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September 17, 2018

Robert E. Cornegy, Jr., NYC Council Member (D-36)
Testimony before New York City Business Integrity Commission,
Public Hearing on proposed amendment to Title 17 Rules of the City of New York

I am Council Member Cornegy. I represent the 36th Council District in Bedford Stuyvesant and northern Crown Heights. I currently Chair the Committee on Housing & Buildings and previously Chaired the Committee on Small Business.

The watchdog of the private sector of the commercial waste industry, the Business Integrity Commission, has on more than one occasion come before the New York City Council to say they need more authority to regulate the industry that they were tasked to oversee.

We were all tremendously saddened by the senseless, preventable injuries and deaths of New Yorkers by both private sanitation and DSNY vehicles. This level of incidents in the private and city-run sanitation sectors is unacceptable.

I believe that we can no longer wait for the administration's mythical remedy to franchise the commercial system 6 years from now. Franchising is not a real solution to prevent accidents, to put bad actors out of service, to lessen congestion nor to protect our environment.

Today, as we review updated regulations that aim to encourage transparency and update safety standards in this industry, I want to highlight a piece of legislation that I introduced – Intro 996 – which, when passed, will immediately give BIC the tools to better regulate and improve standards across the board. 996 will immediately give BIC better audit and reporting authority over the private waste industry.

By increasing BIC's regulatory and reporting authority, Intro 996 will: protect the safety and jobs of the workers in the commercial waste collection industry, especially 2nd chance workers; protect the over 200,000 businesses in the city, who pay for their waste removal, especially small business owners such as supermarkets, store-front mom & pop's and restaurants from losing control of the cost and quality of this service; and protect the environment and quality of our neighborhoods NOW from bad-acting companies.

If any private sanitation company fails to meet these new standards, BIC will have the authority to shut that company down and deny them their license to operate. BIC will also have the authority to create new rules to improve safety and report any action on our streets that may put workers and the public in harm's way.

Intro 996 is a partnership with those who work in and are served by the industry, including the Mason Tenders District Council's Local 108, who represents the majority of unionized employees in private waste, the NYS NAACP, the National Supermarket Association, the Bodega Association, the Chambers of Commerce throughout the city

When I announced Intro 996, I had an employee of the industry stand with me named Dwyane. At the rally, he talked about how difficult it was for him, after his incarceration, to find a job, even with the experience he had. He has been working now in the industry, steadily, for over 6 years. And, like his colleagues, who are predominantly Hispanic and African-American, he relies on this industry for his livelihood. He is one of the thousands of people who are employed in this industry whose jobs would be on the line and at risk if franchising is implemented. I introduced this bill with these people in mind. With middle class jobs becoming far and few between and as our city becoming more and more unaffordable, government needs to make absolute sure that we work to protect these employees and improve conditions, not jeopardize New Yorker's jobs.

The City Administration, in their proposal to franchise the commercial waste industry, has made bold, unsupported claims that if we wait to study the issue for 6+ years that all issues in the sanitation industry will be solved if we implement this system of waste collection.

But the City is doing this without any real explanation (or an examination of any quicker, alternative options) of how franchising would solve any of these problems.

And, I believe that the City is wasting \$8 million on an out-of-town consultant to tell us what we already know from watching these same deliberations on zones in three major cities – Chicago, Boston and Los Angeles. NYC needs to immediately examine all methods available to improve private waste collection, not just pursue a zone system without having an honest discussion about the upsides and downsides.

Chicago and Boston considered franchising and concluded that it would disproportionately hurt small businesses by decreasing the level of service and hurting workers who already experience barriers to employment because they have less than a high school education or were formerly incarcerated. Chicago and Boston rejected zones and have engaged in strengthening standards of environmental and safety outcomes for these sanitation companies.

Los Angeles, just like the current process that we are experiencing in New York, did not seriously look at the costs of franchising. Their City's process, like ours, was not forthcoming with the hidden costs associated with franchising, and made promises of lower prices and improved service that only resulted in the doubling, tripling and quadrupling of prices. Particularly hurt were small businesses who report that they've had to close off employment opportunities to those who need a job the most.

And most importantly, Intro 996 works to find solutions that we believe can immediately stop the carnage on our streets. I believe that we can avoid future accidents if we stop the condemnation, finger

pointing and political outmaneuvering and if we did our jobs in government to pass common sense reform, now.

Comments
of
Action Environmental Carting Services, Inc.
On the
Proposed Changes to Title 17
of the Rules of the
Business Integrity Commission
Related to Improve Safety of the General Public

Submitted to the
New York City Business Integrity Commission
Honorable Daniel D. Brownell
Commissioner/Chairman

By
Ronald S. Bergamini, CEO
Monday, September 17, 2018

Action Environmental Carting Services, Inc. (“Action”) respectfully submits the following comments on the proposed changes to Title 17.

Action strongly supports the Business Integrity Commission’s involvement and promotion of a safer solid waste industry. We think it should be afforded the responsibility and the resources to ensure a safer industry along with higher operating standards which promote the industry’s best practices.

We offer the following specific comments on the actual proposed changes to Title 17.

1-12 (4) We would delete any reference to setting a "maximum deductible". Explanation – many larger companies in most industries in the United States, including Action, does not maintain insurance the way a personal car or even a taxi would have on their vehicles. Many companies are fully or partially self-insured. This means there is no "deductible". Such companies are, however, fully insured as they have an excessive or umbrella policy in place. Thus, while it may appear like a company had a very high deductible, i.e. \$1,000,000, they are in fact, fully insured.

There are literally dozens, if not hundreds, of unique policies, that are established as partially or fully funded. For example, there are collateral deposits, often in millions of dollars put aside for the situation where the liable party becomes insolvent. Moreover, companies, such as ours, provides monthly payments to our insurance carrier which reflects the historical liability payments, thus offering adequate protection.

The point is that commercial insurance for a large fleet of trucks is simply not economically available with a traditional "deductible. For these reasons, Action respectfully requests that such be stricken from the proposed regulations.

2-05 (3), (5) These definitions seem very broad for example "...10 business days of any crash that involved a vehicle..."; "...all vehicle summonses..." We would recommend a materiality factor be added, i.e. a dollar amount between \$5,000 and \$10,000 is reasonable

2-05 (7) This too is very broad "... any change in capital stock or ownership..." We would recommend such be amended to a "change of control"? [This is not a proposed rule change, just renumbered]

Teamsters Local 813 Testimony to the Business Integrity Commission

September 17, 2018

Thank you for the opportunity to testify today. As the union that represents private sanitation workers in New York City, Teamsters Local 813 sees this industry's safety crisis on a daily basis.

Last month, the Business Integrity Commission took appropriate action by suspending the license of Sanitation Salvage to protect New Yorkers from the company's dangerous and reckless practices.

Unfortunately, the problems go far beyond Sanitation Salvage. In most of the industry's companies, big and small, workers are pushed to the limit with six day weeks and shifts longer than 12 hours. The few companies with safe schedules are the exception that proves the rule.

The private sanitation industry is responsible for an inordinate number of fatal crashes. Mouctar Diallo. Leon Clarke. Neftaly Ramirez. These are just a few of the New Yorkers who have lost their lives beneath the wheels of private sanitation trucks in recent years.

We believe all these deaths were preventable. The industry needs to begin to take safety seriously. It's not about photo ops and press releases. It's about following the law for truck maintenance, not overworking drivers, and putting lives ahead of profits. It's about taking responsibility for crashes rather than sweeping them under the rug as too often happens among private carters.

This is a lawless industry. There are still companies that don't provide legally required boots, gloves, vests, and other safety equipment. There are still companies that cover up injuries. There are still companies that assign routes that cannot be completed on time without breaking traffic laws.

Not every company is shirking safety. There are some good companies that have regular safety training and maintain their trucks. But it's hard for them to compete with the cheap carters who are cutting every corner.

That is why Mayor de Blasio's commercial waste zone policy is so important. Until that policy is fully in place, we won't be addressing the fundamental problems plaguing the industry. We will finally have reasonable routes. We will finally have safety standards with real teeth. And we will finally have accountability, so carters have to follow the rules, or risk losing their contract.

Thank you for the opportunity to testify to the commission today and thank you for working with us to improve safety in the private sanitation industry.

Testimony
of the
NYC Chapter
National Waste and Recycling Association
on
Amendments to Title 17 of the Rules of New York City
To Improve the Safety of the General Public
Proposed by the
New York City
Business Integrity Commission

Submitted to the
New York City Business Integrity Commission
Honorable Daniel D. Brownell
Commissioner/Chairman

By
Steve Changaris, NYC Chapter Director
800 679 6263
schangaris@wasterecycling.org
Monday, September 17, 2018

This written testimony is submitted in response to the BIC proposed rule to: “Amend Title 17 of the Rules of the City of New York to improve safety of the general public” as posted at:

<http://rules.cityofnewyork.us/content/amendment-rules-regarding-improving-safety-general-public-0>

My name is Steve Changaris and I am the NYC chapter director for the National Waste and Recycling Association (NWRA). The chapter is part of the national trade association that represents America’s private sector waste and recycling industry. We have an active chapter of member companies operating in the city. The hard working men and women of our chapter collect and manage the waste, recyclables and organics produced by the city’s 200,000 plus commercial entities. It is a herculean task done, day-in, day-out, year round - in good weather and bad. We work - as Business Integrity Commission (BIC) licensees -- to provide excellent service to our customers; and, good paying, characteristically union jobs, for our employees; and, to collect and manage the city’s waste, recyclables and organics as safely as possible; and, to be as good corporate citizens as possible in the neighborhoods and communities of the city we serve.

The chapter supports the introduction of this proposed regulation and the direction it signals that the BIC will be going in furtherance of its oversight role for the city's private carting industry. We will now make some general comments on the proposed rule; followed by some specific questions; and then finish these remarks by making a final recommendation for further BIC action in this regard.

General Comments:

In its essence, this proposed rule is a new recordkeeping and notice rule for BIC permittees. The key to understanding it, or thinking about it in the context of safety, turns on what the BIC will do with all this new information that will be provided to it by the private carting industry upon its adoption. Since the regulation is largely silent on this, we, as BICs regulated community, are justifiably concerned about its final adoption as currently drafted. Other than fines for not reporting certain occurrences within a given timeframe, the regulation as proposed provides no glimpse into what the BIC will do with the new information provided by our industry.

As you know, BIC regulated chapter member companies have the maximum rates they can charge for the removal of trade waste controlled by the commission. Last month the most recently approved BIC rate cap increase for the removal of trade waste went into effect. In

the testimony submitted by the chapter during that rate review process we noted the economics and costs of complying with BIC regulations, directives and rules as a significant part of doing business in the city. In addition we also sounded the alarm about the economic collapse of the markets for the recyclables we collect in the city and urged the BIC to immediately undertake an additional economic hardship analysis thereof. This was asked for in the context of BIC granting us the necessary and additional rate cap relief sorely needed to remain economically viable to continue mandatory recycling services. So, we will use this opportunity to call upon the BIC to immediately start a study of both the cost of this new safety regulation being effective, as well as the costs and impacts of the economic collapse of the recycling markets. We believe the BICs combined economic findings about these two impacts on the industry will lead the commission to grant immediate and additional rate cap relief that is so urgently needed by the industry.

Specific Questions:

Why is the BIC proposing coverage in a one half million increment?

Why is the BIC proposing an A-10 rating standard for insurance companies to be eligible to underwrite BIC regulated companies?

What are the reasons and rationale for the new proposed BIC insurance coverage limits for regulated companies with Commercial General

Liability set at \$5 million; and Business Auto Liability set at \$2 million; and Employer's Liability set at \$1.5 million?

What is the reasoning for a one size fits all maximum not to exceed deductible of \$ 50,000.00 for Commercial General Liability coverage?

How will BIC reconcile the differences between these new regulations and a regulated company's existing coverage in a self-insurance program, or captive insurance program or one with higher preset deductible limits?

How did BIC come to the proposed definition of crash in these proposed regulations?

Can the commission by policy or directive, after this regulation is adopted, alter or refine the scope of what crash related information regulated companies will be required to provide?

Can the commission amend this proposal and add an equivalency waiver or work around performance standard provision to accommodate conflicts between sound, existing industry practices and the new practices required therein?

Final Recommendation:

As noted initially, the chapter is supportive of this proposed regulation and the expanded BIC industry oversight role in the area of safety. That said, we have expressed valid concerns about the impact of the proposal

being adopted and we have raised many questions with unknown answers in this testimony. Accordingly we respectfully request that the BIC put a hold on further movement of this regulation and then make use of a 60 or 90 day period to seek further informal input on this proposal from all stakeholders, including regulated companies; insurance experts; safety experts; and, other appropriate interested parties. We believe this process will strengthen the value of the BIC improvements sought in the currently pending rule and make what eventually will be adopted better for both BICs overall goals and implementation by the industry. The NYC NWRA Chapter pledges to work with the BIC to facilitate this further exchange of information and views and to work towards the adoption of a new revised BIC safety regulation in early 2019.

The chapter appreciates the opportunity to provide this testimony and looks forward to continuing its work with the BIC on this and other issues affecting the industry in city.

The NYC chapter of the National Waste and Recycling Association is comprised of the city's private recycling and waste services companies. Chapter members are dedicated to the environmental and economically efficient handling of recyclables, discards and wastes.

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Testimony of Thomas N. Toscano, Esq.
CEO of Mr. T Carting Corp.

My name is Thomas N. Toscano and I am the CEO of Mr. T Carting Corp. I want to start by saying that I fully recognize safety is an issue in this industry and I commend the City and the Business Integrity Commission in trying to address this issue. Know that I am in full support of increasing safety for all and that requires increased standards that will probably be in the form of new regulations.

As a start, I would like to briefly list all of the reporting requirements currently on the carters who serve New York City. First there is a customer register that requires 96 pieces of data on each and every customer I have. This is prepared quarterly. Annually, there is a very detailed financial statement due to the BIC. Recently, carters have been asked to provide detailed information regarding their vehicles on a real time basis for compliance with Local Law 145. We are required to continually update the BIC on all new employees and principals of our companies (my company does this weekly). There are nine (9) specific journals and ledgers that are required to be maintained by BIC's rules that were designed at a time when most businesses did not use computers. These rules are antiquated and require double bookkeeping to be fully compliant because most computer software programs are not designed this way. Recently, there have been very detailed requests for route data for the franchising study and this has been required because the data gathered in 2014 was done so hastily and retroactively to rush out a report endorsing franchising. This is not a comprehensive list, but the major highlights have been hit.

I start here so we understand the baseline of where we are when there is legislation proposed to increase reporting requirements. Again, and to be clear, I support where this effort is going and its goal and I understand the need for data to get there. However, the requests will give you a lot of "noise" and thereby decrease your ability to proactively spot safety issues before accidents happen.

I start with the definition of the word "crash" in the proposed regulations. In a highly populated area with millions of parked cars and over 100,000 customers picked up nightly, small property damage incidents are bound to happen. Cars suffer minor damage and carters pay to resolve these issues, many times without insurance. Under your proposed regulations, every one of these incidents will need to be reported. For that reason, I propose adding to the definition of crash "where the only property impacted is stationary or parked with no occupants inside, or where the property damage exceeds \$5,000 or an injury occurs." This will eliminate reporting of minor incidents on the carters and "noise" in the data.

I make the same general comment with regard to violations, starting with the fact that there seems to be some contradiction in the revised regulations, notably sections 1-12(b) and 2-05(a)(2). I agree with the \$1,000 threshold in 1-12(b) that is absent in 2-05(a)(2). 1-12(c) deals with Vehicle and Traffic Law violations, and has no threshold. For this, I propose one of two alternatives. The DMV has a program called the LENS program that my company uses. It immediately alerts us if one of our drivers is convicted of a violation or has a license suspension or revocation. We are already required to give you driver's license information on our employees and the BIC could easily implement this service. Simply requiring the reporting of employees can eliminate a lot of reporting on the part of carters. Alternatively, I would ask that a threshold be put into place so that minor violations do not require reporting.



September 17, 2018

VIA EMAIL

Business Integrity Commission
100 Church Street
20th Floor
New York, NY 10007

Dear Sir/Madam:

The Solid Waste Association of North America (SWANA) is pleased to provide these comments on the proposed amendments to Title 17 of the Rules of the City of New York. SWANA is the largest waste association in the United States, with more than 10,000 members. SWANA has a large and active chapter in New York, and has collaborated with the Business Integrity Commission (BIC), the Department of Sanitation (DSNY), and others on a variety of safety-related topics and issues over the past three years. I serve on the BIC's Trade Waste Advisory Board.

SWANA generally supports the proposed revisions and the goal of improving the safety of the public as it relates to the collection of commercial waste. There have been an unfortunate number of tragic incidents over the past few years in which pedestrians, bicyclists, or drivers/riders in other vehicles have been killed in collisions with waste collection vehicles in the five boroughs. [SWANA's safety program](#) provides a substantial number of resources and tools designed to help carters and others in the industry operate more safely. SWANA has helped the BIC host four Safety Symposia over the past two years, which have increased some carters' focus on operational safety. Compliance with regulatory requirements is another way that the BIC can improve the safety record of carters (both licensees and registrants).

SWANA appreciates the BIC's additional focus on both public and worker safety. These new rules, the impending proposed revisions to Local Law 42 expanding the BIC's regulatory authority to more explicitly address safety, the Safety Symposia, the recently released BIC Trade Waste Safety Manual, and other measures are likely to result in a reduction in accidents and injuries.

Although SWANA generally supports the proposed revisions, we have concerns over some of the proposed regulatory language:

The BIC proposes to define a “crash” as a “traffic incident involving the impact of a vehicle with another vehicle, person or property.” A “crash” triggers a reporting requirement. SWANA suggests that the proposed definition is too broad, and includes de minimus incidents in which no one was injured and no property damage occurred. For example, if a waste collection vehicle waiting for a red light to change to green is struck from behind by another vehicle going under 5 miles per hour, and there is no damage to either vehicle, should this incident be reported? If a waste collection vehicle hits a wall and does a few hundred dollars worth of damage, should this incident be reported?

SWANA recommends that “crash” be defined as follows:

“an incident involving the impact of a vehicle with another vehicle, person, or property which resulted in a bodily injury to a person or a property claim in excess of \$1,000.”

Further, SWANA is concerned that for purposes of reporting, the BIC makes no distinction between incidents in which the licensee or registrant was at fault, and those in which it was not at fault. According to [data](#) collected by Lytx (formerly Drivecam), a company that provides in-cab cameras to waste companies and others, more than half of the near misses involving waste collection vehicles are not caused by the driver of the waste collection vehicle. This is consistent with other data sets reviewed by SWANA, that reveal a substantial number of collisions with other vehicles involving waste collection vehicles are the fault of the other driver. SWANA recognizes that a determination of “fault” in incidents may take weeks, if not longer, and that this may not be consistent with the BIC’s interest in obtaining all “incident” data within ten days.

In Section 2-05(a)(2), there appears to be some inconsistency concerning the scope of the reporting obligation. The first half of the provision imposes the reporting obligation on “[a]n applicant for a license or a licensee,” but the second half of the provision applies it to “such licensee, registrant or applicant....” (emphasis added). It appears that the word “registrant” may have been inadvertently omitted from the first half of the provision. However, a careful review of 2-05(a)(3)-(5) reveals that the proposed reporting obligations set forth therein are imposed solely upon licensees (and applicants for a licensee), not registrants.

Thus, it is unclear whether the BIC intended for 2-05(a)(2) to apply to only licensees, and the inclusion of the word “registrant” was a mistake, or whether it intended for 2-05(a)(2)-(5) to apply equally to licensees and registrants. SWANA believes that if the BIC is serious about improving public safety relating to waste collection vehicles under its jurisdiction, it should impose these requirements on both licensees and registrants. A registrant’s truck operates on the same City streets as a licensee’s truck, and poses the same risks to pedestrians, drivers, and others. The recent [fatal incident](#) on Central Park West, in which an Australian tourist riding a bicycle was struck and killed by a registrant’s truck, is a tragic reminder of that fact.

SWANA recommends that 2-05(a) be revised to include registrants and applicants for registration.

SWANA appreciates the opportunity to provide these comments, and to continue assisting the BIC in making the solid waste industry in New York City safer. If you have any questions, please do not hesitate to contact me at 240-494-2254 or dbiderman@swana.org.

Sincerely,



David Biderman
CEO & Executive Director



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**Testimony of Melissa Iachan, Senior Staff Attorney,
New York Lawyers for the Public Interest,
Regarding Proposed Rules to Improve Safety of the General Public
Business Integrity Commission
September 17, 2018**

My name is Melissa Iachan and I am a Senior Staff Attorney in the Environmental Justice program at New York Lawyers for the Public Interest (“NYLPI”). NYLPI is a member of Transform Don’t Trash New York City, a coalition of labor, community and environmental groups advocating for fundamental reform of the broken commercial waste system. NYLPI strongly supports the adoption of the proposed rules as a modest but important step towards holding private hauling companies accountable for their poor safety practices, the deteriorating conditions of their truck fleets, and unreasonably long hours and routes required of drivers and helpers in this dangerous industry.

Given the troubling increase in the amount of serious and fatal crashes involving commercial haulers in recent years, we are particularly encouraged that these rules will require waste companies to report all crashes, driver license suspensions, and traffic law violations to BIC, which can then take these safety indicators into consideration when making a determination as to whether a company has the requisite good character, honesty and integrity to operate in our City. We add that we would like to see additional employee-specific requirements added to the record-keeping and/or reporting obligations imposed on haulers under Title 17 of the Rules of the City of New York, including but not limited to the maintenance and provision of employee time sheets.

The promulgation and adoption of these rules alone will not be enough to alter the dangerous inefficiency and race-to-the-bottom atmosphere of the

private carting system; if there is no way to enforce or hold haulers accountable for failing to comply with them, there is no point in publishing these rules at all.

Currently, despite many existing rules requiring a litany of obligations on haulers in order for them to receive licenses and operate in the City—including the requirement to disclose all employees to BIC within ten days of hire --we see little enforcement of these rules, and few violations being issued for failing to adhere to them. Further, there is ample evidence that the already existing record-keeping and reporting requirements for trade waste haulers are actually violated routinely, despite not seeing haulers issued serious violations or denials for such behavior. For example:

- The 2016 Private Carting study performed for DSNY and BIC by Buro-Happold Engineering found that trade waste licensees reported an unrealistically small number of helpers. This is evidence of widespread “off-the-books” employment of casual laborers or “day laborers” as helpers, which undermines safety practices and makes these workers particularly vulnerable to wage theft, exploitation, and being unprepared to handle unsafe situations—which can lead to tragedy, as we saw with Mouctar Diallo.
- BIC’s investigation of Sanitation Salvage also revealed regular, systemic failures by the company to disclose employees—and yet this modus operandi went on for years without repercussion. We believe non-disclosure of employees is widespread in the waste industry, and that enforcement of existing and potential new rules—such as requiring regular submission of employee time sheets and payroll—is a necessary measure.

However, we want to stress that even with the adoption *and* enforcement of more robust safety rules, the commercial waste industry remains in dire need of much more significant improvements: Only the more fundamental reform and increased enforcement leverage enabled by the upcoming

transition to a zoned commercial waste system will ensure that waste companies adopt safer, more efficient, and environmentally sound operating practices. Under the zone system, the City will execute long-term contracts with the hauler or haulers selected to serve each commercial district, giving BIC and DSNY much greater leverage to negotiate and enforce safety, environmental, and equity standards.

In conclusion, we at NYLPI voice our full-throated support of the proposed rules, but encourage BIC to do much more to raise the standards of operation in this dirty and dangerous industry. We look forward to continuing to work together with BIC, DSNY, the Mayor's office and City Council to ensure that the upcoming zoning plan truly implements the holistic and transformative reforms that we believe are necessary to actually make this industry safe for all its workers and everyone on our streets.

Comments Regarding Proposed Regulations Issued
Pursuant to Section 16-504
of the Administrative Code of the City of New York
to Improve the Safety of the General Public
Submitted to the Business Integrity Commission
By New Yorkers for Responsible Waste Management¹
Kendall Christiansen, Executive Director²
Monday, September 17, 2018

New Yorkers for Responsible Waste Management (NYRWM) respects and appreciates the efforts of the Business Integrity Commission (BIC) to propose new laws and updated regulations with respect to establishing best practices for all of BIC’s licensees and registrants, pursuant to its stated authority by the Charter of the City and New York and the city’s Administrative Code.

To date, all of the industry associations have been supportive and appreciative of BIC’s leadership in making safety a top priority for all concerned – including facilitating discussions with colleagues at other city agencies, like DSNY, DOT and the NYPD, as well as collaborating on producing a series of safety symposia, and a handbook of best practices.

This initial set of proposed regulations are generally thoughtful and appropriate; they speak primarily to requiring better recordkeeping, timely notification to BIC of various events involving other agencies as well as “crashes” of all types, and maintenance of policies and procedures that effectively integrate a wide range of compliance requirements into company practices. Others will speak to particular concerns that should be considered and resolved.

¹ New Yorkers for Responsible Waste Management is a consortium of locally-owned and operated companies licensed by the Business Integrity Commission to provide waste and recycling collection services to New York City’s commercial sector.

² Contact: Kendall@gaiastrategies.com; cell: 917.359.0725

Should they be adopted in a form similar to what is proposed, we expect that the industry's associations will work with our respective members to provide active guidance regarding compliance with any new requirements, and will work with BIC to produce guidance documents, workshops and other means of assisting the industry in meeting these obligations.

As the number and nature of these types of requirements expand, it should be understood that licensees must devote additional time and resources to compliance-related matters – which can increase administrative costs for licensees and registrants.

If it is not otherwise clear in BIC regulations, guidance should be provided as to the electronic maintenance of records and conveyance of them to BIC – including through electronic portals that enable real-time updates to company records.

Specifically, the maintenance of policies and procedures should be clear as to whether they need to be proactively provided to BIC or made available on a timely basis upon request.

For the sake of discussion, the collection of additional data of the type outlined by the proposed regulations begs at least two questions worthy of further review before they are finalized.

The first is the “harmonization” of new reporting requirements with those of other federal, state and local regulatory agencies so that compliance can be both simplified and more effective. That means adopting similar definitions of “crash” and other incidents, and utilizing the same reporting documents and processes.

In any event, the definitions should be meaningful and rational, and avoid sweeping up inconsequential information.

The second is the question of BIC's current capacity to receive, analyze and assess additional data of the types requested, given the presumption that they are requested for rational purposes not fully clear within the language of the proposed regulations.

If the purpose of the data collection exercise is to provide a better snapshot as to industry performance, the capacity to assess and issue reports should be considered, and to use those reports to benchmark industry performance. For example, similar to the CRASH report prepared by DCAS for city agency fleets, will reports be produced? Will new data be included in the Mayor's Management Report?

If, in fact, the purpose is to provide BIC with additional information related to the performance of individual companies – especially during license renewal processes, or under special circumstances outside of license renewal – the use of that information should be clearly explained and discussed.

The corollary is that due consideration should be given to privacy and other proprietary business information considerations regarding certain data that will be collected.

With respect to the insurance requirements, given that insurance matters require a comprehensive and timely understanding of an external market through which insurance is obtained, we respectfully suggest that BIC engage in a dialogue with knowledgeable experts regarding its proposals, and how to make them more effective in light of industry standards and requirements.

It has been suggested, for example, that liability insurance is typically sold in one million-dollar increments – making the proposed requirement for \$1.5 million non-standard and therefore compliance difficult.

Additionally, the insurance requirements as proposed need to take into account that some larger companies insure through other legal and appropriate means, including self-insurance and other types of risk-pools, which the existing and proposed language may not adequately recognize.

Overall, we strongly encourage an ongoing collaborative process for consideration of any new regulations, as well as proposed legislation – especially as various proposals are introduced by other concerned stakeholders.

As we have experienced with BIC over the past two years – both via the TWAB and the working group convened under the DSNY advisory board auspices - the industry’s commitment – nationally and locally – to improved standards, technologies and practices with respect to improving safety is considerable, but those mutual goals are best pursued and achieved when rational and thoughtful people work together, and not when safety becomes politicized and weaponized, or imposed by one party on another as part of a larger agenda.

As initially suggested, these proposed regulations should be considered in conjunction with the laws BIC will be proposing. The new laws should include ideas from other stakeholders, including industry, and focus on what is most likely to make an effective difference in actual safety of the general public and industry employees.

Finally, while we understand BIC’s focus on its licensees and registrants, consideration should be given to consistency as to how such reporting, performance and insurance standards are applied to other transportation-related businesses that operate with various city-issued licenses, including but not limited to school buses, tour buses, and delivery vehicles of all types.

Thank you for the opportunity to comment on these proposals.

Comments
of
Waste Connections
On the
Proposed Changes to Title 17
of the Rules of the
Business Integrity Commission
Related to Improve Safety of the General Public

Submitted to the
New York City Business Integrity Commission
Honorable Daniel D. Brownell
Commissioner/Chairman

By
Andrew Moss, Government Affairs Manager
Monday, September 17, 2018



WASTE CONNECTIONS
Connect with the Future

Waste Connections, respectfully submits the following comments regarding the Business Integrity Commission's ("BIC") proposed changes to Title 17 of the Rules and Regulations of the City of New York to add language to improve the safety of the general public.

Waste Connections is the only publicly owned and publicly listed company picking up waste and recyclables in New York City. In New York City, we proudly service 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 majority of our workers live and work in New York City. We operate multiple facilities in both 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. We are the safest waste and recycling company operating in New York City. In this spirit, we are happy to support the Commission's proposals for increasing safety reporting through these proposed regulations.

Waste Connections proposes the following modifications to the proposed regulations:

1. The proposed definition of "crash" in section one should be modified to exclude de minimus incidents. The currently proposed language is as follows:

"The term 'crash' means a traffic incident involving the impact of a vehicle with another vehicle, person or property. A crash includes, but is not limited to, those events referenced as 'incidents' and 'accidents' by the Vehicle and Traffic Law."

As currently written, every incident regardless of its outcome must be reported to the BIC. We propose adding the following language:

"The term 'crash' means a traffic incident involving the impact of a vehicle with another vehicle, person or property which results in damage to either party that is not de minimis in nature. A crash includes, but is not limited to, those events referenced as 'incidents' and 'accidents' by the Vehicle and Traffic."

Under this change, a situation where for example, a truck impacts another truck's mirror would not have to be reported to the BIC.

2. Section 2-05 (4) and (5) requires notification to BIC upon a violation by a driver. While we require drivers to inform us of any violations, we actually have no control whether the employee will in fact notify us. The current proposed language is as follows:

(4) An applicant for a license or a licensee must notify the Commission within ten (10) business days of the suspension or revocation of the driver's license of any person whose job duties include operating a vehicle on behalf of such applicant or licensee.

(5) An applicant for a license or a licensee must notify the Commission with ten (10) business days of all vehicle traffic summonses issued to such applicant or licensee as the lessee or owner of the vehicle or to any person while operating a vehicle on behalf of such applicant or licensee.

We propose the following changes:

(4) An applicant for a license or a licensee must notify the Commission within ten (10) business days upon learning of the suspension or revocation of the driver's license of any person whose job duties include operating a vehicle on behalf of such applicant or licensee.

(5) An applicant for a license or a licensee must notify the Commission with ten (10) business days upon learning of any ~~all~~ vehicle traffic summons issued to such applicant or licensee as the lessee or owner of the vehicle or to any person while operating a vehicle on behalf of such applicant or licensee.

3. Section 3, Paragraphs 4, 5 and 6 of subdivision (f) of Section 2-02 of Subdivision B of Chapter 1 of Title 17 needs to be changed to allow for the use of any combination of primary, umbrella or excess insurance policies to meet the proposed higher requirements.

4. Section 3, Paragraph 4 of subdivision (f) of Section 2-02 of subdivision B of Chapter 1 of title 17 should be changed so that the licensee is financially responsible for such deductible regardless of any deductible. The current proposed rule is:

The maximum deduction for such insurance shall be no more than fifty thousand dollars (\$50,000).

We propose that the language be modified as follows:

A licensee shall demonstrate, through its submitted financial filings to the Commission, that it is financially capable for the payment of any and all deductibles or self-insured retentions from insured claims under its maintained policies.

5. There appears to be a conflict in the proposed regulations regarding the \$1,000 reporting threshold. While Section 1-12(b) contains a \$1,000 reporting threshold, Sections 2-05 (2) and (3) do not contain any limitation. Thus, the regulations appear to conflict.