

**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.

When these rules were initially introduced, we strenuously objected to this new regulatory scheme due to their arbitrary and capricious nature and the huge cost it will inflict on commercial waste haulers. We commented that the initial Request for Proposal (“RFP”) process, which was designed to ensure that all potential costs and requirements were clearly outlined so that proposers could submit accurate and competitive proposals, was upended by this new rule. By introducing significant changes well after the fact, these survey rules 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. While the current proposed amendments seek to fix some of these concerns, it leaves the new framework in place and does not fix its fundamental problems.

Under current regulation, § 20-29, entitled Commercial Waste Generation Audits, an awardee must provide to its customers commercial waste generation audit services and/or reimbursement for commercial waste generation audits by a third party in accordance with the requirements of the awardee's Zero Waste Plan. This was what was contemplated in our RFP response and what our maximum submitted rate was.

Even under the proposed modifications, It is not feasible to accurately survey almost 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 an additional responsibility of surveying almost 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.

Instead, conducting surveys will require a separate audit team due to the large number of customers that will need to be surveyed. It is simply not possible to conduct such a high volume of surveys within the specified timeframe – even the extended

timeframe contemplated in these proposed amended rules - 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 will require literally 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.

Solutions Seeking a Problem

These proposed regulations attempt to solve a problem that simply does not exist. During the April 23rd hearing of the City Council's Committee on Sanitation and Solid Waste Management, Department of Sanitation Commissioner Javier Lojan testified that "[i]ncredibly, not a single one of the thousands upon thousands of businesses in the zone has made a complaint to DSNY of any issues of service or billing." This clearly demonstrates that the current system is functioning effectively and does not warrant the creation of a new, burdensome framework.

Introducing a mandatory survey system for nearly every customer is unnecessary and counterproductive. Waste and recycling services represent only a small fraction of most businesses' operating budgets. Commissioner Lojan himself acknowledged in his written comments that the implementation of waste zones could impose a burden on businesses, noting that for many, this would be the first time they are required to seriously consider their waste generation. As he put it, "the laundromat or the coffee shop still needs to take time from the real work of running their business to make these decisions" — referring to the process of selecting a carter.

Now, under the proposed changes, businesses would be forced to devote even more time and resources to participate in a waste survey scheme that they neither requested nor need. This added layer of bureaucracy risks diverting attention from their core operations and imposing unnecessary costs and confusion.

These regulations seek to address a problem that does not exist. The Department of Sanitation Commissioner Javier Lojan testified at the April 23rd City Council's Committee on Sanitation and Solid Waste Management that "[i]ncredibly, not a single one of the thousands upon thousands of businesses in the zone has made a complaint to DSNY of any issues of service or billing". There is simply not a need to create a new system where almost every customer will have to be included in a new survey system. Waste and

recycling services account for a very small percentage of most businesses operating budget. Initially, the Commissioner recognized in his written comments concerning waste zone implementation, that the new waste zone implementation was a potential burden to businesses. He stated that business now had to think about their waste generation in a real way for the first time. For example, “the laundromat or the coffee shop still needs to take time from the real work of running their business to make these decision” (stating about what carter to choose). Now, they will have to take even more time in being heavily involved in a waste survey scheme that they most likely do not want to be included in.

Alternative Approaches Needed

Rather than imposing blanket survey requirements, DSNY should consider:

- Targeted audits of high-volume generators,
- Incentives for voluntary customer reporting and diversion,
- Enhanced coordination with private carters to streamline data collection.

These approaches would be more effective and equitable, especially for facilities already operating under strict oversight.

Conclusion

We urge DSNY to withdraw or substantially revise the proposed customer waste survey rule to reflect the operational realities of regulated entities and to avoid imposing unnecessary burdens on compliant operators. We welcome the opportunity to collaborate on more targeted, data-driven approaches to improving commercial waste management in New York City.

Early Termination Provision

The proposed change to Section 20-21(c)(2)(xvi) allowing for an early termination fee is a welcome addition. We believe, however, that the use of the contract’s remaining years is not the proper multiplier. We suggest that the fee should be an amount equal to the average monthly invoice over the past three months multiplied by the number of months remaining in the Term, not to exceed six months’ worth of service fees.