

## **New York City Department of Sanitation**

### **Notice of Adoption of Rule Relating to Commercial Waste Zone Records and Reporting Requirements**

NOTICE IS HEREBY GIVEN in accordance with the requirements of Sections 1043 of the New York City Charter and pursuant to the authority vested in the Commissioner of the Department of Sanitation by sections 753 and 1043(a) of the New York City Charter, and Title 16-B of the New York City Administrative Code that DSNY adopts amendments to its rule relating to commercial waste zone records and reporting requirements. DSNY published a Notice of Opportunity to Comment on the proposed rule in the City Record on May 6, 2024. On June 10, 2024, DSNY held a public hearing on the proposed rule.

#### **Statement of Basis and Purpose of Proposed Rule**

In 2019, New York City enacted Local Law 199 requiring the establishment of a new program for the collection of commercial waste. The program, known as the commercial waste zones program, is a collection system designed to provide high-quality, low-cost service to New York City businesses while advancing the City's zero waste and sustainability goals by limiting the number of private carters that can operate in each zone. Its implementation is currently underway. 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." Pursuant to a request for proposals, three private carters have been selected by the Department to serve customers within each commercial waste zone and five carters have been selected to provide containerized commercial waste collection services citywide. The selected carters will be referred to as "Awardees."

The request for proposals process identified the carters that can provide high quality service at competitive prices. The resulting contracts with the Awardees include standards for pricing, customer service, safety, environmental health, and requirements to promote the City's commitment to recycling and sustainability.

Local Law 199 contains certain records and reporting requirements, but it also requires Awardees to comply with any rules promulgated by the Department pertaining to the reporting of information about the collection of commercial waste. These requirements will ensure that Awardees provide the information that the Department deems necessary to further the goals of the law.

Examples of new reporting requirements include reports on:

- Waste generation estimates;
- Rates charged to customers;
- Warnings or violations issued;
- Workplace injuries and accidents; and
- Training records.

In response to comments received from the public, the Department made several changes to the proposed rule. Such changes include those relating to the time periods in which certain violations or conditions must be reported to the Department. These relate to health and safety issues and certain conditions relating to customer behavior. Additionally, the Department clarified that any telematics information, including odometer readings, must be reported in real time.

DSNY's authority for these rules is found in Section 753 and Section 1043(g) of the New York City Charter and Title 16-B of the New York City Administrative Code.

New material is underlined.

[Deleted material is in brackets.]

Asterisks (\*\*\*) indicate unamended text.

“Shall” and “must” denote mandatory requirements and may be used interchangeably in the rules of this Department, unless otherwise specified or unless the context clearly indicates otherwise.

Section 1. Subdivision (a) of section 20-01 of Title 16 of the Rules of the City of New York is amended to read as follows:

(a) The following terms have the same meanings as such terms are defined in § 16-1000 of the Administrative Code: ["awardee",] “commercial waste”, “commercial waste zone”, “commissioner”, “containerized commercial waste”, “department”, “micro-hauler”, "organic waste", "trade waste".

§ 2. Subdivision (b) of section 20-01 of Title 16 of the Rules of the City of New York is amended by adding two new definitions, to be placed in alphabetical order, to read as follows:

Agreement. The term “agreement” means an agreement entered into between the Department and an awardee pursuant to §16-1002 of the Administrative Code.

Awardee. The term “awardee” means an entity with whom the Department enters into an agreement for the provision of commercial waste collection services pursuant to Section 16-1002 of the Administrative Code, including entities that have been selected for commercial waste collection services within one or more zones and entities that have been selected to provide citywide containerized commercial waste collection services, or both.

§ 3. Subdivision (b) of section 20-34 of Title 16 of the Rules of the City of New York is amended to read as follows:

(b) Dump tickets and other delivery receipts.

(1) Each time a designated carter or micro-hauler delivers commercial waste from a customer to a waste transfer station, processing facility or any other location where such waste is dumped directly from the commercial waste vehicle in which such waste was collected from such customer, such designated carter or micro-hauler must obtain a dump ticket, delivery receipt or other written record documenting such delivery, including the amount and type of commercial waste delivered.

(2) Such records must be retained by the designated carter, micro-hauler and the awardee for five years, and must be made available for inspection by the Department. In addition, dump ticket data, including but not limited to tonnages, disposal date and time, and type of commercial waste must be provided to the Department on a monthly basis and in accordance with the provisions of § 20-62.

§4. Subdivisions (g), (h) and (i) of section 20-34 of Title 16 of the Rules of the City of New York are relettered as subdivisions (h), (i) and (j), and a new subdivision (g) is added, to read as follows:

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(g) If an awardee arranges to dispose of its commercial waste at a transfer station with which it does not have a written agreement, such as a facility used for contingencies, such arrangement must provide that such transfer station report to the awardee all of the information required by subdivisions (d)(2)(iii), (e)(2)(iii) and (f)(2)(iii) of this section.

[(g)] (h) Upon request by a customer, an awardee must furnish to such customer a copy of any such agreement required by this section. A copy of such agreement must also be provided to the Department upon request.

[(h)] (i) Nothing in this section shall relieve the awardee from meeting any additional obligation to collect, maintain and report information regarding the final disposal locations, final processing locations, final uses, or final reuses of commercial waste collected by such awardee as set forth in this title or the agreement between such awardee and the Department entered into pursuant to §16-1002 of the Administrative Code.

[(i)] (j) *Penalties.* Any person who violates any provision of this section will be liable for civil penalties provided for under paragraph (1) of subdivision (b) of § 16-1015 of the Administrative Code. Paragraph (1) of subdivision (b) of § 16-1015 provides for a civil penalty in the amount of \$2,500 for the first violation, and, for subsequent violations that occur within a two-year period of any previous violation, \$5,000 for the second violation and \$10,000 for any subsequent violation.

§5. Subdivisions (b), (c) and (d) of section 20-56 of Title 16 of the Rules of the City of New York are amended to read as follows:

(b) The telematics system must transmit vehicle location information to both the awardee and the Department in real time, via cellular connection. Awardees must also make vehicle location information available to the Department upon request.

(c) The telematics system must transmit in real time via cellular connection the following information to the awardee and the Department:

- (1) Vehicle speed;
- (2) Each instance when the vehicle travels at a speed above the applicable speed limit;
- (3) Each instance of sudden acceleration by the vehicle;
- (4) Each instance when the vehicle engages in a hard stop; [and]
- (5) Vehicle miles traveled[.]; and
- (6) Odometer readings.

(d) [(1)] On a monthly basis, the awardee must submit to the Department the information collected pursuant to paragraphs two through [five] six of subdivision c of this section for each commercial waste vehicle, disaggregated by vehicle and, where applicable, by zone, for the previous month.

[(2) Data collected pursuant to paragraphs one through six of subdivision c of this section shall be made available to the Department for inspection upon request.]

§6. Subchapter D of Chapter 20 of Title 16 of the Rules of the City of New York is amended by adding a new section 20-57 to read as follows:

§ 20-57 Worker Safety Training Requirements

(a) All workers must receive safety training as outlined in § 16-1008 of the Administrative Code.

(b) Subsequent annual training, as required by § 16-1008(e)(1) of the Administrative Code, must consist of no less than 8 hours for vehicle operators, laborers and helpers who are directly assigned to the collection, removal, transport or disposal of trade waste. For all other workers, such subsequent annual training must consist of no less than 2 hours.

§7. Chapter 20 of Title 16 of the Rules of the City of New York is amended by adding a new subchapter E to read as follows:

**Subchapter E: Records and Reporting**

§ 20-60 Required records

(a) Each awardee must generate or collect the records required by this section and, in accordance with applicable law and upon receipt of appropriate notice, must provide them to the Department in the form, manner and frequency specified by the Department, by zone, for each awarded zone, or citywide, as applicable.

(b) Such records must be maintained in accordance with the provisions of § 20-61 and must be retained for a period of five years, except where otherwise specifically provided by these rules, Title 16-B of the Administrative Code, or the awardee's agreement.

(c) Each awardee must use the records required by this section, and other materials as necessary, to create reports as required in § 20-62.

(d) Each awardee must generate, collect, and provide records in accordance with the provisions of this subchapter on behalf of its designated carters and subcontractors, if any or cause such designated carters and subcontractors to generate, collect, and provide such records, as applicable.

(e) For purposes of this subchapter, the term "records" includes data, records, books, documents and other evidence in electronic as well as hard copy versions.

(f) Nothing in this subchapter precludes the imposition of additional requirements related to records, retention, maintenance or reporting pursuant to the awardee's agreement.

(g) Any person who knowingly makes a false statement or who knowingly falsifies or allows to be falsified any certificate, form, map, report or other document in connection with this Chapter shall be guilty of an offense and upon conviction thereof shall be punishable by a fine or imprisonment pursuant to section 10-154 of the New York City Administrative Code.

(h) Each awardee must generate or collect records to include the following:

(1) Data collected by telematics systems installed on commercial waste vehicles, in accordance with the requirements of § 20-56. All data and reports required by § 20-56 must be collected and transmitted directly to the Department in real time. Such data collected must be retained for the term of the awardee's agreement;

(2) Waste generation estimates or waste characterization studies when performed pursuant to any commitment in such awardee's zero waste plan;

- (3) Rates charged to customers, broken down by waste stream, including customer identification number, customer name, and customer address;
- (4) Investments in vehicles, facilities or infrastructure, both sustainable and non-sustainable;
- (5) Warnings or violations issued by local, state or federal agencies for violating local, state or federal law, including any responses to and dispositions of such warnings or violations;
- (6) Workplace injuries and accidents, including motor vehicle accidents, which must include all of the following information, as applicable, except any confidential medical information protected by the Americans with Disabilities Act or other federal, state, or local law:
- (i) Date and time of incident;
  - (ii) Location of incident;
  - (iii) Driver name and license plate number;
  - (iv) Garage of disposal facility location;
  - (v) If there are injuries, including any fatalities, how many of each;
  - (vi) If there was a 911 call made, and if yes, the name of the caller, if known, and the approximate time that the call was made;
  - (vii) List of all emergency departments that responded to the incident;
  - (viii) Any and all available reports or documents regarding the incident received by the awardee, as well as the names and identification numbers of all responding emergency personnel, if known;
  - (ix) A concise narrative summarizing the incident, actions taken and the resolution; and
  - (x) Copies of all documentation about the incident required to be filed pursuant to federal, state or local laws;
- (7) Periodic training records evidencing training in accordance with the provisions of § 16-1008 of the Administrative Code. For each such training, the records must include the names of all vehicle operators, laborers, helpers, mechanics, supervisors, managers, and all other people employed by the awardee, the name of the training provider, the names of the workers who received the training, the date or dates of the training, the type of training received by each worker, the language in which such training was provided, and a record of the issuance of a safety training card evidencing completion of such training, which card must contain the name of the worker, the dates of the training, and the type of training;

(8) Emergency action plan detailing procedures to be deployed in emergency situations including fires, evacuations, spills or weather emergencies and addressing continuity and restoration of service;

(9) Records provided by a waste transfer station that document the disposal of commercial waste, records about the final processing location, final disposal location, final use or final reuse of all commercial waste, and records about the mode of transport, each as set forth in §20-34 of this chapter;

(10) Contracts between awardees, designated carters and subcontractors, if any;

(11) Written service agreements with all customers and consolidated monthly bills, including for those customers assigned to an awardee by the Department, which must include the additional mailing requirements pursuant to §20-26(e)(2) of this chapter;

(12) Copies of commercial waste generation audits pursuant to the awardee's zero waste plan or agreement;

(13) Records demonstrating utilization of programs or resources of agencies designed to promote employment opportunities for New York city residents, if applicable;

(14) In the event of a change in control of an awardee, lists of eligible employees and all required notices, preferential hiring lists, written verification of any offer of employment and performance evaluations, each as set forth in §16-1006 of the Administrative Code. Such list must be retained for a period of three years; and

(15) Other records, as specified by the Department.

(i) Provision of records to the Department upon request. Upon request of the Department, awardees must provide to the Department any records required to be generated or collected pursuant to this section as well as any other materials required pursuant to the awardee's agreement, in accordance with applicable law and upon receipt of appropriate notice. Such records and materials must be provided within 5 business days of the Department's request, in the form and manner specified by the Department. If the awardee requests additional time to comply based upon demonstrated need, the Department may extend the response period.

§ 20-61 Maintenance and delivery of records.



(a) Digital format required. All records listed in § 20-60 shall be properly maintained and delivered to the Department in digital format. Electronic copies must consist of computer readable data submitted in any standard interchange format which the Department may reasonably request. Nothing herein precludes the Department from requiring printed materials in lieu of or in addition to those provided in electronic or digital form.

(b) Non-digital records. Any data or records which do not originate in digital or electronic form, such as paper records, must be scanned into a digital format by the awardee within six months of generation.

(c) Backup required. Data or records originating in digital or electronic form, as well as scans of data or records not originating in digital or electronic form, must be backed up at least every six months.

#### § 20-62 Reporting requirements for awardees and micro-haulers.

(a) Awardees. Each awardee must generate and submit the following required reports, notifications or certifications to the Department in a timely manner. Such reports, notifications and certifications must be provided in the form, manner and frequency specified by the Department. Nothing in this section precludes the imposition of additional requirements related to reporting, notification or certification pursuant to Title 16-B of the Administrative Code, other provisions of these rules, or the awardee's agreement.

(1) Waste generation estimates and waste characterization studies, if any, shall be the subject of a report submitted on February 1 following the final implementation date, and annually thereafter;

(2) Collection route data must be submitted monthly following the final implementation date;

(3) During the applicable transition period, the following must be reported, in accordance with the requirements of the awardee's agreement:

(i) Customer register, on a daily basis;

(ii) Notification of completion of transition period deliverables as required by the agreement; and

(iii) Additional reporting as required by the Department.

(4) Following the final implementation date, changes in customer registers must be submitted weekly. In addition, a report showing the rates charged to customers in the previous calendar year, broken down by waste stream, including customer identification number, customer name, and customer address must be submitted on February 1 following the final implementation date, and annually thereafter, and each such report must also discuss general trends and reasons for changes in rates, if rates changed during the calendar year;

(5) Following the final implementation date, investments in vehicles, facilities or infrastructure, both sustainable and non-sustainable, shall be the subject of a report submitted on February 1 following the final implementation date, and annually thereafter; and such report must discuss progress made to date toward advancing the city's zero waste and sustainability goals;

(6) Commencing upon the implementation start date, warnings or violations issued by local, state, or federal agencies for violating local, state or federal law must be submitted monthly, except that environmental, health, and safety violations, including but not limited to violations issued by the Department of Environmental Protection (DEP), Department of Environmental Conservation (DEC), Environmental Protection Agency (EPA), Occupational Safety and Health Administration (OSHA), New York City Police Department (NYPD), the Department of Transportation (DOT), and the New York State Police, must be submitted immediately, and the resolution status of each shall be the subject of a report submitted on February 1 following the implementation start date, and annually thereafter, which report must include a description of the steps taken to resolve each such warning or violation, as well as the amount of any penalties imposed by the issuing agency and payment status;

(7) Commencing upon the implementation start date, workplace injuries, as well as injuries resulting from activities related to commercial waste removal, whether such injured person is an employee, consultant, customer, member of the public, or other, must be reported immediately. Injuries and accidents shall be the subject of a report submitted on February 1 following the implementation start date, and every six months thereafter. The report must list all injuries and accidents during the applicable period, broken down by the type of incident and the type of injuries, as well as any actions taken by the awardee to prevent future injuries and accidents;

(8) Prior to the implementation start date, the names and job descriptions of employees who are subject to the training requirements of § 16-1008 of the Administrative Code, and the dates upon which such training was received, along with a certification that the requirements of § 16-1008 have been met, must be submitted within 180 calendar days after the execution of the agreement, and annually thereafter in accordance with § 20-57 of this chapter. For employees of designated carters approved after the execution of the agreement, such names and job descriptions of employees, dates upon which training was received, and certification must be provided within 180 calendar days after the date on which the Department approves the designated carter as a subcontractor.

(9) Commencing upon the implementation start date, the names of employees hired from the Department's displaced employees list and the date of each such hire must be provided within five business days after hire.

(10) Following the final implementation date, the dump ticket, delivery receipt, and final disposition information required to be collected by § 20-34 of this chapter must be submitted monthly.

(11) Information regarding customer service issues must be submitted monthly by each awardee commencing on the final implementation date. Such information must include, for all customers, any non-collections and the reasons therefor; any additional fees imposed and the reasons therefor; and a list of customers to which the awardee or any of its designated carters provided notifications of significant designated recyclable material content in refuse.

(12) A preparedness report must be provided prior to the implementation start date in accordance with the requirements of each awardee's agreement. Such report must demonstrate the awardee's ability to meet the requirements of all laws, rules and contractual obligations.

(13) A certification of accuracy must be provided by each awardee prior to the awardee's agreement effective date, in accordance with the requirements of each awardee's agreement.

(14) Notification must be provided of any complaint, investigation or audit by the business integrity commission regarding an awardee's license or regarding its trade waste collection service operations, proceedings to suspend or terminate such license, material changes to such license or status of such license, and those of its designated carters or subcontractors, if any. Additionally, notification must also be provided to the Department of any complaint, investigation or audit made by any local, state or federal agency. These notifications must be

provided to the Department immediately upon such occurrence. Suspension or revocation of a license or registration must be reported immediately.

(15) Notification of any breach or event of default of an awardee's subcontractor that may impact worker safety or public safety, if any, must be provided immediately, along with a statement of the potential effect on services or the public. The awardee must keep the Department apprised of updates and resolution.

(16) Notification of any non-safety related material breach or event of default of an awardee's subcontractor, if any, must be provided within two business days, along with a statement of the probable effect on services. The awardee must keep the Department apprised of updates and resolution.

(17) A report related to assignment of additional zones during the term of an awardee's agreement must be provided, as applicable. Prior to the Department's offer or assignment of an additional zone to the awardee, where such additional zone has become available after an awardee's agreement has been executed, a report containing assurances and information regarding customer transition must be submitted promptly upon request of the Department. Upon commencement of service in the new zone, the awardee must provide biweekly updates to the Department on the smooth and orderly transition of the new zone for a period of 90 calendar days unless such update requirements are modified by the Department.

(18) Upon termination or expiration of the agreement, the awardee must provide copies of all books, records, documents and material specifically related to the agreement that the Department requests be turned over, must provide an inventory of all containers and equipment on the property of customers or public property within 10 calendar days, and within 90 calendar days, must provide a final statement and report relating to the agreement in a form prescribed by the Department.

(19) An annual report must be prepared summarizing the status of the awardee's operations, evaluating the awardee's compliance with its commercial waste zone plans as provided by the awardee's agreement, and addressing whether these plans are sufficient or should be modified. The annual report for the prior fiscal year (the period from July 1 through June 30) must be submitted by August 1 of each year.

(20) Notification must be provided to the Department of the name and address of each and every customer within 3 business days of an awardee observing any of the following conditions:

(i) Customers not using containers in accordance with section 1-02.4 of Title 16 of the rules of the city of New York; or

(ii) Customers placing bags of source separated designated recyclable materials in a container with bags containing, but not limited to, non-designated recyclable materials and putrescible solid waste.

(21) Any other reports, notifications or certifications requested by the Department, in accordance with applicable law and upon receipt of appropriate notice.

(b) Micro-hauler reports. On or before February 1, 2025 and each February 1 thereafter, each micro-hauler must submit to the Department and the Business Integrity Commission a report for the previous calendar year in the form and manner specified by the Department. If such micro-hauler's commercial waste collection is pursuant to an agreement with an awardee, such report must include the amount of source separated organic waste collected from commercial establishments, broken down by quarter; the mode of transport of all source separated organic waste collected from commercial establishments, broken down by quarter year; the disposal location of all source separated organic waste collected from commercial establishments, broken down by quarter year; and a list of commercial establishments from which source separated organic waste was collected, broken down by zone. If such micro-hauler's commercial waste collection is not pursuant to an agreement with an awardee, such report must include the amount of source separated organic waste collected from commercial establishments, broken down by quarter; the mode of transport of all source separated organic waste collected from commercial establishments, broken down by quarter year; and the disposal location of all source separated organic waste collected from commercial establishments, broken down by quarter year.