

New York City's Commercial Composting Act

Eliminating Commercial Organic Waste From New York City's Municipal Solids Collection

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Introduction

Food waste is one of the largest contributors to greenhouse gas emissions. “New York City businesses produce more than 650,000 tons of food waste each year” (New York City Food Waste Fair). Meaning that organics that are not composted, end up in landfills as food waste, where it produces methane, a harmful greenhouse gas, thus contributing to global warming. (EPA, Composting at Home). Not only does this cost the environment clean air, but it also costs taxpayers money. “New York divides responsibility for handling trash between a public and a private system; together they spend \$2.3 billion annually. The public agency is the New York City Department of Sanitation (DSNY)...[they] require \$1.6 billion of tax dollars to carry out tasks” (Kellermann). New York City has taken steps to combat this issue, such as residential compost pickup in 2013, and expanding to food manufacturers, establishments, etc. in 2016 (DSNY, Commercial Organics Requirements). However, only relatively large businesses are required to comply. Recently there has been a new commercial organic requirement for somewhat smaller food establishments, retail food stores, etc. (DSNY, Commercial Organics Requirements), but it does not include all New York City businesses.

The proposed policy would require all New York City businesses to participate in separating their organic waste. The key stakeholders involved would be DSNY, New York City’s private waste management agencies, New York City businesses, and New York City citizens/public health. New York City establishments would be responsible for sorting their waste, DSNY would provide brown bins, education, and pickup/transportation, New York City’s private waste management agencies would need to cooperate with DSNY in recycling and garbage management, and New York City’s citizens would need to comply with the change. The

suspected complications would be potential pushback from the public, DSNY and private waste management pickup complications, and New York City's businesses not complying. To combat this there would be funding for public education on composting, an updated waste management route, and fines for non-compliance. The funding for this will come from the budget DSNY has in place already. The successful implementation of this policy relies on the cooperation of all stakeholders and investing in the education and efficiency of this program is crucial for its reality.

Problem Definition

Food waste refers to organics that have diminished in quality or quantity due to actions/decisions of food service providers, retailers, or consumers (Food). When organics are sent to landfills, they do not have enough oxygen to properly decompose, so they release methane and carbon dioxide, greenhouse gases (EPA, Overview of Greenhouse Gases). Ultimately this gas traps the heat in the atmosphere and contributes to global warming (EPA, Overview of Greenhouse Gases). New York City businesses alone account for 650,000 tons of food waste annually (New York City Food Waste Fair). This food waste contributes to the \$730 million which is part of the total \$2.3 billion spent annually to collect New York City's waste (Kellermann). That means that an estimated \$118, 625,000 is spent yearly to transport organic waste to landfills. This accounts for an estimated 1,235,000.00 kg of CO₂-e emitted into the atmosphere from New York City's commercial organic waste (Travis et al.).

One of the largest issues concerning food waste is the type of foods that go to landfills. There are many foods that are close to or at the expiration date that are thrown out, but "large

quantities of wholesome edible food are often unused or left over and discarded from household kitchens and eating establishments” (Food). Part of the solution to this issue must be to address what plan of action will be put in place to account for the different types of food waste. These organics can no longer go to landfill, not just for environmental reasons, but financial ones as well.

The Emerson Good Samaritan Food Donation Act of 1996 encourages, but does not require, businesses to donate their unused produce, non-perishables, etc. to any person (Cornell Law School). Unfortunately there are not nearly enough businesses that take advantage of this law to donate their food. “Food waste from restaurants makes up 15 percent of all the food that ends up in landfills” (Barclay). This just discusses restaurants, so the number for grocery stores and other establishments increase that percentage. Many owners are misinformed about this law. Out of fear of being sued they do not donate because people may fall ill (Jacobs). Others do not understand what kinds of foods may be donated (Jacobs). What these establishments fail to realize is that this law protects them, so they can donate as long as there is no, “gross negligence or intentional misconduct” (Legal Information Institute). The foods that may be donated must be, “apparently wholesome food... food that meets all quality and labeling standards imposed by Federal, State, and local laws and regulations even though the food may not be readily marketable due to appearance, age, freshness...” (Legal Information Institute). Ultimately this affects the food waste problem because instead of giving edible substance to those in need, they end up in landfills. Even composting these foods would not be a useful way to eliminate the food waste since there are food recovery programs that can transport food to those in need. Giving

expired, rotten, or partially consumed foods to any person would be considered negligence in its donation, so in these cases they must be separated as organic waste.

Legislative History

The New York Department of Sanitation is responsible for the city's compost. Prior to DSNY starting their composting program, the Lower East Side Ecology Center started community compost and gardening (CommonGroundCompost.com). Interest among the community sparked DSNY compost education programs in the city's four botanical gardens and Lower East Side Ecology Center (CommonGroundCompost.com).

As mentioned previously, DSNY's program began with curbside residential pickup in 2013 and was introduced to no fewer than 100,000 homes and 400 schools (DSNY, Commercial Organics Requirements). However, it was optional to partake in the program and commercial bodies were not participating (DSNY, Commercial Organics Requirements). In July 19, 2016 a policy had been put in place that required certain New York City establishments to separate their organic waste by either, "composting, aerobic or anaerobic digestion, or any other method of processing organic waste that the department approves by rule" (DSNY, Commercial Organics Requirements). In 2016, only "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, [and] food wholesalers with a floor area of at least 20,000 square feet" (DSNY, Commercial Organics Requirements) were required to comply. On August 15, 2018 a policy evaluation lead to a reformation which required, "food service establishments with a floor area of at least 15,000 square feet [and those that] are part of a chain of 100 or more locations in the city of New York, [as well as] retail food stores with a floor area

of at least 25,000 square feet” (DSNY, Commercial Organics Requirements) to separate their organic waste. A new policy will be implemented on July 31, 2020 where:

food service establishments having 7,000 to 14,999 square feet, chain food service establishments of 2 to 99 NYC locations with combined floor area 8,000 square feet or more, food service establishments in hotels having 100 to 149 guest rooms, food service establishments with combined floor area 8,000 square feet or more in the same building or location, retail food stores having 10,000 to 24,999 square feet, chain retail food stores of 3 or more NYC locations with combined floor area 10,000 square feet or more, food preparation locations having 6,000 square feet or more, catering establishments hosting on-site events to be attended by more than 100 people, [and] temporary public events to be attended by more than 500 people [will be required to separate their organics] (DSNY, Commercial Organics Requirements).

This new requirement will marginally impact New York City businesses, but there are still a significant amount of establishments that will not participate. According to this law, businesses may hire a private carter to pick up their waste, self-drop off at a processor or transport center, or conduct on-site processing by compost or aerobic/anaerobic digestion as approved by DSNY (DSNY, Commercial Organics Requirements). New York City currently does not offer curbside pickup by DSNY for these establishments. In the proposed policy, all New York City businesses would be required to separate their organic waste and have DSNY conduct curbside organic waste pickup.

Stakeholders

The stakeholders involved in this proposed policy are DSNY, private waste management agencies, New York City's establishments, and New York City's citizens.

DSNY

DSNY currently manages their own composting program, as well as, funding GrowNYC, an organization educating and facilitating residential composting (CommonGroundCompost.com). In this proposed policy, DSNY would be responsible for managing the curbside commercial pickup especially since they currently conduct residential curbside compost pickup in Queens, Brooklyn, etc. (DSNY, NYC Organics). They would be required to go to all the commercial spaces participating in the curbside pickup program and collect their organic waste. They then take that organic waste to a processing center so that it may be turned into compost. DSNY would also transport that compost to New York City's green spaces to be used as fertilizer and conduct the sale of excess compost. DSNY will also be responsible for educating all commercial bodies by sending representatives to each establishment. The ability of DSNY to upkeep management affects the city's sanitation. The successful implementation of this policy directly impacts DSNY and relies on DSNY's efficient transportation (from commercial curbside pickup to processing centers), sufficient resources, proper education, and funding. Since DSNY is also responsible for other waste management (recycling, garbage, etc.) then compost curbside pickup may affect the public-private relationship with private waste management agencies.

Private Waste Management Agencies

Private waste management agencies may be responsible for more of the other waste management as a result of this proposed policy considering DSNY may not be properly funded

to efficiently upkeep with compost, recycling, and municipal solids pickup. These agencies will be required to collect recyclables and municipal waste from residential and NGO facilities. Currently the waste management pickup routes are inefficient with inflexible hours for workers and trucks that are only half full (Kellermann). Having private waste management agencies responsible for more recycling and municipal solids would allow DSNY to effectively conduct the commercial composting program. The private sector currently only spends \$730 million on waste management (compared to DSNY's \$1.6 billion) (Kellermann), so having these third party agencies take over may allow for a more efficient and cheaper system. The implementation of this composting program directly impacts the volume of waste these agencies will have to manage.

New York City's Establishments

New York City's establishments will certainly be impacted by the proposed policy since they will be required to separate their organic waste in the DSNY brown bins, transport or hire transportation of their organic waste, or conduct on-site processing. The participation of these businesses will allow for DSNY and private waste management agencies to efficiently implement the policy. If these establishments do not comply then they will be fined, penalized, and potentially shut down after multiple offenses. Thus, their cooperation in this program will save them, and the city, money and time. These businesses are responsible for educating themselves by listening to DSNY. A DSNY representative will come to educate these commercial facilities on the policy once it is passed and any business opened after this passed policy will be educated by their health inspector.

New York City's Citizens

Finally, New York City's citizens are crucial in the development of this policy because feedback concerning public health due to the fear of pests and rodents from poorly managed compost will impact implementing and enforcing the policy. If New York City's establishments do not correctly manage their organics, then rats, flies, etc. will invade areas of the city (potentially near food preparation spaces), thus negatively affecting public health. If DSNY does not conduct efficient curbside pickup, then unattended compost may be invaded by pests and rodents. The participation of New York City citizens in informing DSNY of this issue will allow for enforcement and adjustments to be made where necessary. The cooperation of all stakeholders is required for the success of this policy.

Recommendation Analysis

In the proposed policy all New York City businesses would be required to participate in the composting program. The current residential pickup provides brown bins for each household (DSNY, Residential Curbside Composting Overview), and DSNY would do the same for commercial spaces (accommodating the size of each bin for the expected larger volume). DSNY currently allows for a private carter to pick up compost, self transportation of organic waste to a composting center, or on-site processing of organics for commercial compost (DSNY, Commercial Organic Waste). In this proposed policy all of these methods would still be valid, but if an establishment does not wish to participate in any of those alternatives, then they will be required to cooperate with DSNY's curbside pickup.

Reorganizing Waste Management

Currently, DSNY and private waste management agencies are responsible for recycling

and municipal solid waste curbside pickup in New York City. “The public agency is the New York City Department of Sanitation (DSNY), which serves residential buildings, government agencies, and many nonprofit facilities. The private system consists of more than 250 waste-hauling firms licensed to remove waste from businesses ranging from small pizza parlors to large office buildings” (Kellermann). To have this policy be successful, DSNY will need the resources, workers, and funding to be able to focus on the composting program. Currently the billions in tax dollars are not efficiently used to manage recycling, municipal solids, and composting. To avoid any more complications there needs to be a reorganization of the current curbside program. To save money, New York City would need to employ more of the private sector in waste management. The budget wasted in sending food waste to landfills would be put to the composting program. The cooperation of private waste management agencies would mean that they would be responsible for their current curbside program, as well as residential buildings and potentially non-profit facilities. This would then allow for DSNY to manage curbside commercial and residential compost pickup.

Implementing A Commercial Compost Program

Even if DSNY does successfully manage to conduct a curbside pickup program for commercial compost, many citizens may disagree and see it as a waste of money. This is where the funding towards education about compost and this program becomes crucial for combating these criticisms. Commercial bodies are already sending food waste to landfills when it may be used to create compost. This compost may be used in New York City parks, gardens, and other green spaces instead of fertilizer, ultimately eliminating that purchase from the city’s budget. There will most likely be an excess of compost that may be sold to third parties. These profits

would go back into the program to hopefully eliminate a chance of substantial tax increases. Despite the potential to save New York City's waste management budget, businesses may be reluctant to agree with this program.

New York City's establishments may be reluctant to participate in the program, despite the prospects of being environmentally conscious and saving the city money. The only way to have this policy be successfully implemented is for businesses to agree to separate their organic waste. The flexibility of how they compost may benefit the program, but may not convince everyone to cooperate. This is, again, where funding for education is instrumental. Educating the public and businesses about the benefits of composting may encourage a cultural shift. A society that values those who compost will pressure certain establishments to participate so as to not lose customers. If cultural changes do not occur, then companies will be forced to comply due to penalties.

Fiscal Implications

To effectively implement this program, businesses will have to receive penalties if they do not comply. This will include a monetary fine for the first offense (eg. not properly sorting organic waste from municipal solids and recycling, not participating in the program, etc.). After three offenses and three fines the business in question (owners and employees) will be required to attend a course on composting through GrowNYC or any courses approved by DSNY. The consequences for not attending the course or having to attend more than three courses will be a rejection of on-site processing equipment (forcing the business to participate in the curbside program) or a minimum of two letter grade deduction on the health inspection grade. To ensure that establishments are complying with the policy, health inspections will include a review of the

organic waste, ensuring that they are properly sorted, and failure to do so will impact health inspection grades. DSNY will also penalize businesses if they came to pick up compost and they failed to properly separate or if businesses failed to appeal as to why they did not have compost during that time. Failure to cooperate due to negligence will result in a penalty.

The funding of this program, including all the resources, enforcement, etc. that is necessary for its implementation, will largely come from the budget that is currently in place. As previously mentioned, New York City sends 650,000 tons of commercial food waste to landfills (New York City Food Waste Fair). The private system is currently responsible for commercial recycling and municipal solids pickup; they spend \$730 million a year to conduct their services (Kellermann). New York City, instead of composting, sends \$118,625,000 of that \$730 million to the garbage. This money should be allocated to this program and any money saved/profited from eliminating synthetic fertilizers and selling compost should be funneled back into the program for education, implementation, etc.

Conclusion

When considering the effectiveness of this policy proposal, there must be an examination of the benefits and challenges of passing it into law. The collection of organic waste as done by DSNY, if done incorrectly without the proper balance of green and brown compost, will certainly attract pests during transportation and processing phases. Considering that the majority of New York City's businesses will have green compost, DSNY will need to compensate by having brown compost already in their collection trucks. The current residential program may be able to accommodate, but the large influx of commercial waste may face some issues. If there are pests in a certain truck or collection of organic waste that cannot be easily removed (eg. rats,

cockroaches, etc.), then that pile will need to be processed separately which may require an expenditure of time, space, and resources that cannot be handled in large numbers. This is why public education for this program is so crucial because if commercial spaces are aware of how to keep pests out of their organic waste, then DSNY will be better able to adapt to issues if they are smaller.

Another concerning aspect of this issue may be the selling of compost. New York City may produce a supply too great for its demand. If the city could send out its compost to the rest of New York or even other states such as New Jersey then the supply could meet the demand. However, this would take the cooperation of the state and the transportation of that compost to outside of the city. Even though the organic waste would likely be processed outside of the city, the transportation to farther locations would result in greater greenhouse gas emissions presenting a grim reality that the goal of reducing carbon emissions requires more institutionalized change. The New York City Commercial Composting Program aims to lower GHGs and educate the public on the benefits of composting, but the cooperation of all stakeholders is necessary to make it a reality.

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BILL NO: 466-J

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TITLE: New York City's Commercial Composting Act

A Bill

TO AMEND the administrative code of the city of New York, in relation to establishing a mandatory, permanent program for commercial facilities to separate their organic waste and participate in New York Department of Sanitation's (DSNY) curbside organic waste collection, hire a DSNY approved private carter, self-transport to a processor or transfer station, or conduct on-site processing with DSNY approved processing equipment.

TO BE ENACTED BY the New York City council.

WHEREAS New York City attempts to reduce its total greenhouse gas emissions and improve the state of its waste management by eliminating organics from municipal solid waste collection.

WHEREAS NYC's commercial facilities send 650,000 tons of food waste to landfills which produces 1,235,000.00 emissions of CO₂-e (kg) per year.

WHEREAS the Commercial Organics Requirements established by Local Law 146 of 2013, codified in §16-306 does not include all commercial facilities.

Section 1. Long Title

An expansion of Local Law 146 of 2013, codified in §16-306 to establish a mandatory, permanent program for all New York City commercial facilities to separate their organic waste and participate in DSNY’s curbside collection, hire a DSNY approved private carter, self-transport to a processor or transfer station, or conduct on-site processing with DSNY approved processing equipment.

Section 2. Short Title

This act shall be known and may be cited as, “New York City’s Commercial Composting Act.”

Section 3. Legislative Findings

The legislature finds that:

1. New York City needs to eliminate all commercial organics from municipal solid waste to reduce greenhouse gas emissions by 1,235,000.00 CO₂-e (kg) by 2030.
2. 650,000 tons of food waste come from commercial facilities.
3. The private system currently in charge of recycling and municipal solids waste management spend \$730 million for their operations.
4. New York City spends nearly an estimated \$118 million to send organic waste to landfills
5. Many New York City establishments throw away their excess food instead of donating or composting¹

Section 4. Intent

The intent of the legislation is to:

¹ Jacobs, Harrison. “Here's Why Wasted Food Doesn't Get To Poor People.” Business Insider, Business Insider, 16 Oct. 2014, www.businessinsider.com/why-dont-some-grocery-stores-donate-food-to-poor-people-2014-10.

1. Eliminate organic waste from municipal solids collection to minimize greenhouse gas emissions and cost of New York City's commercial municipal solid waste management.
2. Encourage New York City's commercial spaces to donate their edible merchandise.
3. Educate New York City's establishments and citizens on the benefits of composting.
4. Require that all New York City's establishments separate their organic waste by 2030.
5. Authorize DSNY to issue fines, a composting education program, and health inspection penalties.

Section 5: Definitions

1. "Organic Waste" refers to food, yard waste, and/or any non-synthetic material that have been deemed inedible or diminished in quality or quantity due to the actions and/or decisions of food service providers, retailers, or consumers.
2. "Compost" refers to a mixture of decayed or decaying organic waste that may be used for fertilization or land conditioning.
3. "New York City's Commercial Facilities" refers to any non-residential, non-governmental, non-NGO, commercial spaces operated in the city of New York.
4. "Commercial Organic Waste" refers to the organic waste produced and disposed of by commercial bodies.
5. "Separate Commercial Organic Waste" refers to commercial bodies conducting the action of removing their organic waste prior to it entering municipal solid waste.
6. "Curbside Organic Waste Collection" refers to the DSNY program in which assigned pickup trucks and workers will conduct a route to collect the separated commercial organic waste from all commercial bodies.

Section 6: Unlawful Acts

Actions to be deemed unlawful:

1. No establishment shall choose to not participate in the program by failing to properly separate their organic waste, failing to hire an approved DSNY private carter, failing to self-transport to a process or transfer center, or failing to conduct on-site processing with DSNY approved processing equipment.
2. No establishment and/or individual shall tamper with DSNY collected organic waste.

Section 7: Penalties

A person/s and/or commercial body who violates the Unlawful Acts pursuant to Section 6 of this bill are subject to a fine of \$200. If there are three violations or a failure to pay said fine then offender/s are subject to participate in DSNY's approved compost education program conducted by GrowNYC. If there are three more violations or a failure to attend a program then offender/s shall receive a minimum of a two grade deduction on their health inspection grade. The following violation will result in a shut down.

Section 8: Fiscal Implications

None to the city.

Section 9: Date of Effect

This bill shall take effect on January 1, 2021.

MEMORANDUM IN SUPPORT OF LEGISLATION

New York City Council

New York City Department of Sanitation

New York City's Commercial Composting Act

Title of Bill: An expansion of Local Law 146 of 2013, codified in §16-306 to establish a mandatory, permanent program for all New York City commercial facilities to separate their organic waste and participate in DSNY's curbside collection, hire a DSNY approved private carter, self-transport to a processor or transfer station, or conduct on-site processing with DSNY approved processing equipment. Section 2.

Purpose: The Purpose of this bill is to establish a permanent program for commercial facilities to separate their organic waste and participate in New York Department of Sanitation's (DSNY) curbside organic waste collection, hire a DSNY approved private carter, self-transport to a processor or transfer station, or conduct on-site processing with DSNY approved processing equipment. Eliminating commercial organic waste from municipal solids collection will reduce greenhouse gas emissions from landfills. Reducing greenhouse gas emissions will assist with New York City's effort to become Zero Waste by 2030.

Summary of Specific Provisions: New York City contributes to the global rising greenhouse gas emissions and is negatively affected by this issue. Tons of organic waste from commercial bodies are sent to landfills. In order to reach New York City Zero Waste by 2030, the City Council finds that New York City should eliminate commercial organic waste from municipal solids collection by establishing a mandatory, permanent commercial composting program. To ensure that this bill reduces organic waste sent to landfills, this bill will require all New York City commercial facilities to separate their organic waste and participate in New York Department of Sanitation's curbside collection, hire a DSNY approved private carter, self-transport to a processor or transfer station, or conduct on-site processing with DSNY approved processing equipment. The curbside collection, private carter approvals, self-transport approvals, and processing equipment approvals will be managed and run by DSNY in which a portion of their budget will be allocated for this program. This will ensure that the program will

run according to the policy and minimize any accidental contamination of organic waste in the municipal solids collection.

To ensure that this bill reduces organic waste sent to landfills, DSNY representatives will be sent to every commercial facility to explain the commercial composting program. DSNY will conduct daily curbside collection of organic waste, transfer it to a processing center, and then transfer the compost to New York City's green spaces or conduct the sale of excess compost. DSNY will ensure that every commercial facility has separated their organic waste and penalizes any person/s that commits any unlawful acts.

To ensure that this bill reduces greenhouse gas emissions, commercial facilities will be penalized for any unlawful acts they commit. These offenders will be fined \$200 for the first three offenses. The next three offenses will result in a mandatory attendance to DSNY's approved composting education program. The following offense will result in a minimum two grade health inspection grade deduction. The final offense will result in a shut down. This will ensure that all commercial facilities will participate in the program or do not interfere with New York City's Zero Waste goal.

Justification: Commercial facilities make a significant contribution to New York City's greenhouse gas emissions simply through its creation of organic waste. New York City needs to run this program to successfully complete its goal of zero waste by 2030. This will mitigate the effects of climate change. This program will save the city money because compost production will eliminate the purchase of synthetic fertilizers. The program will save the city money as it will streamline the waste management organization for the public-private relationship. The program will save the city resources as it will eliminate the need for synthetic fertilizers.

Fiscal Implications: None to the city.

Effective Date: This bill shall take effect on January 1, 2021 to allow for the city to develop the commercial composting program by allocating necessary funds and managing workers, resources, and routes for said program.