

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

**Hearing before the New York City Council
Committee on Sanitation & Solid Waste Management
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Oversight Hearing: Commercial Waste Zones

Good morning Chair Abreu and members of the Committee on Sanitation and Solid Waste Management. I am Jessica Tisch, Commissioner of the New York City Department of Sanitation, and I am joined today by Deputy Commissioner, Legal Affairs Robert Orlin and Assistant Commissioner, Commercial Waste Frank Marshall.

New York's Strongest collect and process 24 million pounds of waste each day. Every New Yorker knows about their vital and unceasing effort.

But that incredible daily undertaking accounts for only about 50% of the trash on our streets. The other half, 20 million pounds produced by our businesses, large and small, is not collected by DSNY, but rather by a byzantine network of private waste haulers.

This system is badly outdated, and its overall structure and day-to-day operations have not kept pace with best practices around waste management. This has a real impact on the hard-working people of the private sanitation industry, on New Yorkers who live in mixed-use neighborhoods or near waste transfer stations, and, of course, on our small businesses.

While DSNY does not collect this waste, Local Law 199 of 2019 clearly and specifically directs the Department to regulate its collection. This law, crafted after years of negotiations between the City Council and the carting industry, was designed to bring a perceived Wild West of commercial carting under control – to create a cavalry of sorts in the form of the DSNY Bureau of Commercial Waste.

The implementation of this massive reform required careful planning. As you all know, finalizing even a single City contract can take months or years; this law required no fewer than 18 contracts comprising 65 awards. It required the formation of committees, the development of new tech platforms, and extremely detailed contract negotiations, totaling in the tens of thousands of pages of documents. This work was done with a focus on the core goals of the law: increase safety, improve sustainability, and prevent massive price spikes that have hampered similar reform efforts around the country.

I am proud to report that this effort is well on track, with the first of the 20 non-exclusive Commercial Waste Zones described in the law slated to go online this fall in Corona, Elmhurst, Jackson Heights, and other neighborhoods in a Zone designated as “Queens Central.” I will now provide updates on several key components of the implementation plan.

Safety

First, safety.

It is no secret that the commercial carting industry has long been plagued by safety issues, both for people working in the industry and for the public at large.

As part of this program, all commercial carters are required to make substantial upgrades to the safety equipment of their vehicles, including the installation of back-up cameras, auxiliary exterior lighting, and GPS monitoring systems like the ones used by municipal waste vehicles. Requiring carters to make this investment will make a real difference in safety.

All workers in this sector are also receiving a new mandated safety training – 40 hours either this year or when they begin their careers, plus an eight hour refresher every year thereafter. This must be completed citywide by the end of this month, and is well underway. There was no standardized safety training requirement prior to Local Law 199.

Any updates to this training that may be needed – as well as other suggestions on how to improve worker and public safety in this industry – will come from the new Safety Task Force created by the law. Local Law 199 outlines 11 members of this Task Force, including four individuals appointed by the City Council; the current Council appointees were named by then-Speaker Johnson. I expect the Task Force to meet this month, and would like to remind the Council of its opportunity to update these holdover appointees before then, as the Adams administration recently did. Our appointees represent a broad range of policy knowledge and professional experience.

All awardees were also required to submit written Health and Safety Plans, and operationalizing those plans is a mandatory contractual requirement to operate within a Commercial Waste Zone.

But all of these requirements would be moot without substantial new oversight authority, which DSNY receives under this law. The Department may terminate any contract if the awardee or any of its officers, directors, partners, five percent or greater shareholders, principals, or other employee or person substantially involved in its activities are *indicted or convicted* under any state or federal law for certain criminal offenses, including any offense possibly indicating a lack of business integrity.

Additionally, DSNY has the broad authority to require any awardee to enter into a monitorship agreement with an independent monitor at any time DSNY deems necessary. The Department has exercised this authority over two awardees, Cogent Waste Solutions and New York Recycling Solutions, which is a joint venture in which Cogent has a 50% stake, after learning that in December 2023, following a year-long audit, BIC filed a notice of violation against Cogent with a record high number of counts, in the thousands, regarding administrative issues.

DSNY selected the monitor, former Assistant US Attorney and former NYPD Deputy Commissioner of Internal Affairs Walter Mack of Doar Rieck Kaley & Mack, and Cogent and

NYRS will bear the full cost. The monitor has the authority to investigate the activities of Cogent and NYRS with respect to their compliance with applicable federal, state, and local laws, rules, regulations, including those related to safety, and his duties will begin four months prior to the earliest zone implementation date for Cogent or NYRS.

DSNY will take similar steps towards other awardees if warranted.

Sustainability

In keeping with the multiple goals of the law, we are improving safety while also increasing the environmental sustainability of this industry.

Ending the old routing structure in which a carter – and, therefore, a truck – could serve businesses miles apart in different boroughs in a single night will lead to a 50% reduction in vehicle miles traveled. That's 12 million fewer miles of diesel vehicles traversing our streets.

And there is a substantial sustainability angle for the businesses served by CWZ awardees. Making good on a promise from when this program was created, businesses will pay less for the collection of recyclables and compostable material than they do for trash – a Citywide average of 32% less for recycling and 18% less for compostable material. That means businesses will have a meaningful financial incentive to separate their waste properly.

On that topic, I would like to take the opportunity – as I have at two previous hearings – to again raise the issue of commercial organics separation. Local Law 146 of 2013 requires certain commercial establishments to separate their compostable material, but this law is now substantially out of step with the City's commitment to diversion of compostable waste. While the Commercial Waste Zone system will improve commercial diversion, we also urge the Council to consider an update that would allow DSNY to require source separation at all commercial establishments, in line with the progress made in residential diversion. If helpful, I have a proposal for new legislation right here in my hand.

And one last point on the issue of compostable material: the rules promulgated by DSNY on the implementation of Commercial Waste Zones specifically allow and account for microhaulers of organic waste. These sustainable small businesses are not a part of why the commercial carting industry needed this reform, and it is not this Department's intention to put them out of business. Rather, they will be given the freedom to continue to operate largely as they have, cycling around the City and putting compostable material to beneficial use.

Pricing

So, DSNY has taken steps to drastically improve safety and sustainability in this industry – but we were tasked with doing so without bringing about massive price increases that would harm our small businesses, as has occurred in other cities that have attempted similar reforms. This was extremely important to me. None of these reforms will work if the cost of waste service starts forcing small businesses to shutter.

I am proud to share that through very thoughtful and careful contracting, we have improved the quality of service provided while keeping costs down.

In 18 of the 20 Commercial Waste Zones, there is at least one awardee whose maximum pricing is *lower* than the current BIC rate cap – and in the two outliers, the amount above the cap is in the low single digits, as opposed to the exponential growth that some feared. And, just like with the BIC rate cap, these maximum prices are a ceiling, not a floor. Businesses are encouraged to negotiate with the carters in their zone for even lower pricing.

To help with those negotiations, we have developed a very intuitive and easy to use pricing calculator, where businesses can put in precisely how much and what type of collection they need and see the pricing for all the awardees in their zone. This tool is available at nyc.gov/cwz.

Outreach

Substantial on-the-ground outreach around these changes is about to begin in earnest. A mailer to businesses in the first zone will go to print this Wednesday, and starting on July 1st, DSNY will be blanketing the entire zone with door-to-door outreach. Both of these efforts are taking place on a timeline set forth in the law.

Canvassing will be overseen by DSNY staff but largely conducted via an MWBE vendor, Metropolitan Strategies and Solutions. We also plan to work closely with the NYPD Community Affairs Unit to expand the reach of this effort.

But quality of the outreach is every bit as important as quantity. Queens Central is perhaps the most linguistic and culturally diverse place on earth, and our outreach plans reflect that. In addition to the Local Law 30 languages, our outreach materials are being translated into languages spoken within the Zone, including Tibetan, Thai, Nepali, Yiddish, Italian, Hindi, Greek, and Albanian.

And lest you think that outreach is waiting until later in the summer, info sessions are already underway. The DSNY outreach team is leading discussions with the members of trade associations that represent large numbers of businesses – the NYC Hospitality Alliance, the Retail Council of New York State, the Hotel Association of New York City, and many others. This work will continue.

The goal is to reach absolutely every business in the zone multiple times, informing them of their new rights under this program, the tools available to them, and the requirement that they sign a new contract with a CWZ awardee between September 3rd, 2024 and January 2nd, 2025. As that period gets underway, the content of outreach will change, from explaining the program to ensuring that businesses understand what will happen if they do *not* register a new contract; namely, that a carter will be assigned to their business by DSNY.

Mr. Chair and members of this committee, you all know that New York City is in the midst of a Trash Revolution. You see the containers, you see the compost bins. This work to reform the commercial carting industry – and to do it right – is something many New Yorkers may never

actually *see* directly with your own eyes, but it is vitally important. It means cleaner air, cleaner streets, and a cleaner way of doing business for every commercial property in our City. While we have covered significant ground today, there is still more information about this program – for carters, businesses, and residents – available at nyc.gov/cwz.

Proposed Legislation

I will now turn to the bills on today's agenda.

Int-352, sponsored by Council Member Nurse, would require the Department to create a Commercial Waste Zones working group with up to 20 members, at least eight of whom will be representatives of the carting industry. Given that proposed make-up, I cannot support this bill in its current form. The inclusion of some but not all awardees or their designees in the working group would present legitimate concerns about favoritism and access in making policy decisions about the ongoing implementation of this program.

And, as discussed earlier in this testimony, the CWZ Safety Task Force is planning to meet this month; this will allow for discussion of all critical safety-related issues, making this additional working group unnecessary as proposed.

Int-696, also sponsored by Council Member Nurse, would require DSNY to establish at least one organic waste composting facility that can accept source-separated organic waste in each borough on a specific schedule between 2026 and 2027. While I strongly support the goal of waste equity, there are several issues with the specifics of this bill that make it infeasible.

Let's begin with the size. The bill as written says that each of the facilities – each of the five – must be able to process 360 million pounds of source-separated organic material per year. This is about three times the size of our massive Staten Island Compost Facility. At 33 acres, the Staten Island Compost Facility is slightly larger than Ellis Island. The requirements of this bill would require about three times as much space as that – so more than three Ellis Islands, 90 acres, in each borough.

It is approximately 240 times the size of the Earth Matter facility on Governor's Island or the Big Reuse facility in Long Island City. And again, that's a per-borough requirement, so we'd be talking about building over 1,000 facilities the size of a current community composting processing operation across the City.

Then there's the cost. Extrapolating from the previous plans to build a composting facility at DSNY's Greenpoint warehouse, hitting the requirements of this bill would have capital costs in the billions of dollars. That cost is not accounted for in the bill.

Then there's the timeline, which as mentioned is specifically spelled out in the bill. The timeline provided does not account for the fact that this kind of development would absolutely require an environmental impact study, ULURP, and State DEC permitting.

Finally, there's the fact that this bill specifies *composting* at these sites, rather than leaving the flexibility of other forms of beneficial use. We need to accept that the goal is getting this waste out of landfills; New York City already produces more compost than we can give away, and reducing our need for fracked gas by producing renewable energy from food waste is *also* a noble goal and a substantial win for the environment.

I would also like to remind the Council that DSNY does currently have an RFP actively underway to expand and diversify our processing of compostable material. We share the same goals around waste equity and beneficial use, but cannot support this bill due to the cost, timeline, and the constraints of the physical environment of the five boroughs.

The final bill on the agenda today, pre-considered T2024-2064, seeks to prevent an issue where mergers and acquisitions may reduce competition in a particular Commercial Waste Zone. I would welcome conversations with the sponsor, Chair Abreu, about the possibility of how such a situation might be best addressed. While I do not support it as written, I would like the opportunity for my team to work with your staff on a few drafting issues, so that if passed, the law will match the spirit and intent with which the bill was introduced.

We look forward to taking your questions on these bills and other topics related to commercial waste.