa requires all local governments to adopt a local law providing for source separation and the segregation of recyclable or reusable materials from solid waste. Until recently, the collection of recyclables was a profit-making enterprise for many cities and villages in the State. Unlike trash collection, which involves tipping charges to offset the expense of operating and maintaining landfills, recyclables are processed by material recovery facilities (MRFs) that sell the material on the open market and share a percentage of the proceeds with the municipality from which the material was collected.

However, the market for recyclable materials has shifted dramatically in recent years. Since the 1980s, China has been the primary purchaser of recycled material produced in New York, the United States, and the world. But in 2018, the Chinese government began implementing the “National Sword” policy, which set strict contamination limits on recyclable materials which effectively banned most of the recyclable materials exported from the United

States. The policy also established a ban on certain paper and plastic mixes, which are two of the most common types of materials processed by municipal recycling systems. China cites environmental and human health concerns as its primary motivations for implementing the new policy, however, the country's economy benefits greatly from centralizing the industry and utilizing its own waste materials.

The increased standards and restrictions have resulted in a dramatic decrease in exporting American recyclable product. In many communities, the material remains stockpiled and unused because it is too contaminated to meet China's requirements and no other markets are capable of absorbing the previous demand. Contamination ranges from the organic material that remains on the products when they are deposited to the glass fragments that become imbedded in plastic and paper materials due to single-stream recycling. Unfortunately, the materials most susceptible to contamination (i.e., paper and plastics) are among the greatest in the municipal supply, and virtually all opportunities for receiving a reasonable return for these products have been eliminated. In 2018, only 35% of recyclables nationwide remained profitable according to Waste Management.

### **Municipal Waste Management and Recycling**

The problem for many cities and villages in the State of New York is balancing the policy-driven supply of recyclable materials with the market-driven demand. Due in part to the extremely successful efforts of municipal and State public awareness campaigns and the implementation of single-stream collection, recycling has become an integral part of the State's and local governments' shared environmental agenda, with most households participating in recycling programs. However, because recycling has become so ingrained in New Yorkers' lives, many participate in "wishful recycling." This is an attempt by well-intentioned residents to

recycle materials that are either not processed by the local MRF, or not recyclable at all. Wishful recycling overloads the stream and contributes to contamination, making the processing of the materials more challenging and markedly less efficient.

Where the materials are being processed to remove the contamination to the acceptable levels, MRFs are facing increased costs in the form of slower treatment and increased labor expenditures. These expenses are exacerbated by lower revenues and the inability to sell the product in other markets. Additionally, MRFs face regulations imposed by the Department of Environmental Conservation that restrict how the product is treated, stored, and managed. Stockpiling the product is also detrimental to MRFs' profits because it can deteriorate the quality of the material.

Because of to these market realities, NYCOM has learned that haulers are breaking their contracts with cities and villages and negotiating new contracts that impose charges in excess of landfills' tipping fees. Haulers would rather face breach of contract claims than operate at their current losses. In at least one instance, NYCOM was told that the hauler would breach the contract knowing that under competitive bidding they would likely obtain the new contract at a higher price because competition is so limited and alternative haulers are either too expensive or unavailable in certain areas.

As previously stated, the cost to process recyclable material is exceeding the tipping fees at landfills for some cities and villages in New York. The upending of the recyclable market is especially challenging for those local governments that had derived a small percentage of revenue from the collection of recyclables. Local officials will not be able to provide residents with recycling service if the collection and processing of the material remains this cost prohibitive. Yet, eliminating recycling as a practice or returning to dual stream collection is as

impossible as it is untenable. Recycling is a necessary component of any environmental policy and reversing years of education and outreach would further confuse residents and likely contribute to increased contamination. Similarly, while dual stream recycling has the advantage of reducing glass contamination, reverting to dual stream recycling would extraordinarily complicate the current collection methods. Nearly every processing facility in New York State operates under single stream technology. Changing the system would require a complete overhaul of equipment, trucks, and education which is too costly and time consuming to pursue.

### **NYCOM Supports the Packaging Reduction and Producer Recycling and Responsibility**

Legislation to establish a packaging producer responsibility program that reduces consumer packaging, improves recycling outcomes, addresses toxins in packaging, and supports municipal waste management and recycling systems is strongly supported by city and village officials throughout the State. To that end, NYCOM enthusiastically supports A.5322-A (Glick)/S. 4246-A (Harckham). At the same time that the global market for recycled paper products has shifted, customers have become more reliant on internet shopping and home deliveries, which has created more packaging waste than ever before. Consequently, producer responsibility programs that remove packaging and paper products from the waste stream and shift recycling costs away from local governments and taxpayers and onto the producers of packaging and paper products would provide an efficient and cost effective way to manage some of the recycling challenges faced by cities and villages in the State.

Importantly, the proposed legislation would ensure that local governments and municipal recycling programs have a say in the statewide program. Specifically, this bill would require producers to create and implement product management plans that reimburse local governments for the costs associated with the collection, transportation, sorting, and processing of paper and

packaging products and incorporate municipal recycling systems on a voluntary basis. This approach to the recycling crisis would help keep paper and packaging materials out of the waste stream so that the integrity of those products is preserved and more easily reused and directed towards the appropriate market. Removing paper products from the waste stream would also allow these commodities to be more profitably recycled.

### **Additional Recommendations**

As stated above, the rapid and ongoing decline of the U.S. recyclables market has stressed municipal waste management systems. As a result of increased costs, local governments must either increase collection fees or dramatically reduce the types of materials they collect. Redirecting a variety of material out of the waste stream will help reduce municipal expenditures and prevent more unnecessary material from being landfilled. Consequently, legislation expanding the Bottle Bill is also strongly supported by NYCOM. By diversifying the types of beverage containers requiring deposit and increasing the cost of the deposit, an expanded Bottle Bill will help keep glass and other materials and products out of the waste stream to both ensure that the integrity of other recyclable materials is preserved and help recyclable materials and glass be more easily directed to the appropriate markets. Moreover, new profits received by the State from increased deposits may be dedicated to local governments' waste management programs to help cities and villages invest in waste diversion programs and upgrade their waste management practices without impacting State resources.

While New York State's Electronic Equipment Recycling and Reuse Act (Environmental Conservation Law, Article 27, Title 26) requires manufacturers to provide free and convenient recycling of electronic waste to all governmental entities in the State, cities and villages that are responsible for their communities' waste management are often left financing the cost of such

recycling. Updating this program to ensure the recycling costs are not borne by local governments is paramount. NYCOM supports legislation that addresses this imbalance by increasing manufacturers' responsibility for electronic waste recycling and requiring manufacturers to provide reimbursement to cities and villages when localities take responsibility for such waste management.

Lastly, cities and villages need financial support to continue current waste diversion programs and facilitate new solutions to achieve the public policy objective of recycling under current market conditions. For instance, support for municipal composting programs will help keep organic material out of the waste stream and reduce greenhouse gas emissions in furtherance of the State's climate goals. Additionally, local governments need help to make investments in recycling infrastructure. Like much of the capital infrastructure in New York State, the infrastructure to sort and process recyclable material is old and outdated. Increasing the efficiency of sorting and processing will reduce current costs, while investments in advanced cleaning technologies will increase the products' overall value.

### **Conclusion**

The immensity of the recycling crisis requires a holistic approach and by removing packaging and paper products from the waste stream, cities and villages in New York State will be better equipped to manage their waste systems. Shifting the responsibility of post-consumer waste back to the producers of the waste will not only relieve local governments of the burden of managing unmarketable material, but also help keep undesirable and toxic materials out of municipal landfills and help prevent the contamination of the State's natural lands and water sources.

The decline and eventual disappearance of the Chinese recyclables market must be addressed through both long- and short-term actions. Although cities and villages are exceedingly resourceful in utilizing the little revenue they are able to generate, expenses like those presented through the recycling market crisis that are unavoidable and beyond municipal control dramatically deplete local budgets. Support for existing municipal recycling programs so that they are preserved as integral components to the State's environmental policy is as necessary as investing in alternative markets within the State.

NYCOM supports a comprehensive approach to combating waste management challenges in New York State that includes producer responsibility to reduce packaging, as well as programs that would expand the Bottle bill, address the management of electronic waste, and support and incentivize local waste diversion programs. We appreciate your attention to this testimony and look forward to our continued collaboration with your committees to find the most efficient and cost effective solutions to the recycling challenges faced by the cities and villages in New York State.