



**DSNY rules hearing
January 26th 2021**

Good Morning. Thank you for the opportunity to testify. My name is Phoebe Flaherty, I'm an Organizer at ALIGN: The Alliance for a Greater New York. ALIGN is a community-labor coalition dedicated to creating good jobs, vibrant communities, and an accountable democracy for all New Yorkers.

We coordinate the Transform Dont Trash coalition, a coalition of environmental justice groups, labor, climate and street safety organizations working towards reforming the way commercial waste is collected in New York City. Last fall we worked with the City Council to pass Commercial Waste Zones, Local Law 199.

The implementation of Commercial Waste Zones is essential to reducing New York's GHG emissions through reducing truck miles and increasing recycling and organics collection, to creating good green jobs, and to making our streets safer and cleaner. We are very pleased to see the process moving forward and rules being established with public input.

The rules that appear in this first round are fair to carters and establishments. We are especially pleased to see strong rules that allow for easy and regular recycling and organics collection, and to see requirements for vehicle maintenance and collision reporting, which should lead to greater safety for workers and pedestrians and cyclists.

We are pleased with this first round of rules, and are looking forward to further proposed rules from DSNY that will cover safety, recordkeeping, and more, where we hope to see high standards for workers, safety precautions and more.

As we all know, we are in the midst of a pandemic. New York's Black and brown and environmental justice communities are bearing the brunt of the impact of the virus and the economic downturn. We're seeing record high unemployment and city businesses closing left and right. For this reason we need to ensure now more than ever that workers are protected, good green jobs are created, and businesses are protected. We believe these rules and the full implementation of Commercial Waste Zones will move us forward on the path towards equity and justice.

Thank you for your time and dedication to this process.



COMMENTS FROM THE BUILDING OWNERS AND MANAGERS ASSOCIATION OF GREATER NEW YORK ON DOB'S DRAFT RULE TO ESTABLISH REQUIREMENTS FOR CARTERS OPERATING IN COMMERCIAL WASTE ZONES

The Building Owners and Managers Association of Greater New York ("BOMA/NY") represents more than 750 owners, property managers, and building professionals who either own or manage 400 million square feet of commercial space in NYC, and it is an association within BOMA International, a federation of 90 US associations and 19 international affiliates that own and operate approximately 10.5 billion square feet of office space in the United States.

Although these rules largely apply to the carting industry, it is inevitably the case that they will impact customers of carters, including the large commercial buildings who make up BOMA New York's membership. BOMA New York has some concerns regarding these areas where carter requirements laid out in this draft rule might negatively impact commercial buildings.

Our biggest concern involves the minimum levels of service that carters must provide customers as described in Section 20-22 of the proposed rule. These minimum levels of service require at least 2 weekly pickups of commercial refuse, at least one weekly pickup of recycling, and a minimum number of organic pickups, where required or requested. The draft rule also states elsewhere that carters must pick up commercial waste within a two-hour window.

BOMA New York has expressed concern throughout the process of developing the Commercial Waste Zone Plan that this new system would either lead to lower quality of service, higher costs, or both. By establishing such potentially low minimum levels of service, we fear that this rule is setting up a scenario that could well create these problems. In short, carters could just offer the minimum levels of service, even though a building or business may need significantly more pickups or smaller windows for pickups, or they could require significantly higher charges for the additional services needed. At the least, these minimums put carters in the driver's seat in terms of negotiating contracts.

We understand that smaller businesses may need these types of minimum levels of service to protect them. But larger businesses and buildings, who have long been able to negotiate adequate levels of service even in the face of having very complicated pickup needs, must have their existing levels of service protected. Therefore, the rule should be amended to clarify that any business or building that currently receives more than the minimum level of service described in Section 20-22 or elsewhere must be guaranteed a continuation of that level of service, at similar costs, under the Commercial Waste Zone Program.



Burt Lazarin
Chair

Jesse R. Bodine
District Manager

CITY OF NEW YORK
MANHATTAN COMMUNITY BOARD FOUR
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January 14, 2019

Abas Braimah, City Planner
New York City Department of Sanitation
Bureau of Legal Affairs
125 Worth Street, Room 708
New York, NY 10013

Re: Commercial Waste Zone Program

Dear Mr. Braimah,

This letter includes Manhattan Community Board 4's (MCB4) comments on the Draft Scope release for the Generic Environmental Impact Statement (EIS) regarding the Commercial Waste Zone Program in New York City. Manhattan Community District 4's (MCD4) encompasses the neighborhoods of Chelsea, Hudson Yard's, Hell's Kitchen, and Clinton. The comments were approved at the January 2nd Full Board meeting with 33 in favor, 1 against, 1 abstaining and 0 present but not eligible to vote.

"Every night, an armada of garbage trucks crisscrosses New York City to collect waste from commercial businesses. These private waste haulers collect approximately three million tons of waste per year from restaurants, retailers, hospitals, offices, and other businesses. Unlike residential garbage collection which is managed solely by the City's Department of Sanitation (DSNY), the collection of commercial waste is conducted by a bewildering array of 273 private haulers who operate with significantly less coordination and oversight than their public counterparts and impose significant environmental costs. As a result of crisscrossing the city to visit disparate businesses every night, commercial waste trucks travel over 23 million miles each year." - from "Unsafe Sanitation: An Analysis of the Commercial Waste Industry's Safety Record," published by NYC Comptroller Scott Stringer, November 2018.

Private carting in New York City is a largely unregulated enterprise that has proliferated in a highly inefficient manner. Businesses are responsible for hiring a carting company to remove their refuse. In some cases, studies have shown that in one night, 20 trucks from different companies could service a single city block. Furthermore, its labor practices go largely unchecked and considering the US Department of Labor lists trash hauling as one of the most

dangerous jobs in the country, reform to this industry is overdue.¹ In 2016, the city released a study which looked to create commercial trash zones throughout the five boroughs.²

Manhattan Community Board 4 applauds the initial plan of transitioning to commercial zoned carting. Reducing truck traffic, increasing efficiency, getting to zero waste, and making private carting more fair for businesses and haulers are important goals for our community. MCD4 looks forward to working with the city to meet these goals, and others, as the process moves through to completion. Stakeholder engagement has been a critical part of informing the process thus far, and while the DEIS speaks broadly towards a program that will transform commercial carting in the City, MCB4 would like to draw attention to a number of important issues.

Background:

Manhattan Community District 4 is bounded by 14th Street to the south, 59th Street to the north; Avenue of the Americas from 14th to 26th Streets and Eighth Avenue from 26th to 59th Streets on the east and the Hudson River to the west. It is a bustling and transforming collection of communities, home to large commercial neighborhoods. Likewise, it has been subject to significant land use actions over the past two decades that have transformed neighborhoods once defined by a specific singular commercial or manufacturing use into vibrant mixed use communities where places of business, ground floor and upper level, operate alongside robust residential communities.

All of MCD4 will be affected by zoned carting, and the aforementioned changes bring to fore issues previously unaddressed, such as the impacts of overlapping private contractor and residential service on our neighborhoods.

As proposed, there are a total of seven private carting zones in Manhattan. MCD4 would be serviced by four private carters within the newly designated Manhattan Zone 5 (MN-5). MN-5 follows the lines of Community Districts 4 and 7, which run up to 110th Street on the west side.

MCD4 Commercial Waste Zone Requests

Properly addressing in advance concerns regarding noise mitigation, pedestrian safety, and environmental standards will greatly improve the likelihood to broad success of this transformative program. Additionally, MCB4 highlights the following:

New Division of Commercial Waste:

The program calls for the creation of a new Division of Commercial Waste within the Department of Sanitation (DSNY), the agency responsible for the program (in addition to the Business Integrity Commission, which monitors private carting companies across New York State).

¹ Bureau of Labor Statistics, United States Department of Labor: Waste Management and Remediation Services, [Workers Statistics](#).

² [DSNY Private Carter Study](#)

While the description of this new division within DSNY sounds ideal, it is critical that this program have a clear line of delineation of responsibility so issues can be addressed and fixed as they arise. The Division must also always be properly funded in order to execute its expected requirements.

Accountability will ensure long term success of the program. When 311 calls are placed reporting missed pickups or usurping of duties, these issues need to be addressed. This division should be responsible for all of that, as well as overseeing interagency, DSNY to private carter, BIC, and/or coordinated residential and commercial services.

DSNY should also consider creating Community Advisory Boards for the program based on borough or zone. This will further ensure accountability, transparency, and protect all those involved in the program from the malfeasance of one bad apple.

Selecting the Operators:

MN-5 will have four carting companies. While the RFP process has yet to be determined, the contracts cannot allow subcontracting. This will defeat the purpose of reducing truck miles travelled and could lead to commercial improprieties.

Furthermore, in order to prevent the monopolization of carting within zones, steps must be taken to ensure slots are reserved for smaller carting companies to be awarded contracts within zones.

Commercial Zoned Waste should level the playing field for all players: the business that pays to have their trash removed by evening out the costs for those with big and small trash needs; and for the haulers, big and small, minority- and women- owned, who ought to be able to compete fairly for this business.

RFP Criteria:

Beyond the ability to fulfill the needs of a given zone, specific criteria for operators should also include the following:

- The company and its drivers' records of good standing for safety, crashes and summonses;
- Trucks that comply with the highest air quality standards, with a preference for those that run on sustainable energy;
- Trucks and compactors that comply with noise limits, especially when compactors are in use;
- Companies that use plastic containers to reduce noise.
- Companies with records of schedule compliance.

Program Roll Out:

While MCB4 welcomes a program that will make trash collection more efficient and effective, it must be phased into the city's landscape.

MCB4 requests that a limited number of zones in each borough be introduced to start the program. Benchmarks for success must be set which, when achieved, will trigger the release of new zones for carting service.

The city's Business Improvement Districts could also act as partners in this program and their boundaries should be considered for piloting zoned commercial waste.

Conclusion:

MCD4's mixed use urban landscape has given it the unique perspective of juxtaposing the quality of life concerns for residents while coming to understand the needs commercial enterprises also have in the community. Our streets are crowded with cars, newsstands, taller buildings, bus shelters, people, and unfortunately, more trash every day. Everyone needs additional space on the sidewalk and hopefully this effort to zone commercial trash will be a step towards achieving a cleaner, more pedestrian friendly streetscape.

New Yorkers—individuals and businesses— are generating record quantities of trash, and despite the expectation that it will be quickly removed, the logistics are tremendous. Setting goals to reduce waste are important and for too long the city has lacked a comprehensive plan to address it from a commercial standpoint. Zoned Commercial Carting is an excellent step towards achieving better trash collection.

Thank you for considering these comments. MCB4 looks forward to continued involvement in the process.

Thank you.

Sincerely,



Burt Lazarin
Chair
Manhattan Community
Board 4



Christine Berthet
Co-Chair
Transportation Planning
Committee



Dale Corvino
Co-Chair
Transportation Planning
Committee

Submitted online via nycrules website:

CB11M Public Safety & Transportation Committee

The New York City Department of Sanitation (“DSNY”) is proposing a rule that would establish requirements for carters operating in commercial waste zones. The Public Safety & Transportation Committee of Manhattan Community Board 11 submits the following comments for consideration of the Agency.

Commercial businesses produce varying levels of waste across different industries. Businesses with less commercial waste should not be priced the same as those that produce a significant amount of waste (ie. restaurants). Therefore, DSNY should implement a tiered pricing system based on volume of waste.

At our Committee Meeting on January 5th, 2021, we learned that there are very few carting companies registered as Minority and Women-owned Business Enterprise (M/WBE). It is our committee’s position that DSNY should encourage M/WBE participation in this competitive procurement process. We also encourage DSNY to support M/WBE pipeline development within the carting industry.

DSNY should track and monitor fair compensation practices and labor practices in all subcontractor relationships.

DSNY should consider decreasing the contract length from 10 years to 5 years with the option for renewal after 5 years based on performance. Prior to renewal, DSNY should reach out to local community boards to receive feedback about the performance of carting companies.

Lastly, DSNY should provide annual updates to community boards regarding the progress of Commercial Waste Zones implementation. Should you have any questions, please reach out to Jose Altamirano at publicsafety@cb11m.org

Online comments: 1

- **Frank Cinelli**

under compliance history 1.A.4

part C your asking to provide records of the current wage schedule and applicable benefits for proposers employees.

We are in contract with a union as far as wage increases and benefits go I can send you parts of that contract. For the records schedule do you want want a list of the employees and what the make hourly or payroll records

Thank You Frank Cinelli

Comment added January 26, 2021 11:13am

NYC Commercial Carters
nyccommercialcarters@gmail.com

February 8, 2021

Sent via email

TO:

Edward Grayson, Commissioner, Department of Sanitation

Robert Orlin, Deputy Commissioner, Department of Sanitation

Gregory Anderson, Assistant Commissioner, Department of Sanitation

Justin Bland, Director, Commercial Waste Programs, Department of Sanitation

COPY: Laura Anglin, Deputy Mayor

SUBJECT: Recommendation Regarding Consideration of Proposed Regulations Implementing Local Law 199 (of 2019) regarding Commercial Waste Zones

This letter is offered on behalf of our companies licensed and engaged in the management of waste, recyclables and organics from New York City's commercial establishments.

Together, we make a special and important request: that DSNY suspend the CAPA process for consideration of the current and future rounds of regulations to implement LL199 (of 2019), and instead pursue a consensus-building "workshop" approach that engages our companies and other stakeholders in a collaborative dialogue with the same goal in mind: the adoption of coherent and comprehensive regulations that are both practical in their implementation and effective in achieving the city's stated goals.

Our belief is that the CAPA process – although important at the final stage for adoption – is an unwieldy, cumbersome and mutually frustrating tool for engaging in dialogue about how best to re-design a complex system for the next

decade and beyond. The CAPA process is likely to yield for DSNY literally dozens of comments, questions and concerns from interested parties that it then must cull through and consider before deciding how and whether to revise the proposed draft regulations and if necessary provide another opportunity to comment on those revisions, all without the benefit of real consultation.

By itself, the additional two weeks for submission of comments is not a sufficient solution to this dilemma. Already three years distant, the DSNY-hosted advisory process did not come close to considering this level of operational detail. It also is clear that pre-existing data is no longer relevant for consideration of benchmarking CWZ's intended benefits, or use as the foundation for the CWZ system's design, implementation and eventual evaluation.

Continuing changes in the waste management industry, including innovations in technology and materials management, can better be taken into account through such a consultation process.

Equally important, should this first CAPA round be completed, the same process will be repeated for subsequent regulation(s) yet to be proposed, resulting in continuing frustration with the overall process, especially for our companies that offer decades of experience in managing complex operations and customer relations in an already high-regulated sector, and now face uncertainty about their future under a CWZ system.

As an alternative, a well-facilitated consensus-building approach could achieve the same goals within the same timeframe, but with an inclusive dialogue that considers what regulations may be required, how to reconcile parallel regulations from BIC and DSNY, etc., and other important considerations for redesign of the commercial waste management system, with the city's economic future still to be determined.

This alternative approach provides a real opportunity for the city to chart a different course to the same ends, and on the same timetable.

In an ideal world, of course, at least some of the baseline industry data would be updated during this process – what's happening with customers (numbers, types, etc.), waste composition and volumes, recycling and disposal markets, other regulatory developments, vehicle and driver safety, labor and equipment, etc.

What is most important, of course, is getting the new CWZ system designed as effectively as possible, and not rushing to achieve arbitrary timelines. For better or worse, the COVID pandemic has provided that opportunity, and we encourage the city to take full advantage of it to proceed differently, but better.

Our companies commit to active participation in such an alternative consensus-building process, and welcome DSNY's consideration of its many benefits as an alternative to the CAPA process.

Thank you for your consideration.

By:

American Recycling Management, LLC.

Avid Waste Systems, Inc.

Basin Haulage, Inc.

Boro-Wide Recycling Corporation

Century Waste Services LLC

Cinelli Carting Co., Inc.

Crown Waste Corp.

Green Bay Sanitation Corp.

Industrial Carting

Joro Carting Inc.

Liberty Ashes, Inc.

Liverpool Carting Co., Inc.

Midland Carting

Mr. T Carting Corp.

Planet Waste Services, Inc.

Regency Recycling Corp.

Royal Waste Services, Inc.

Viking Sanitation, Inc.



FOOD INDUSTRY ALLIANCE OF NEW YORK, INC.

111 Washington Avenue - Suite 200, Albany, NY 12210 (518) 434-1900

Testimony
by the Food Industry Alliance of New York State, Inc.
Commercial Waste Zone Rules
Reference Number 2020 RG 105
December 16, 2020

Thank you for the opportunity to submit testimony on behalf of the Food Industry Alliance of New York State, Inc. (FIA) regarding the Commercial Waste Zone Rules, Reference Number 2020 RG 105. FIA is a nonprofit trade association that advocates on behalf of grocery, drug and convenience stores throughout the state. We represent a broad spectrum of NYC food retail, from independent, neighborhood grocers to large chains, including many unionized stores. Our members account for a significant share of the city's retail food market.

We have serious concerns about the proposed Commercial Waste Zone Rules. Section 20-21 purports to establish a "maximum rate" yet allows for the imposition of additional fees that fall within any of 11 enumerated categories, including the catch-all of "Any other fees approved by the department." The proposed rule does not specify the process through which these additional fees can be imposed. Are they assessed unilaterally, in the sole and absolute discretion of the carter? Or do the terms have to be negotiated and agreed to by the carter and the customer? The latter is required to prevent gouging. Since free market competition will be eliminated through implementation of the commercial waste zone system, this rulemaking must give customers the ability to protect themselves.

In addition, Section 20-21(d)(1) authorizes carters to petition the department for an adjustment to the maximum rates on top of any *automatic* rate adjustments provided in the agreement between the carter and the city. Accordingly, does the proposed rule authorize carters to charge a "maximum rate," additional fees, automatic rate adjustments *and* adjustments to the maximum rate with the consent of the department? If it does, we believe the rates that neighborhood grocers pay for collection services will surge relative to market rates. As a result, the city's goal, as stated in the Statement of Basis and Purpose of Proposed Rule, of providing "...*low cost* service to New York City businesses while advancing the City's zero waste and sustainability goals (emphasis added)" would be frustrated. We therefore request that the proposed rule be changed to limit carters to the maximum amount plus additional fees negotiated by the carter and a customer.

Section 20-22(a)-(d) provides that a carter that is not providing containerized service can only deny, suspend or terminate service after prior approval by the department in accordance with the rule. Such protections do not exist for customers of containerized carters, which can discontinue or terminate service upon at least 14 days' written notice, apparently for any reason or no reason at all. Given the possibility of limited competition due to a low number of approved containerized carters, such carters

should be prohibited from terminating a contract without prior approval by the department. Accordingly, the rules specified in Section 20-22(a)-(d) should also apply to providers of containerized service.

Finally, Section 20-32 restricts the delivery of organic waste to any other third party, approved by the department, that produces a commodity, material or other product that has value, as well as to a farm or other facility for purposes of feeding animals. For decades, the city's neighborhood grocers have sent, in the aggregate, millions of pounds of meat fat and bones to renderers for processing into other products. Should the department fail to approve these arrangements, the city's neighborhood grocery stores would be financially harmed. Accordingly, reasonable approval standards, as well as the opportunity to appeal an adverse decision, should be incorporated into the proposed rule.

We respectfully request that the proposed Commercial Waste Zone Rules be revised in accordance with this testimony. Thank you for considering our request.

Respectfully submitted,

Food Industry Alliance of New York State, Inc.

Jay M. Peltz

General Counsel and Senior Vice President of Government Relations

Metro Office: 914-715-1750

jay@fiany.com

February 9, 2021

COMMENTS TO PROPOSED CWZ RULES

Allen Frankel <allencfrankel@me.com>

Tue 2/9/2021 14:59

To: NYC Rules (DSNY) <nycrules@dsny.nyc.gov>

📎 1 attachments (32 KB)

Doc3.pdf;

The Commercial Waste Zone ("CWZ") plan contemplates that every commercial establishment will be required to contract with an awardee licensed to collect commercial waste within the relevant zone. It is respectfully submitted that this plan should be modified as follows:

Contracts between commercial establishments and vendors to remove non-commercial waste, which is exempt under the Commercial Waste Zone plan, should be identified so that services provided under such contracts are not incorporated into a proposer's bid calculations.

In addition, there should be an exemption under the rules to allow vendors with existing contracts that primarily provide for the removal of non-commercial waste from a commercial establishment (e.g. ≥80%) to provide, as an ancillary service, the removal of commercial waste from such commercial establishments.

Thank you,

Allen Frankel
Attorney at Law
299 Broadway, Suite 1405
New York, NY 10007
Tel: [REDACTED]
Fax: [REDACTED]

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COMMENT TO CWZ RULES

The Commercial Waste Zone (“CWZ”) plan contemplates that every commercial establishment will be required to contract with an awardee licensed to collect commercial waste within the relevant zone. It is respectfully submitted that this plan should be modified as follows:

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In addition, there should be an exemption under the rules to allow vendors with existing contracts that primarily provide for the removal of non-commercial waste from a commercial establishment (e.g. ≥80%) to provide, as an ancillary service, the removal of commercial waste from such commercial establishments.

Allen Frankel
Attorney at Law
299 Broadway, Suite 1405
New York, NY 10007
Tel: 212-227-6655

February 9, 2021

TO: nycrules@dsny.nyc.gov
FROM: Kendall Christiansen
SUBJECT: Commercial Waste Zones – Draft Regulations

This note offers comments on the proposed draft Regulations intended to support implementation of Local Law 199 (of 2019) regarding Commercial Waste Zones. They are my personal and professional comments, and do not represent any other person or entity, but are based on my substantial experience over several decades with the city's commercial waste and recycling system, general awareness of such systems in other cities in the U.S. and Canada, and active participation in the field.

Nature of the Proposed Regulations

In my view, the regulations as proposed verge on micro-managing an industry that has operated successfully for decades with respect to the conduct of its operations, including many of the topics covered by this draft – e.g., frequency of service, customer service, billing, etc. DSNY should take care not to unnecessarily burden the industry with regulations that are unnecessary, duplicative of existing Business Industry Commission regulations, permitting requirements, and other laws and regulations previously implemented regarding this industry's essential work.

Indeed, DSNY's development and consideration of regulations should fully seek out and respect – not ignore or reject - the industry's generations of experience with providing this essential and surprisingly complex service to the city and its businesses.

In particular, now is the time for the city to develop a single set of regulations governing the industry's operations – reconciling and simplifying existing regulations managed by BIC, and phasing out BIC's role.

Potential Impact on Costs

To the extent these and subsequent regulations impose additional service and reporting requirements on companies, it should be acknowledged that companies may need to employ one or more “compliance officers” for the primary purpose of ensuring compliance with such regulations, including interactions with customers and providing information to DSNY. Enhanced customer service requirements also may increase operational costs.

Potential DSNY Oversight

To the extent these and subsequent regulations impose regulatory burdens on the Department of Sanitation to receive, manage and respond – in some cases on a timely basis – DSNY should be prepared to have adequate staff to meet those new responsibilities.

Regulating the Past vs. Anticipating the Future

To the extent possible, these and subsequent regulations should anticipate and allow for continuing innovation in the waste and recycling industry with respect to customer service, operations, billing, etc.

As a first example, it is possible that new collection systems focused on one or more components of the waste stream may be useful for the city to consider, such as dedicated collection of source-separated glass from commercial establishments (e.g., bars and restaurants); such systems may benefit from operating outside of the zone system.

The potential use of onsite systems for generating slurry from food waste for direct delivery to one or more anaerobic digesters should not be unnecessarily restricted. [For example, more than ten Whole Foods stores in the Boston area utilize the Grind2Energy system for that purpose, with collection provided by a tanker-truck – not a conventional waste collection vehicle.]

Related to that specific consideration, the Department of Environmental Protection should provide updated information regarding its plans for upgrading its wastewater resource recovery facilities to accept slurried food waste that meets its specifications, as an essential component of the city’s emerging organics processing infrastructure that potentially could encompass the entire city.

As a second example, consideration of “extended producer responsibility” laws, regulations and systems should anticipate their implementation within the commercial waste system – not just residential.

Similarly, implementation – even on a pilot basis – of the “Clean Curbs” initiative of the Department of Transportation should be contemplated.

As a third example, continuing innovations with respect to real-time information about customer generation might allow for variable frequency of collection based on actual generation; requiring a certain number of waste collections per week may be unwise.

As a fourth example, the regulations should anticipate the need for event- and weather-related adjustments in services – without penalty.

As a fifth example, the regulations should tolerate the use of new forms of payment, including electronic services.

And as a final example: the state’s Climate Action Council is meeting to develop an agenda – including the waste services sector – that addresses the state and city’s greenhouse gas emission reduction goals, with due concern for local investments related to racial and environmental justice imperatives. Ideas emerging from that process also should be taken into account in the development of these regulations.

Updated Data:

It is a significant concern that data relied upon by the city in considering a CWZ system is now out-of-date, and given the severe impact of the COVID pandemic, nearly unusable for the purposes of the city’s planning, implementation and system evaluation purposes. Without such current/updated data, benchmarks for assessing actual improvements to the city’s overall commercial waste system will be impossible to establish, making evaluation of its successes and failures also impossible.

The city should take all necessary time to update its data as follows:

1. **Conduct a comprehensive waste composition/characterization study** – promised during the CWZ deliberations but never executed. No existing data is reliable for this purpose, including from other cities.
2. **Conduct an updated assessment of vehicle miles traveled**, including projections associated with new collection system requirements.
3. **Conduct an updated assessment of the number of licensed companies** currently operating and providing waste, recycling and organics-related services; while the city continues to insist that ninety (90) such companies are licensed, it is well established

that the actual number is closer to 45, and perhaps as few as thirty (30). [This aspect of the city's communications – even in the preamble to these proposed regulations - about LL199 borders on the use of false information that inhibits full and fair consideration of how best to proceed.]

4. **Conduct an updated assessment of the number and type of commercial businesses** that exist in each of the designated zones.
5. **Conduct an updated assessment of industry employment**, including representation by one or more unions recognized by the Business Integrity Commission, wages, working conditions/hours, etc.
6. **Conduct an updated assessment of the industry's safety-related initiatives and performance**, prior to determining what – if any – additional requirements may be necessary.

Finally, I support the industry's request that the CAPA process be suspended in favor of a more consultative stakeholder engagement process designed to yield a similar conclusion – actionable, reasonable and effective regulations. On behalf of a major client, I observed and participated in similar “workshop” processes in several major cities in Canada – with the stakeholder engagement process preceding the drafting of consensus-based bylaws and regulations.

The New York State Department of Environmental Conservation has effectively used such an approach – in the development of regulations implementing the state's new organics management law, and even the updating of its Part 360 regulations a few years ago – which provides a model for how DSNY might proceed in this case. A broad range of stakeholders – including but not limited to industry participants – can be brought together with an effective facilitator and chart a better path forward.

Thank you for your consideration.



GaiaStrategies
environmental business + public affairs

Kendall Christiansen, Principal
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917.359.0725

FW: Comments to rules

Ron Bergamini <RBergamini@interstatewaste.com>

Mon 2/8/2021 16:49

To: NYC Rules (DSNY) <nycrules@dsny.nyc.gov>

Cc: Bland, Justin (DSNY) <jbland2@dsny.nyc.gov>

📎 1 attachments (646 KB)

Feb 8, 2021 Comments on LL 199 Rules (CWZ) from Action (Ron Bergamini).pdf;

Attached please find written comments to the proposed rules of the Department of Sanitation that would establish requirements for carters operating in commercial waste zones published in the City Record on December 18, 2020. If possible, I would appreciate an acknowledgement of your receipt. These comments reiterate and expand on my comments during the hearing on January 26, 2021.

Note this is a PDF with an “electronic signature”. If you require an original signature, let me know and it will be provided. Otherwise, I will assume it is fine as is.

If you require anything else or have any questions, please do not hesitate to contact me.

Thank you for the opportunity to comment.

Respectfully yours,

Ron Bergamini

Ron Bergamini | Executive Vice President



The Action Environmental Group BIC Lic #1181

300 Frank W Burr Blvd., Ste 39 | Teaneck | NJ 07666

T: [REDACTED] | F: [REDACTED] | E: rbergamini@interstatewaste.com

Serving New York City, Northern New Jersey and Rockland and Orange County of New York



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February 8, 2021

Via email - nycrules@dny.nyc.gov.
New York City Department of Sanitation
Bureau of Legal Affairs
125 Worth Street, Room 710
New York, NY 10013.

RE: Response to Proposed Rulemaking

Dear DSNY CAPA Process Administrator:

Interstate Waste Services, Inc., the parent company of Action Carting Environmental Services, Inc. (BIC License #1181) submits, for the record, comments on proposed rules in support of Local Law number 199 for the year 2019 which authorizes the Department to create a commercial waste zones system. Under Local Law 199, codified in Title 16-b of the New York City Administrative Code, the Sanitation Commissioner has divided the geographic area of New York City into 20 “commercial waste zones”.

With these comments, our testimony on January 26th, 2021, and others from Industry representatives, we intend to show that some of these proposed rules are simply unworkable or unnecessary to meet the goals of Local Law 199. Most importantly, the landscape of the private waste industry, the composition of businesses in New York City and the underlying data supporting this law have all radically changed since the global Covid pandemic. Thousands of businesses in the City remain temporarily or permanently closed and the waste stream assumptions used as the basis for the creation of commercial waste zones have been dramatically altered and possibly permanently impaired. As a result, the current zone map and structure should be re-assessed immediately following 2021, taking into consideration a better sense of the aftermath of COVID on the zones with demonstrable recovery. Determining the timing of the reassessment is admittedly difficult but whether it is full stadiums in The Bronx and Queens, full office buildings in midtown Manhattan or the curtain rising on Broadway, unfortunately we are not there now. And, sadly, but proving our point, we do not know which restaurants, hotels and other businesses will return.

There can be no disputing the importance of the data on the number of customers and how much solid waste they produce in each zone. After all, the Final Generic Environmental Impact Statement issued by the Department of Sanitation (DSNY) on September 17, 2019, “analyzed 3 million tons of waste generated annually by the 100,000 estimated existing commercial customers”. Later, when moving a zone from Brooklyn to Manhattan in its Technical Memorandum No. 2 dated February 13, 2020, the Department reiterated that the “local law [199] . . . take into consideration the number of customers and the average tonnage of waste per contract and per zone”.

The same memo further states that the zones were “designed by grouping together community districts using the number of customers and waste tonnage in each community district to create 20 zones that were generally comparable in customer size and tonnage”.

In further support, the memo notes that the change in “the total number of zones to eight in Manhattan and the decrease to five in Brooklyn would not alter the total amount of customers, the total waste generated, or the total amount of waste collected from that studied in the FGEIS”. There can be no

dispute that the future number of customers and waste generated per zone is unknowable at this time. But without question, it is considerably less than one year ago. Clearly the impact of changes in the waste stream on zone development was an important consideration for DSNY. That same consideration must be applied to updated data reflecting impacts of the COVID pandemic.

With respect to our company, we note the following:

1. Overall revenue per month dropped nearly 40% in the NYC market, with Manhattan hit the hardest;
2. Revenue in Manhattan dropped more than 50% at its low point;
3. Prior to the second wave in Dec/Jan, revenue was still down 25% across the five boroughs;
4. Since December 2020 until this writing, nearly 100 customers per week are suspending or canceling service bringing the total since March 2020 to nearly 3,000.

On February 5th, 2021, the Wall Street Journal reported that “about 14% of New York City workers have returned, according to data from Kastle Systems, a security firm that has been tracking access-card swipes”. (WSJ by Suzanne Kapner). Companies throughout the city, indeed the world, are questioning when and whether some employees will ever return. International travel and city tourism, vital to the city’s economy, have been severely impaired with the timing and extent of a recovery unknown.

But make no mistake, we believe in the city’s return.

Another Environmental Impact Study, however, is required no less than six months following the full re-opening of the New York City commercial market and economy. The Department and prospective bidders must be able to ascertain within some degree of accuracy the following:

1. The numbers of customers, volume of waste, the composition of that waste and service levels required such as frequency; organics, traditional recycling;
2. The evaluation of the local disposal facilities in particular the processing of both traditional recyclables (plastic, cardboard & glass) and organics;
3. The number of vehicle miles traveled (VMT) in a post Covid environment; and
4. Whether the zones map should be further adjusted in accordance with the Department’s “goal of [zones] generally comparable in customer size and tonnage”.

The answers to these questions are indispensable for potential bidders so they can properly respond to the City issued RFP.



Comments on Proposed Rules

Our comments seek clarity in some areas and in others we attempt to show aspects of the rules that are simply unworkable or unnecessary. We recognize the desire to dictate many aspects of the relationship between the customer and its service provider but the marketplace must be allowed to function, allowing customer and service provider reasonable discretion to apportion service needs and the nature of the contractual relationship. For years customers have freely engaged in procurement of waste collection and recycling and they are clearly capable of addressing their own concerns and resolving matters as appropriate.

The extension of additional service requirements, standards and investment in state-of-the-art equipment, service delivery demands, service access, labor and benefit requirements, audit procedures, recordkeeping demands, financial assurances and bonding, and similar costly requirements stand in stark contrast with the stated demand of “cheap” pricing for service costs. The concept of establishing and enforcing standards is sensible but those standards come with a cost and market pricing must reflect those costs along with a reasonable return. For example, the cost of collecting and recycling/disposing of organic waste clearly exceeds the cost of collecting and disposing of solid waste, yet the rules are mandating haulers subsidize desired recycling with an arbitrary requirement for lower organics and recycling service cost. Market pricing should be permitted to recover service delivery costs and capital costs, with a reasonable return, and arbitrary price caps should be eliminated.

Given the experience required, standards established by the legislation and stated objectives on reduction of vehicle miles traveled (VMTs), we remain concerned with the concept of awarding zones to waste brokers who then will apportion service to up to two subcontractors. In practice, it is conceivable that up to 6 different haulers can be actively working in a zone, plus up to five haulers awarded containerized disposal licenses, for a total of up to 11 haulers. That seems inconsistent with the original objective of reducing VMTs through zoning and allows brokers awarded zones to avoid performance responsibility by simply interchanging subcontractors that fail to perform in compliance with the regulations. Awardees should be responsible for owning and operating their own equipment, hiring, training and employee drivers, helpers, mechanics, etc. That is a significant responsibility that should be not solely subcontracted to third party organizations.

With respect to some new initiatives, notably the Department serving as arbitrator of disputes regarding nonpayment and the like, we are concerned whether adequate consideration has been given to the magnitude of the task being undertaken by the Department. Our company alone has at least 1,000 customers each month with outstanding invoices aged over 60 days. Citywide it must be several thousands of customers. The budget cost to DSNY as a result of staffing of such activity must be a factor considered as well as the administrative burden that we fear may cause paralysis to the payment process even under the most well-intentioned staffing model.



The proposed rules note that BIC jurisdiction with respect to requirements for licensing, character and fitness standards and certain safety requirements, will continue to apply to commercial waste zone carters after the commercial waste zones program is implemented. As noted previously, the antiquated rate cap is inconsistent with the objectives and requirements of CWZ and should be eliminated. Likewise, the term of the customer contract should not be limited to the two-year maximum currently in effect and instead should be established by the marketplace taking into consideration customer needs, capital requirements and related relevant factors.

The following comments concern Subchapter B with comments in bold italic text and general text reflecting the applicable rule:

§ 20-20 Service to customers in a commercial waste zone.

Each commercial establishment must contract with a zone awardee. Such contract must be entered into no later than the final implementation date for the zone set forth in the rules of the Department.

Usually it is the customer that refuses a written contract. Will DSNY enforce this contracting requirement? With regard to form, we propose simply a requirement that awardees offer and provide a contract electronically (docuSign) or via email or regular mail.

Each commercial establishment may only contract with one zone

(1) In lieu of or in addition to a contract with a zone awardee, a commercial establishment may contract with a containerized commercial waste awardee for the removal of containerized commercial waste, except as provided in paragraph (2) of this subdivision. In such a case, if the contract with the containerized commercial waste awardee does not cover the entirety of the commercial establishment's commercial waste, the commercial establishment

(2) A commercial establishment may not contract with a containerized commercial waste awardee for the removal of containerized commercial waste if such containerized commercial waste awardee is also a zone awardee selected for the zone in which the commercial establishment is located and the commercial establishment has contracted with a different zone awardee for other commercial waste collection, removal or disposal services.



This is a confusing. It appears to say that the winner of the containerized waste award that is not also a zone winner can only contract with that customer if the service includes containerized service only. Please clarify and provide an example.

Also, the definition section of these rules defines “container” but the definition of “Containerized commercial waste” is only defined in the local law 199. For the avoidance of any confusion, we would repeat that definition in these rules.

§ 20-21 Rates.

An awardee shall not charge or accept rates for the collection, removal or disposal of commercial waste from a customer in a commercial waste zone above the maximum rates for such zone.

Rates for collection of designated recyclable materials and source separated organic waste must be proportionally lower than rates for refuse collection services in the proportion set forth in the agreement except if no amount of refuse is hauled from customer.

As we have long held, the city’s rate cap, now called a maximum rate is outdated and inconsistent with the stated objectives requiring service providers to make substantial investments in capital equipment, labor and service support.

Please define “proportionally” in the above context. Moreover, recycling and the collection of organics costs exceed costs for collection, recycling and disposal of solid waste. Furthermore, the volatile market for recycled commodities, stringent contamination rules and rising processing costs must be recovered to maintain recycling goals. The fact that markets for recycled products change so quickly and dramatically is yet another reason that a static maximum rate does not work in practice. Many markets in the US offer dynamic pricing models that allow monthly or quarterly adjustments based on the actual value of the commodity basket; thereby allowing generators and service providers to manage market volatility in a sustainable manner.

We remain supportive of the minimum rate to avoid the “race to the bottom”, leading to unsustainable delivery of zoning services.



(1) An awardee must only charge a customer in accordance with the pricing structure set forth in the agreement with the City pursuant to which such awardee is operating. Such pricing structure must be based on: (i) weight or volume of waste by waste stream, including refuse, designated recyclable materials and source separated organic waste, if applicable and (ii) frequency of collection by waste stream, except as otherwise set forth in such agreement with the City. An awardee must not charge additional fees, except as follows:

- (i) Cleaning containers or compactors;
- (ii) Delivery, replacement or removal of carts or containers;
- (iii) A requested pick-up outside of standard service hours;
- (iv) A return rate, if an awardee must return to provide service based on a customer created condition, after following all applicable procedures;
- (v) Overfilled containers, after following all applicable procedures;
- (vi) Designated recyclable materials or source separated organic waste with contamination of at least 10 *replace with one percent*, after following all applicable procedures;
- (vii) A requested pick-up time within a window of less than two hours *or any "timed stop"*;
- (viii) If a driver has to wait due to a customer created delay in excess of 15 Minutes *replace with 5 minutes*, documented with GPS technology;
- (ix) Late payment;
 - (x) Insufficient funds, including but not limited to a bounced check or an electronic transfer that fails due to insufficient funds in the customer's account; and
 - (xi) Any other fees approved by the Department.

We welcome the addition of extra fees reflecting the extra services. We recommend adding a charge for other key services as listed below.

1. ***Equipment rental;***
2. ***Equipment damage;***
3. ***Fuel surcharge;***
4. ***Credit card processing fees;***
5. ***Timed pick-ups;***
6. ***Holiday service/weekend service;***
7. ***Valet services;***
8. ***Subrogation requests; and***
9. ***Return service for waste not out or accessible on scheduled pick up day.***



In addition to any automatic rate adjustments set forth in the agreement with the City, an awardee may petition the Department for an adjustment to the maximum rates [The hauler] bears the burden of demonstrating, on an individual, zone or industry-wide basis, that existing rates do not allow for a fair and reasonable return to such awardee

What is the guidance for adjusting maximum rates? Can the industry petition as a whole or group or must it be individually?

The definitions section of the rules and the rules themselves do not provide a definition with regard to compacted waste. Will the awardee define the maximum rate for compacted waste in its submission?

§ 20-22 Denial of service prohibited; termination; suspension of service.

Conceptually we reject any rule that requires service to be provided when a reasonable person would not expect payment (particularly when the service could last months). The requirement of seeking permission first before canceling service undermines our ability to collect arrears or to incentivize a customer to pay. We also do not know what data the Department is using here but it is reasonable to expect one thousand or several thousand customers citywide to fall into an over 60 days receivable. Rather, the Department could require the awardee to collectively submit those customers over 60 days certifying the accuracy of the information submitted. Short of that, we would either have to require customers with bad credit scores or history to prepay and/or ask the city to create a fund for deadbeat clients.

The simplest way to handle this is to allow these issues to be resolved between the hauler and the customer. Like today with the BIC, if a customer feels aggrieved by the hauler, they can always file a complaint.

We disagree that the hauler provides a certification explaining the circumstances when at least two services days in a row are not picked up. The most obvious is where safety is an issue. Those decisions are made in real time. We cannot be required to risk damage to our equipment or injury to our employee. The other obvious situation is weather related.



An awardee may only deny, suspend, or terminate commercial waste collection service to a commercial establishment after prior approval by the Department in accordance with this section.

The Department will only grant approval if the awardee demonstrates to the satisfaction of the Department one or more of the following:

- (i) The commercial establishment owes full or partial payment to the awardee for services rendered for more than 60 days and the awardee has followed the procedures set forth herein;
- (ii) The commercial establishment has set out commercial waste in a form or manner that presents a direct health or safety threat to employees of the designated carter or to the public;
- (iii) The commercial establishment has caused substantial damage to property of the awardee or its designated carter;
- (iv) Provision of service to the commercial establishment would jeopardize the awardee's ability to meet the requirements of the awardee's agreement with the City;
- (v) The carter has other good cause for denial, suspension or termination of service, consistent with the purposes of this title

As stated above, the requirement of first seeking permission is not realistic but burdensome and would require a new section in the Department to deal with the number of customers over 60 days in arrears. Moreover, additional reasons to not provide service must include: weather conditions, city work such as utilities, parades, fire, police activity and the like.

An awardee may seek denial, suspension or termination of service by notifying the commercial establishment by certified mail of its intention to deny, suspend or terminate service and informing the commercial establishment of the reason therefor. In the case of non-payment by a current customer, such notice shall only be mailed after 60 days of non-payment. In all other circumstances described in paragraph (2) of subdivision (b) of this section, such notice may be mailed immediately. Such notice shall state that no later than 30 days after the postmark date on such notice, the commercial establishment may submit evidence to the Department demonstrating that circumstances described in paragraph (2) of subdivision (b) of this section have not occurred or other evidence that service should not be denied, suspended or terminated, along with a copy of the postmarked certified mail receipt.



Certified mail is an expensive, time consuming and antiquated form of communication. Any acknowledgement should suffice including email or other electronic tools such as customer portals, web chat, etc.

(2) The awardee must provide a copy of the notice described in paragraph (1) of this subdivision to the Department along with evidence that the [necessary] circumstances have occurred. [When necessary] provide photographic documentation where feasible. In all other instances, such evidence may include but need not be limited to photographic or video evidence, invoices, insurance reports, or police reports.

(3) No later than 45 days after receipt of a copy of the notice, the Department shall notify the awardee and the commercial establishment of its determination regarding whether the awardee's request for approval for denial, suspension or termination of service has been granted. Within 15 days of receipt of such determination, either party may appeal such determination in writing to the Commissioner. ***This is overly complicated and not practical.***

(4) If the commercial establishment is a current customer, the awardee must continue providing service to such customer until a final determination by the Department has been made. In the case of non-payment by the customer, any late fees set forth in the awardee's customer service agreement with the customer shall continue to accrue while such service is being provided in accordance with such agreement. Nothing in this section shall preclude the awardee from seeking to enforce the terms of such agreement.

(5) Nothing in this section shall be construed to alter, amend or negate any obligation of the awardee to provide service to any commercial establishment in accordance with the terms of the agreement between the awardee and the Department.

(b) A written contract for the removal, collection, or disposal of commercial waste that contains no provision regarding duration shall be terminable at will by the customer.

(2) An awardee providing containerized commercial waste collection, removal or disposal service citywide in accordance with such an agreement with the City must not discontinue or terminate such service to a customer unless at least 14 days' written notice to the customer is given. No contract for the removal, collection, or disposal of containerized commercial waste shall provide that an awardee may discontinue or terminate service upon shorter notice.



- (c) On a monthly basis, the awardee shall report to the Department the status of all accounts 30 days past due and 60 days past due, containers removed, suspended service, terminated service and reinstated service, including documentation of the late payment notification process that took place. If a customer's service is suspended or terminated, the awardee shall provide written notification to the Department within 24 hours and shall include in this notification the customer name and address, original date of billing, date of the 60-day non-payment notice, amount due, and any unresolved customer complaints.

These sections are an overly burdensome and clearly inefficient. The Department should allow potential awardees to explain in response to part 2 of the RFP how it intends to transparently interact with customers in the spirit of the above outlined intent. The potential awardee can also share such data with the Department.

§ 20-23 Non-Collection of Commercial Waste.

- (a) An awardee may only refuse to collect commercial waste from a customer set out on a particular day, resulting in the non-collection of commercial waste, in the following circumstances:
- (1) Overfilled containers;
 - (2) Designated recyclable materials or source separated organic waste with contamination of at least 10 percent; ***Make this one percent, which is consistent with the standards required by processors and commodity market buyers (domestic and export).***
 - (3) The bag or container cannot be safely lifted, container contents will not empty after tipping, and/or bags or containers are blocked or inaccessible;
 - (4) Bags or containers set out for collection contain non-commercial waste not otherwise agreed upon by the customer and the awardee; or
 - (5) The customer has otherwise set out commercial waste in a form or manner that presents a direct health or safety threat to employees of the designated carter or to the public.



City action such as parades, utility work, weather conditions, police or fire activity also explain “non-collection” and should be acknowledged in any rule.

(b) After refusing to collect material, the awardee is obligated to continue to provide commercial waste collection service at the customer’s next scheduled pick-up in accordance with the awardee’s agreement with the customer, except [when a problem exists]

(a) Before imposing fees refusing to collect commercial waste from a customer on a particular day, an awardee must follow the procedures described in this section.

The procedures set forth in this entire section are unduly burdensome; Haulers should not be required to give a customer one free pass. This encourages customers to overfill containers. Transporting overfilled containers is dangerous. Being required to remove the material would be costly and time consuming.

Doing so without compensation is inherently unfair. There is no need for such rules. Customers and haulers manage this today. There is no problem here requiring a solution.

§ 20-25 Customer Service Plan.

(a) The awardee must comply with the terms of [its approved] customer service plan.

(1) A protocol for addressing customer service requests and complaints, including awardee response times, provided that customer service requests and complaints made by phone must receive a response within 2 hours, 24 hours a day, 7 days a week and customer service requests and complaints made electronically via email or via the company website must receive a response within 2 hours if made during normal business hours or by the next business day if made after normal business hours;

Please define “response”. For example is there a plan to fix a problem or must it be fixed, i.e. we will pick up the trash on Tuesday or does the trash need to be picked up in 2 hours? The former is reasonable; the latter is not. The hauler should simply have to show a good faith effort at resolving the problem.

(2) Performance metrics or other methods of measuring customer service, including but not limited to a process for tracking customer service requests and complaints and the awardee’s response times for addressing such requests and complaints;



Metrics can mean many different things. We need clarity and alignment on which metrics are most appropriate for measuring service against some standard and not arbitrary determinations. Will the overall market wide metrics be shared by the Department?

- (b) An awardee must resolve a customer complaint regarding a missed collection within 12 hours of receiving such complaint.

We suggest 24 hours and a distinction depending on whether the complaint was received during normal business hours. As stated above, a good faith effort to resolve the problem should be the standard. See above comment; is it scheduling the missed pick-up or actually picking it up?

§ 20-26 Written service agreement.

As noted previously, it is often the customer who refuses to sign a contract. Will DSNY enforce this requirement on all commercial customers in the zone? The standard should be proof of attempting to have a contract signed such as by providing it to the customer. All references to certified mail should be stricken. Electronic communication is far more efficient and increasingly prevalent (docuSign). We also use tablets with customers signing electronic contracts and that should be expressly acknowledged in these rules, i.e. electronic contracts are acceptable.

That contract shall:

(1) Describe rates, service levels, customer and awardee responsibilities, pick-up times and frequency, and dispute resolution protocols;

(2) State the estimated volume or weight of designated recyclable materials and the estimated volume or weight of source separated organic waste, if any to be collected from such customer;

(3) Not extend beyond the last date the awardee is authorized to operate in the zone in which the customer is located under the awardee's agreement with the Department

Can the Department confirm that this means a contract between customer and awardee could be as long as the term of the award? We support longer term contracts. The decision as to the length of a contract should be between the customer and the hauler.



(4) Provide to customer's commercial waste from the location designated by the customer, provided that such location is consistent with all applicable laws, rules and regulations;

(5) Provide that for each scheduled collection, the awardee shall arrive within an agreed upon pick-up window of no more than two hours;

This section (5) should be deleted. Few customers ask for "windows" of a time and those that do should be charged extra. It is not practical to predict a 2 hour windows for ten or fifteen thousand customers each and every night.

(a) (1) If a customer has been assigned to the awardee [we charge] at the maximum rates [Until a new rate and contract are negotiated]

How will the Department ensure that the awardee will be paid by a customer assigned to them? Will the Department serve as a guarantor of payment? At a minimum such customers should be required to prepay.

§ 20-28 Notifications.

(a) An awardee must provide each customer with such informational notices as the Department shall require throughout the term of service.

(b) (1) An awardee must notify the customer within 24 hours by phone or any other mode of communication agreed upon by both parties of significant designated recyclable material content in refuse, with options for next steps to improve diversion.

(2) An awardee must notify the Department of any customer with significant designated recyclable material content in refuse within 24 hours.

How does the Department propose doing this with multitenant buildings? It is simply unrealistic for our employees to open every bag, e.g. many customers discard between 50-100 bags in a night. Employee safety is a risk attempting to evaluate bag contents and is unreasonable. This also puts front line employees and administrative employees in the uncomfortable position of enforcing rules which properly belong to the government.



(c) On a monthly basis, an awardee must provide the Department with the following information for the previous month:

- (1) Any non-collections and the reasons therefor; and
- (2) Any additional fees imposed and the reasons therefor.

This is overly burdensome and costly depending on the level of specificity required.

Subchapter C: Operations; delivery of service

§ 20-30 Restrictions on operation in multiple zones.

We support the exceptions of these rules set forth below as practical and supportive of the goals of the CWZ, i.e. efficiency.

§ 20-31 Recycling requirements for awardees.

(a) *Designated carters required to recycle.* When collecting or transporting designated recyclable materials that have been source-separated as required by subdivision (b) of section 1-10 of this title or materials that have been commingled pursuant to subdivision (c) of section 1-10 and paragraph (2) of subdivision (c) of this section, a designated carter must transport such materials to putrescible or non-putrescible transfer stations or other facilities that accept such materials for recycling, reuse or sale for reuse. Such designated carter shall not bring such materials for disposal, or cause such materials to be brought for disposal, to any solid waste disposal facility, whether or not such disposal facility is operated by the Department, except in an amount that could not have been detected through reasonable inspection efforts by the designated carter.

Could you please explain what is meant by “whether or not such disposal facility is operated by the Department”? Is DSNY expected to process commercial waste at any of its facilities?

(2) This subdivision shall only apply to the collection of containerized commercial waste citywide where the agreement between the awardee and the Department so provides.



This is confusing. What is meant by the subdivision only applying to the collection of containerized commercial waste?

§ 20-32 Collection of organic waste that has been source-separated.

(a) Organics collection required. (1) An awardee must provide organic waste collection services to any customer that is a designated covered establishment pursuant to subdivision b of section 16-306.1 of the Administrative Code and that has elected collection by a private carter of organic waste pursuant to subdivision c of such section.

With respect to organic waste, we remain concerned on the availability of disposal options and costs of both collection and processing. This issue needs to be addressed before proceeding to the next phase of the RFP. This also underscores the need for an updated EIS and a waste study. Will the Department be able to inform haulers as to the number of customers, those required to source separate organics and the volume or weight of organic material per zone? For example, the current disposal price for organics exceeds the cost of solid waste disposal. Moreover, collection of organics requires specialized and costly equipment, is labor intensive, and time intensive and thus, more costly.

§ 20-35 Sign or decal required.

(a) An awardee must provide each customer with a sign or decal that conspicuously and legibly displays the following information:

A unique number for each customer;

A unique number on each decal is overly burdensome. The current system works fine.

§ 20-37 Operations.

Commercial waste vehicles with open top box type bodies and containers on or in platform or panel type body vehicles shall not be filled or loaded over their capacity as specified by the vehicle manufacturer. In no case shall the body or container of such vehicles be filled or loaded to a level that would allow water or solid waste to spill out from the vehicle.



This is not practical; the customer loads the container. Haulers should be able to charge customers for overloaded containers or open box containers to discourage the practice and recover the haulers costs.

Each open top box type vehicle body shall be loaded only from front to rear, and the partial load shall be kept securely and fully covered at all times. Each such vehicle shall have a heavy tarpaulin cover which shall be secured over the vehicle body at all times other than when the vehicle body is being loaded or unloaded or is empty.

The customer loads the containers.

An awardee must keep closed the doors of any garage, or the gate to any outdoor premises, from which commercial waste vehicles are dispatched except when such vehicles are entering or leaving such garage or premises. The perimeter of any outdoor location used to store vehicles shall be surrounded by a fence or wall that is at least 8 feet high.

This type of rulemaking is beyond the scope of this RFP. Repair shops throughout the city open their garage door in nice weather.

§ 20-40 Protection of private and public property.

An awardee must, to the greatest extent possible, prevent damage to public and private rights of way and property. If an awardee or any of its designated carters damages private property, it must immediately notify the property owner where feasible. If an awardee or any of its designated carters damages public property, it must immediately notify the City by calling 311. An awardee shall be responsible for all costs associated with the repair or replacement of property that has been damaged by the equipment, employees or agents of the awardee or any of its designated carters, excluding damage from normal wear and tear. An awardee must promptly investigate and respond to any claim concerning property damage. If the Department notifies the awardee of a claim concerning any such damage, the awardee must investigate and respond to the Department within 3 business days.

We recommend changing 3 days to 7 days.



§ 20-41 Emergency services and response requirements.

An awardee must designate an emergency contact to respond to emergencies. Such person must be available 24 hours per day, 7 days per week. An awardee must follow its written Emergency Action Plan included in the agreement between the awardee and the Department, as required by paragraph (11) of subdivision (c) of section 16-1002 of the Administrative Code, and must notify the Department in writing of any changes to its Emergency Action Plan.

We would add to include the plural “persons” as well as a service such as an outside vendor.

§ 20-42 Vehicle collisions.

In the event of a collision involving a commercial waste vehicle and any other vehicle, cyclist, or pedestrian, at any location, the awardee must notify the Department immediately.

What is the means for notifying the Department during off hours?

§ 20-43 On-board software and hardware.

All commercial waste vehicles must be equipped with on-board technology, including software and hardware capable of monitoring and recording data from GPS devices, vehicle dynamics monitoring, photo and video, and engine performance monitoring. Such technology must meet all requirements and capabilities described in the agreement between the awardee and the Department entered into pursuant to section 16-1002 of the Administrative Code, including proof of provision of service. Such data must be communicated from the vehicle in real time to the Department and must be maintained by the awardee either directly or through a third party service in accordance with the relevant time periods and specifications set forth in such agreement. The awardee will be responsible for all cost associated with preparing the data in a format acceptable to the Department.

Is the Department looking to view in real time? Will this override Collective Bargaining Agreements? What is the engine performance monitoring that is expected? Ideally the concept would be left for prospective awardees to determine and show that its system meets the goals of the Department.



We respectfully urge further dialogue between the Department and all stakeholders before finalizing the rules and issuing the second part of the RFP.

Thank you for the opportunity to comment.

Respectfully yours,

/Ron Bergamini/

Ron Bergamini, Executive Vice President





Comments from Stephen Leone, President, Industrial Carting on DSNY Proposed Rules on Commercial Waste Zones

Industrial Carting is a Brooklyn-based, third generation waste and recycling removal company, serving New Yorkers for over 90 years. Along with its sister company which owns a recycling facility, Emerson Recycling Corp., Industrial Carting is located in Clinton Hill and operates primarily in the proposed Brooklyn West Commercial Waste Zone.

Our company has been consistently committed to providing the best customer service possible, while minimizing our impact on the environment and quality of life. We have been ahead of the curve, evident through our environmentally friendly fleet, equipped with onboard 360 camera systems and side guards, and our work to reduce emissions and miles travelled, improve pedestrian and cyclist safety, reduce noise pollution, and more.

Ultimately, we are pleased to see City leadership and the Department of Sanitation (DSNY) working to improve the commercial waste hauling system to improve and advance public health, safety, and the general welfare of all New Yorkers.

In order to ensure the City meets its goals through this program, and businesses are best served, we advocate for a scoring advantage for locally owned and operated carting companies. We believe that locally owned companies will be more accountable and responsive in customer dealings, and that operating in their local areas will add an extra incentive to operate safely and sustainably. Additionally, rules promulgated through this process must be accommodating to awardees, considering that there is no guaranteed market share within a zone.

It is also necessary to note that there need to be more guard rails against predatory pricing. The Department must also promulgate rules that acknowledge and address downward fluctuations in the value of recyclables, and provide awardees protections against a recycling market unable to fully accept all volumes of materials collected.

Regarding the rulemaking process: we make a request that DSNY suspend the CAPA process for consideration of the current and future rounds of regulations to implement LL199 of 2019, and instead pursue a consensus-building “workshop” approach that engages companies and other stakeholders in a collaborative dialogue with the same goal in mind- adoption of coherent and comprehensive regulations that are both practical in their implementation and effective in achieving the city’s stated goals.

Specific Responses to Proposed Rules

§20-21, Page 10:

§20-21 (c)(2)(vii): Permits a carter to impose a fee on a customer for a requested pick-up time within a window of less than two hours, while §20-26 (b)(5) states that that for each scheduled collection, the awardee shall arrive within an agreed upon pick up window of no more than two hours.



First, there needs to be clarity about these two rules and how they interact. Second, a two-hour window is burdensome within the standard service hours. This rule assumes that the routing and tonnage are the same every night. Standard service hours are defined as 8 p.m. to 4 p.m., and it is not clear why the two-hour window is necessary.

§20-21 (a)(2) requires that rates for collection of designated recyclable materials and source separated organic waste must be proportionally lower than rates for refuse collection services.

This proportion, which we understand to be constrained by and coordinated with the rate of refuse collection, must be made clear. Negotiations on pricing will be an important part of customer acquisition and retention, a carter needs to know if a negotiation results in lower price for refuse, does that mean rates for recycling and organics have to be proportionally lowered as well?

§20-22, Page 12

§20-22 (d)(3), regarding the appeals process on denial, suspension, or termination of service, the length of time the appeals should last must be outlined further, particularly the appeal following DSNY's decision on the matter.

§20-22

The Department ought to propose rules governing excessive volume of bags left out by a customer, not using a receptacle. The proposed rules only govern overfill of receptacles, but not of bags.

§ 20-25, Page 18:

§ 20-25, (b)(1) requires that an awardee maintain a dedicated phone line for customer inquiries, service requests, and complaints, which must be actively staffed during normal business hours, as defined by the proposed rules, and have the capacity for receiving messages 24 hours a day, 7 days a week.

However, § 20-25, (b)(3) requires that "complaints made by phone must receive a response within 2 hours, 24hours a day, 7 days a week."

It is not clear in this rule the type of response required, meaning acknowledgement of receipt of communication, or a resolution plan. Additionally, communications made by e-mail do not require the same response time, as they must be answered in two hours if received during normal business hours.

The proposed window of two-hours response time is burdensome and onerous.

§ 20-25, (c) requires that an awardee resolve a customer complaint regarding a missed collection within 12 hours of receiving such a complaint. We have concerns about driving



truck traffic onto the street during the day, which is an unusual practice for our industry, and recommend that this rule require resolution by the next business day.

§ 20-27, Page 21:

§ 20-27 (c)(4) The prohibition of a carter not being permitted to charge additional fees for non-cash payments is unfair to the vendor and burdensome. If the vendor has a greater expense due to a method of payment, the vendor ought to be able to include this increased cost of business in the form of a fee to the customer. The ability to charge this fee protects pricing structure and incentivizes transparency and integrity.

§ 20-31, Page 24:

§ 20-31 (f) outlines that civil financial penalties may be levied against a hauler. § 20-31 ought to outline a procedure for collection and disposal of recyclables in the event that the market faces significant complications or breakdowns, which prevent the recycling of items.

§ 20-37, Page 31:

§20-37 (e): Considering market uncertainty, this proposed rule governing the dumping and unloading of material needs to accommodate potential market complications or breakdowns. For example, what happens in the event of a/ multiple facility/ies not being able to accept the refuse (organics)? There is not language or accommodation, or a mechanism to address what happens in this instance.

It appears that this proposed rule, in consideration with § 20-31 (c)(2), also constrains haulers from acting as middlemen for the transportation of recyclable materials, as it seems that haulers cannot collect recyclables, unload them at a facility that can handle one type of recyclable material, and have it picked up by another recycling facility. It appears that collected materials can only be unloaded at facilities where they can be processed.

The City must demonstrate that this is feasible with the existing or planned infrastructure,

§ 20-43, Page 34

§ 20-43: This proposed rule mandates that certain data from awardee fleets be transmitted to DSNY in real time. Clarity must be provided about how this is to be performed, as well as information on the types of technology programs that would perform this type of task. The City must demonstrate that this capability exists, and address safety, privacy, and security concerns. It is not clear why DSNY must have constant access to the data and operations of a private entity.

Additionally, the City must clarify why this information is needed, delineate what it is permitted to do with such data, and outline how data will be used and stored.

Concluding our comments, we reiterate our commitment to being genuine partners in building a successful commercial waste zones program, and are pleased to see the City take a leadership position in improving the environment and quality of life for all New Yorkers.



However, there are significant concerns held by Industrial Carting regarding the proposed rules and implementation of the coming program. We call on the Department of Sanitation to consider a workshopping process in advance of a rule-making process, to ensure a healthy and productive dialogue about a complex industry that provides opportunities for social and economic mobility to many.

If we can provide more information, please do not hesitate to contact us.

Thank you,
Stephen Leone, President
Industrial Carting
[\(718\) 622-1786](tel:(718)622-1786)
sleone@thesmartercarter.com
<http://www.thesmartercarter.com/>

Subject: NYC - RFP - COMMENTS

From: Stephen Bellino <sb@libertyashes.com>

Date: 2/2/2021, 3:47 PM

To: Stephen Bellino <sb@libertyashes.com>

NYC - RFP - COMMENTS

Page 9 -20-20 service to customers

(a) How long are franchise contracts ?
(b) Why restrict the customer to only one awardee ? If a customer wants to use more than one Carter they should have that choice.

(c)(1) Is the containerized awardee allowed to supply small containers such as 1-8 yard rear end containers, then to be serviced by a different vehicle ?
(e) Will the signature of the person in charge that signs a contract be legal and binding ?

20-21 Rates

Page 10- # 2 - Please explain what this means and why rates should be structured this way ? Please explain how this works with a fluctuating price market place.

Page 11(C)(1) Are you saying here that the frequency of collecting is an additional charge ? And does this apply for all the waste and recycling categories ?

Page 11 (2) - If you are saying that frequency of pick ups are an additional fee why is it not listed in this section ? Will additional fees apply to all categories of waste and recycling ?

Page 11-(d)(1)- Please explain in detail what automatic rate adjustments are and how they are structured. Also this seems to be geared towards predatory pricing . Example: large company A bids low numbers for the first two years giving them enough time to exhaust finances at small company B and make them go out of business and eliminating competition , then in the third year the automatic revenue for large company A takes place to replace the revenue lost in the first two years. Please explain.

Page 12 (2)- Does this mean that if an awardee is awarded that the awardee has to go through a public hearing to increase his rates above the maximum rate. How long would such a process take? This could cost the awardee undo financial hardship.

20-22 Denial of service

Page 12 & 13(2)(I)(ii)(iii) This minimum level of service will lead to some customers not getting the level of service they may want. Due to lack of competition in certain areas . Therefore customers will suffer by the excuse of these regs.

Page 13 (b) - Has the BIC commission had numerous cancellation or suspension complaints from today's current customers ? Why does the DOS feel the need to control this aspect of the industry ?

Bic is already handling these complaints . Why implement this time consuming and costly stringent double oversight ? In addition how does the awardee recoup it's lost service fees while this process is going on? Should this percentage of stop service customers be calculated into the rate charged across the awardees zone? In addition to that when and after the process is completed and the customer is on the contract with the awardee and wants to switch Carter's is there a New York City DOS process for that or will that be left to the Carter and the customer ?

Page 14 - (e) How long will contracts be for and will BIC be regulating them or the DOS ? Also I thought all contracts were mandatory are they ?

Page 14 & 15 (2) Why is the containerized waste termination of service different than a zone awardee termination ? They should both be the same . Especially if said customer has both roll/off and rear end services.

20-23 Non-Collection

Page 15(a) In the event of a disagreement between the customer and the awardee who decides

that there is 10% or more contamination? DOS , BIC , or the Carter ?

Same question for (3)(4)(5)

Page 15- (g)

This seems again like the department wants to micromanage our business. Does the past history of this industry have issues and complaints at the business integrity commission in regards to past due monies , containers removed for suspended service etc ? What's the reason for such oversight if there are no complaints currently? Seems like it's an added expense ,and time consuming waste of time.

20-24 Overfilled containers

16(b) Do we have the option to charge for overfilled containers? Please explain what does the 12 month period have to do with over filled containers ? What happens if the customer says no such notice was left , who decides what happens in that kind of dispute ? What if there is no place to leave written notices ?

Page 17-(d) Who decides what is safe or not ?

(e) If the waste is non-commercial or non-conforming and if the waste is hazardous are you saying we must take it? How much work to find out who put out hazardous waste is expected of the awardee ? Please define and explain.

20-25 customer service plan

Page 18-(3) Is the protocol for 24 hours a day just for office hours ? If a customer calls at 2am in the morning, must that customer get a return call by 4 am ? Please explain.

Page 18- (6) Is the DOS going to provide information on how many different languages there are in each zone?

Page 19-(c) What if there is a conditional problem regarding this missed collection and it does not get serviced for a second time? What is the remedy and what are the possible damages to the customer and the awardee ?

20-26 Written service agreement

(A) Is it mandatory for customers to sign contracts? What if the customer refuses to sign a contract?

(5) This provision in the law should be removed. This creates a no-win situation for the awardee and it becomes too difficult to manage.

(6) This provision seems to be in contradiction with 20-21 (d-1) automatic rate adjustments . Please explain what this provision means ?

(7) What happens if the customer wants to change pick up times? Does this provision mean days or hours?

(d) Please define how an awardee determines who is an authorized representative. Will the DOS be looking for some form of proof of an authorized representative and please provide how that is accomplished.

Page 20 (e)- Is this provision stating that an awardee must provide service under any circumstances if the DOS directs the awardee to service this customer?

(f) This method of approval (written agreement). Please describe if the method includes emails etc. or if you mean pen and paper , letters ?

(g). What if circumstances demand to be exempted from liability? Will there be a review or some other method of exception for these types of customers ?

(h) Will your review of these contracts illuminate being voidable by federal state and local laws?

20-27 Billing

Page 22-(7)(a) Please describe what a separate statement of sales tax collected means or how it should be instituted? Should this be handled the same way we submit to NYS ?

(b) What are the procedures and conditions for approval from the department?

(c) There's a predetermined percentage of customers who pay by cash. This large percentage does not have the capability of paying any other way . How will turning these customers away help the customer or NYC. These are poor neighborhoods that need services such as sanitation and recycling. This has the makings of illegal dumping all over it. I suggest there be more consideration on this regulation and find a better way.

(4) This should be removed. Standard processing ATM credit cards and checks are all charged by local banks and some in every business why not here?

(d) Did you mean non-related customers?

(e) Did you mean non-related customers?

20-28 page 23 (c) This provision sounds ambiguous. Please explain in greater detail.

Page 24 (d) This section contradicts subdivision see please explain.

1) Please explain what the standard service hours are described in detail.

(3) Does this mean the department will allow some awardees to enter into another zone without having won that zone?

Page 25 Penalties- What is the process to resolve any violation prior to receiving any penalties please explain?

20-32- Collection of organic

Page 27 (3) Please define incineration and is a cogeneration plant that makes or produces electricity an acceptable conversion process and a final delivery facility?

(5) Is there any separate fee structure for this type of service or is this service non regulated ?

(e) Will the awardee be able to charge a fee for supplying signage?

20-33- Page 28(c) When waste or recyclables are dropped off at a legally operating facility the chain of custody or ownership of the material is transferred to that facility. Why would this record keeping be the responsibility of the awardee to obtain? What if the facility will not provide said requirement or what happens if the facility goes out of business or something to that effect? This seems daunting and extreme. Please explain.

(2e) Can this agreement be signed by the owners or the owners authorized agents?

Page 29 (I) Will there be any grace periods for penalties during the first year or two of the initial start up?

20-35-Sign or decal

(a)(d) Please explain why in an awardee is not able to charge a fee for decals and signage which will cost the warranty plenty of money and or for replacement decals and replacement signage?

20-36 page 31

Why do you mention regulated medical, asbestos or other hazardous toxic or dangerous materials if the department has no jurisdiction over them and it's not defined in or is a part of this RFP?

20-37 Operations page 31

(f) Does the department have a certain decibel level or length of time in which noise becomes an issue?

(I) Can materials be reworked or sorted etc. if the vehicle is off the street and on private property please clarify?

(k) Are there any exceptions to this regulation ? Example frozen load or some other extraordinary condition which would cause a load not to be removed?

(o) Are there any exceptions to this regulation examples summertime heat ,some parking locations double as a mechanic repair,welding shop which creates much heat to the employees detriment please advise?

Page 32 (g) Will the awardee be able to charge a rental fee/maintenance fee for supplying and maintaining any and all types of receptacles or containers?

(u) This seems unreasonable especially if a call comes in at midnight or early hours of the morning the awardee would need more time to resolve this issue please advise .

20-38 Labeling of containers

Page 33(b) Can an awardee refuse to supply containers or receptacles?

20-39- Routes and schedules

For how long must we keep these records?

20-40 Protection of private page 34

This seems unreasonable to investigate public or private property and request more than three business days.

20-43 What format will the department use or request for on board software and hardware ?

How will NYCDOS conform to New York City Rules regarding this RFP?

How will NYCDOS provide the new current environmental impacts associated with Cove it 19 under the New York City CAPA rules?

Is New York City DOS willing to change or consider altering or amending the five containerization awards for all five boroughs? Such an award with seem to give those awardees a competitive advantage over non-containerized awardees and also a disadvantage to the customer base in those awardees zones. Customers would not be able to choose or have a choice of which contain rice hauler they could use in a different borrow or zone. This again seems like unfair competition .

Thank you for allowing us to comment on these important issues.

Sincerely
Xxxx

Sent from my iPhone

February 5, 2021

DSNY Bureau of Legal Affairs
125 Worth Street, Room 710
New York, NY
10013

Re: Comments on Proposed Commercial Waste Zones Rule

To Whom It May Concern:

On behalf of Liverpool Carting Company, we are submitting this comment in response to the DSNY's Commercial Waste Zones law.

This law was created in order to tackle a plethora of issues with the current system: it is disorganized, unsustainable, and unsafe. The individuals who created this rule have the best of intentions—they want a cleaner, safer, more efficient system that cuts down on unnecessary environmental harms. They want fair wages and labor standards for all employees, transparency, and a better quality of life for New Yorkers. They care deeply about their city, which is a sentiment we at Liverpool Carting share. Changes to the current system are necessary, and our company supports an industry-wide change. However, we feel strongly that the Commercial Waste Zones rule has overlooked multiple things, and should not pass as it is written.

I. Oust of Small Businesses

The current structure of the Commercial Waste Zones plan, from the bidding requirements to the zoning, essentially eliminates the chance for small businesses to obtain a bid. Many small companies do not possess the trucking capacity to pick up an entire zone, leaving us at a significant disadvantage. In addition, the incredibly limited number of zones per borough designated by this plan renders small companies unable to compete with larger companies.

While representatives from the DSNY and others have stated to media outlets that small businesses do have a chance to win a bid, I fail to see how that will be possible considering the structural aspects of this plan. As Justin Bland stated, "We don't think the number of companies is an inherently bad thing... We want the best companies to get contracts, not just the biggest. It has to be the best."¹ The DSNY's plan simply does not match this statement. Antonio Reynoso has also made multiple statements which are seemingly empty given the plan's structural aspects. He stated: "If you have a history of doing work in the city, and it's good work and you have a lot of clients, then we want to give you a shot at that zone".² "We're not trying to go after these carting companies that are doing the right thing. We want them to continue to do work in the city of New York. They are meeting a standard that we believe is a New York standard."

¹ <https://www.wastedive.com/news/franchise-zone-bill-new-york-market-DSNY/557842/>.

² <https://www.wastedive.com/news/new-york-commercial-waste-zone-plan-new-draft-reynoso/564824/>

Small carting companies already operate in a saturated market with little opportunity for expansion. The larger carting companies occupy a majority of the market, and possess the capacity, and the willingness, to accept new customers throughout multiple boroughs. Small companies like Liverpool Carting do not possess that capacity, nor the willingness to travel from borough to borough picking up stops. The CWZ wants to stop the zig-zagging and overlap in business, meanwhile, the smaller companies are the ones doing this the least.

The CWZ plan aims to promote safety, efficiency, and organization for New York's sanitation industry. Many small companies already make efforts to operate as such, and have consolidated their routes for efficiency concerns, yet they may lose their livelihood to larger, historically less efficient companies simply due to size.

I. Suggestions

Rather than rushing forward with this proposed rule, which will inevitably pose major operational and structural issues, I strongly encourage the DSNY to revise and amend the CWZ plan. This plan should be structured in order to account for the small businesses that are operational today, rather than effectively ousting them from the industry. Many small businesses have been operating in accordance with the principles and manners the CWZ plan has outlined, and cutting those businesses out of the market in favor of larger businesses would be unethical. I propose that rule-makers work side-by-side with the current players, and collaborate to create a structure that accomplishes all of the CWZ's goals, in a manner that allows for businesses of all sizes to survive.

One structural suggestion to this plan is that the CWZ should amend the Zone Framework to allow for more zones per area of each borough. Small companies which already operate in specific areas could potentially keep the bulk of their business, rather than lose it to a larger company. The current Zone Framework is much too limited, and this simple change would give the smaller businesses a better, more fair opportunity to compete.

In addition, my 75 years of business has led me to recognize certain necessities in this industry. Please consider the following suggestions for requirements/regulations that should be included in any future plan, some of which will help achieve the current CWZ plan's stated goals:

1. Safety & Traffic

- A. DSNY trucks should be required to operate during night-time hours only. This would allow them to pick up twice as much rubbish in half the time. During the day-time hours, the streets are filled with pedestrians, taxis, buses, and the like. New York City traffic conditions are difficult as is, and DSNY trucks operating during the day further contributes to the issue. Additionally, DSNY trucks stop on one-way streets for long periods of time as they pick up trash from multiple stops. This creates a long line of traffic which other vehicles cannot escape. This system is wholly unsuitable for a populous city like New York. In response to the issues that sanitation trucks create during day-time hours, my company opted to operate between the hours of 8 PM and 3 AM. During these late hours, traffic is minimal, and the number of pedestrians is

significantly lower. As a result, my company's safety and traffic record is unblemished. This operational change should be incorporated into any future plan.

- B. The DSNY should recommend low-entry trucks for safety purposes. Many companies currently operate trucks that make it extremely difficult to see in front of the nose of their truck. This leads to wholly avoidable, sometimes fatal accidents, due to a lack of visibility. These trucks pose a major safety hazard, and should not be allowed on the roads of a densely populated city like New York.

2. Split-Body Trucks

- A. Split-body trucks allow carters to pick up multiple different types of trash with just one truck. Regular trucks can pick up either recycling or trash, but not both. This capacity allows for less trucks on the road, and less environmental emissions.

II. Conclusion

I urge the DSNY to strongly consider these comments before setting this plan into motion. The current CWZ structure will create life-changing consequences for small companies that are operating efficiently and safely. As the long-time owner of a carting company, I fully support changes being made to this industry, as many are needed. However, the CWZ plan in its current form is simply not the best way to accomplish them.

Sincerely,

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917-673-0621

Via NYC RULES website

Louis Fava

On behalf of Liverpool Carting Company, we are submitting this comment in response to the DSNY's Commercial Waste Zones law.

The current structure of the Commercial Waste Zones plan, from the bidding requirements to the zoning, essentially eliminates the chance for small businesses to obtain a bid. Many small companies do not possess the trucking capacity to pick up an entire zone, leaving us at a significant disadvantage. In addition, the incredibly limited number of zones per borough designated by this plan renders small companies unable to compete with larger companies.

While representatives from the DSNY and others have stated to media outlets that small businesses do have a chance to win a bid, I fail to see how that will be possible considering the structural aspects of this plan. As Justin Bland stated, "We don't think the number of companies is an inherently bad thing...We want the best companies to get contracts, not just the biggest. It has to be the best." The DSNY's plan simply does not match this statement. Antonio Reynoso has also made multiple statements which are seemingly empty. He stated: "If you have a history of doing work in the city, and it's good work and you have a lot of clients, then we want to give you a shot at that zone." "We're not trying to go after these carting companies that are doing the right thing. We want them to continue to do work in the city of New York. They are meeting a standard that we believe is a New York standard."

Small carting companies already operate in a saturated market with little opportunity for expansion. The larger carting companies occupy a majority of the market, and possess the capacity, and the willingness, to accept new customers throughout multiple boroughs. Small companies like Liverpool Carting do not possess that capacity, nor the willingness to travel from

borough to borough picking up stops. The CWZ wants to stop the zig-zagging and overlap in business, meanwhile, the smaller companies are the ones doing this the least.

The CWZ plan aims to promote safety, efficiency, and organization for New York's sanitation industry. Many small companies already make efforts to operate as such, and have consolidated their routes for efficiency concerns, yet they may lose their livelihood to larger, historically less efficient companies simply due to size.

Rather than rushing forward with this plan, which will inevitably pose major operational and structural issues, I strongly encourage the DSNY to make revisions. This plan should be structured in order to account for the small businesses that are operational today, rather than effectively ousting them from the industry. Many small businesses have been operating in accordance with the principles and manners the CWZ plan has outlined, and cutting those businesses out of the market in favor of larger businesses would be unethical. I propose that rule-makers work side-by-side with the current players, and collaborate to create a structure that accomplishes all of the CWZ's goals, in a manner that allows for businesses of all sizes to survive.

One structural suggestion to this plan is that the CWZ should amend the Zone Framework to allow for more zones per area of each borough. Small companies which already operate in specific areas could potentially keep the bulk of their business, rather than lose it to a larger company. The current Zone Framework is much too limited, and this simple change would give the smaller businesses a better, more fair opportunity to compete.

In addition, my 75 years of business have led me to recognize certain necessities in this industry. Please consider the following suggestions for requirements/regulations that are not included in the current CWZ plan, but will help achieve some of the current plan's stated safety goals:

1. DSNY trucks should be required to operate during night-time hours only. This would allow them to pick up twice as much rubbish in half the time.

During the day-time hours, the streets are filled with pedestrians, taxis, buses, and the like. New York City traffic conditions are difficult as is, and DSNY trucks operating during the day further contributes to the issue. Additionally, DSNY trucks stop on one-way streets for long periods of time as they pick up trash from multiple stops. This creates a long line of traffic which other vehicles cannot escape. This system is wholly unsuitable for a populous city like New York. In response to the issues that sanitation trucks create during day-time hours, my company opted to operate between the hours of 8 PM and 3 AM. During these late hours, traffic is minimal, and the number of pedestrians is significantly lower. As a result, my company's safety and traffic record is unblemished.

2. The DSNY should also recommend low-entry trucks for safety purposes. Many companies currently operate trucks that make it extremely difficult to see in front of the nose of their truck. This leads to wholly avoidable, sometimes fatal accidents, due to a lack of visibility. These trucks pose a major safety hazard, and should not be allowed on the roads of a densely populated city like New York.

3. Split-body trucks should be recommended by the DSNY, as they allow carters to pick up multiple different types of trash with just one truck. Regular trucks can pick up either recycling or trash, but not both. This capacity allows for less trucks on the road, and less environmental emissions.

I strongly urge the DSNY to consider these comments before setting this plan into motion. The current CWZ structure will create life-changing consequences for small companies that are operating efficiently and safely. As the long-time owner of a carting company, I fully support changes being made to this industry, as many are needed. However, the CWZ plan in its current form is simply not the best way to accomplish them.

NYC Department of Sanitation

January 26, 2021

Continue to Build a Transparent and Fair Commercial Waste System

Good afternoon, my name is Meredith Danberg-Ficarelli, I am the Director of Common Ground Compost LLC.

Today, I am speaking/testifying on behalf of the NYC Microhaulers and Processors Trade Association (NYC MPTA), as a founding member. The NYC MPTA is growing a network of small scale food waste hauling and processing businesses that work to reduce the negative impact that NYC's waste has on vulnerable communities and on the environment. MPTA members have been offering hyper-local organics diversion services that provide accessible living wage jobs in NYC for more than 25 years collectively. Transparency has always been an essential element of microhaulers' approach to collecting and processing organics through decentralized and community-scale infrastructure.

We are encouraged by the advancement of the Commercial Waste Zone (CWZ) process and look forward to greater transparency between commercial establishments, carters, and end destinations. We urge DSNY to require that customer service plans clearly detail the destination of all material streams. Furthermore, microhaulers and local processing sites need to be recognized as part of NYC's commercial waste system and included in CWZ's mechanisms of cross-sector communication. Microhaulers and potential zone awardees have not yet had any City-supported opportunities to meet with or present their services to potential zone awardees.

The CWZ plan speaks to a ranking structure for proposals based on their inclusion of "collaborative partnerships" and innovative approaches to waste reduction, but this points system has not been tied to any concrete way for microhaulers and potential subcontractors (like organics-only truck-based haulers) to develop those relationships with haulers. How will potential awardees include reference to partnerships in Part 2 of the RFP if they have no knowledge of the operations or the services that microhaulers and subcontractors offer?

We ask that DSNY immediately identify and facilitate opportunities for microhaulers and potential subcontractors to present their service offerings to potential awardees and provide the structure for connection and information sharing

Lastly, microhaulers are starved for organics processing space at a time when the NYC Parks Department seeks to evict community-scale processing spaces. The DOT's clean curbs initiative could present pilot opportunities for an improved streetscape through waste diversion and microprocessing of organics on City-owned land. We urge City agencies to take every opportunity to develop inter-agency collaborations that help NYC achieve its carbon reduction goals.

Thank you

Meredith Danberg-Ficarelli

Director, Common Ground Compost LLC (CGC)

Co-Founder, NYC Microhaulers and Processors Trade Association (MPTA)

Board Member, US Composting Council (USCC)

TRUE Zero Waste Advisor

Rule Comments on DSNY Proposed Rules Revised 12.16.20, By Thomas N. Toscano, Esq.

My name is Thomas N. Toscano and I am the CEO of Mr. T Carting Corp., a third generation family business that has been in existence for over 70 years. I am also a licensed NY State attorney and I have over twenty-five (25) years in waste and recycling management, with all of that experience in New York City.

To start generally, I appreciate the DSNY's goal to make the responses to the RFP uniform and minimize the items carters can charge for. In fact, I know the extra charge items are even more than is allowed by the current rules in the industry. My initial and overriding point is the less items that a carter is allowed to charge for, the more those specialty services will be spread out over the entire customer base. For example, if a particular customer has a container that is in the back of their store, and that container takes more than 20 minutes to wheel out to the front for service, that additional time will have to be factored into a proposal for all customers if a carter is not allowed to charge for it specifically.

Diving into the rules specifically, these are the items that are either specialty items or significant cost items that will inflate the costs to all customers if carters are not allowed to charge for them specifically:

1. Section 20-01, "standard service hours" definition-This section includes Monday through Saturday, which is 6 days a week and also has a relatively narrow window of 8PM to 4AM. Starting with the days, if a normal schedule for an employee is five days per week, allowing a customer to have six days service as a standard creates routing issues. Either Saturday should not be standard or this should be limited to no more than five consecutive days as a normal service window. In other words, if a customer needs 6 days a week, that should be premium. The hours window should also be longer. As an example, Manhattan routes in non-COVID 19 times, are very busy on weekend nights, so a larger window from 8PM to 7AM would be more appropriate.
2. Section 20-20(c)(2)-this section is incredibly confusing and should be reworded.
3. Section 20-21(a)(2)-"proportionately" is not defined and is an extremely critical part of a proposal.
4. Section 20-21(c)(2), the following should be added for additional charges: customer requiring awardee to pick up payment, non-standard insurance requirements like waiver of subrogation, dealing with a third-party management company, additional reporting requirements, payment terms beyond thirty days, payment by credit cards, and legal fees for non-payment litigation. Again, all of these items are specific to certain customers, and not allowing charges for them will require carters to spread these costs out to customers that do not cause them.
5. Section 20-22(a)(1)-the awardee cannot deny service for any reason. Nothing is mentioned in here about credit issues. If a customer fails a basic credit check, the awardee is forced to take that customer and incur bad debt expense. For large accounts, the awardee is forced to potentially be exposed to thousands of dollars in credit risk.

6. Section 20-22(b)-This section requires a lengthy process to stop service on accounts that do not pay their bills. Read with the section immediately preceding it, a carter has to wait for nearly 120 days before being allowed to stop an account. Then, if the account goes through the other two awardees in the zone, that same account could call back the first carter and start the game all over again. A small percentage of bad paying customers could drive up costs for the entire zone. This whole section needs to be reworked to avoid this extreme situation that could be easily exploited.
7. Section 20-22(c)-This section and other places require a "writing". Sometimes certified mail is required. In this age, with electronic billing, email should be the preferred form of communication that customers should have to opt out of.
8. Section 20-23-This section deals with when an awardee does not pick up a customer. There are several issues. First, with recycling, it allows 10% contamination and requires pickup even if over that the first time. This puts the awardee in a position to have a load rejected at the recycling facility.
9. Section 20-24-Safety issues should be excluded from bureaucratic rules that will, inevitably, detract from safety. Safety is one of the reasons Local Law 199 was put in place. If a driver has to fill out an onerous safety report for an account, they may risk picking up an unsafe stop that results in injury to themselves or others. Lithium-ion batteries are great examples of this and can cause a fire. A simply "unsafe" note should suffice with backup available for the Department.
10. Section 20-25 requires complaints to be dealt with on a 24/7 basis with a two-hour response window. For some complaints, like safety issues, that makes sense. For others, like "my container has graffiti on it", a couple of business days should suffice. This section should break things down more to differentiate between types of complaints.
11. Section 20-26-written service agreements should be required to be offered and not required to be signed. Many customers are uncomfortable with them. Again, email should be the preferred form of communication with certified mail being extremely limited, if required at all.
12. Section 20-27(c)(4)-This section, disallowing additional fees for different payments, should be reconsidered. As previously mentioned, if some customers pay by credit card the fees associated with those will be spread out over the entire customer base when it may be a small percentage that pay that way. Worse, carters may refuse credit card payments completely to avoid the fees that are typically 2-3%. That margin is probably a third or more of the average carter's net profit.
13. Section 20-27(d)-This section, while good intentioned, fails to take into account alleged ownership changes. In certain areas business move from one owner to another in the same family. We require a deed or a lease to show that ownership really changed and have some accounts that continue to change ownership yearly or more frequently, disavowing the old bill while the name, phone number, and location of the business is identical to the previous "owner". Again, you do not want a small minority of customers costing other customers for bad practices.
14. Section 20-28(b)-This section requires carters to notify customers when there is significant recycling in their waste stream. What is significant? Are carters really

expected to open bags and check? This section should be removed or severely narrowed.

15. Section 20-30(c)-This section does not want a truck crossing two zones. This may prevent carters from starting routes for new forms of source separated recycling, like glass. In other words, it may take time for an awardee to get enough accounts in a zone to pick up that type of recycling. In some cases, even with established materials like cardboard, it could lead to additional routes. For example, if an awardee has two zones with three and a half cardboard routes each, that would mean eight routes and eight trucks. If the two half routes could be combined, it would take a truck off the road.
16. Section 20-42-This section requires reporting of all collisions “immediately”. We understand and agree with this whenever there is an injury or fatality. However, minor property damage, under \$10,000, where the company or its insurance pays the owner in full, should be exempt from the immediate reporting requirements.
17. Section 20-43-This section deals with real time data monitoring. Engine performance monitoring is not commonplace and should be eliminated. Also, it will be of significant cost to have real time video and photo streaming to the department. For that reason, this aspect should be reconsidered.

As stated at the beginning, I understand and agree with the goals of Local Law 199. Items that greatly increase the cost to the carters without a direct benefit to the customers or City should be reconsidered because they will raise the cost on all customers. These rules should be reviewed and discussed between the current carters and the DSNY to accomplish the objectives without making the new system overly expensive.

Thank you in advance for your consideration.

/s Thomas N. Toscano, Esq., MBA
CEO of Mr. T Carting Corp.



January 25, 2021

New York City Department of Sanitation
Attn: Bureau of Legal Affairs
125 Worth Street, Room 710
New York, NY 10013

Re: Public comment on proposed rules establishing requirements for carters operating in commercial waste zones

Dear Acting Commissioner Grayson:

The National Supermarket Association (NSA) is a trade association that represents the interest of independent supermarket owners in New York and other urban cities throughout the East coast, Mid-Atlantic region and Florida. In the five boroughs alone, we represent over 400 stores that employ over 15,000 New Yorkers. Our members work hard every day to run their businesses, support their families and provide jobs and healthy food options to their communities.

We write to you today with our comments regarding the proposed rules that the Department will be considering on establishing requirements for commercial waste zones. As we have stated throughout the legislative process, NSA continues to have major concerns with the implementation of this law and its impact on the independent supermarket owners we represent. Specifically, the industry is concerned with the lack of a competitive market which we believe encourages consistent and quality service to their customers. Furthermore, many of our members have long standing relationships with their current carting providers and under this law, many of them will have to cease those relationships depending on wins that zone and re-establish a business relationship with an entirely new and foreign entity in some cases.

Despite the general concerns we have raised on the law and proposed rules, here are some directed comments about specific provisions in the proposed rules:

Fees allowed to be charge in § 20-21(c)(2)

It is imperative that the Department carefully examine potential fee schedules in the waste zones so as to avoid establishing prohibitively expensive fees. The independent supermarket industry operates on razor-thin margins on top of increasing overhead costs. Prior to the passage of commercial waste zones, our members took advantage of an open competitive market to find the most cost-effective options for their carting needs.

Under the proposed rules, a single provider in each zone removes that cost savings and the ability to shop a free market. While we know the single provider, system is inevitable under this law, we ask the Department to ensure that fees charged are based on a fair and adequate system that does not burden customers with heavy fees with little to no choice otherwise.



Minimum service levels in § 20-22(a)(2)

By far, level of service is one of the most important concerns our members have. As was stated before, our members have long standing relationships with carters they trust to deliver consistent service. Under the proposed rule, an exclusive one carter zone gives extraordinary powers to the carter who is awarded that zone. The Department must carefully examine minimum service levels to ensure that providers must deliver a consistent level of service to their customers. Furthermore, we implore the Department to consider language in the proposed rules which gives customers the ability to get out of their contracts with the exclusive zone provider if the minimum level of service is not met.

We have heard several concerns from our members that they are deeply concerned with being essentially stuck in a long-term contract with the exclusive zone provider and that in the event of unsatisfactory service, the customer would have little to no recourse for the situation.

Overall, NSA has several concerns with the proposed rules but respectfully requests the Department consider the unique and individual needs of independent supermarket owners as they continue with the promulgation of these rules.

We look forward to working with the Department to ensure these rules do not hamper the business operations and overall business costs of our members.

Sincerely,

Nelson Eusebio
Director of Government Relations
National Supermarket Association

Liguori, Madelynn (DSNY)

From: Steve Changaris <schangaris@wasterecycling.org>
Sent: Tuesday, February 9, 2021 4:40 PM
To: Comments, Rule (DSNY)
Cc: Anderson, Gregory (DSNY); Bland, Justin (DSNY)
Subject: NYC NWRA CWZ Proposed Regulations Written Comments
Attachments: NYC CWZ CAPA NE Template v1.pdf; NYC CWZ CAPA NE Template v1.docx

Thank you for your review of our comments, which are attached in pdf format and in email format below.

Tuesday, February 9, 2021

Via Email to: rulecomments@dsny.nyc.gov

Receipts Requested

Dear DSNY CAPA Process Administrator:

The NYC Chapter of NWRA thanks the DSNY for extending the written comments deadline on this proposed, new body of City regulations to implement the Commercial Waste Zone (CWZ) law. As you know we have already testified orally at the DSNY CAPA video conference hearing held earlier in late January 2021 on these same regulations.

Today we submit, for the record, these additional written comments on **Subchapter B: Customer Service Requirements** and **Subchapter C: Operations and Delivery of Service** of the proposed regulations. We hope they reveal well for the Department the kinds of problems both customers and private hauler CWZ zone awardee companies will face if these proposed rules are not significantly amended. We believe there are better, more efficient, less costly, and less bureaucratic ways to create high standards and performance in how the DSNY CWZ RFP and award process will mesh with any new regulations the City believes necessary to implement this new law.

20-20 Service to Customers in a commercial waste zone

- (a) (1) Zone awardee must contract with each commercial establishment. We do not believe a contract is an issue for zone awardee; rather, it is a problem for customers. Our experience tells us it is most often the customer that does not want to commit to contracting with us for service. What is to happen to the zone awardee if the customer does not execute such a contract? In those instances, what must a zone awardee do to satisfy this requirement?
- (b) No comment
- (c) (1) & (2) – Section and sub-parts attempts to identify and reconcile contracting relationships between various entities; excludes some activity; and mandates other activity. When reviewing this section, we are nothing less than totally confused. We understand the history of, or perhaps the department's perceived need to get to this level of granularity, but we remain totally at a loss anyway as to what it will mean for various zone awardees. What does this section require and seek awardees to do? We know the City anticipates awarding several limited, large zones for specialized, large 30-yard commercial container service; and contemplates awarding many more, smaller zones for more routine, full-service menu providers for smaller quantity commercial generators of recycling, organics, and waste materials. We guess the department is trying here to establish protocols for when there is overlap or competition between individual smaller zone awardees of full-menu services; and perhaps between those of smaller zone awardees of full menu services and those of the more limited large container zone awardees. We urge the Department to re-work this language and provide specific examples of how it believes this should all work together between the various zone and type awardees and their customers.
- (d) No comment
- (e) No comment

20-21 Rates

- (a) (1) This language says zone awardees can only charge rates for service that are not above the maximum rate per the formalized and fully executed zone award from the City. Will the City also require a minimum rate to be charged to customers for waste service by zone awardees? (2) This part mandates proportionately lower rates for recycling and organics service charges than for waste services by zone awardees to zone customers. We understand there might be general reasons for this requirement and what underpins the inclusion of this language. However, we do not know how to implement it. First what does proportionate mean in the context of pricing? Second, we also have concerns about transparency and consumer protection issues involved in artificially pricing customer service. The cost for service is the cost for service. The CWZ law prescribes the level of service to be provided by all CWZ awardees for all City commercial establishments generating recyclable, organic and waste materials. Accordingly, we do not know how we are to create charges as “proportionately adjusted rates” by a regulatory fiat. As businesses we will be presented with real, hard expenses that routinely change when endeavoring to figure out how to provide the various organics, recycling, waste, and other services required by the CWZ law. After that, we then endeavor to establish prices for those service and bill customers for. Further guidance here and examples or a “proportionately adjusted rate” formula is both welcome and needed here.
- (b) No comment
- (c) Limits what zone awardees may charge zone customers to the pricing structure set forth in the zone awardee fully executed agreement with the City. Prescribes a list of 11 specific circumstances for additional fees to be assessed by a zone awardee on a zone customer. We believe the “at least 10% contamination threshold” for action is too high. Source separation standards and contamination rejection rates may be as low 0% or 1%, depending on the receiving facility for various materials. Accordingly, the Department should eliminate this high of a contamination threshold. Further for zone awardees and customers should be given maximum flexibility to work this out given all local, contemporary controlling factors. The requested window time constraint is also not practical or grounded in real collection operations practice. Generally, a carter’s extra charge is for a generator’s set out after a certain time after a business closes, which is worked out and acceptable to the customer. On a route with dozens and dozens of commercial stops, requiring a 15-minute delay for a zone awardee to assess a fee could well render the route entirely un-doable. If the truck passes during its established window of collection time for the customer, it is unfair to penalize the carter by giving the zone customer this extra time for their error.
- (d) Here we urge the Department to add these items to the list of supplemental charges for zone awardees to work out with customers: rental of equipment, damage equipment; credit card fees, fuel surcharge, holiday service, insurance subrogation reimbursement; extra time for entering a building; timed pick-ups; creating recycling reports, and a fuel surcharge when appropriate.
- (e) Rate adjustment procedure for zone awardees. Currently commercial trade waste rates (rate caps) are set by the NYC Business and Integrity Commission (BIC). Every other year the BIC is required to do an assessment of the rate cap; and subsequently issue a determination about any permissible rate increases for licensed, permitted commercial carters doing business in the City for the next two-year period. Is this across the horizon for all licensees process one that the Department anticipates for here for future zone awardees? A periodic and sequenced automatic review? Or is this process to be a one-off kind of request that will need to be made individually by any zone awardee upon its specific circumstances? Further guidance or some specific examples about how this is to work would be greatly appreciated.

20-22 Denial of Service Prohibited; termination; and suspension of service

Conceptually we do not believe that the Department should impose a requirement that any service of a zone awardee – waste, recycling, organics, etc - be provided when a reasonable person would not expect payment for rendering service. The requirement for zone awardees to first seek DSNY permission will severely undercut all service providers in their ability to incentivize late payor customers to fulfill their payment responsibilities. We believe the Department, if this section is not amended, should reasonably expect thousands, if not significantly higher multiples thereof, of zone awardee stop customer service requests citywide monthly. In the alternative, a less burdensome process would be for the Department to require awardees to submit periodic certified reports, maybe quarterly or semi-annually, about how issues with customers in arrears have been worked out. Short of these kinds of changes, we urge the Department to allow us to require customers with bad credit scores to prepay. If this is not acceptable, the Department should create a fund for non-

paying commercial customers to pay zone awardees or the Department itself would become provider of last resort for non-paying customers.

- (a) No comment
- (b) (2) (i) This part of the regulation would require a zone awardee to wait a minimum of 60 days before bringing continued service delivery into the dialog between a zone awardee and a customer. This 60-day waiting period is simply too long. We request no such waiting period be established and that the bill payment requirements be worked out by zone awardees and customers.
- (c) After a 30-day period, zone awardee is to notice its customer of its failure to pay the full amount due for service and provide such notice to the Department. This requirement falls in normal and what many consider regular or standard business practice. With great potential for high volumes of such bill collection activity, we question the value of the cost of administering this notice requirement to the Department and what it will do with the thousands upon thousands of copied notices it is likely to receive. A best management procedures section for these matters, in the awardee's final executed document with the Department, we believe, will provide more than enough balance and protections for both the zone awardee and customers.
- (d) (1) This part is designed to provide a zone customer with either a 30 or 60-day window of time before a zone awardee may interrupt, suspend, or terminate service and triggers a Department review and approval/denial determination process. As noted above we believe the 60-day window for service interruption or termination for non-payment is best left between zone awardees and customers. As for the 30-day window, we believe it too is unnecessary and not workable. For example, this language, requires an awardee to provide service for 30-days while exposing employees to unsafe conditions. This is not acceptable. (2) This part and elsewhere in these proposal regulations, a zone awardee's notice is required by certified mail to the customers with a copy to the Department with appropriate documentation, records, and such. As noted above, a best management procedures section for these matters, in an awardee's final executed document with the Department, we believe, will provide more than enough balance and protections for both the zone awardee and customers in these matters. Furthermore, certified mail is burdensome and not efficient. Electronic methods are more than adequate. (3) The language here grants the Department a 45-day period to decide whether to grant the service interruption, suspension, or termination request; and provides an additional 15-day period to appeal the decision to the Commissioner. Taken altogether, for one non-paying customer example, the zone awardee could potentially carry that non-paying customer for a 120-day period before obtaining relief. If unaltered, this proposed regulatory system will create opportunities for many customers in various zones to game the system and hurt other zone customers and zone service provider awardees. We strongly urge the Department to abandon these procedures and create a better, more efficient, and economical process to manage these matters between zone awardees and customers.

20-23 Non-collection of Commercial Wastes

This section lists the criteria and circumstances when zone awardees might not collect commercial wastes and prescribes remedies and actions to be taken. If this stands and is not to amended, please consider adding items like parades, out-of-town dignitary safety management/street closures, burst water mains and utility interruptions. This however is a section that we believe is overly prescriptive and burdensome. These kinds of controls are best left to the awardees' formal contract with the City; and then the regular, normal customer-service business relationship between haulers and commercial generators of wastes, recyclables, and organics.

20-24 Overfilled containers, contamination, infeasible collection

This section again is unnecessary and creates a solution for problem that does not or should not exist. The collection process of after useful discards like wastes, organics and recyclables is a routine kind of activity. With properly vetted CWZ awardees and controlling language and best management practices in formal agreements between the City and awardees, this section, like many others in these proposed are unnecessary. Overfilled

container issues are best worked by awardees, customers, and City oversight/enforcement officials from BIC, DSNY and other departments and agencies of record.

20-25 Customer Service Plan

Customer complaint resolution procedures are best outlined we believe in zone awardees contracts with the city. While attention to complaints and these kinds of needs of customers is emblematic of sound business practice, we believe the city's language here is too prescriptive, for example the awardee resolving a complaint within 12 hours of receipt and will prove unworkable or inappropriate in many circumstances. For example, if the complaint is lodged on Friday of 3-day weekend, with minimal staffing available to work on the matter. If the customer has a complaint that is not satisfactorily resolved they can always bring it the Department's attention; and pursue other remedies under City regulation or laws. Further definition of words used in this section like response, resolve, and metrics will be needed by zone awardees if this section is not deleted or amended significantly.

20-26 Written Service Agreements

We noted earlier that commercial customers often do not want to execute a contract. Again, we ask the Department what procedure is to be followed in these circumstances? The Department should allow maximum flexibility between awardees and commercial customers to work contracts and contract provisions. There is considerable confusion about what the length of commercial contracts will be under the Department's implementation of the new CWZ law. Current commercial contracts under BIC rules are limited in duration. Will those provisions hold or give way to new terms and conditions in DSNYs management of the CWZ law? We find the provisions of this section, again generally too prescriptive and likely not to be workable for either customers or zone awardees. Prescriptive mandates such as a 2-hour window to make collections and use of certified mail and how assigned customers will be handled will prove both unworkable and costly. As society moves forward with computer and tablet technologies, these rules should allow, if not encourage their use for efficiency for communications and contracting between awardees, customers, and City officials as appropriate.

20-28 Notification

This section proposes to have zone awardees essentially become enforcement agents of laws and regulations created for the generators of after useful life discards -- like wastes, recyclables, and organics. We believe this is not a good fit for zone awardees and is an activity best left to City officials to do. First, we see no practical way to maintain employee safety and route efficiency when our employees will be required to check waste loads for recyclables and recyclable loads for contamination and organics too. In the real world we also do not see how one can balance a workable service provider relationship with a customer when it acts as the enforcing agency against its customer. The customer will most likely change service provider if the service provider attempts to do what the Department is expecting here. This section should be re-worked entirely to find better ways for awardees to provide the Department the most useful information to act against commercial generators who are not abiding properly with the laws and regulations of the City with regards to waste management.

Sub-chapter C Operations and Delivery of Service

20-30 Restrictions on Operation in Multiple Zones

This section provokes some limited questions. In one part of this section, it talks about a zone awardee being awarded the privilege to work in more than one zone. Later it seems to qualify that an awardee can then only work in one zone. This is confusing. Some believe that if a company wins the privilege to work in more than one zone and those zones are contiguous or otherwise close in proximity, that they should be allowed to route trucks for efficiency purposes, less vehicle miles traveled, etc and be allowed to collect discards in those zones if awarded. Does this rule prevent this or allow for this? Further clarification, guidance and examples here would be greatly appreciated.

20-31 Recycling Requirements for Awardees

This section also provokes questions as well. There is specific mention of Department facilities; containerized commercial waste; and that the subdivision will only apply to citywide containerized waste services. Further clarifying background and examples here would be most welcome too.

20-32 Collection of Organic Waste that has been source separated

The Covid-19 pandemic has done immeasurable harm to the city; and to this CWZ change process. Commercial carters have done their best to collect discards of the commercial generators of wastes, organics, and recyclables during the crisis. Before and during the crisis we have expressed operational concerns with the City's commercial organics law to both the Department and the BIC. We fully understand the City's organics law and regulations, and the pending effective date next year of the statewide organics law. Since so much has changed with commercial activity in the City due to the pandemic, the City will ostensibly receive more thorough responses to CWZ RFPs from bidding companies if it makes available revised and updated information and data sets not only about organics generators and projected volumes, but also for the other post-consumer discarded materials to be managed by potential CWZ awardees.

20-35 Sign or Decal Required

This section is overly prescriptive and will be a cost driver for commercial customers as it will impose a new and unknown administrative cost burden on awardees. The sentiment if such a program is required in the CWZ system, is to simply roll forward the known cost and administrative impact of the currently in place BIC customer signage/decal program.

20-37 Operations

Trade practice for the loading of waste containers indicates it is not generally currently a carter's or in the future an awardee's activity. Customers generally load containers; requiring the service provider to do the things identified in this section seem inappropriate and not practical or not workable. Also, we understand the benefits of the City's anti-idling law and regulation. We request though that exceptions be made for CWZ awardee trucks when they are engaged in providing service to an account or when regenerating for particulate filter maintenance.

20-42 Vehicle Collisions

This section requires immediate notice to the City to be provided by CWZ awardees when there is loss of life or bodily injury. This is a reasonable requirement. Reporting all accidents to the City, not involving these limited exceptions, below the state's \$ 1,000.00 reporting threshold for motor vehicle accidents however is not and is unnecessary.

20-43 On Board Software and Hardware

This section should be deleted. In the alternative these systems and how they are to be used should be specified and worked out between the City and potential zone awardees. These are costly systems and there are real time management issues in how they are used daily in all manner of collection operations. There are also labor and other issues involved in their use and application, not to mention the fast-paced change of technologies, software, and devices.

Thanks for your review and consideration of our comments.

Respectfully submitted,

/electronically signed/ with hard copy in USPS 1st class mail

Steve Changaris

NYC NWRA Chapter Director

Steve Changaris

Northeast Region Vice President

482 Southbridge Street, Suite #373

Auburn, MA 01501

schangaris@wasterecycling.org

Ph: [REDACTED]; Cell: [REDACTED]

wasterecycling.org





Northeast Region

Tuesday, February 9, 2021

Via Email to: rulecomments@dsny.nyc.gov

Receipt Requested

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Steve Changaris, Northeast V.P.

508 868 4523

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- (a) No comment
- (b) (2) (i) This part of the regulation would require a zone awardee to wait a minimum of 60 days before bringing continued service delivery into the dialog between a zone awardee and a customer. This 60-day waiting period is simply too long. We request no such waiting period be established and that the bill payment requirements be worked out by zone awardees and customers.
- (c) After a 30-day period, zone awardee is to notice its customer of its failure to pay the full amount due for service and provide such notice to the Department. This requirement falls in normal and what many consider regular or standard business practice. With great potential for high volumes of such bill collection activity, we question the value of the cost of administering this notice requirement to the Department and what it will do with the thousands upon thousands of copied notices it is likely to receive. A best management procedures section for these matters, in the awardee's final executed document with the Department, we believe, will provide more than enough balance and protections for both the zone awardee and customers.

(d) (1) This part is designed to provide a zone customer with either a 30 or 60-day window of time before a zone awardee may interrupt, suspend, or terminate service and triggers a Department review and approval/denial determination process. As noted above we believe the 60-day window for service interruption or termination for non-payment is best left between zone awardees and customers. As for the 30-day window, we believe it too is unnecessary and not workable. For example, this language, requires an awardee to provide service for 30-days while exposing employees to unsafe conditions. This is not acceptable. (2) This part and elsewhere in these proposal regulations, a zone awardee's notice is required by certified mail to the customers with a copy to the Department with appropriate documentation, records, and such. As noted above, a best management procedures section for these matters, in an awardee's final executed document with the Department, we believe, will provide more than enough balance and protections for both the zone awardee and customers in these matters. Furthermore, certified mail is burdensome and not efficient. Electronic methods are more than adequate. (3) The language here grants the Department a 45-day period to decide whether to grant the service interruption, suspension, or termination request; and provides an additional 15-day period to appeal the decision to the Commissioner. Taken altogether, for one non-paying customer example, the zone awardee could potentially carry that non-paying customer for a 120-day period before obtaining relief. If unaltered, this proposed regulatory system will create opportunities for many customers in various zones to game the system and hurt other zone customers and zone service provider awardees. We strongly urge the Department to abandon these procedures and create a better, more efficient, and economical process to manage these matters between zone awardees and customers.

20-23 Non-collection of Commercial Wastes

This section lists the criteria and circumstances when zone awardees might not collect commercial wastes and prescribes remedies and actions to be taken. If this stands and is not amended, please consider adding items like parades, out-of-town dignitary safety management/street closures, burst water mains and utility interruptions. This however is a section that we believe is overly prescriptive and burdensome. These kinds of controls are best left to the awardees' formal contract with the City; and then the regular, normal customer-service business relationship between haulers and commercial generators of wastes, recyclables, and organics.

20-24 Overfilled containers, contamination, infeasible collection

This section again is unnecessary and creates a solution for problem that does not or should not exist. The collection process of after useful discards like wastes, organics and recyclables is a routine kind of activity. With properly vetted CWZ awardees and controlling language and best management practices in formal agreements between the City and awardees, this section, like many others in these proposed are unnecessary. Overfilled container issues are best worked by awardees, customers, and City oversight/enforcement officials from BIC, DSNY and other departments and agencies of record.

20-25 Customer Service Plan



Customer complaint resolution procedures are best outlined we believe in zone awardees contracts with the city. While attention to complaints and these kinds of needs of customers is emblematic of sound business practice, we believe the city's language here is too prescriptive, for example the awardee resolving a complaint within 12 hours of receipt and will prove unworkable or inappropriate in many circumstances. For example, if the complaint is lodged on Friday of 3-day weekend, with minimal staffing available to work on the matter. If the customer has a complaint that is not satisfactorily resolved they can always bring it the Department's attention; and pursue other remedies under City regulation or laws. Further definition of words used in this section like response, resolve, and metrics will be needed by zone awardees if this section is not deleted or amended significantly.

20-26 Written Service Agreements

We noted earlier that commercial customers often do not want to execute a contract. Again, we ask the Department what procedure is to be followed in these circumstances? The Department should allow maximum flexibility between awardees and commercial customers to work contracts and contract provisions. There is considerable confusion about what the length of commercial contracts will be under the Department's implementation of the new CWZ law. Current commercial contracts under BIC rules are limited in duration. Will those provisions hold or give way to new terms and conditions in DSNY's management of the CWZ law? We find the provisions of this section, again generally too prescriptive and likely not to be workable for either customers or zone awardees. Prescriptive mandates such as a 2-hour window to make collections and use of certified mail and how assigned customers will be handled will prove both unworkable and costly. As society moves forward with computer and tablet technologies, these rules should allow, if not encourage their use for efficiency for communications and contracting between awardees, customers, and City officials as appropriate.

20-28 Notification

This section proposes to have zone awardees essentially become enforcement agents of laws and regulations created for the generators of after useful life discards -- like wastes, recyclables, and organics. We believe this is not a good fit for zone awardees and is an activity best left to City officials to do. First, we see no practical way to maintain employee safety and route efficiency when our employees will be required to check waste loads for recyclables and recyclable loads for contamination and organics too. In the real world we also do not see how one can balance a workable service provider relationship with a customer when it acts as the enforcing agency against its customer. The customer will most likely change service provider if the service provider attempts to do what the Department is expecting here. This section should be re-worked entirely to find better ways for awardees to provide the Department the most useful information to act against commercial generators who are not abiding properly with the laws and regulations of the City with regards to waste management.

Sub-chapter C Operations and Delivery of Service

20-30 Restrictions on Operation in Multiple Zones



This section provokes some limited questions. In one part of this section, it talks about a zone awardee being awarded the privilege to work in more than one zone. Later it seems to qualify that an awardee can then only work in one zone. This is confusing. Some believe that if a company wins the privilege to work in more than one zone and those zones are contiguous or otherwise close in proximity, that they should be allowed to route trucks for efficiency purposes, less vehicle miles traveled, etc and be allowed to collect discards in those zones if awarded. Does this rule prevent this or allow for this? Further clarification, guidance and examples here would be greatly appreciated.

20-31 Recycling Requirements for Awardees

This section also provokes questions as well. There is specific mention of Department facilities; containerized commercial waste; and that the subdivision will only apply to citywide containerized waste services. Further clarifying background and examples here would be most welcome too.

20-32 Collection of Organic Waste that has been source separated

The Covid-19 pandemic has done immeasurable harm to the city; and to this CWZ change process. Commercial carters have done their best to collect discards of the commercial generators of wastes, organics, and recyclables during the crisis. Before and during the crisis we have expressed operational concerns with the City's commercial organics law to both the Department and the BIC. We fully understand the City's organics law and regulations, and the pending effective date next year of the statewide organics law. Since so much has changed with commercial activity in the City due to the pandemic, the City will ostensibly receive more thorough responses to CWZ RFPs from bidding companies if it makes available revised and updated information and data sets not only about organics generators and projected volumes, but also for the other post-consumer discarded materials to be managed by potential CWZ awardees.

20-35 Sign or Decal Required

This section is overly prescriptive and will be a cost driver for commercial customers as it will impose a new and unknown administrative cost burden on awardees. The sentiment if such a program is required in the CWZ system, is to simply roll forward the known cost and administrative impact of the currently in place BIC customer signage/decal program.

20-37 Operations

Trade practice for the loading of waste containers indicates it is not generally currently a carter's or in the future an awardee's activity. Customers generally load containers; requiring the service provider to do the things identified in this section seem inappropriate and not practical or not workable. Also, we understand the benefits of the City's anti-idling law and regulation. We request though that exceptions be made for CWZ awardee trucks when they are engaged in providing service to an account or when regenerating for particulate filter maintenance.

20-42 Vehicle Collisions



This section requires immediate notice to the City to be provided by CWZ awardees when there is loss of life or bodily injury. This is a reasonable requirement. Reporting all accidents to the City, not involving these limited exceptions, below the state's \$ 1,000.00 reporting threshold for motor vehicle accidents however is not and is unnecessary.

20-43 On Board Software and Hardware

This section should be deleted. In the alternative these systems and how they are to be used should be specified and worked out between the City and potential zone awardees. These are costly systems and there are real time management issues in how they are used daily in all manner of collection operations. There are also labor and other issues involved in their use and application, not to mention the fast-paced change of technologies, software, and devices.

Thanks for your review and consideration of our comments.

Respectfully submitted,

/electronically signed/ with hard copy in USPS 1st class mail

Steve Changaris

NYC NWRA Chapter Director



Steve Changaris, Northeast V.P.

508 868 4523

NYC-EJA's Comments on the Proposed Commercial Waste Zones Rules Released December 18, 2020

Tok Michelle Oyewole <tok.michelle@nyc-eja.org>

Sat 2/6/2021 16:04

To: NYC Rules (DSNY) <nycrules@dsny.nyc.gov>

Cc: Bland, Justin (DSNY) <jbland2@dsny.nyc.gov>

 1 attachments (150 KB)

NYC-EJA Testimony In Response to the December 18, 2020 Proposed Rule Regarding the NYC Commercial Waste Zones Law.pdf;

To Whom it May Concern:

Good afternoon. Our comments from the 1/26/21 proposed rule hearing are attached, and included below:

NYC-EJA Testimony In Response to the December 18, 2020 Proposed Rule Regarding the NYC Commercial Waste Zones Law Rules Hearing Date: January 26, 2021

Good morning, my name is Dr. Tok Oyewole, and I am testifying on behalf of the New York City Environmental Justice Alliance (NYC-EJA), a non-profit citywide membership network linking grassroots organizations from low-income neighborhoods and communities of color in their fight for environmental justice, founded in 1991.

For decades, NYC-EJA has led efforts for comprehensive policy reforms to address the disproportionate burden of New York's solid waste system on a handful of environmental justice communities. As part of the Transform Don't Trash Coalition, we have worked for around 7 years advocating specifically for the creation and just implementation of this program, and particularly working to ensure the benefits of alleviating burdens of disproportionate truck traffic and waste tonnages within predominantly Black, Brown, and low-income communities.

Organics:

- We are glad to see rules pertaining to organics collection at covered establishments. We'd like to ask if a carter can elect to collect organic waste at a commercial establishment that is *not* a "designated covered establishment" pursuant to "**16-306.1 Organic waste.**"? This definition prevents some commercial businesses who may want to separate, such as certain offices, or smaller restaurants. The purpose of this question is to enable the expansion of commercial organics collection and diversion to the fullest extent.
- Organic waste should also be allowed to support economies, communities, and purposes outside of traditionally established paths designated, which are also positive assuming that they are diverting from landfills, incinerators, and other unsustainable uses.
 - Specifically, the rules designate organics can be delivered to farms for feeding animals, but not for composting. The rules should be expanded to say that organic waste can, in addition to the facilities mentioned, be delivered to a number of applicable uses with capacity to accept them, in order to spur local distribution of organics for reduced vehicle miles traveled. Such uses can include direct partnerships with local gardens, farms, community composters, land restoration, and other groups with needs for and ability to process organic waste locally; as well as to farms generally, not just limited for animal feeding, but for the above listed purposes as well.
- We support the prevention of commercial organics to incineration; what is the Department's position on organics to landfills? It seems to be aiming for prevention of that in these rules, but can

these rules specify a path toward a ban of transporting organics to landfills, as well?

Facility Compliance with Laws:

In addition to an awardee following laws, additionally, the rules should specify that an awardee must show documented proof that it has sought to **contract with facilities following all applicable laws**, especially as they pertain to public health and safety.

Operations and Vehicles:

Trucks should also not idle or block roads, in addition to the great concerns written in these rules.

There are rules on truck maintenance: Are rules on a path toward ending use of polluting, fossil fuel-intensive vehicles and compliance with LL 145 (at minimum) going to be in the next set of proposed rules? Are carters going to be allowed to use non-traditional trucks that are non- or less-reliant on fossil fuels?

Zone Crossing:

- We do not understand the motive behind banning zone crossing during standard hours (9am-5pm) but allowing at other times, and would appreciate clarification, and especially how it relates to the reduction of truck traffic. Zone crossing regulations and exceptions should be made to prevent additional truck traffic.

Thank you for your time and consideration in thoughtfully implementing this law and considering all of the goals provided therein.

Sincerely,

Tok

Tok Michelle O. Oyewole, Ph.D. (she, her | they, them)

Policy & Communications Organizer | **NYC Environmental Justice Alliance (NYC-EJA)**

462 36th Street, 3rd Floor, Brooklyn, NY 11232 | [REDACTED] | tok.michelle@nyc-eja.org

On the ground — and at the table

[NYC-EJA.org](https://nyc-eja.org) | [Newsletter](#) | [Facebook](#) | [Twitter](#)



NYC-EJA Testimony In Response to the December 18, 2020 Proposed Rule Regarding the NYC Commercial Waste Zones Law

Rules Hearing Date: January 26, 2021

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Trucks should also not idle or block roads, in addition to the great concerns written in these rules.

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Zone Crossing:

- We do not understand the motive behind banning zone crossing during standard hours (9am-5pm) but allowing at other times, and would appreciate clarification, and especially how it relates to the reduction of truck traffic. Zone crossing regulations and exceptions should be made to prevent additional truck traffic.

Thank you for your time and consideration in thoughtfully implementing this law and considering all of the goals provided therein.



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**Testimony of Melissa Iachán at
Department of Sanitation Public Hearing on Proposed Rule Establishing
Requirements for Carters Operating in Commercial Waste Zones
Dated January 25, 2021**

Good morning, my name is Melissa Iachán, and I am Senior Supervising Counsel in the Environmental Justice Program at New York Lawyers for the Public Interest (“NYLPI”). NYLPI’s environmental justice program has focused on trying to bring equity to our city’s waste systems for more than two decades. We are a member of the Transform Don’t Trash coalition, and spent the better part of the last seven years advocating for a systemic overhaul of our private waste system, and so we are thrilled to be here today.

I would like to thank the Department and its staff for putting together such comprehensive, detailed, and clear rules as one of the first steps toward implementation of the ambitious, comprehensive and much needed Commercial Waste Zones (“CWZ”) system. We look forward to the CWZ system bringing much-needed and long-awaited relief for the communities that have borne the brunt of our garbage for so long, while also reducing emissions from truck traffic, improving street safety across the City, expanding recycling and waste reduction programs for businesses, and improving working conditions for drivers and helpers who have been forced to work under outrageous conditions in the private sanitation industry for far too long.

These rules take the key pieces of Local Law 199 and begin to put them into action. In particular,

Customer protections and equity

- The rules set forth robust customer service requirements that set minimum levels of quality service across the board for all businesses, small or large;
- that make confusing fees and rates transparent;
- that ensure that the customers’ rights are made known to them;
- and that make clear the penalties for haulers who attempt to exploit or take advantage of customers.

Diversion goals

- The rules clarify and confirm the requirements to provide recycling and organics services at a reduced rate.
- The rules make clear that haulers should facilitate collection of edible food for delivery to food bank, soup kitchen or other entity for the purposes of feeding people and reducing organic waste.
- The rules shift enforcement of commercial hauler recycling and organics from the Business Integrity Commission—who has had a spotty record of enforcement at best—to DSNY, which has the resources and expertise to enact consistent enforcement of diversion rules.

Transparency and Accountability in the Private Sanitation Industry

- The rules explain the terms of both the contract entered into between the City and the awardee, as well as the requirements for the written agreement that must be entered into between the awardee and each of its customers.

Environmental Justice Community Considerations, Worker Protections, & Street Safety

- The rules make clear that, with very limited exception, no hauler shall operate a route in more than one zone, ensuring that the CWZ system is efficient, safe, and fair.
- The rules further the environmental justice goals of the CWZ system by requiring robust record-keeping and reporting as to disposal, including materials to be composted or recycled, regarding the transfer stations used, the final destination of materials, and ensuring that any customer has the right to this information as well.
- The rules impose a specific and robust technology requirement including GPS, which will allow for accountability to ensure that the CWZ system is efficient, safe, and transparent.
- Finally, the rules establish the first set of operating requirements for the haulers, which protect workers and vulnerable communities, as well as all residents of the City of New York.

In addition to expressing strong support of the proposed Rule, we have the following minor comments:

- On page 5 of the Statement of Purpose, the Department says that forthcoming rules will address other issues, including third party waste audits. There are subjects addressed in *this* proposed Rule that would benefit from the mention of a required waste audit.
 - For example, §20-26(b)(2) refers to the requirement that the written service agreement state the estimated volume or weight of designated recyclable materials and the estimated volume or weight of source separated organic waste to be collected. This estimate is purely conjecture without having it be directly derived from a waste audit, which each customer must be informed can be done by an independent third party without a pecuniary interest.
- In §20-21(c)(2): We would like to have the explicit requirement that any such fees must be set forth clearly in the contract signed by the customer and the awardee.
- We want to note that we would like many of the records specified to be kept and/or provided to the Department stored in a publicly-available database, so that the general public, customers, business associations, and others can see and track where their waste goes, how much is recycled or composted, public safety records of specific companies, and other information that we believe should be publicly available.

We look forward to seeing the CWZ system be implemented via this robust rules process, the RFP process, and the actual transition to a zoned system ,so it can begin to bring real benefits to workers, communities, to our shared environment, and to all New Yorkers in the coming year.

Thank you.

TESTIMONY

FACILITY:

While I commend the focus on compliance of all applicable laws, rules and regulations as it relates to vehicle specifications and the handling, transport, transfer or disposal of trade waste(20-36). The same amount of concern needs to be applied to the waste transfer stations facilities. It is equally important to ensure that awardees or “designated carters” operational practices at their facilities are of a high standard. Under the Department of Conservation Codes, Rules and Regulations of the State of NY, there are specific rules and regulations for safe operations of waste transfer stations. The operator of the facility must manage leachate generation and elimination, dust control, odor control etc. At present there is a lack of enforcement ensuring compliance by the facilities. Compliance is essential to delivering to my community, one that is free of foul odor, noise, truck traffic, pollution and a toxic sewer system. I am asking that operational practices at waste transfer stations in an M1 zoned district (a mix of residential and commercial use) be held to a high standard (adhering NYC and state laws) and that this language be included in the proposed rule regarding the NYC Commercial Waste Zones Law.

Andrea Scarborough
Member - QSWAB
Member - Addisleigh Park Civic Org
Concerned Resident



New York City Department of Sanitation
Public Hearing on Proposed Rules for Commercial Waste Zones
January 26, 2021
Testimony of Eric McClure, Executive Director, StreetsPAC

StreetsPAC is a Political Action Committee that promotes safe-streets policies in New York City, and we are a supporter of the Transform Don't Trash NYC coalition. As advocates for safer streets, we are very pleased to see the rule-making process for the implementation of the Commercial Waste Zone Program finally moving forward, and we strongly endorse the adoption of the rules being discussed today.

Implementation of the city's Commercial Waste Zone Program will dramatically improve the safety of the public at large, as well as that of carting workers. In the five years preceding passage of Local Law 199, more than two-dozen New Yorkers were killed in crashes involving commercial-waste vehicles.

By reducing the number of miles driven by private carters by more than 50%, the implementation of Commercial Waste Zones will greatly reduce interactions between waste trucks and vulnerable street users, significantly reduce the worker fatigue that has led to unsafe driving in the past, and markedly reduce the greenhouse-gas emissions these heavy vehicles put into the city's air.

Additionally, by halving the vehicle miles travelled of commercial fleets, the zoned system will lead to a major reduction in noise.

Lastly, the greatest beneficiaries of the Commercial Waste Zone system will be the crews who operate these vehicles. Refuse collection is one of the most dangerous jobs there is, with higher fatality rates than policing or firefighting. Many lives will be saved once the new system is in place.

Again, we are gratified to see the rulemaking process advancing after the delays caused by COVID, and we urge the Department of Sanitation to move ahead with implementation as rapidly as possible.

Sean T. Campbell, President, Teamsters Local 813
Testimony to Department of Sanitation Commercial Waste Zone Rulemaking
January 26, 2021

Good morning and thank you for the opportunity to offer testimony today.

I am Sean Campbell, President of Teamsters Local 813, New York City's private sanitation union.

Our members pick up trash, recycling, organics, and construction waste, and work in waste transfer stations.

Our union advocated with the Transform Don't Trash NYC coalition to establish a Commercial Waste Zone system in New York, and we are pleased to see the Department of Sanitation taking this step today in its implementation.

Private sanitation workers have for years worked long hours, for too little pay, without PPE or the safety training they need. The coronavirus pandemic shows that we need this program now more than ever to protect our essential workers.

As this process moves forward, with subsequent rule making, we hope that the department prioritizes the most vulnerable New Yorkers who this law was designed for. Our essential sanitation workers need a responsible rate floor to ensure they are fairly compensated and robust PPE, training, and safety standards to ensure they are protected on the job. Likewise, communities of color that have faced environmental racism and air pollution for years, leaving them especially vulnerable to COVID-19, need to be prioritized as well.

It's unfortunate that we did not already have this system in place before the current crisis. Not only would workers and communities have been better protected, but carters and the small businesses that depend on them for waste collection would have had a stable, equitable, and accountable system to help them weather the crisis. We need to respond to this economic and health emergency, and we need to be prepared for the next one.

Part of ensuring that this program helps workers is having strict standards for can bid for and be awarded zones. Brokers have long played a role in the "race to the bottom" in the industry. DSNY should not allow brokers, who do not employ their own collection workers or own their own trucks, to bid for zones. Including these bad actors leaves a backdoor open for unregulated and exploitative competition.

Thank you for taking this step in implementing Commercial Waste Zones. We look forward to being partners to ensure that the policy lives up to its promise to transform our industry.

Douglas Washington, Teamsters Local 813 Member and Royal Waste Services Shop Steward

**Testimony to Department of Sanitation Commercial Waste Zone Rulemaking
January 26, 2021**

Good morning and thank you for allowing me to offer testimony today.

I am Douglas Washington, a member of Teamsters Local 813 and shop steward at Royal Waste Services.

I've been fighting alongside my union brothers for years to make private sanitation a good job again.

A lot of people learned the words Personal Protective Equipment, or PPE, for the first time because of COVID-19. But we have been blowing the whistle on the need for PPE in our industry for years. Non-union sanitation companies never gave their workers gloves, boots, or safety vests. When COVID hit, workers were on the job without masks, gloves, sanitizer, or the ability to social distance.

I got COVID-19 in March. I had to quarantine away from my finance and my son. I didn't feel the same for weeks, and even when I was better, I was afraid to go back to work.

Ever since Commercial Waste Zones was first proposed, the private carting owners have been saying that it's unfair and bad for business. I'm sure they will now try to use COVID as an excuse to keep things the way they are.

But most of these companies got PPP loans while the workers were sitting at home on layoff or were working without PPE, and the companies will never have to pay back that money. The owners are always taken care of. I hope with Commercial Waste Zones, you put the workers first this time.

Thank you for moving forward to change the private sanitation. A new day is coming, and workers in this industry can't wait.

Comments
of
Waste Connections of New York, Inc.
On the proposed rules
of the Department of Sanitation
that would establish requirements for carters
operating in commercial waste zones

February 9, 2021



WASTE CONNECTIONS
Connect with the Future

Waste Connections of New York respectfully submits the following comments for the proposed rules of the Department of Sanitation that would establish requirements for carters operating in commercial waste zones.

Waste Connections – Background Information:

Waste Connections is the only publicly owned and publicly listed company picking up waste and recyclables in New York City. In New York City, Waste Connections proudly services thousands of commercial customers with excellent customer service. We employ over 300 hardworking men and women, 230 of whom are well paid union employees. The majorities of our employee’s live and work within the five boroughs of New York City. We operate multiple facilities in Manhattan, Brooklyn and the Bronx.

What sets Waste Connections apart from others in the industry, and something we are very proud of, is our published list of corporate values that we endeavor to meet every day.

Our first and foremost value is Safety. We strive to assure complete safety of our employees, our customers and the public in all of our operations. Protection from accident or injury is paramount in all we do. In fact, we are by far the safest waste and recycling company operating in New York City.

Our second value is Integrity. We define integrity as “saying what you will do and then doing it.” We keep our promises to our customers, our employees and our shareholders. We do the right thing, at the right time, for the right reason.

Our third value is Customer Service. We provide our customers the best possible service in a courteous, effective manner, showing respect for those we are fortunate to serve.

Proposed rules:

§20-20 Service to customers in a commercial waste zone.

Subsection (c)(2) requires clarification as the proposed interaction between the a hauler who wins a containerized citywide zone and a local zone awardee is unclear and needs explaining.

§20-21 Rates.

Generally as to this subsection, we believe regulations regarding a minimum rate should be included as provided for in the enabling legislation. As we have previously advocated, a minimum rate will prevent a race to the bottom and a repeat of the very problems that this new zoning plan was established to fix.

Subsection (a)(2) requires clarification or rewording as the word “proportional” in the context of pricing is unclear.

Subsection (c)(2) should include the ability to recover other expenses the industry incurs through additional customer fees. These includes the ability to charge for service on federal, state or local holidays, timed stops, equipment rental, equipment maintenance, fuel surcharge, service inside a building, credit card fees, specific customer requested insurance provisions, paper invoices and recycling reports.

§20-22 Denial of service prohibited; termination; suspension of service.

This section is unworkable as it essentially requires service to be provided to a non-paying customer for up to 120 days. The requirement of first seeking permission from the Department of Sanitation prior to stopping service is cumbersome and provides more time for a customer to potentially game the system. Coupled with mandatory service required elsewhere in these regulations, a customer could simply skip from hauler to hauler. The proposed regulations essentially allow all customers to establish 60 days of credit regardless of their financial worthiness. This will require haulers to incur a tremendous working capital expense that can only be recovered through other customers who pay their bills on a timely basis.

Alternatively, the regulations could require the awardees to submit delinquent customer's names to the Department and certify the accuracy of the information submitted.

(b)(2) (i) As noted above, this part of the regulation requires a waiting period that is too long. We request no such waiting period be established and that the bill payment requirements be worked out between zone awardees and customers. If one carter will not extend adequate credit, two more carters exist in a zone who could offer more liberal credit terms.

(c) This section requires awardees to notice its customer of its failure to pay the full amount due for service and provide duplicate notice to the Department. This is a

burdensome notice requirement that benefits neither the Carter nor the customer and should be removed.

(d)(1) This section requires an awardee to continue providing service for 30-days to a customer while exposing our employees to unsafe conditions during that same time. This is not acceptable.

(d)(2) This part and elsewhere in these proposal regulations, a zone awardee's notice is required by certified mail to the customers with a copy to the Department with appropriate documentation and records. Utilizing certified mail is an antiquated and expensive means of customer communication. Electronic methods with certifications should be more than adequate to transmit information between the parties.

We strongly urge the Department to establish more efficient and economical regulations to manage these matters between zone awardees and customers.

§ 20-23 Non-Collection of Commercial Waste.

This subsection has no provisions that account for instances where customers generate sporadic excess waste that is non-containerized, also known as loose waste, and thus not captured by the regulations overfill provisions. There also needs to be a non-collection safe-harbor when circumstances caused by outside forces such as down utility lines or other instances when collection becomes impracticable.

§ 20-24 Overfilled containers, contamination, infeasible collection and other non-conforming material; procedures for fees and non-collection.

This subsection should remove the provision that allows customers to over-fill, contaminate or otherwise frustrate collection one-time without any additional fee being charged. While a hauler may very well waive that fee to ensure good customer relations, it should not be mandated by the governing rules.

§20-25 Customer Service Plan.

Subsection (c) indicates that a Hauler must resolve a customer complaint regarding a missed pick-up within 12 hours of receiving a complaint. This should be changed to “attempt to resolve” as it gives the customer the opportunity to never be satisfied and abuse the complaint process. The time needed to resolve a complaint should be increased to 24 hours as additional time will be needed to resolve the matter.

§20-26 Written service agreement.

(b)(3) It is not clear what the maximum contract term can be and how or if this regulation relates to Title 17 of the City’s Rules and Regulations governing the Business Integrity’s Commission and its two year contract term limit.

(b)(5) This provision provides that for each collection, the hauler must arrive within a two-hour window. This provision greatly limits a hauler’s operational flexibility and is a standard that cannot be met. There are too many outside factors that simply make this provision impracticable.

(e)(2) This provision requires sending a customer a contract through certified mail. Again, as noted above, this means of communication is expensive and antiquated. Customers often prefer

electronic means of communication as the documents are much more easily stored and retrieved. Moreover, we, and many other companies, have moved to tablet based contracts so that paper can be eliminated. Given the industry we are in, we are particularly sensitive to excess paper.

§ 20-28 Notifications.

(b)(2) This section requires the hauler to notify the Department of any customer with significant contaminated recycling. It is not clear what is considered significant. More importantly, this section turns our front line workers into a private enforcement arm of the Department of Sanitation. This is should not be our workers responsibility to make that determination nor be saddled with that responsibility.

§20-30 Restrictions on operation in multiple zones.

If a hauler is awarded adjacent zones, they should be permitted to cross zones lines in order to create the most efficient routes and reduce vehicle miles traveled.

§20-31 Recycling requirements for awardees.

Subsection (a)(2) states that “[t]his subdivision shall only apply to the collection of containerized commercial waste citywide...” It is not clear what subdivision is being referenced and why it would only apply to containerized commercial waste. This particular regulation should be clarified.

§ 20-35 Sign or decal required.

This subdivision appears to be recreating the Title 17 regulation for customer stickers as required by the Business Integrity Commission. This provision, however, goes further in requiring a unique customer number and a zone number. Requiring thousands of customer stickers with

unique numbers is unduly burdensome and unnecessary. The current decal system works well. A customer is clearly identifiable by its own signage. The same rationale holds for adding a unique zone number. It does not provide any additional useful information while increasing time and cost in complying.

§ 20-37 Operations.

Subdivision (h) requires open top vehicle bodies to be loaded only from front to rear. We are unclear why this is necessary. Furthermore, it is the customer that is generally responsible for loading these containers. This appears to be a hold over provision from previous sanitation regulations and should be updated and replaced.

Subdivision (p) prohibits idling for over three minutes. We believe that an exception should be added for when servicing an account or when an engine is engaged in regeneration mode to clean out its particulate filter.

§ 20-42 Vehicle collisions.

This regulation requires immediate reporting in the event of a collision involving a commercial waste vehicle and any other vehicle, cyclist, or pedestrian, at any location. We believe that there should be a reporting threshold of \$1,000, the same amount as New York State requires for the filing of an MV-104, before any report is deemed necessary. This will avoid the reporting of minor incidents that do not rise to a material level.

Comments from David Segall - Recycle Track Systems (RTS)

DSNY Proposed Law Doc	
Section	Comment
20-23, a (2)	How is 10% contamination determined? Volume, weight, observationally? Is there a standardized methodology that all carters must adhere to when determining contamination? Are non recyclable plastics considered contamination?
20-23, a (5)	Is universal waste included in this list?
20-31, c	This appears to be saying that bagged source separated recycling streams can't be picked up in the same truck and brought to the same facility, and that it has to be separate trucks? Is it fair to say that is not the intended meaning?
20-32, c(2)	If bagged organic waste can be brought to MSW transfer stations, why can't that bagged material be collected in same truck as bagged trash to reduce routing and trucking needs and emissions?
20-20, c(2)	Does this mean that if a company wins both a zone and roll-off rights, customers within that zone cannot hire that same company for roll-off unless also hiring it for all non-roll-off services?
20-21, a(2)	Organics must be lower (proportionally?) than trash prices, but the economics of organics make it significantly more expensive. We of course understand why the city is setting this up (to encourage generators to recycle), but does DSNY acknowledge that costs will likely simply be shifted?
20-21, c(2)	Can you confirm that these fees supercede any previous BIC rules to the contrary / banning them?
20-21, c(1)	The clause states that an awardee must only charge a customer in accordance with the structure set forth--would an awardee be able to charge for fees outside waste and recycling removal such as usage fees, sustainability services, etc.?
20-22, b(2)ii&iii	It lists "designated carter" in these subsections--would a company be able to apply that to its subcontractors or does language need to be broadened to ensure it can?
20-23, a	This does not seem to allow a carter to refuse pick-up on a non-pick-up day (such as Sunday), or outside of hours, etc. Is this the case (as it seems to contradict the previous clause)?
20-24, c	Forces carter to pick-up the first instance of contaminated recyclable or organic material, guaranteeing a lot of contaminated loads that cannot be charged for.
20-24, e	Do you have definitions of "non-commercial waste" or "non-conforming waste?"
20-26, a	Written contract must comply with titles 16-A and 16-B--is this the BIC rules on contracts?
20-26, b(5) & 20-21, c(2)vii & 20-26, b(7) & 20-26, c(2)	Is it correct that these clauses imply that haulers can negotiate with customers out of the restrictive two-hour pickup window?
20-26	How would this work if you're not an awardee and brokering the deal? It seems to suggest that every customer must have an agreement with an awardee and every awardee needs to have an agreement with a customer before servicing, which would mean brokering a deal would require handing the contract over to the two parties.
General	Are holiday collection night adjustments permitted?
20-30, c	If this does not allow haulers to pick-up more than one zone's waste on a route, this seems counter to the goal of reducing truck miles and emissions by forcing less optimized routes. While section d allows for exemptions, would DSNY consider revising to maximize environmental and efficiency impacts?
20-31, a(1)&(2)	Should the language be altered to allow for a customer separating out trash and recycling between haulers (for instance containerized trash and non-containerized recycling)?
20-41	The single contact for 24/7/365 emergency contact is not one single person, correct?