



THE CITY OF NEW YORK
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**Testimony
Of Preston Niblack, Deputy Director,
Before the City Council Committee on Sanitation and Solid Waste Management
On Changing the Tonnage Requirements for Recycled Material
In Administrative Code Section 16-305**

April 29, 2004

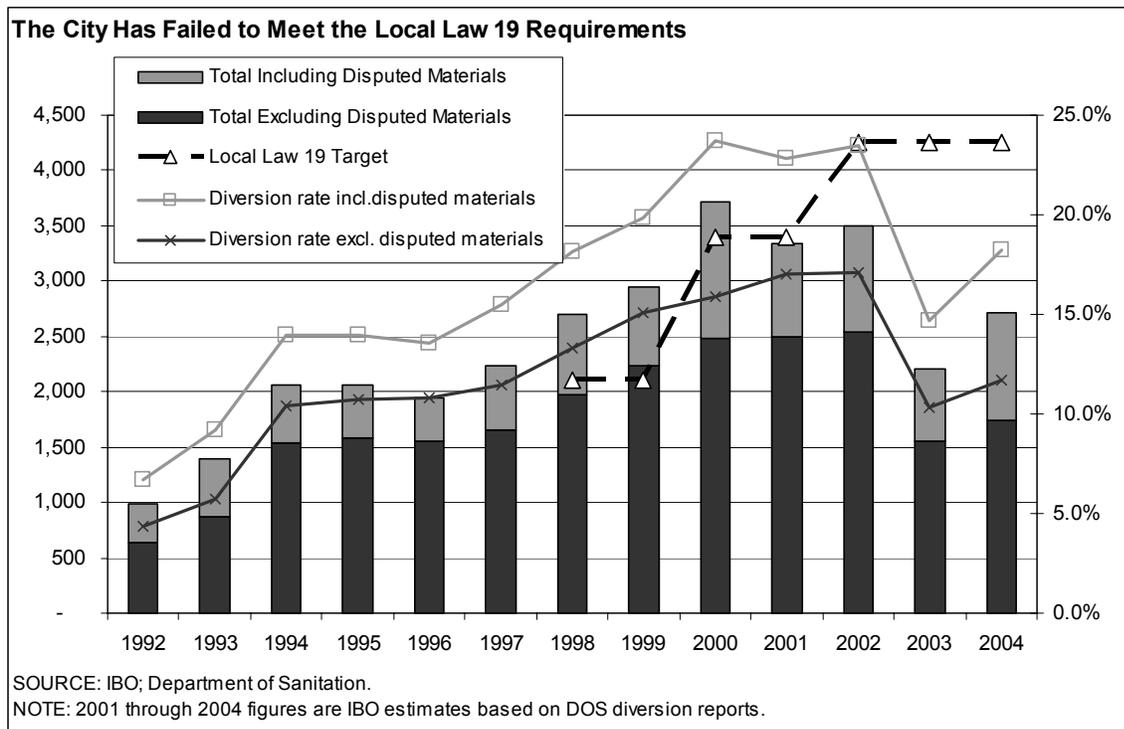
Good afternoon Chairman McMahon and members of the Committee.

Local Law 19 of 1989, now codified as Section 16-305 of the Administrative Code, established the city's recycling program and set numeric requirements for the amount of waste to be recycled. Today you are beginning consideration of whether those requirements should be changed. In my testimony today, after some short background, I am going to address three questions: First, should the Local Law 19 targets be legal requirements or simply goals? Second, should the requirements be expressed in tons or as a percentage? And third, should we revise the level of the Local Law 19 requirements, however measured, and if so, where should we set the new level?

While the city, at least up until July 2002, was clearly making progress on increasing recycling, by most accounts we have consistently fallen short of the Local Law 19 mandates. As the chart on the next page shows, recycling, measured both in tons per day and as a percentage of the Department of Sanitation (DOS)-managed waste stream, grew steadily during the previous decade. (We have shown in this chart what we call "undisputed" materials, which are those items that everyone agrees should count toward the Local Law 19 requirements, including the curbside and containerized program, bulk waste, city agency paper, food waste, and tires and we have also shown the "disputed" materials— asphalt and millings, and abandoned vehicles—that DOS counts in its Local Law 19 reports but that others feel should not be included.)

With or without the disputed materials, however, we have failed to reach the currently required level of 4,250 tons per day. In fact, for the three years prior to the partial suspension of the curbside and containerized program in fiscal year 2003, that part of the program had stabilized at around 2,500 tons per day, or about 17 percent of the waste stream, and 20 percent of the curbside and containerized program.

Given this background, should we revise the requirements laid out in Local Law 19? What would be the most effective way to keep the city on the path to reducing the waste it needs to dispose of and increasing recycling?



Should the Local Law 19 targets be legal requirements or simply goals? On the one hand, if the targets are expressed simply as goals, not as legal requirements, they are more difficult to enforce. Right now the existence of Local Law 19 puts the city in the uncomfortable position of being in violation of the law. On the other hand, reaching any particular level of recycling is only partially in DOS's control. While the city obviously has great influence over the recycling habits of households, it is difficult to force people to recycle. Moreover, although the city has been sued and ordered to abide by the law, it so far simply has not been able to do so—and there is no penalty for this failure. So at one level, if there is no penalty for failure to comply, it almost does not make any difference whether the requirements are legally binding or are simply goals. Instead, we should focus on the real goal, which is to increase recycling.

What are enforceable are the recycling laws as they pertain to households, businesses, and city agencies. The decision was made not to increase the penalty for recycling violations when other sanitation fines were increased as long as the recycling program was in flux, and it remains at \$25 per violation—including for commercial businesses such as stores and restaurants and for city agencies and other DOS-served institutions. In addition to funding for public education efforts, the Council may want to support measures that would strengthen enforcement of the recycling laws.

Should the mandates or targets be expressed in tons or as a percentage? A major goal of Local Law 19 was a reduction in the total amount of waste disposed of. Recycling was one means to that end. The numeric goal of 4,250 tons should therefore have been a rising percentage of the total waste stream. The total waste stream has been fairly flat over the last decade, which, given the city's population growth, probably represents some small progress toward waste reduction.

But as I pointed out earlier, the percentage of the waste stream diverted to recycling leveled off prior to 2003.

So it may make some sense to establish targets or mandates that are expressed as a percentage, both because that is how we are used to actually measuring it in practice, and because it avoids presupposing what the overall trends in the waste stream will be in the future.

However, it might also make sense to measure and enforce mandates that are either material or program specific. In other words, for example, one set of goals for the residential curbside and containerized program, another set of goals for commercial establishments, another set of goals for bulk waste, city agency paper, food waste, etc. It might further turn out that it would be appropriate to measure different materials in different terms—that is, some as a percentage, some in tons. Targets or mandates that are material or program specific may be more meaningful and practicable than a single overarching figure.

Finally, should we reset the Local Law 19 mandates to a new level, and if so, what should that level be? To answer that question, I think we need to study our own recent experience, and perhaps also that of other cities. Without offering any kind of definitive answer at this point, I will make a couple of observations about our own experience.

First, in the curbside and containerized program, we appear to have leveled off at around 20 percent. But there are two statistics here that indicate room for improvement. For one thing, the diversion rate varies greatly across the city. Increasing the rates in low-diversion districts would help raise the overall level. Second, the capture rate remains low, indicating that much recyclable material is still being disposed of. Increasing the capture rate would obviously also raise the diversion rate.

Second, various analyses, including the 2000 Solid Waste Modification Plan and IBO's own recent report, indicate that at a diversion rate of around 25 percent, the curbside and containerized recycling program starts to pay off and actually produce savings to the city relative to waste export.

I think both of these observations suggest that, at least for the curbside and containerized program, a 25 percent diversion rate is a goal that would both present a reasonable challenge, and have some distinct and measurable budgetary as well as environmental benefits.

In sum, revising Local Law 19 to reflect our recent experience, our goals for waste reduction and recycling, and to set requirements that are realistic and practicable, could represent a significant improvement in the city's solid waste policy and help to make genuine progress toward our long-term waste reduction and recycling goals.

Thank you, and I'd be happy to answer any questions.