

**OPENING STATEMENT OF
MADELYNN LIGUORI
SENIOR COUNSEL, BUREAU OF LEGAL AFFAIRS
NEW YORK CITY DEPARTMENT OF SANITATION**

**PUBLIC HEARING ON DSNY'S PROPOSED RULE
RELATING TO COMMERCIAL WASTE CUSTOMERS AND PRIVATE CARTERS**

**MONDAY, JANUARY 6, 2025
10:00 A.M.
(REMOTE HEARING)**

Good morning and welcome. My name is Madelynn Liguori. I am Senior Counsel in the Bureau of Legal Affairs for the Department of Sanitation ("DSNY"). Thank you for attending this public hearing this morning.

DSNY is conducting this remote hearing in accordance with the requirements of the City Administrative Procedure Act. The purpose of this hearing is to receive comments from the public on DSNY's proposed rule relating to commercial waste customers and private carters.

This rule was published by DSNY in the City Record on December 5, 2024, with a scheduled hearing date of today, January 6, 2025. Additionally, DSNY emailed copies of the rule to all New York City local elected officials, the City's fifty-nine community boards, media and interested parties, and published the proposed rule on its website.

Section 16-116(a) of the New York City Administrative Code requires commercial establishments in New York City to arrange for the removal of solid waste by a licensed private carter or by obtaining a trade waste permit from the New York City Business Integrity Commission (BIC) allowing the establishment to dispose of its own solid waste. Section 16-116(b) requires commercial establishments to post a sign noting the day and time that such establishment's trade waste is picked up or, if such establishment removes its own waste, the sign must note the registration number issued by the BIC. Section 16-116(c) exempts from these requirements any commercial establishment that generates infrequent or insignificant amount of waste and authorizes the Sanitation Commissioner to promulgate rules determining what constitutes infrequent waste or insignificant amounts of waste. Section 1-06 of Title 16 of the Rules of the City of New York currently provides that a commercial establishments must

generate less than 20 gallons of trade waste within a seven-day period to meet the definition of infrequent waste or insignificant amounts of waste to be exempt from the requirements of section 16-116(a) and (b).

This rule proposes to lower the threshold of trade waste that is considered to be infrequent waste or insignificant amounts of waste from 20 gallons to 1 gallon within a seven-day period. This reduction is necessary because some commercial establishments have been setting out their trade waste at the curb for DSNY to collect or setting such material in DSNY street corner litter baskets. This rule will make it clear that a commercial establishment must retain a private carter to collect and remove trade waste generated at such establishment for proper disposal if such establishment generates more than 1 gallon of trade waste within a seven-day period.

Commercial establishments are already required by rule to place their waste out in a bin or container. This rule will also allow any commercial establishment that generates twenty gallons of waste or less over a period of seven consecutive days to share these containers with another commercial establishment, provided that both entities are customers that have agreements with the same private carter in accordance with all rules and regulations and follow all applicable rules relating to the set-out of materials for a private carter.

Private carters sometimes utilize a “flat” billing method where they charge a customer the same flat monthly fee based on an estimate of the average amount of waste the customer produces. Rules of the Business Integrity Commission currently address waste surveys used to determine “flat” billing amounts. These rules will not apply to designated carters subject to the Department’s commercial waste zone rules within an implemented commercial waste zone. See 17 RCNY 5-02(h). Therefore, the Department is proposing provisions to ensure that private carters conduct waste surveys to generate an accurate estimate of the average amount of waste a customer produces when a “flat” billing method is used.

A court reporter is present today and will record the hearing. You may present an oral statement or submit written comments concerning the proposed rule. We have been accepting written comments on the proposed rule since it was published. Today is the deadline for submission of written comments. Such comments may be emailed directly to nycrules@dsny.nyc.gov by 5PM today.

DSNY will make available a copy of all written comments received through today, together with the hearing transcript, for viewing on its website within the next few weeks.

DSNY will carefully consider all the comments it receives today at the hearing and all written comments it receives.

I will begin calling those of you who wish to speak this morning in the order in which you have signed up to testify. While the notice asked that persons wishing to testify sign up in advance of this hearing, anyone wishing to testify at this time may do so by indicating in the chat area that you wish to testify by indicating your name and affiliation, if any. When you speak, please say your name and affiliation, and speak slowly and clearly so that the court reporter can understand and accurately record your statement. We also ask that you limit your statement to three minutes.

Commercial Waste Customers and Private Carters

 rules.cityofnewyork.us/rule/proposed-amendments-to-rule-relating-to-commercial-waste-customers-and-private-carters/



Rule status:

Proposed

Agency: DSNY

Comment by date: January 6, 2025

[Rule Full Text](#) DSNY-Proposed-Amendments-to-Rule-Relating-to-Commercial-Waste-Customers-and-Private-Carters.pdf

Section 16-116(a) of the New York City Administrative Code requires commercial establishments in New York City to arrange for the removal of solid waste by a licensed private carter or by obtaining a trade waste permit from the New York City Business Integrity Commission (BIC) allowing the establishment to dispose of its own solid waste. Section 16-116(b) requires commercial establishments to post a sign noting the day and

time that such establishment's trade waste is picked up or, if such establishment removes its own waste, the sign must note the registration number issued by the BIC. Section 16-116(c) exempts from these requirements any commercial establishment that generates infrequent or insignificant amount of waste, and authorizes the Sanitation Commissioner to promulgate rules determining what constitutes infrequent waste or insignificant amounts of waste. Section 1-06 of Title 16 of the Rules of the City of New York currently provides that a commercial establishments must generate less than 20 gallons of trade waste within a seven-day period to meet the definition of infrequent waste or insignificant amounts of waste to be exempt from the requirements of section 16-116(a) and (b).

This rule proposes to lower the threshold of trade waste that is considered to be infrequent waste or insignificant amounts of waste from 20 gallons to 1 gallon within a seven-day period. This reduction is necessary because some commercial establishments have been setting out their trade waste at the curb for DSNY to collect, or setting such material in DSNY street corner litter baskets. This rule will make it clear that a commercial establishment must retain a private carter to collect and remove trade waste generated at such establishment for proper disposal if such establishment generates more than 1 gallon of trade waste within a seven-day period.

Commercial establishments are already required by rule to place their waste out in a bin or container. This rule will also allow any commercial establishment that generates twenty gallons of waste or less over a period of seven consecutive days to share these containers with another commercial establishment, provided that both entities are customers that have agreements with the same private carter in accordance with all rules and regulations and follow all applicable rules relating to the set-out of materials for a private carter.

Private carters sometimes utilize a "flat" billing method where they charge a customer the same flat monthly fee based on an estimate of the average amount of waste the customer produces. Rules of the Business Integrity Commission currently address waste surveys used to determine "flat" billing amounts. These rules will not apply to designated carters

subject to the Department's commercial waste zone rules within an implemented commercial waste zone. See 17 RCNY 5-02(h). Therefore, the Department is proposing provisions to ensure that private carters conduct waste surveys to generate an accurate estimate of the average amount of waste a customer produces when a "flat" billing method is used.

Attendees who need reasonable accommodation for a disability such as a sign language translation should contact the agency by calling [1 \(646\) 885-4996](tel:1-646-885-4996) or emailing [\[email protected\]](#) by December 30, 2024

Send comments by

- Email:
- Mail: NYC DSNY Bureau of Legal Affairs, 125 Worth Street Room/Floor: 710 ; New York, New York 10013

Public Hearings

[Virtual Public Hearing](#)

Date

January 6, 2025 10:00am - 11:30am EST

Location

Virtual

Connect Virtually

https://teams.microsoft.com/l/meetup-join/19%3ameeting_ZDc1YThjYjEtNWFkMy00YTRILWJjOTktN2Q0MWFkZTRiYzI1%40thread.v2/0?context=%7b%22Tid%22%3a%2232f56fc7-5f81-4e22-a95b-15da66513bef%22%2c%22Oid%22%3a%221d3255a2-4904-4aaa-899e-3f943348182b%22%7d

+1 646-893-7101,,874580313# United States, New York City

Phone conference ID: 874 580 313#

Meeting ID: 275 081 510 247

Passcode: NQ2Ua6s7

Disability Accommodation

- Sign Language Interpretation

Comments are now closed.

Online comments: 3

- cee

A neighborhood bar/restaurant has a private carter; however, they don't use containers on the sidewalk for pickup. And the plastic bags are put out almost nightly. Not always as many as shown in the attachment, yet enough to be out of rigid container compliance [While this may include some of the building's residential waste, it still has much of the business's trash]. This has been going on for tooooooo loooooong. And there have been rat sightings in the past near the building.

Comment attachment

IMG_6840-2025-01-11 55pm-trash-outside-little-prince-lightened-resized-for-email-copy.pdf

Comment added January 2, 2025 12:38pm

- Josh Haraf

Please see attached comments from Action Environmental Services.

Comment attachment

Testimony-Regarding-Proposed-CWZ-Rules_-1.6.2025_Josh-Haraf.pdf

Comment added January 4, 2025 10:33am

- Andy Moss

Please see the attached rule comments from Waste Connections of New York, Inc.

Comment attachment

Survey-Rule-Testimony-WCNY.pdf

Comment added January 5, 2025 8:35pm

From: [Maira Blanc](#)
To: [NYC Rules \(DSNY\)](#)
Cc: [Thomas N Toscano](#)
Subject: [EXTERNAL] RE: Testimony in Opposition to Changes to the Survey Rules
Date: Monday, January 6, 2025 10:59:50 AM
Attachments: [image001.png](#)
[Testimony in Opposition to Changes to the Survey Rules.docx](#)

You don't often get email from mblanc@borowide.com. [Learn why this is important](#)

CAUTION! EXTERNAL SENDER. Never click on links or open attachments if sender is unknown, and never provide user ID or password. If **suspicious**, report this email by hitting the **Phish Alert Button**. If the button is unavailable or you are on a mobile device, forward as an attachment to phish@oti.nyc.gov.

Please find the updated testimony attached.

Thank you.

Best,



Maira Blanc
Administrative Assistant
to Thomas N. Toscano
O: (718) 567-5000
C: (646) 651 4723
mblanc@borowide.com

BIC#510737
73-10 Edsall Avenue
Glendale, NY 11385
www.borowide.com
[MRT BWR, Corp.] dba Boro-
Wide

From: Maira Blanc
Sent: Monday, January 6, 2025 9:40 AM
To: nycrules@dsny.nyc.gov
Cc: Thomas N Toscano <TNToscano@borowide.com>
Subject: Testimony in Opposition to Changes to the Survey Rules

Good morning,

Attached you will find Thomas N. Toscano's Testimony in Opposition to Changes to the Survey Rules.

Please advice if this is the appropriate address to submit testimony.

Thank you for your assistance.

Best,



Maira Blanc
Administrative Assistant
to Thomas N. Toscano
O: (718) 567-5000
C: (646) 651 4723
mblanc@borowide.com

BIC#510737
73-10 Edsall Avenue
Glendale, NY 11385
www.borowide.com
[MRT BWR, Corp.] dba Boro-
Wide

From: [Maira Blanc](#)
To: [NYC Rules \(DSNY\)](#)
Cc: [Thomas N Toscano](#)
Subject: [EXTERNAL] Testimony in Opposition to Changes to the Survey Rules
Date: Monday, January 6, 2025 9:43:01 AM
Attachments: [image001.png](#)
[Testimony in Opposition to Changes to the Survey Rules.docx](#)

You don't often get email from mblanc@borowide.com. [Learn why this is important](#)

CAUTION! EXTERNAL SENDER. Never click on links or open attachments if sender is unknown, and never provide user ID or password. If **suspicious**, report this email by hitting the **Phish Alert Button**. If the button is unavailable or you are on a mobile device, forward as an attachment to phish@oti.nyc.gov.

Good morning,

Attached you will find Thomas N. Toscano's Testimony in Opposition to Changes to the Survey Rules.

Please advice if this is the appropriate address to submit testimony.

Thank you for your assistance.

Best,



Maira Blanc
Administrative Assistant
to Thomas N. Toscano
O: (718) 567-5000
C: (646) 651 4723
mblanc@borowide.com

BIC#510737
73-10 Edsall Avenue
Glendale, NY 11385
www.borowide.com
[MRT BWR, Corp.] dba Boro-
Wide

Testimony Regarding Proposed DSNY Rule Changes for Waste Generation Audits for Commercial Refuse Collections

Waste Connections of New York, Inc. (“Waste Connections”), respectfully submits the following testimony regarding a regulatory change to Section 20-27, requiring that private carters conduct waste surveys when a “flat” billing method is used.

The listed reason for the change is because the Business Integrity Commission’s (“BIC”) rules currently provide that private carters conduct waste surveys to generate an accurate estimate of the average amount of waste while the existing Department of Sanitation (“DSNY”) rules do not. DSNY’s proposed solution, however, goes far and above what the BIC’s rules provides, are arbitrary and capricious, and will unnecessarily raise costs that can only be recovered through both an increase to the new commercial zone rate cap and the customer’s monthly bill. Moreover, the initial Request for Proposal (“RFP”) process, which is designed to ensure that all potential costs and requirements are clearly outlined so that proposers can submit accurate and competitive proposals, is upended by this new rule. By introducing significant changes well after the fact, undermines this process and creates an environment of uncertainty. It is crucial that any substantial changes such as proposed to the service requirements be thoroughly evaluated and included in the initial RFP to allow for fair and informed bidding. The proposed change was not contemplated when rate cap proposals were submitted. If these changes are instituted, Awardees will have not choice but to seek to recover these increased costs.

CURRENT BIC SURVEY RULES ARE SUPERIOR TO WHAT IS PROPOSED

Under current BIC rules, flat rate customers have the right to a free survey. Unlike the proposed rules, which prescribe a set number of days for every type of customer, the time period is determined by mutual agreement between the customer and the licensee. Not every customer

wants or needs a survey. For example, a barber shop produces significantly different waste than a grocery store. The proposed rule, however, mandates a set number of survey days. BIC's flexibility is essential in keeping costs down while providing customer protection by establishing the right to a survey.

THE PROPOSED RULE IS NOT FEASIBLE

It is not feasible to accurately survey every customer up to twice per year as proposed by the rule. The Department incorrectly assumes that the survey process will be managed by the driver and helper at each location. The primary responsibility of the driver is to safely navigate the route and collect the customer's waste and recycling in a timely manner. Adding the responsibility of surveying every stop along their route would extend their workday and reduce the number of customers they could service, potentially requiring additional trucks on the road.

Conducting surveys will require a separate audit team due to the large number of customers that need to be surveyed. It is simply not possible to conduct such a high volume of surveys within the specified timeframe for the number of customers in a commercial waste zone. For example, in the initial Queens Central Zone, Waste Connections signed thousands of customer agreements. The proposed rules would require each customer to be surveyed up to eight times in a 30-day period, resulting in thousands of surveys. This would divert resources from customer education and outreach efforts and significantly increase costs, which would ultimately be passed onto the customer.

THE PROPOSED RULE WILL LEAD TO INCREASED COSTS

The implementation of mandatory customer surveys will lead to increased operational costs for private carters. These costs include, but are not limited to, the distribution of surveys, data collection and analysis, and significant additional administrative overhead.

More specifically, the length of the proposed surveys will require establishing dedicated full time audit teams. These teams will consist of two auditors in the field to gather data, a supervisor and an administrator to compile the data. Each field team, with salary and benefits, will cost close to \$280,000 per year. The Supervisor and Administrator will also cost about \$300,000 per year. Each team will only be able to complete about 10 audits per night or approximately 2,540 total audits per year. Assuming two audits per customer, each team will be able to audit only 320 customers. If twice per year audits are needed, then only 160 customers can be covered by an audit team.

Given these assumptions, the cost per audit for the field team is \$1,750 per customer. The Supervisor and Administrator add \$625 per account. Each field team will require a truck with a scale adding additional costs of approximately \$200 per customer bringing the total estimated costs to \$2,575 per customer (\$215 per month per customer).

Clearly, with the number of customers estimated in a zone, multiple teams will be needed. All these costs will need to be passed to the customers.

CONCUSION

In conclusion, while the goal of improving service quality through customer feedback is commendable, the proposed rule change mandating customer surveys imposes significant, unforeseen costs on private carters. These costs were not contemplated during the RFP process. Moreover, these proposed changes are arbitrary and capricious and are unreasonable regulations that violation the CWZ Awardees rights We urge the Department to reconsider this rule change or, at the very least adopt the current BIC survey rules which give the customers the ability to request an audit but not make it mandatory.

Testimony in Opposition to Changes to the Survey Rules
By Thomas N. Toscano

My name is Thomas Toscano, and I am the president of Borowide Recycling.

We are in favor of the proposed rule that reduces the infrequent or insignificant amounts of waste to one gallon. We are also in favor of allowing customers that generate less than twenty (20) gallons of waste over a 7-day period to aggregate their waste with other customers in shared containers. We call to DSNY's attention how this will make the survey process that is the subject of the balance of these proposed changes more difficult since a customer will not be able to separate their waste without leaving the waste outside the container, in violation of other Department rules. This will not be a factor with volume accounts for the amount of waste that is limited here. However, for weight accounts, this could create difficulty in surveying the accounts. Therefore, we suggest that this container aggregation rule be limited to only volume billed accounts.

The remainder of the changes here deal with the survey process and these newly proposed rules differ significantly from the rules currently in effect with the Business Integrity Commission. For reasons I will specify, we are opposed to changes from that structure.

I will start by stating I am a member of the Trade Waste Advisory Board and I have attended almost every meeting for the past decade or more. I don't remember a single topic raised by the BIC that indicated there was a problem with the survey process. Put more simply, the BIC tracks complaints and they never raised widespread survey issues with the industry. If we have a system with very few complaints, why would we want to revamp it? We recommend the DSNY mirroring the current BIC rules regarding surveys.

The proposed rule change mandates surveys within 30 days of an account going to a flat rate billing. We were just involved in the transition of the Queens Central zone where we onboarded nearly 5,000 customers. It was a daunting task, and I cannot imagine adding 30 day surveys to that process for all those accounts. It will also affect the number of assigned accounts we offer to take from the DSNY at the end of the future zones that are rolled out.

Further, the Awardees that will be subject to these rules have already proposed survey processes to the DSNY in their proposals. Zones were awarded based on those proposals and those proposal met further requirements regarding 3rd party audits to customers that request them. This new survey process seems to disregard those proposals along with the BIC rules that have worked for decades.

This change could also inadvertently cost customers more. There is a third-party survey option available to customers. The proposals do not require all the independent surveys to be free. If the customer and Awardee dispute a survey, the third-party resolution could cost the customer a fee because of an annual survey requirement.

Again, we suggest the DSNY adopt the BIC rules that do not require surveys and only give the customer the right to request a survey up to twice, annually. If the DSNY wants a mandated survey, these should only be required for customers producing more than 20 yards of waste and recycling month, or 1,500lbs of material. This would eliminate small producers of waste and recycling and would reserve these labor intensive measures to the large producers that need the surveys.

As an addition to my testimony, I note that not a single customer or customer group testified in favor of the changes proposed to the survey rules. This should be considered with the two

carters that testified as to the undue burden these new rules will place, along with the written testimony submitted.

Testimony Regarding Proposed DSNY Rule Changes for Containerization and Waste Generation Audits for Commercial Refuse Collections

Good morning,

Thank you for the opportunity to express a response toward the DSNY's proposed rule changes affecting containerization and waste generation audits for commercial waste collection. My name is Josh Haraf, Market Vice President for New York City at Action Environmental Services, a subsidiary of Interstate Waste Services. Over the past 25 years, Action has serviced thousands of customers across the five boroughs and is prepared to navigate our fellow communities' businesses through the transition to a CWZ model. We champion the consistency of our service, a commitment to our customers' experience, and the affordability of an essential service, and that is why we strongly feel that the changes being proposed for commercial waste generation audits will impose undue and substantial additional effort, time, confusion, and cost for both awardees and customers. As zones are implemented, it's our priority to limit customer disruption, and we believe that prerogative will be burdened by these new waste audit requirements.

As we're all aware, Local Law 199 incited vast regulatory reform with real community impact. Best practices for a successful regulatory transition would suggest close collaboration amongst DSNY, BIC, awardees, and customers as Commercial Waste Zones are rolled out. For this reason, Action reiterates its support for Intro Number 352 primarily sponsored by Council Member Sandy Nurse for the creation of a CWZ working group that includes all stakeholders that can collectively address CWZ rollout issues with the broadest amount of both knowledge and experience.

Commercial Generators of Infrequent or Insignificant Waste

Action supports these new rules regarding small waste generators. The consolidation of collections for this group will likely save time and effort for both awardees and customers. However, we recommend DSNY consider different implications of this rule for weight versus volume customers.

Frequency & Volume of Waste Audits

We believe that the main priority during a transition period should be the accuracy and ease of a customer's service. If awardees are required to survey every customer that utilizes a "flat" billing method within 30 days after the date of the first invoice, awardees will be inundated with waste audits to perform. Based on the customer data provided to awardees by the DSNY during Queens Central's transition period, one zone contained nearly 12,000 customers. If the DSNY intends to rollout multiple zones simultaneously, the only way to comply with this rule would be to purchase new scales for all CWZ vehicles, incurring an increase in overall cost of service.

Action Environmental Services, Inc.

300 Frank W. Burr Boulevard, Suite 39, Teaneck, New Jersey 07666 • 1-866-DIAL-IWS • interstatewaste.com



Based on the proposed audit cycle, awardees could be performing waste audits during every month of the year, for periods lasting a minimum of 30-days for each customer. Tracking a respective customer's waste audit period(s) will become onerous to individually monitor and require dedicated office staff to adequately address each audit. The current BIC regulations and Awardee-maintained Zero Waste Plans afford customers the avenue to request waste surveys, while maintaining awardee autonomy to perform them in a manner that preserves operational and financial practicality.

The proposed rules do not account for the strenuous effort required by Awardees to constantly perform audits, nor do they consider customer rate and service confusion during an onboarding period in which customer education is critical. If awardees must reconcile previous invoices against the first waste audit, that calls to question the process and CWZ reporting procedures for service agreement rate adjustments, rebates, discounts, additional fees based on audit results, & overall customer confusion for what they owe.

Rather than publicly announce the standard timing for waste audits, Action strongly recommends the DSNY to preserve the integrity of waste surveying by accepting Awardees' proposals within respective Zero Waste Plans. There are drastic operational and financial implications from the proposed rule changes, and we'd like to caution DSNY to consider the breadth of impact these changes will impose past the intention of the amendment.

Thank you for your attention and consideration.

Sincerely,
Josh Haraf
Vice President of NYC Market
Action Environmental Services / Interstate Waste Services
JHaraf@interstatewaste.com

Action Environmental Services, Inc.

300 Frank W. Burr Boulevard, Suite 39, Teaneck, New Jersey 07666 • 1-866-DIAL-IWS • interstatewaste.com

