



Metropolitan Transportation Authority Metro-North Railroad

Recycling Program

Report 2009-S-92



Thomas P. DiNapoli

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State of New York Office of the State Comptroller

Division of State Government Accountability

August 26, 2010

Mr. Jay Walder
Chairman and Chief Executive Officer
Metropolitan Transportation Authority
347 Madison Avenue
New York, NY 10017

Dear Chairman Walder:

The Office of the State Comptroller is committed to helping State agencies, public authorities and local government agencies manage government resources efficiently and effectively and, by so doing, providing accountability for tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of State agencies, public authorities and local government agencies, as well as their compliance with relevant statutes and their observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations. Audits can also identify strategies for reducing costs and strengthening controls that are intended to safeguard assets.

Following is a report of our audit of MTA-Metro-North Railroad, Recycling Program. This audit was performed pursuant to the State Comptroller's authority under Article X, Section 5 of the State Constitution and Section 2803 of the Public Authorities Law.

This audit's results and recommendations are resources for you to use in effectively managing your operations and in meeting the expectations of taxpayers. If you have any questions about this report, please feel free to contact us.

Respectfully submitted,

*Office of the State Comptroller
Division of State Government Accountability*



State of New York Office of the State Comptroller

EXECUTIVE SUMMARY

Audit Objective

The objective of this audit was to determine whether the Metropolitan Transportation Authority (MTA) Metro-North Railroad (Metro-North) operates a recycling program that is in compliance with applicable State and local laws and Executive Orders.

Audit Results - Summary

The MTA is responsible for establishing a recycling program as outlined in section 2878-b of the Public Authorities Law as amended by the Solid Waste Management Act of 1988 (Act) and Executive Order 4 (EO 4). Additionally, public authorities were encouraged to undertake waste reduction and recycling efforts by Executive Order 142 (EO 142). We found MTA's Metro-North Railroad has implemented a program to recycle many waste materials that is substantially in compliance with applicable requirements. However, several additional improvements are needed to achieve full compliance.

Metro-North has installed recycling bins at its stations for customers to source separate newspapers, bottles, and cans. Recyclable items left on the trains are discarded and collected by four waste removal vendors. The vendors are required by their contracts with Metro-North to comply with all federal, State, and local laws, rules and regulations regarding recycling and source separation. We visited one of the four vendors and called another and found that both vendors recycle materials after collection. At Grand Central Terminal, newspapers and cardboard are source separated, and bottles and cans are separated after collection and recycled by the waste removal vendor. Metro-North also recycles many other materials including metal, surplus rail cars, obsolete vehicles, select heavy duty machinery, waste oil, industrial batteries, florescent bulbs, and computer equipment. However, Metro-North does not verify the weight of metal it recycles to determine if it is paid the correct amount. Also, Metro-North has not provided training to its employees on recycling requirements.

The MTA has assigned an employee with two assistants to serve as the Sustainability and Green Procurement Coordinator (Coordinator) in compliance with EO 4. Additionally, in September 2007 the MTA established a Blue Ribbon Commission on Sustainability and the MTA (Commission). The final report was issued in February 2009. As the MTA formalizes its recycling program, it should ensure that the program and training materials include the requirements of applicable laws,

the Act and EO 4. In the meantime, Metro-North should provide employees with information on current recycling requirements as needed and monitor compliance.

EO 4 requires the MTA to begin reporting on its recycling efforts by August 31, 2009. MTA provided a copy of its EO 4 report.

Our audit report contains three recommendations directed toward improving the MTA-Metro-North Railroad's recycling program. MTA officials agreed with our recommendations and have taken action to implement them.

This report, dated August 26, 2010, 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 Accountability
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Introduction

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 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, plastics, 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 source separation of solid waste, whether it is left out for collection or delivered to a solid waste management facility. Consequently, public benefit corporations located within these municipalities are required to comply with their recycling laws.

In January 1991, the Governor issued Executive Order 142 (9 NYCRR 4.142) (EO 142) on Establishing New Waste Reduction and Recycling Initiatives for State Agencies, thereby reaffirming the State’s commitment to reducing and recycling waste. Under EO 142, State agencies were required to source separate paper and other products from their waste stream. Public authorities were “urged” to undertake programs consistent with EO 142.

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 is available from the New York State Office of General Services, the New York State Department of Environmental Conservation, the Environmental Facilities Corporation and the New York State Energy Research and Development Authority. Beginning August 31, 2009, State agencies and public authorities were required to submit an annual report to the Committee that will, in turn, provide a summary report to the Governor.

The MTA is a public-benefit corporation chartered by the New York State Legislature in 1965. The MTA is North America's Largest Mass transit network, serving 14.7 million people across a 5,000-square-mile region. The MTA provides over 8.5 million passenger trips daily. The MTA is governed by a 17-member Board nominated by the Governor of New York and confirmed by the New York State Senate. The MTA consists of seven constituent agencies including Capital Construction Company, Bridges and Tunnels, Metro-North Railroad, New York City Transit, MTA Bus, Long Island Bus, and Long Island Rail Road.

In September 2007 the MTA established a Blue Ribbon Commission on Sustainability and the MTA (Commission). The Commission was charged with developing a master plan for the MTA's sustainability goals, initiatives and practices. The Commission's mission was to expand the MTA's contribution to regional and national sustainability, while reducing and managing MTA's energy consumption, carbon emissions, waste, water use, and other elements of the MTA's ecological footprint. The Commission established sustainability work groups, including the Materials Flow Group, which covered procurement, waste management and recycling efforts. In February 2009, the Commission issued its final report titled Greening Mass Transit & Metro Regions: Final Report of the Blue Ribbon Commission on Sustainability and the MTA. The report contained nearly 100 recommendations outlining tools for reducing and managing its ecological footprint, including 14 in the area of materials flow.

Metro-North is the second largest commuter railroad in the nation, serving an average of over 276,000 passengers per weekday. Metro-North has six rail lines that go to 120 stations in seven counties in New York State (Dutchess, Putnam, Westchester, Bronx, New York, Rockland, and Orange) and two counties in Connecticut. Its main lines run northward out of Grand Central Terminal into suburban New York and Connecticut, and two lines operate from New Jersey Transit's Hoboken terminal and enter New York State. Metro-North operates seven rail yards and a number of depots and repair shops. Metro-North headquarters is located at 347 Madison Avenue

in Manhattan. Metro-North had an operating budget of about \$1.2 billion for 2008, and about 5,855 employees.

Metro-North is responsible for disposing of trash and recyclables from its depots, repair shops, yards and most stations. Local municipalities are responsible for disposing of the trash and recyclables at 17 stations in Connecticut, and New Jersey Transit is responsible for one station. The headquarters building is owned by the MTA, and the MTA oversees waste removal and recycling at that location.

**Audit
Scope and
Methodology**

We audited the Metro-North recycling program from April 1, 2006 through October 31, 2008 to determine whether it is in compliance with applicable State laws and local laws, as well as Executive Orders. To accomplish our objective, we reviewed the Act, EO 142, EO 4, section 2878-b of the Public Authorities Law, and recycling laws for the Cities of New York and White Plains, and Westchester, Putnam, and Rockland counties, which are the primary areas where Metro-North operates in New York State. We met with Metro-North officials and reviewed supporting documentation to confirm and enhance our understanding of Metro-North's recycling program. We visited the Grand Central Terminal, the Croton-Harmon station, the Harmon rail yard and a vendor contracted to collect waste and recyclable materials to observe the collection and processing of trash and recyclable items. We also called four other waste collection and recycling vendors that Metro-North has contracts with to gain an understanding of how they process trash and recyclable items. We selected the locations we visited to achieve a cross section of facility types. This audit excluded recycling at Metro-North headquarters building at 347 Madison Avenue in Manhattan, which is owned and operated by the MTA. Review of recycling efforts at that building is covered in a separate audit report of MTA Headquarters.

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 management 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 X, Section 5, of the State Constitution and Section 2803 of the Public Authorities Law.

Reporting Requirements

A draft copy of this report was provided to MTA-Metro-North officials for their review and comment. Their comments were considered in preparation of this final report and are included at the end of this report.

Within 90 days of the final release of this report, as required by Section 170 of the Executive Law, the Chairman of the Metropolitan Transportation Authority 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 if not implemented, the reasons why.

Contributors to the Report

Major contributors to this report were Carmen Maldonado, Robert Mehrhoff, Anthony Carbonelli, Joseph Smith, Lillian Fernandes and Dana Bitterman.

Audit Findings and Recommendations

Recycling Program

As a constituent agency of the MTA, Metro-North is responsible for establishing a recycling program as outlined in EO 4, section 2878-b of the Public Authorities Law as amended by the Act, and local laws. We found that Metro-North has instituted a program that is substantially in compliance with the Act, EO 4 and applicable local laws. For example, Metro-North has installed recycling bins at its stations for customers to source separate newspapers, bottles and cans. Metro-North staff collect recyclables and trash from the station bins and place them at central collection points for a group of stations. Vendors collect and process the recyclables and trash from the central collection points. When Metro-North staff cleans the trains, both recyclable items and trash left on the trains are discarded and collected by one of four waste removal vendors. Metro-North's contracts with waste removal and recycling vendors contain a clause that requires the vendor to comply with all federal, State, and local laws, rules and regulations regarding recycling and source separation. We visited one vendor and called another and found that both vendors separate and recycle materials after collection. At Grand Central Terminal, newspaper and cardboard are source separated but bottles and cans are not. However, the waste removal vendor for Grand Central performs post-collection separation of recyclable items.

Metro-North also recycles many other materials including metal, surplus rail cars, obsolete vehicles, select heavy duty machinery, waste oil, and industrial batteries. Florescent bulbs from Metro-North locations and rail cars are also recycled. Metro-North also recycles obsolete computer equipment from all locations. Although Metro-North recycles many materials, an official told us that Metro-North employees have not received training on recycling requirements.

Metro-North's contract for the removal and disposal of axles and wheels from its facilities requires the contractor to pay Metro-North by the gross ton for the materials recycled. However, Metro-North does not verify the weight of the materials removed from its premises. Therefore, Metro-North does not have assurance that it is accurately paid by the contractors for the materials they remove. At the closing conference, Metro-North officials advised they cannot verify the weight of the materials collected at every site. However, they are willing to verify the weight of a random sample of pick-ups.

Under EO 4, by September 1, 2008, the MTA was required to assign an employee to serve as the Sustainability and Green Procurement Coordinator (Coordinator). The Coordinator is responsible for providing Program

training to staff, vendors and contractors. The MTA has assigned two employees to assist the Coordinator, as required. During our audit fieldwork, the MTA coordinators told us that they were waiting for the final report from the Blue Ribbon Commission before developing a formal recycling program, and appropriate training materials. Since then, the final report was issued in February 2009. Therefore, the coordinators should develop a comprehensive recycling program and provide training based on the Commission report as well as the requirements of the Act, other applicable laws and EO 4.

We recognize Metro-North's recycling efforts thus far, as well as its participation in the Blue Ribbon Commission. However, until the MTA finalizes its program, Metro-North should provide employees with information on current recycling requirements and monitor compliance with them as needed.

Reporting

EO 4 requires the MTA and its subsidiaries to begin reporting on their recycling efforts by March 1, 2009, a deadline the Committee extended until August 31, 2009. The report was filed, as required. However, Metro-North's system does not collect recycling data from all of its locations and waste removal vendors. Metro-North officials advised us that they have made improvements to the system since our field work.

Recommendations

1. Perform a risk assessment to determine the materials handled at each location and the need based on the value and volume to verify the weight of scrap metal removed by vendors and ensure that vendors pay based on the correct weight.
2. Communicate recycling requirements to Metro-North employees and monitor compliance.
3. Expedite the completion of system improvements to ensure all of the required information is collected and reported in the annual report.

Agency Comments

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Metropolitan Transportation Authority

State of New York

June 1, 2010

Ms. Carmen Maldonado
Audit Director
The Office of the State Comptroller
123 Williams Street – 21st Floor
New York, NY 10038

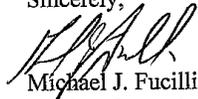
Re: Report #2009-S-92 – Metro North Railroad Recycling Program

Dear Ms. Maldonado:

This is in reply to your letter requesting a response to the above-referenced draft audit report.

I have attached for your information the comments provided to the MTA Chairman and Chief Executive Officer by Mr. Howard Permut, President of Metro North Railroad, which address this report.

Sincerely,


Michael J. Fucilli
Auditor General

Attachment

The agencies of the MTA

MTA New York City Transit
MTA Long Island Rail Road

MTA Long Island Bus
MTA Metro-North Railroad

MTA Bridges and Tunnels
MTA Capital Construction

MTA Bus Company

347 Madison Avenue
New York, NY 10017-3739
212-340-3000

Howard Permut
President



May 25, 2010

Mr. Jay H. Walder
Chairman and Chief Executive Officer
Metropolitan Transportation Authority
347 Madison Avenue, 7th Floor
New York, NY 10017

RE: MTA Metro-North Railroad Recycling Program Audit (2009-S-92)

Dear Chairman Walder:

As required by Section 170 of the Executive Law, detailed below are the updated actions that have been taken or will soon be taken to address the recommendations contained in the Draft Report of the Recycling Program Audit performed by the Office of the State Comptroller. Metro-North continues to improve upon our existing recycling programs within the resources we have available.

Recommendation 1:

Perform a risk assessment to determine the materials handled at each location and the need based on the value and volume to verify the weight of scrap metal removed by vendors and ensure that vendors pay based on the correct weight.

MNR Response to Recommendation 1:

Metro-North has awarded a new contract for the removal and disposal of miscellaneous scrap metal generated primarily from MNR's shop/yard facilities. All scrap removals are processed through the Contractor's facility. The Contractor's weight scales have the appropriate state and local certifications and the weighing of each container is videotaped. Weight tickets are system generated and forwarded to the Assistant Director, Asset Recovery.

MNR has identified the high volume/dollar value material as primarily wheel and axle scrap removals. Procurement and Material Management (P&MM) will conduct random inspections in this area as well as provide enhanced monitoring for specialized removal of rail or other Maintenance of Way scrap.

Recommendation 2:

Communicate recycling requirements to Metro-North employees and monitor compliance.

MNR Response to Recommendation 2:

As a part of the start-up of the new recycling contract, correspondence has been forwarded to the various field supervisors responsible for disposition of scrap material identifying the

MTA Metro-North Railroad is an agency of the Metropolitan Transportation Authority, State of New York
Jay H Walder, Chairman and Chief Executive Officer

correct methods of disposal. This correspondence included the distribution of forms books to log the actual removal of scrap material, and to forward all completed forms to the Assistant Director, Asset Recovery.

In addition, MNR is now including as a part of its annual environmental training program for Operations employees, information on MNR's recycling program requirements. This effort has been publicized in the employee newsletter, and MNR will continue to identify appropriate means to disseminate information to its employees on recycling.

Recommendation 3:

Expedite the completion of system improvements to ensure all of the required information is collected and reported in the annual report.

MNR Response to Recommendation 3:

MNR has now awarded new agreements for recycling of consumer type recyclables, including paper and bottles/cans. These new agreements place new monthly record keeping requirements on those vendors to provide recycling report data.

We believe this addresses the recommendations of the Office of the State Comptroller. Thank you and feel free to contact me should you require additional information.

Sincerely,



Howard Permut

cc: K. Malloy, MTA Audit Services
A. Bombace
A. Stapler
K. Lambregtse
N. Gilbertson