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**Thomas P. DiNapoli  
COMPTROLLER**



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**OFFICE OF THE  
NEW YORK STATE COMPTROLLER**

**DIVISION OF STATE  
GOVERNMENT ACCOUNTABILITY**

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**NEW YORK STATE  
DEPARTMENT OF  
AGRICULTURE AND  
MARKETS**

**RECYCLING PROGRAM**

**Report 2008-S-132**

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## AUDIT OBJECTIVE

The objective of this audit was to determine whether the Department of Agriculture and Markets (Department) operates a recycling program that is in compliance with applicable State laws and Executive Orders.

## AUDIT RESULTS - SUMMARY

The Department is responsible for establishing a recycling program for its facilities as outlined in the Solid Waste Management Act of 1988 (Act) and Executive Orders (EO) 4 and 142. We found that the Department is not in full compliance with the Act and EOs. The Department has three leased offices: its central office in Albany and regional offices in Rochester and Buffalo. Its Syracuse office is located on the grounds of the New York State Fair. Although each office has a program in place to recycle paper and cardboard, the Albany, Rochester, and Buffalo offices do not have a program for source separating plastic, glass, and metals, as required.

Under EO 4 and EO 142, the Department is required to prepare and submit annual reports on its recycling efforts. These reports should contain a comprehensive collection of data reflecting the source reduction, recycling, and procurement initiatives, including information on the Department's current recycling efforts and the total amount of waste recycled. However, we found that the reports submitted by the Department contained only information regarding the efforts of the central office. Although the Syracuse office had collected extensive information about its recycling efforts, these statistics were not included in the annual reports submitted by the Department.

Our audit report contains three recommendations directed toward improving

the Department's compliance with the State's recycling program. Department officials indicated they have started to implement them.

This report, dated February 12, 2009, is available on our website at: <http://www.osc.state.ny.us>.

Add or update your mailing list address by contacting us at: (518) 474-3271 or  
Office of the State Comptroller  
Division of State Government Accountability  
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Albany, NY 12236

## BACKGROUND

New York State has a long history of encouraging the reduction and recycling of solid waste materials. Two decades ago, the State enacted the Solid Waste Management Act of 1988 (L 1988, ch 70) (Act), which laid out the priorities of the State's solid waste management policy:

- Reducing the amount of waste generated;
- Maximizing the amount of waste that is reused or recycled;
- Recovering as much energy as possible from what cannot be reused or recycled; and
- Disposing of the remaining solid waste appropriately.

The Act required most State agencies and public authorities to source separate their solid waste (i.e., to separate waste at the point it is discarded, such as putting recyclable items like paper, metal, glass, and plastic into one container, and other non-recyclable items such as food and soiled items into another container). In addition, municipalities throughout the State were required to pass their own local ordinances or legislation requiring separation of solid waste, whether it

is left out for collection or delivered to a solid waste management facility.

In January 1991, the Governor issued Executive Order 142 (NYCRR 4.142) (EO 142) on *Establishing New Waste Reduction and Recycling Initiatives for State Agencies*, thereby reaffirming the State's commitment to reduce and recycle waste. Under EO 142, State agencies were required to source separate paper and other products from their waste stream. Source separation programs were to be enhanced through a combination of employee education and the installation of equipment. EO 142 also required State agencies to submit an annual report to the Office of General Services (OGS) in August of each year detailing their waste reduction and recycling activities and any recommendations for additional measures that needed to be taken. EO 142 also directed OGS and the Departments of Environmental Conservation (DEC), Transportation (DOT), and Economic Development (DED) to provide State agencies with technical assistance in developing and implementing their source separation programs.

In April 2008, the Governor issued Executive Order 4 (9 NYCRR 7.4) (EO 4) on *Establishing a State Green Procurement and Agency Sustainability Program*. EO 4 created the Interagency Committee on Sustainability and Green Procurement (Committee), comprised of the heads of 12 State agencies and public authorities. EO 4 requires each State agency and public authority to designate a Sustainability and Green Procurement Coordinator and develop a comprehensive Sustainability and Environmental Stewardship Program (Program). EO 4 builds upon the requirements of EO 142 (which it superseded), in that each agency's Program must provide for source separation of its waste to maximize the amount of paper, metal, glass, and plastic that is recycled.

Technical assistance for agencies continues to be available from OGS and DEC, as well as from the Environmental Facilities Corporation and the New York State Energy Research and Development Authority. Beginning March 1, 2009, State agencies and public authorities are required to submit an annual report to the Committee that will, in turn, provide a summary report to the Governor.

The Department is charged with fostering a competitive and safe New York food and agricultural industry for the benefit of producers and consumers. Agriculture makes up one-quarter of the State's land area and contributes greatly to the quality of life in New York State by generating economic activity and producing wholesome products to nourish our families. The Department has approximately 574 employees and operates out of 8 offices (7 district offices and the New York State Food Laboratory). Four of these offices, including the food laboratory, are located within buildings owned and operated by OGS, which is responsible for the recycling programs at these locations. Three offices - the central office in Albany and the regional offices in Rochester and Buffalo - are located in buildings leased by the Department and, thus, the Department is responsible for the recycling programs at these locations. The Syracuse office is located on the grounds of the New York State Fair (Fairgrounds). The Industrial Exhibit Authority (IEA), a State public authority, operates the Fairgrounds and is responsible for maintaining a recycling program there throughout most of the year. During the New York State Fair, the Department and IEA work jointly on recycling efforts at the Fairgrounds.

For the two-year period ending March 31, 2007, the Department reported that its Albany office recycled 24 tons of mixed paper, 1 ton

of batteries (lead-acid and household), and 2 tons of office computer equipment. Syracuse office officials, who are charged with recycling for the State Fair, indicated they recycle between 14 and 18 tons of glass, plastic, and metals; 105 tons of cardboard and office paper; and 250 tons of manure each year. They also receive revenue from the sale of recyclable materials. Thus far in 2008, the IEA has reported receiving \$10,272 from recycled steel and \$624 for aluminum and copper. In fiscal year 2007, it reported receiving \$9,819 from recycled cardboard.

## **AUDIT FINDINGS AND RECOMMENDATIONS**

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### *Recycling Program*

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The Department is responsible for establishing a recycling program as outlined in the Act and EOs 4 and 142, for the Albany, Rochester, and Buffalo offices and for the Syracuse office during the State Fair. We found that the Department is not in full compliance with either the Act or EOs 4 or 142. All four offices have programs for recycling paper and cardboard. Employees and cleaning staff separate cardboard and paper and place them in a separate bin for recycling. However, the Albany, Rochester, and Buffalo offices have not implemented programs for source separating plastic, glass, and metals, as required. Instead, these items are placed in the trash with all other wastes. The Syracuse office is in full compliance and has programs for recycling scrap metals, manure, and cooking oils, as well.

The Department's lease agreements for its regional offices state: "The Landlord shall remove all such source-separated wastes causing the same to be disposed of for the purposes of recycling and materials recovery in accord with all laws, rules, orders, ordinances, and regulations at any time issued

or in force and applicable in the borough, city, county, or municipality in which the Demised Premises are located." In accordance with these agreements, the Department should work with the landlord at each location to implement the recycling of plastic, glass, and metals, as outlined in the Act and EOs. Department officials at the Albany and Buffalo offices state they are currently working to implement such a plan.

The Syracuse office has implemented extensive recycling efforts during the State Fair and throughout the rest of the year. Officials have contracted for the removal of plastic, glass, and metals; and receive rebates for cardboard and paper products. Officials stated they also work with local vendors and the Onondaga County Resource Recovery Agency to facilitate the recycling of cooking oil and grease, florescent bulbs, batteries, paint, and manure.

Under both EO 4 and EO 142, the Department has a responsibility to educate staff on recycling efforts and expectations. Accordingly, Department officials told us they have sent emails to central office employees about the recycling of paper, cardboard, and telephone books. These emails identified acceptable recycling methods and locations. In addition, officials at the three regional offices were able to describe their recycling efforts to us. The Buffalo and Rochester offices follow the same policies as the central office, while the Syracuse office has an extensive recycling program that was developed by the IEA. EO 4 also requires the Department to appoint a Sustainability Coordinator by September 1, 2008, which the Department has done.

### **Recommendations**

1. Establish and implement a recyclable program for the central and regional

offices that is in compliance with the Act and EO 4.

2. Monitor recyclable programs at the central and regional offices for assurance that they are being implemented effectively.

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### *Reporting*

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EO 142 required agencies to submit annual reports to OGS, with copies to DEC and DED, by August 1st of each year. These reports were to contain a comprehensive collection of data, reflecting the source reduction, recycling, and procurement initiatives the agencies have taken. Although the reports were to include all of the Department's recycling and source reduction activities, we found the reports contained only information regarding the efforts of the central office. The reports did not include data from the offices in Buffalo, Rochester, or Syracuse.

EO 4 requires the Department to begin reporting its recycling efforts again by March 1, 2009. Accurate data collection can help ensure the success of waste prevention and recycling efforts, as well as identify areas for improvement, while fulfilling annual reporting obligations.

### **Recommendation**

3. Ensure that annual reports are prepared and submitted timely and are based on complete and accurate information from the Albany, Syracuse, Rochester, and Buffalo offices.

### **AUDIT SCOPE AND METHODOLOGY**

We audited the Department's recycling program from April 1, 2005 through September 22, 2008 to determine whether it is in compliance with applicable State laws and

Executive Orders. To accomplish our objective, we reviewed the Act, EO 142, and EO 4; met with Department officials to confirm and enhance our understanding of the Department's recycling programs; and observed recycling efforts at the Department's central and regional offices. We also reviewed annual reports and related supporting documentation.

We conducted our performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, refunds, and other payments. In addition, the Comptroller appoints members to certain boards, commissions and public authorities, some of who have minority voting rights. These duties may be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our opinion, these functions do not affect our ability to conduct independent audits of program performance.

### **AUTHORITY**

The audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1, of the State Constitution and

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Article II, Section 8, of the State Finance Law.

### **REPORTING REQUIREMENTS**

A draft copy of this report was provided to Department officials for their review and comment. Their comments were considered in preparing this report, and are included as Appendix A.

Within 90 days of the final release of this report, as required by Section 170 of the Executive Law, the Commissioner of the

Department of Agriculture and Markets shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendations contained herein, and where recommendations were not implemented, the reasons therefor.

### **CONTRIBUTORS TO THE REPORT**

Major contributors to this report were Frank Houston, John Buyce, Greg Petschke, Heather Pratt, Sage Hopmeier, and Constance Walker.

## APPENDIX A - AUDITEE RESPONSE



STATE OF NEW YORK  
DEPARTMENT OF AGRICULTURE & MARKETS  
10B Airline Drive, Albany, NY 12235  
518-457-8876  
<http://www.agmkt.state.ny.us>

David Paterson  
Governor

Patrick Hooker  
Commissioner

January 23, 2009

Mr. Frank J. Houston  
Office of the State Comptroller  
Division of State Government Accountability  
123 William Street – 21<sup>st</sup> Floor  
New York, New York 10038

Dear Mr. Houston:

I have reviewed the audit report issued by the Comptroller's Office regarding the Department's recycling program and its compliance with applicable State laws and Executive Orders (2008-S-132). The report clearly identifies areas where additional efforts to recycle are needed. The Department is committed to improving our recycling program and recycling efforts and has already started to implement the recommendations made within the report. In fact, since the completion of the audit fieldwork, the Department has implemented a new initiative to gather 'returnable for deposit' containers as well. Those cans and bottles will periodically be given to the Food Pantries of the Capital District as a charitable donation from the employees of the New York State Department of Agriculture and Markets.

Please contact Ms. Tracy Robbins, the Department's Director of Internal Audit, if you have any questions regarding our response or require any additional information or documentation. Ms. Robbins can be reached at (518)485-7728.

Sincerely,

A handwritten signature in black ink that reads "Patrick Hooker".

Patrick Hooker  
Commissioner