



# sanitation

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**Testimony of  
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New York City Department of Sanitation**

**Hearing before the New York City Council  
Committees on Sanitation & Solid Waste Management and Small Business**

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**Preparing NYC Businesses for Commercial Waste Zones  
Intros. 493 and 933**

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Good morning, Chair Nurse and members of the City Council Committees on Sanitation and Solid Waste Management and Small Business. My name is Jessica Tisch, and I am Commissioner of the New York City Department of Sanitation.

I am joined today by Javier Lojan, newly appointed First Deputy Commissioner, and Gregory Anderson, Deputy Commissioner for Policy and Strategic Initiatives. Thank you for the opportunity to testify on DSNY's commercial waste zones program.

In 2019, after years of advocacy and to great fanfare, New York City enacted a sweeping reform of the commercial waste industry, the patchwork of private waste haulers who pick up refuse, recycling, and compostable material from every single one of the City's businesses.

This reform, enacted in Local Law 199 of 2019 ("Local Law 199") and referred to as commercial waste zones, introduces a new regulatory framework for this industry. In this approach, there will be no more than three haulers serving each of 20 zones across the city, down from dozens of haulers in some neighborhoods today. This program will also deliver meaningful upgrades in safety, worker protection, emissions standards, and public reporting that will yield real, tangible improvements for neighborhoods across New York City. Commercial waste zones mean fewer trucks, more safety, cleaner air.

I am committed to implementing this program and, more importantly, doing it right. The Department has spent eight years working with stakeholders, carters, consultants, advocates, and the City Council to create the framework for this program. I have had the privilege of coming into this process at the implementation phase. It is my honor and responsibility to push this over the finish line.

Today, we have made major steps forward in the Request for Proposals (“RFP”) process to select which carters will service which zones. However, this is not something we can implement overnight or with the flick of a switch.

The system we are putting in place should be with New York City for decades to come.

We have one chance to do this, and it’s worth taking the time to ensure that we get it done right.

Businesses in New York City generate 20 million pounds of waste a day, seven days a week. If you get that wrong, that’s called a public health crisis.

My team and I together have decades of experience implementing some of the most complex and impactful new programs in the realms of cleanliness, service delivery, public health, policing and technology that this city has seen. Together, we have managed billions worth of complex services contracts. We have the tools to execute on commercial waste zones, and we will.

### **Background on Commercial Waste Zones**

Local Law 199 began based on years of advocacy from a coalition of labor, environment, and safety advocates calling for reform of the dangerous and dirty commercial waste sector. These advocates have paved the way for this program for over a decade, first pushing the de Blasio Administration to study the industry in 2015 and later to announce a full-fledged plan for commercial waste zones in 2018. It’s only because of their work that we can have this conversation today.

The commercial waste zones program aims to bring order to a chaotic system, one where hundreds of private carting trucks crisscross neighborhoods across New York City every night. Today, one truck may service a shop in the Bronx, a restaurant in Queens, and a grocery store in Brooklyn, driving over 100 miles over the course of as many as 12 hours, creating unnecessary truck traffic, safety hazards and pollution. And on one commercial corridor, more than a dozen different trucks may drive up and down the block on a given night.

The commercial waste zones approach brings order and accountability to commercial waste. By allowing up to three carters to service each of 20 zones, the program will reduce the overall truck traffic associated with commercial waste collection by 50 percent. In dense commercial districts and around waste transfer stations, these reductions will be even more pronounced. Reductions in truck traffic will also yield meaningful improvements in public and worker safety – shorter routes mean less driver fatigue and fewer incentives to cut corners – and will reduce greenhouse gas and air pollution emissions.

Introducing this new regulatory approach also allows the City to achieve meaningful improvements in several other areas. New worker training and safety requirements will ensure that private sanitation workers are properly equipped for the dangerous job they carry out each night. The new system will also nearly double the commercial diversion rate for recyclables and organic waste by requiring that carters actually provide these services and offer customers

incentives to recycle. And it will improve transparency and quality of service for the more than 100,000 businesses large and small that rely on commercial waste collection services.

This program will improve quality of life in City neighborhoods through new accountability and reporting tools that will allow DSNY to hold bad actors accountable. For the first time, we will have a clear picture of how the system is operating and which carters serve which customers, as well as real-time location data on commercial trucks. This is a game changer for enforcement and something that has proven instrumental for internal operations management within DSNY.

### **Lessons from Los Angeles**

New York City is not the first city to take this approach. Franchised collection is common in smaller cities and towns across the United States, mostly in places where dumpster collection is the norm. Los Angeles implemented a similar zoned system in 2017, creating 11 zones each with just one carter authorized to service commercial and multi-family customers in that zone.

The initial implementation of the Los Angeles program was nothing short of a disaster. Prices more than doubled for some customers, who submitted more than 6,000 service complaints in just one month in December 2017, and the program manager called it “six months of hell.”<sup>1</sup> The City Council and sanitation department faced lawsuits and calls to scrap the program entirely.

Los Angeles spent the next two years renegotiating contracts, changing requirements, and working with both customers and carters to stabilize the system. While that program now works more smoothly, we certainly do not want to repeat these mistakes in New York City.

DSNY learned a few important lessons from Los Angeles.

First, we must be keenly aware that massive downstream price increases for customers will be the death knell for commercial waste reform. Los Angeles created ambitious targets that it expected carters to meet very quickly, rather than phase in over time. They did not put in place thoughtful contracts at the outset of the program. Carters took advantage of a new list of fees to drive up customer bills. Los Angeles also looked at the commercial waste sector as a new source of city revenues, charging a franchise fee of ten percent of revenues. As I will describe, we have taken several steps to reprioritize low prices in our approach.

Second, the Los Angeles program eliminated any element of choice for businesses by creating monopolistic, exclusive zones. DSNY has designed a non-exclusive model with multiple carters authorized to service customers in each zone. This creates competition amongst carters in each zone and gives customers the ability to pick the carter that provides the price and service that works best for them.

Third, Los Angeles implemented the entire program at once, transitioning every customer overnight. Carters did not have a clear picture of which customers they were expected to service, and some customers went weeks without trash pickup. DSNY plans to implement commercial

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<sup>1</sup> Cole Rosengren, “Los Angeles had a rocky commercial waste zone rollout but is seeing results. What’s in store for New York?” *Waste Dive*, September 19, 2022, <https://www.wastedive.com/news/new-york-commercial-waste-zone-los-angeles-transition-recycling-labor/629021/>.

waste zones in a phased rollout, starting with just one pilot zone, to have time to conduct education to customers and ensure they have time to select a new carter that works for them.

### **RFP Process**

Since the enactment of Local Law 199, DSNY has worked to implement the commercial waste zones program. The Department moved quickly to begin rulemaking and start work on an RFP. However, the COVID pandemic and associated stay-at-home orders decimated the commercial waste sector, reducing waste volumes and revenues by 50 to 70 percent. At the time, DSNY paused the implementation of this program to allow the industry to stabilize and begin to recover.

In recognition of the ongoing impact of the pandemic on the City's economy, DSNY decided to take a phased approach to the RFP required by Local Law 199 to select carters to provide service in each zone. In November 2020, exactly one year after the law's enactment, the Department issued the first part of the RFP to collect information from potential awardees on their existing operations and compliance history. In June 2021, DSNY announced that 50 carters had submitted responsive proposals for Part 1 of the RFP.

In November 2021, the Department issued the second part of the RFP to collect more detailed pricing and technical proposals along with updated financial and compliance data. To meet the laundry list of requirements in Local Law 199, this RFP was incredibly detailed. Carters were expected to submit plans related to customer service, zero waste, health and safety, emergency operations, waste management, air pollution reduction, subcontracting, and outreach, along with detailed financial, business and compliance information covering several years of operations.

This is important and valuable information. However, it means hundreds or thousands of pages of submissions from each carter, including information that has to be validated against previous submissions, publicly available data, and other sources.

Looking at the experience from Los Angeles and other systems, we know that commercial waste regulations face two existential threats that must be managed: massive downstream increases in cost to businesses and litigation that stalls implementation. When I started as Sanitation Commissioner last April, I immediately took a deep dive into the commercial waste zones program and RFP with these threats in mind.

**I cannot guarantee that those challenges will not affect the implementation of this program. But I am doing everything in my power to mitigate any challenges to and arising from the implementation of this program that could threaten decades' worth of advocacy.**

On price, we dug into previous analysis on new costs associated with increased regulation. We also made adjustments to the RFP evaluation criteria to give price the highest scoring weight, sending a clear message to potential proposers that we are serious about keeping price under control. And we realigned incentives for recycling and organics with a real-world understanding of the costs of providing those services. While I cannot guarantee that these changes will allow us to entirely avoid price increases, I am confident that we took reasonable steps to work toward that goal without sacrificing commitments to safety and worker protection.

On potential litigation, we have emphasized creating a fair and competitive process that follows the letter of the City's procurement rules and procedures. Following an initial review of the RFP responses, we issued a request for Best and Final Offers ("BAFO"), a best practice in procurement to ensure you are getting the highest quality service for the best price. This allowed proposers to have another chance to refine their proposals to ensure they submit the full set of documents required and meet the requirements of Local Law 199. This also ensures we have as many proposers as possible move into the evaluation phase, increasing competition to keep price low.

Since the due date for the BAFO on November 10, 2022, we have conducted a careful, painstaking review of the submissions, which number in the dozens and can exceed 1,000 pages each. DSNY completed its review of the proposals for completeness and did not eliminate any proposers for technical errors or fixable flaws. The evaluation committee for the RFP has begun reviewing the proposals, a substantial milestone in the procurement process.

Going forward, there are several steps – evaluation and scoring of the proposals by the committee, negotiating contracts with the selected awardees, and approval of the contracts by oversights and the Comptroller. Each of these steps, for just one contract, typically takes months, not weeks. Here, we are talking about 65 contracts.

When complete, this will represent the single biggest change to the City's waste management efforts since the opening of the marine transfer stations. Just one contract for waste export from the marine transfer stations, from RFP to award, took a full 2 years and 7 months.

When DSNY released Part 2 of the RFP at the end of the last Administration in November 2021, it indicated that implementation was expected to begin in "Early 2023." Given the complexity of the RFP and the amount of care and attention required to complete this process, this timeline was unrealistic.

I am committing to you today to give you frank, realistic expectations of timeline and process going forward. Based on where we stand now, we expect that the first pilot zone will be implemented in the second half of 2024. I reserve the right to adjust that timeline, but I assure you that I will provide regular updates as the procurement rules permit.

### **Implementation**

Now, I will overview our implementation efforts.

Within the Bureau of Commercial Waste, staffing has increased from 13 to 17 since I started last April, and we have another three positions actively posted. This will bring us to a total of 20 civilian staff dedicated to this program. We added ten additional Sanitation Police Officers as part of our most recent academy class that graduated earlier this month, and these officers will be dedicated to commercial waste enforcement as soon as the program begins implementation. This means staffing dedicated to commercial waste zones has more than doubled.

We have also brought on a new Executive Director, Frank Marshall, who has decades of experience in program management. He's here in the room today, but he is not able to join us at the table today given his role in evaluating the proposals. As we move forward, we will continue to assess staffing needs for implementation and ongoing program management and work with OMB to meet those needs.

But this isn't about the work of just one bureau. We are taking a Department-wide approach to this program.

We have built a Program Management Office to bring executive-level leadership and experienced project management to this complex, agencywide programs. This team has put in place new systems and procedures to keep these programs on track, aligned with our strategic priorities, and on budget.

We are bringing talented IT resources to design the data management systems that will form the backbone of our contract management and enforcement. We are working to fix a system that, while built with good intentions, was not initially fit for purpose. The team is creating a system that will be easy for carters to use. This is the first time we will have the opportunity to collect this data, and we need to do it right.

Most importantly, we have created a centralized outreach team led by an experienced Assistant Commissioner for Outreach to create and implement strategies for outreach around agency priorities, including setout times, organics and commercial waste.

Ahead of the implementation of this program, we will engage businesses across the city through a strategic zone by zone approach. We aim to reach over 100,000 business owners through in-person canvassing, phone calls, and direct mail to educate and assist customers during the zoning transition period.

We are securing a vendor to conduct the door-to-door canvassing in each of the new zones. That vendor will be in place long before implementation starts next year. The outreach associates canvassing efforts will include all types of commercial establishments, including office buildings, retail, restaurants, industrial uses, hotels, and hospitals, among others. In addition to the direct outreach to business owners, we will engage community partners including BIDs, trade associations, and civic associations as well as our partners in government through trainings, presentations, email blasts and more to amplify our multipronged awareness campaign. Our outreach strategy will emphasize language access and providing simple, clear information to businesses in the language and format that works best for them.

As I mentioned, we expect to begin the implementation with one pilot zone in the second or third quarter of 2024. Outreach will begin in the months preceding implementation and will continue through the full four-month transition period. Additional phases of implementation will follow the first pilot zone, and we expect the full implementation to take about two years.

**Intro. 493**

Finally, I'll briefly address the two bills on the agenda for today's hearing.

Intro. 493 would require the Department to establish a plan for accepting commercial solid waste at city-owned marine transfer stations and to report annually on the implementation of that plan.

The City's 2006 Solid Waste Management Plan anticipated that the City marine transfer stations ("MTSs") would potentially be used for commercial waste, where surplus capacity exists. Only two transfer stations have additional available capacity – the E. 91<sup>st</sup> Street and Southwest Brooklyn MTSs. There are costs that come with this approach, both for DSNY and for commercial carters. To accept commercial waste, we would have to add additional City and vendor staff to process waste on a third shift overnight.

In addition, our export contracts, with substantial built-in redundancy and an emphasis on rail and barge export, are not cheap. We have to acknowledge that our facilities may not be competitive with private transfer stations in New York City and the larger metro area. Some carters also operate their own transfer stations, creating vertical integration that can reduce the cost of providing service for businesses.

That said, we have included the MTSs as part of the commercial waste zones RFP. We asked every proposer to indicate if they are interested in using these facilities for waste disposal. As we evaluate the proposals, we will have a better sense of demand for commercial waste disposal at the MTSs. We think that working through the RFP process is the right approach to this issue going forward.

### **Intro. 933**

Intro. 933 would require DSNY to create a working group that would convene no later than two months following the issuance of awards to selected carters. The working group would be comprised of no more than 20 members, including the Sanitation Commissioner, the Chair of the Business Integrity Commission, the Chair of the City Council Committee on Sanitation and Solid Waste Management, at least eight designated carters, and at least eight appointees by the City Council.

Stakeholder engagement has been a fundamental part of the development of this program to date. In developing the implementation plan, DSNY met with more than 100 different stakeholders representing business groups, labor, transportation safety advocates, environmental advocates, and industry representatives. The legislation, environmental review, and rulemakings have each been public, participatory processes that together have engaged hundreds of stakeholders and members of the public. During the RFP phase, our engagement and communications with stakeholders has been limited by rules and best practices for City procurements. All communications must be equal and fair to ensure no preferential treatment. As soon as the procurement concludes, we expect to resume regular engagement with appropriate stakeholders ahead of the implementation of this program.

However, I cannot support this bill in its current form. The inclusion of designated carters in the working group would present legitimate concerns about favoritism and access that could threaten

the implementation of the program. The carters on the working group would have both perceived and actual preferential access to members of the Department and discussions about the implementation of the program and put it in legal jeopardy. As DSNY will be both the contract manager and regulator under this program, the Department should determine the best way to engage with vendors to avoid any favoritism and create a fair program for all vendors.

In conclusion, I want to assure the Council once again that we are fully committed to implementing commercial waste zones, and we are committed to getting it right. We will take the time and dedicate the resources needed to achieve the program goals and creating a cleaner, safer, more sustainable commercial waste collection system. Thank you for the opportunity to testify today, and my colleagues and I are now happy to answer your questions.