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**OFFICE OF THE
NEW YORK STATE COMPTROLLER**

**DIVISION OF STATE
GOVERNMENT ACCOUNTABILITY**

**NEW YORK STATE
DEPARTMENT OF
ENVIRONMENTAL
CONSERVATION**

RECYCLING PROGRAM

Report 2008-S-142

AUDIT OBJECTIVES

One audit objective was to determine whether the Department of Environmental Conservation (Department) operates a recycling program that is in compliance with State and local laws and Executive Orders. A second objective was to determine whether the Department has taken appropriate action to assist other state agencies' compliance with applicable governance.

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), Executive Orders 142 and 4 and local laws. We found the Department has established a recycling program in compliance with applicable State laws and Executive Orders. Although the New York City regional office does not separate plastic, glass, and cans from the trash, this practice complies with local laws. The New York City office requires that the waste hauler separate these items. Also, Department officials informed us that employees at the New York City office received limited training about the recycling program.

Under Executive Order 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 source reduction, recycling, and procurement initiatives, including information on the Department's current recycling efforts and the total amount of waste recycled. The Department prepared the annual reports for the two state fiscal years from April 1, 2005 to March 31, 2007. However, they were incomplete because five of the Department's nine regional offices did not provide data to be included in the report.

In addition, the Department is supposed to receive the annual reports prepared by other State agencies and public authorities and voluntarily accepted responsibility for compiling the data into a single statewide report. However, the Department does not receive annual reports from all State agencies. For the two years ended March 31, 2007, the Department received annual reports from only 31 of the 85 State agencies and public authorities that were supposed to report. The Department discontinued preparing the Statewide summary report after the 2002-03 State fiscal year.

Under Executive Order 142, the Department was required to provide education and assistance to State agencies to establish and promote recycling programs within their facilities and to inform them about regulatory requirements applicable to the initiatives the Order. The Department was also required to work on a Task Force with the Department of Economic Development (DED) to develop a plan to reduce the toxicity of dry-cell batteries and to encourage battery recycling. We found the Department complied with these Executive Order 142 requirements. It developed several recycling brochures which are available on the Department website or by mail and it assisted State agencies in preparing recycling handouts. The Department also holds meetings and attends other public events to provide recycling information. The Department and DED issued a report with recommendations to reduce the toxicity of dry-cell batteries and to encourage battery recycling.

Under Executive Order 4, the Department is required to develop and implement a Sustainability and Environmental Stewardship Program (Program) and assign an employee to serve as the Sustainability and Green Procurement Coordinator (Coordinator). The Program must include specific projects,

programs and policies designed to reduce the generation of waste and source separate recyclable materials, including paper, metal, glass and plastic. The Coordinator is responsible for providing Program training to Department staff, vendors and contractors. The Department has developed a strategy, along with specific projects. The Department decided to designate two coordinators, one for Green Procurement and another as Sustainability Coordinator. As of November 18, 2008, the Department has not designated a Sustainability Coordinator.

Our audit report contains six recommendations directed toward improving the Department's compliance with the State's recycling program. DEC officials agreed with our recommendations and have taken action or will take action to implement all of them.

This report dated December 17, 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
110 State Street, 11th Floor
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 (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 such as paper, metal, glass, plastic etc into one container, and other non-recyclable items such as food, soiled items, etc., 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 (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. (State public authorities were "urged" to undertake programs consistent with the Order.) Source separation programs were to be enhanced through a combination of employee education and 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, Transportation and Economic Development to provide State agencies with technical assistance in developing and implementing their source separation programs.

In April 2008, the Governor issued Executive Order 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 State agencies continues to be available from the OGS and the Department, as well as the Environmental Facilities Corporation (EFC) and the New York State Energy Research and Development Authority (NYSERDA). Beginning August 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 conserving, improving and protecting the State's natural resources and environment and to prevent, abate and control water, land and air pollution, in order to enhance the health, safety and welfare of the people of the State and their overall economic and social well-being. The Department employs approximately 3,752 full-time equivalent employees and has a central office, nine regional offices, and 17 sub-regional offices. It also has 12 fish hatcheries, 1 game farm, 52 campgrounds, 7 day-use areas, the Belleayre Mountain Ski Resort, and several other locations.

Annual reports submitted by the Department for the two fiscal years ended March 31, 2006 and March 31, 2007 reported that the following amounts of materials had been recycled.

Type of Recyclable Material	Quantity (in Tons)	
	FY 2005-06	FY 2006-07
Paper (white, mixed, newspaper, and corrugated cardboard)	96.7	101.0
Glass, plastic, metal, and returnable containers	56.4	116.2
Batteries (lead-acid and household)	9.6	11.0
Tires	27.4	27.6
Motor Oil	26.0	27.1
Construction and demolition debris	65.9	23.7
Yard waste	61.1	65.1
Office equipment and other items	57.2	55.8
Total Tonnage Reported	400.3	427.5

AUDIT FINDINGS AND RECOMMENDATIONS

Recycling Program

The Department is responsible for establishing a recycling program as outlined in the Act and EOs 4 and 142, for its Central Office, as well as its nine regional offices, and all other facilities throughout the State. The Department has a recycling program as outlined in the Act, Executive Orders 4 and 142. We found all the locations we visited or contacted have programs for recycling paper and cardboard. In addition, with the exception of the New York City regional office, these locations also recycle plastic, glass and metals. While the New York City regional office does not separate plastic, glass, and cans from the trash, it requires its waste hauler to separate these items post collection at the refuse facility. The New Paltz and Cortland locations we visited were recycling vehicle and household batteries,

fluorescent light bulbs, tires, and motor oil. The Belleayre location also recycled motor oil and tires. The Syracuse regional office recycled household batteries, but not fluorescent light bulbs (a requirement of State laws dealing with mercury products). The New York City regional office also recycled fluorescent light bulbs and an employee collected small batteries and returned them at a local recycling center.

We visited a judgmental sample of six locations: the Department's central administrative offices and its distribution center in Albany; the New Paltz, New York City and Syracuse regional office headquarters; and the Cortland sub-regional office, to determine whether the Department had recycling programs in accordance with the executive orders and to determine if these locations were adhering to recycling requirements contained in any leases they may have for space. We also reviewed recycling efforts at the White Plains sub-regional office and the Belleayre Mountain Ski Resort. We reviewed the recycling laws for the cities of New York and Albany, as well as for Cortland, Onondaga, and Ulster Counties. The recycling laws of New York City and Albany are less stringent than State requirements, only requiring businesses, institutions and industries to recycle corrugated cardboard, high-grade paper, and newspaper; but food and beverage establishments must also recycle containers for metals, plastics, and glass. The laws of Cortland, Onondaga and Ulster Counties require institutions to recycle corrugated cardboard, and have containers for glass, metals and plastic, as well as for paper and newspaper.

Under both EO 4 and EO 142, the Department has a responsibility to educate staff on recycling efforts and expectations. The Interagency Committee on Sustainability and

Green Procurement has provided direction to the Department on how to create and implement the training and outreach programs in accordance with EO 4. Department officials told us they have periodic staff training conferences and they distribute recycling brochures at the Central Office. However, the New Paltz regional office had no formal training for staff there on recycling, but did post bulletins and did send emails periodically to remind staff to recycle. Neither the New York City nor the Syracuse regional offices have given formal recycling training to staff working at these locations.

EO 4 requires the Department to develop and implement a Sustainability and Environmental Stewardship Program which includes, among other things, specific projects, programs and policies designed to reduce the public health and environmental impacts of activities and operations of the agency including the recycling of solid waste. As part of the program, the Department is to implement an effective program to source separate recyclable materials, including paper, metal, glass and plastic. The Department is required to assign an employee to serve as the Sustainability and Green Procurement Coordinator (Coordinator) by September 1, 2008. The Coordinator is responsible for providing Program training to Department staff, vendors and contractors. The Department has developed a strategy, along with specific projects in accordance with requirements of EO 4. Department officials told us they plan to designate two coordinators, one for Sustainability and the other for Green Procurement. As of November 18, 2008, it had designated a Green Procurement Coordinator but had not designated a Sustainability Coordinator.

As part of the audit, we determined whether the Department received any revenues from the sale of recycled materials. During our

visits to several Department locations we were advised in some of the offices revenues are generated because certain recycled metals have value. However, these activities are not accounted for uniformly because recycled materials such as scrap metals can be sold and in other cases the Department gets a credit offset against transportation charges. In addition, the New Paltz regional office recycles waste automotive fluids and gets a credit against its cost of recycling oil filters. The Syracuse regional office gets a credit for recycling waste oil against its parts cleaning equipment service contract. Officials in the Department's Revenue Accounting Unit told us they were not aware of any revenue earned from recycling activities at either the central office or the regional offices. As a result, they have not established any revenue codes to track such revenues or the offset credits. The Department should obtain information about the different practices and establish formal procedures for handling the sale of recycled materials.

Recommendations

1. Work with Syracuse regional office's landlord to ensure fluorescent light bulbs are recycled in accordance with State law.
2. Provide regional office employees education and/or training on recycling programs and efforts.
3. Formally designate a Sustainability Coordinator for the Department.
4. Obtain information regarding the methods followed by the regional offices and formally establish procedures for this activity and provide for accountability.

Reporting

EO 142 required agencies to submit annual reports to OGS, with copies to 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 taken by central and regional agency facilities. We reviewed the reports prepared for the 2005-06 and 2006-07 fiscal years and found that they did not contain complete recycling data. We noted that five of nine regional offices did not report on their recycling efforts. The New Paltz regional office compiled the information but sent it to the Department's Central Office too late to be included in the annual reports. We also found that the Department's recycling report did not contain information from the Belleayre Mountain Ski Resort.

Department officials told us that the estimates of the amount of paper, cardboard, bottles and cans that the Central Office recycles come from the waste hauler. However, the Department did not verify the accuracy of these reported amounts. The New Paltz and Syracuse regional offices estimate their recyclables based on the average weight of containers or on historical information. (In response to our draft audit report, Department officials noted they conducted a waste audit in February 2008 in collaboration with OGS and conducted a similar audit in February 2009. These audits confirmed that the estimates reported by the waste hauler are reasonable.)

Data collection can help monitor the success of waste prevention and recycling efforts as well as identify areas for improvement while fulfilling annual reporting obligations. However, as with any data collection activity, the Department must develop effective controls and monitoring activities to ensure the data being collected are comprehensive and complete. In addition, the data collected

and reported should cover all Department facilities.

The Department did not prepare an annual recycling report for the fiscal year ended March 31, 2008 because it was not due until August 1, 2008, and by then EO 4 was issued and required a new cycle for filing reports. The first report under EO 4 is due August 1, 2009.

In addition, the Department is supposed to receive the annual recycling reports prepared by other State agencies and public authorities and voluntarily accepted responsibility for preparing a single Statewide report. The Department has not prepared the Statewide report since the 2002-03 State fiscal year because, according to Department officials, they did not have sufficient time to prepare the report. We questioned whether any report issued would be representative of the State's recycling efforts because, for the two years ending March 31, 2007, the Department received annual reports from only 31 of the 85 State agencies and public authorities who were required to report.

EO 4 assigns the responsibility for reporting statewide information to the Interagency Committee on Sustainability and Green Procurement (Committee). This Committee will receive annual reports from State agencies and public authorities and, in turn, will prepare annual reports beginning June 1, 2009 of the progress made regarding implementation of the Executive Order.

Recommendations

5. Complete future recycling reports, containing data from all Department facilities in accordance with applicable governance.

6. Implement internal controls or activities to ensure the accuracy of recycling information reported on future reports.

Assistance Provided to Other State Agencies

EO 142 required the Department to provide education and assistance to State agencies to establish and promote recycling programs within their facilities and to inform them about regulatory requirements applicable to the initiatives set out in the Order. The Department was also required, in cooperation with DED, to establish a Task Force to develop a plan to reduce the toxicity of dry-cell batteries and to encourage the recycling of such batteries. EO 4 continues to hold the Department responsible for providing recycling technical assistance to State agencies. The Department has prepared several brochures, such as *Waste Reduction, Reuse, Recycling, Composting and Buying Recycled Handbook for State Agencies* and *How to Set-Up a Battery Recycling Program*. Brochures are available on the Department's website and they can be requested by mail.

The Department has also assisted other State agencies and public authorities in setting up a recycling program and preparing handouts for them. For example, staff assisted the New York State Thruway Authority in developing handouts to advertise the recycling efforts at its Thruway Service Areas. They also hold meetings and events held by State agencies to provide information on recycling. The Department, along with DED, established the Battery Task Force and developed recommendations to reduce the toxicity of consumer dry cell batteries and to promote their recovery and recycling or reclamation. The Task Force also developed recommendations for collection and recycling of non-consumer dry cell batteries.

AUDIT SCOPE AND METHODOLOGY

We audited the Department's recycling program from April 1, 2005 through November 12, 2008 to determine whether it operates a recycling program that is in compliance with applicable State laws, Executive Orders, and local laws and to determine whether the Department has taken appropriate action to assist other State agencies to comply with applicable governance. To accomplish our objectives, we reviewed relevant State and local laws and Executive Orders. We met with Department officials and reviewed supporting documentation to obtain an understanding of the Department's recycling programs and observed recycling efforts at the Department's Central Office, three regional offices, one sub-regional office, and the Albany distribution center. We also contacted Department officials at the Belleayre Mountain Ski Resort and the White Plains sub-regional office to determine whether recycling activities were occurring there. In addition, we reviewed annual recycling reports and related supporting documentation.

We conducted our 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 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 final report, and are included as Appendix A.

Within 90 days after final release of this report, as required by Section 170 of the Executive Law, the Commissioner of the Department of Environmental Conservation 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 why.

CONTRIBUTORS TO THE REPORT

Major contributors to this report were Carmen Maldonado, Gerald Tysiak, Roger C. Mazula, Wayne Bolton, Bruce Brimmer, and Michele Turmel.

APPENDIX A – Auditee Response



DAVID A. PATERSON
GOVERNOR

STATE OF NEW YORK
DEPARTMENT OF ENVIRONMENTAL CONSERVATION
ALBANY, NEW YORK 12233-1010

ALEXANDER B. GRANNIS
COMMISSIONER

Ms. Carmen Maldonado
Audit Director
Office of the State Comptroller
Division State Services
State Audit Bureau
123 Williams Street, 21st Floor
New York, New York 10038

Dear Ms. Maldonado:

Enclosed please find DEC's response to the State Comptroller's draft report 2008-S-142 entitled "Recycling Program" dated April 22, 2009 and received September 18, 2009.

Thank you for the opportunity to respond to the draft report. If you have any questions regarding DEC's response, please contact Tom Kulzer in DEC's Office of Internal Audit and Investigation at (518) 402-9147.

Sincerely,

A handwritten signature in black ink, appearing to read "Alex Grannis".

Alexander B. Grannis

Enclosure

c: T. Lukacs, DOB
T. Kulzer

The New York State Department of Environmental Conservation's (DEC) response to the Office of the State Comptroller's (OSC) draft report 2008-S-142, "Recycling Program" is presented below and broken into two sections:

- Specific Comments
- Response to Recommendations

Specific Comments

The following are specific comments DEC has regarding selected wording contained in the draft report.

Page 2, Audit Results – Summary, Column 2, Paragraph 1, Sentence 4: "In addition, the Department has not prepared the Statewide summary report since the 2002-03 State fiscal year."

Department Response: The sentence should be deleted from the final report since Executive Order No. 142 does not identify the DEC as responsible for compiling the reports from State Agencies into a summary report.

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Comment

Page 6, Reporting, Column 2, Paragraph 5: "In addition, the Department is supposed to receive the annual recycling reports prepared by other State agencies and public authorities and consolidate the information into a single Statewide report. The Department has not prepared the Statewide report since the 2002-03 State fiscal year because, according to Department officials, they did not have sufficient time to prepare the report. We questioned whether any report issued would be representative of the State's recycling efforts because, for the two years ending March 31, 2007, the Department received annual reports from only 31 of the 85 State agencies and public authorities who were required to report."

Department Response: The DEC believes this paragraph should be deleted from the final report. Executive Order No. 142 does not direct DEC to prepare summary reports of state agency Executive Order No. 142 reports. While it is true that DEC voluntarily prepared such summary reports, since this was not mandated through Executive Order No. 142, DEC's discontinuation of preparing the summary reports it is not relevant to this audit report.

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Comment

Page 6, Reporting, Column 2, Paragraph 2, Sentences 2 and 3: "Department officials told us that the amount of paper, cardboard, bottles and cans that the Central Office recycles come from the waste hauler. However, the Department did not verify the accuracy of these reported amounts."

Department Response: These sentences should read as follows: "Department officials told us that the estimates of the amount of paper, cardboard, bottles and cans that the Central Office recycles come from the waste hauler. The Department

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Comment

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* See State Comptroller's Comment, page 12.

conducted a waste audit in February 2008 in collaboration with OGS and conducted a similar audit in February 2009. These audits confirmed that the estimates reported by the waste hauler are reasonable estimates.”

Page 6, Recommendations, Column 1, Paragraph 4: “4. Obtain information regarding the methods followed by the regional offices and formally establish procedures for this activity and provide for accountability.”

Department Response: DEC suggests that this recommendation read as follows: “4. Obtain information regarding the methods for handling the sale of recycled materials followed by the regional offices and formally establish procedures for this activity and provide for accountability”.

Response to Recommendations

The following presents DEC’s response to each recommendation contained in the draft report.

Recommendation 1: Work with Syracuse regional office’s landlord to ensure fluorescent light bulbs are recycled in accordance with State law.

Response to Recommendation 1: DEC agrees with the recommendation and will work with Syracuse regional office’s landlord to ensure fluorescent light bulbs are recycled in accordance with State law.

Recommendation 2: Provide regional office employees education and/or training on recycling programs and efforts.

Response to Recommendation 2: DEC agrees with the recommendation and DEC Central Office staff in the Division of Solid and Hazardous Materials currently provides recycling information to the regional offices twice each year. DEC’s Sustainability Coordinator will ensure regional office employees receive training.

Recommendation 3: Formally designate a Sustainability Coordinator for the Department.

Response to Recommendation 3: DEC formally designated a sustainability coordinator effective September 18, 2009.

Recommendation 4: Obtain information regarding the methods for handling the sale of recycled materials followed by the regional offices and formally establish procedures for this activity and provide for accountability.

Response to Recommendation 4: DEC agrees with the recommendation and will establish a team to inventory and analyze what regions and programs are

recovering revenues from recycling efforts. With this information DEC plans to establish proper accounting activities to recognize and account for the recycling revenue as well as establish procedures for future recycling efforts that may generate revenue.

Recommendation 5: Complete future recycling reports, containing data from all Department facilities in accordance with applicable governance.

Response to Recommendation 5: DEC agrees with this recommendation. In August 2009, state agencies were to complete the Executive Order 4 Report Form and report on agency recycling efforts for FY 2008-09. As of September 15, 2009 all DEC regions and programs submitted reports which are being compiled into a department wide report by agency staff. Since this was the first year for this report, staff now have a better understanding of the information that needs to be collected and will have a better chance to develop methods of tracking quantities and types of recycling for subsequent reporting years. In addition, DEC has scheduled green procurement training for employees that will be conducted in Fall 2009 which will provide further guidance on compliance with Executive Orders 4, 18, and 134.

Recommendation 6: Implement internal controls or activities to ensure the accuracy of recycling information reported on future reports,

Response to Recommendation 6: DEC agrees with this recommendation. The Executive Order 4 report form provided by OGS requires agencies to report on their recycling efforts. As indicated in response to Recommendation 5, with additional training and advance notice of what reporting information is required, accuracy will improve. Reporting requirements will be incorporated into Division workplans, where appropriate. In addition, periodic auditing at random locations should help ensure the accuracy of the information reported.

* State Comptroller's Comment

The report was revised, as appropriate, to reflect information in DEC's response.