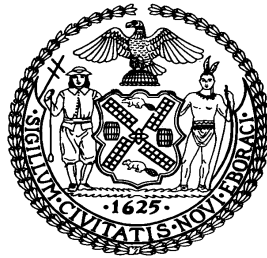


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THE COUNCIL

**BRIEFING PAPER OF THE
INFRASTRUCTURE DIVISION**

Matthew Gewolb, Legislative Director

COMMITTEE ON SANITATION AND SOLID WASTE MANAGEMENT

Hon. Antonio Reynoso, Chair

April 29, 2015

OVERSIGHT: Sustainability in the Commercial Waste Industry

I. Introduction

On Wednesday, April 29, 2015, the Committee on Sanitation and Solid Waste Management (the “Committee”), chaired by Council Member Antonio Reynoso, will hold a hearing on Sustainability in the Commercial Waste Industry. The Committee expects to hear from environmental and social justice advocates, private transfer station operators, private carters and representatives of commercial businesses that are served by the commercial waste industry.

The purpose of this hearing is to discuss sustainability and ways to improve it in the commercial waste industry.

II. Background

Organized Crime and Commercial Waste

Organized crime has historically impacted businesses and consumers in New York City. Since the mid-1950s, New York City’s private trade waste industry, which was relatively non-transparent, was subjected to exploitation by organized crime, which used various tactics, including violence, to control and drive out competition.¹ For example, the trade waste industry was characterized by the “property rights” system, which allowed local county associations (typically run by a borough’s dominant organized crime family) to dictate supply and demand.² They fixed prices and bids in such a way that customers could not choose who picked up their garbage.³

¹ See Keenan, Jillian, *A Better Way to Take Out the Garbage?*, The New Yorker, January 9, 2014, available at <http://www.newyorker.com/business/currency/a-better-way-to-take-out-the-garbage> (last visited Apr. 27, 2015).

² See New York City Business Integrity Commission, History, <http://www.nyc.gov/html/bic/html/about/history.shtml> (last visited Apr. 27, 2015).

³ See Michelle Tsai, *Why the Mafia Loves Garbage*, Slate (Jan. 11, 2008) http://www.slate.com/articles/news_and_politics/explainer/2008/01/why_the_mafia_loves_garbage.html

After Manhattan's District Attorney's Office issued a 114-count indictment of various trade-waste license actors in 1996, the New York City Council responded to organized crime's control of commercial waste by passing Local Law 42, which created the Trade Waste Commission (TWC), later renamed the Business Integrity Commission (BIC).⁴ Through its oversight and regulation of the commercial waste industry BIC promotes competition among commercial carters to discourage criminal control of the commercial-waste industry; it sets maximum garbage collection rates to prevent over-charging as well as other anti-corruption initiatives.⁵ As a result, organized crime is no longer dominating commercial waste in the City, but organized crime is still an influence on the industry regionally. As recent as 2013, the FBI arrested 29 persons tied to extortion in the waste-carting industry in the suburbs of New York City.⁶ The fact that BIC exists may explain why the crimes did not take place in New York City, although BIC provided assistance during the investigation and the charges are similar to those that were prevalent in New York City 20 years ago.⁷

One of the main goals of BIC is to increase competitiveness and implement controls in pricing in the commercial waste industry to prevent organized crime from creating a monopoly that could result in exorbitant prices for waste-hauling, extortion and violence. Despite the effectiveness that increase competition has had on reducing organized crime in New York City, it has also had negative consequences, particularly for sustainability and efficiency in the commercial waste industry. Unrestricted competition in commercial waste carting has monumentally increased garbage trucks on the streets; trucks overlap on the same street for different businesses causing congestion, air and noise pollution, and safety hazards for

⁴ *See id.*

⁵ *See id.*

⁶ *See* Rashbaum, William et al., *Extortion Charges for 29 Tied to Trash-Hauling Industry*, New York Times (Jan. 16, 2013) <http://www.nytimes.com/2013/01/17/nyregion/fbi-arrests-nearly-30-with-ties-to-waste-industry.html>

⁷ *See id.*

pedestrians, cyclists and waste workers.⁸ Most of the trucks run on diesel fuel, which also contributes to greenhouse gas emissions.

One way to increase sustainability is to divert waste from landfills to recycling and/or composting. According to the 2015 OneNYC Plan, New York City has a zero waste to landfills goal and expects to reduce commercial waste disposal by 90% relative to 2005 levels by 2030.⁹ Given that landfills contribute 18% to greenhouse gas emissions¹⁰, this diversion rate from landfills is in line with decreasing New York City's greenhouse gas emissions by 80% below 2005 levels by 2050.¹¹ To increase recycling and composting and reduce trash that is landfilled in the commercial waste industry both the City of New York's Department of Sanitation (DSNY) and BIC have put measures in place to document progress on these issues.

DSNY and Regulation of Commercial Waste

Regulated commercial waste includes yellow grease, tires, regular putrescible solid waste, recyclable waste, medical waste, landscaping waste and construction and demolition waste.¹² In addition, all New York City businesses are required to recycle materials designated by the City's Department of Sanitation (DSNY). For non-food establishments these include office paper, newspapers, magazines, catalogs, phone books, corrugated cardboard, and textiles.¹³ Food establishments are required to recycle containers made of glass or metal, plastic bottles and jugs, aluminum foil and aluminum foil products, and cardboard. Private carters report

⁸ See Keenan, Jillian, *A Better Way to Take Out the Garbage?*, The New Yorker (Jan. 9, 2014) <http://www.newyorker.com/business/currency/a-better-way-to-take-out-the-garbage>.

⁹ See, The City of New York Mayor Bill De Blasio, *One New York: The Plan for a Strong and Just City* (Apr. 22, 2015) <http://www.nyc.gov/html/onenyc/downloads/pdf/publications/OneNYC.pdf>.

¹⁰ See United States Environmental Protection Agency, Overview of Greenhouse Gases, <http://epa.gov/climatechange/ghgemissions/gases/ch4.html> (last visited Apr. 27, 2015)

¹¹ See, The City of New York Mayor Bill De Blasio, *One New York: The Plan for a Strong and Just City* (Apr. 22, 2015) <http://www.nyc.gov/html/onenyc/downloads/pdf/publications/OneNYC.pdf>.

¹² See, New York City Business Integrity Commission, Trade Waste, http://www.nyc.gov/html/bic/html/trade_waste/trade_waste.shtml (last visited Apr. 27, 2015)

¹³ See New York City Business Integrity Commission, Recycling, http://www.nyc.gov/html/bic/html/trade_waste/customer_info_recycling.shtml (last visited Apr. 27, 2015)

data regarding their volumes of waste and recyclables to DSNY twice a year. Private transfer stations also report quarterly to DSNY on the type and volume of waste tipped at their facilities. Reporting is done via paper surveys, which DSNY enters into its Private Operator Disposal System (PODS) database.¹⁴

DSNY can also provide fee-based collection and disposal services for recyclables and regular garbage generated by commercial businesses that are located within residential buildings.¹⁵ The fee is based on the amount of waste collected.¹⁶ Qualified businesses include those that are licensed in the state as physicians, dentists, accountants, lawyers, chiropractors or other professionals if their practices are located in the basement, first or second floor of a residential building. Businesses also qualify if the profession is in a residential portion of a building that has been used for the same occupational purpose since December 1961.¹⁷

BIC and Regulation of Commercial Waste

The City of New York requires retailers and commercial establishments to have their garbage and recyclables collected by a private carter or register as a self-hauler with BIC. Currently BIC regulates the over 2000 private carters that have active licenses and are registered to operate commercial waste removal businesses or conduct waste removal activities in the City.¹⁸ BIC collects information about its licensed waste carters, including types and volumes of

¹⁴ See PlaNYC Presentation, *Sustainability and Solid Waste: Doubling NYC's Diversion Rate by 2017* (March 11, 2013) http://waste.ccac-knowledge.net/sites/default/files/CCAC_images/City%20Assessment%20-%20New%20York%20City,%20USA.pdf

¹⁵ See New York City Department of Sanitation, Request Professional Fee Collection, <http://www1.nyc.gov//site/dsny/contact/services/request-professional-fee-collection.page> (last visited Apr. 27, 2015)

¹⁶ See New York City Department of Sanitation, Commercial Waste Disposal, <http://www1.nyc.gov/nyc-resources/service/1425/commercial-waste-disposal> (last visited Apr. 27, 2015)

¹⁷ See New York City Department of Sanitation, Request Professional Fee Collection, <http://www1.nyc.gov//site/dsny/contact/services/request-professional-fee-collection.page> (last visited Apr. 27, 2015)

¹⁸ See, New York City Business Integrity Commission, Trade Waste, http://www.nyc.gov/html/bic/html/trade_waste/trade_waste.shtml (last visited Apr. 27, 2015)

recyclables and waste, through a customer register, which has to be submitted to BIC twice a year via a Microsoft Excel spreadsheet.¹⁹

III. Sustainability Issues

Outside of the surveys collected by DSNY and BIC, there is little clarity about the sustainability of the commercial waste industry. Currently, there is not much that is understood about how the commercial waste industry is significantly reducing waste and increasing rates of recycling and/or composting, increasing efficiency in truck routes—i.e. waste pick up and drop off—and ensuring good job quality for the commercial waste workers. This section will illuminate some of the issues with recycling/composting, truck traffic and job quality in the commercial waste industry.

Recycling, Composting

DSNY estimates that the commercial waste industry diverts about 40% of its waste from landfills through recycling and composting.²⁰ However, a 2012 study by Halcrow Engineers commissioned for DSNY²¹ found that the recycling rate of the commercial industry is only about 26% and possibly less, according to Transform Don't Trash NYC's (TDTNYC) analysis of annual reports filed by private waste companies with New York State.²² Given that the majority of the waste that is collected by commercial carters is recyclable and/or compostable,²³ the

¹⁹ See New York City Business Integrity Commission, Customer Register, http://www.nyc.gov/html/bic/html/trade_waste/customer_register.shtml (Last viewed Apr. 27, 2015).

²⁰ See PlaNYC Presentation, *Sustainability and Solid Waste: Doubling NYC's Diversion Rate by 2017* (March 11, 2013) http://waste.ccac-knowledge.net/sites/default/files/CCAC_images/City%20Assessment%20-%20New%20York%20City,%20USA.pdf

²¹ See Halcrow Engineers, PC, *Technical Memorandum 1.c Waste Generation Modeling, Diversion and Aggregate Tonnages*, August 6, 2012.

²² See Transform Don't Trash NYC, *Dirty Wasteful & Unsustainable: The Urgent Need to Reform New York City's Commercial Waste System* (April 2015) <http://transformdonttrashnyc.org/wp-content/uploads/2015/04/tdt-report-FINAL.pdf>

²³ See New York City Department of Sanitation, *New York City Commercial Solid Waste Study and Analysis Summary Report* (2012) <http://www1.nyc.gov/assets/dsny/downloads/pdf/studies-and-reports/2012-commercial-waste-study.pdf>

diversion rate could be significantly higher, possibly 70%²⁴ or 90% relative to the 2005 rate by 2030 as stated in Mayor De Blasio's One NYC report.²⁵

Lack of recycling and/or composting in the commercial sector can be caused by many factors. One factor is there are not incentives for businesses to recycle and compost. Businesses are usually charged a flat fee by commercial carters whether or not they separate recyclables and compostable materials from their trash, giving no financial incentive to do so. Also, regulation of recyclables in the commercial sector is difficult given the limited purview of BIC and the recycling laws that are not updated to deal with NYC's expansive commercial waste industry.²⁶ The law also designates what is recyclable only if the cost of recycling is equal to or less than the cost of disposal, which does not account for the environmental and health costs of landfilling waste.²⁷

In a survey conducted by DSNY of 686 businesses in all five boroughs, over 80% indicated they recycle but about 45% believe that the commercial recycling rules are the same as residential recycling rules. The survey also found that few businesses actually provide recycling bins or educate employees or customers about recycling requirements. However, the majority either reported satisfaction with the current recycling system or had no opinion on making changes to it.²⁸

²⁴ See Transform Don't Trash NYC, *Dirty Wasteful & Unsustainable: The Urgent Need to Reform New York City's Commercial Waste System* (April 2015) <http://transformdonttrashnyc.org/wp-content/uploads/2015/04/tdt-report-FINAL.pdf>

²⁵ See, The City of New York Mayor Bill De Blasio, *One New York: The Plan for a Strong and Just City* (Apr. 22, 2015) <http://www.nyc.gov/html/onenyc/downloads/pdf/publications/OneNYC.pdf>.

²⁶ See Transform Don't Trash NYC, *Dirty Wasteful & Unsustainable: The Urgent Need to Reform New York City's Commercial Waste System* (April 2015) <http://transformdonttrashnyc.org/wp-content/uploads/2015/04/tdt-report-FINAL.pdf>

²⁷ See New York City Council Administrative Code, Title 16-306, *Private carter-collected waste*, <http://public.leginfo.state.ny.us/lawssrch.cgi?NVLWO>:

²⁸ See New York City Department of Sanitation, *New York City Commercial Solid Waste Study and Analysis Summary Report* (2012) <http://www1.nyc.gov/assets/dsny/downloads/pdf/studies-and-reports/2012-commercial-waste-study.pdf>

Truck Traffic

A 2013 report by an environmental consulting group, M.J. Bradley & Associates LLC submitted to BIC and the Environmental Defense Fund, discussed New York City's existing commercial truck fleets.²⁹ The report states that the current truck fleets use heavy-duty diesel engines, which produce particulate matter and nitrous oxide emissions that cause smog and contribute to respiratory and cardiovascular problems and, in some cases, cancer and death. Black carbon, referred to as soot, from diesel exhaust is a greenhouse gas that contributes to global warming and, in the short term, is as much as 2,000 times more potent than its equivalent amount in CO₂.³⁰

Since 2007 there was only a 1.5% turnover of trucks in the commercial fleets, meaning that up to 90% of trucks in the commercial sector are more than 10 years old; 25% of all commercial trucks are 20 years or older. Hence, only a very small percentage of trucks in the commercial fleet meet the EPA's most stringent emission standards.³¹ With over 8,000 active commercial trucks commercial waste carters produce 125 tons of particulate matter each year and 2,188 tons of nitrous oxide per year.³²

Shortly after this report was published the New York City Council passed and enacted Local Law 145 of 2013, which reduces pollutants from heavy duty trade waste hauling vehicles.³³ This law requires heavy duty trade waste hauling vehicles to use the best available retrofit technology with an engine certified to U.S. EPA's 2007 standard for particulate matter beginning January 1, 2020. BIC has the authority to enforce this law and issue notices of

²⁹ See M.J. Bradley & Associates LLC, *New York City Commercial Refuse Truck Age-out Analysis* (September 2013) <http://www.edf.org/sites/default/files/EDF-BIC%20Refuse%20Truck%20Analysis%20092713.pdf>

³⁰ See *id.*

³¹ See *id.* "The most stringent PM standards were implemented beginning with the 2007 model year, and the most stringent NOx standards were implemented beginning with the 2010 model year."

³² See *id.*

³³ See New York City Council LL 2013/145 *A Local law to amend the administrative code of the city of New York, in relation to reducing the emissions of pollutants from heavy duty trade waste hauling vehicles* (12/30/2013)

violation in relation to the law.³⁴ It is expected that, as a result of this law, 95% of the air pollutants from diesel fueled trucks should be cut by 2020.

While LL 2013/145 is a good first step to reducing trade waste truck impacts, other issues are still prevalent. The 2012 DSNY study and surveys from TDTNYC reveal large inefficiencies with the commercial trucking industry. It was found that in midtown Manhattan 79 different haulers collected waste from businesses. On one city block there could be up to 10 different hauling companies servicing businesses.³⁵ A hauler collecting waste from different businesses in one night may have to drive through several neighborhoods or boroughs to reach all of these businesses. It is estimated that commercial haulers drive 12 miles to collect each ton of waste, including recyclables.³⁶

Job Quality

Overall, according to 2013 numbers from the Bureau of Labor Statistics, refuse and recyclable material collectors rank fifth on the list of riskiest jobs in the United States. There is an average of over 33 deaths per 100,000 workers.³⁷ In New York City, sanitation workers experience twice the fatality rates of police officers and seven times the rate of firefighters.³⁸ Despite the risks taken for this job, according to a report by the Blue Green Alliance, between

³⁴ See *id.*

³⁵ See New York City Department of Sanitation, *New York City Commercial Solid Waste Study and Analysis Summary Report* (2012) <http://www1.nyc.gov/assets/dsny/downloads/pdf/studies-and-reports/2012-commercial-waste-study.pdf>

See Transform Don't Trash NYC, *Dirty Wasteful & Unsustainable: The Urgent Need to Reform New York City's Commercial Waste System* (April 2015) <http://transformdontrashnyc.org/wp-content/uploads/2015/04/tdt-report-FINAL.pdf>

³⁶ See Transform Don't Trash NYC, *Dirty Wasteful & Unsustainable: The Urgent Need to Reform New York City's Commercial Waste System* (April 2015) <http://transformdontrashnyc.org/wp-content/uploads/2015/04/tdt-report-FINAL.pdf>

³⁷ See Bureau of Labor Statistics, *National Census of Fatal Occupational Injuries in 2013 (Preliminary Results)* (September 11, 2014) <http://www.bls.gov/news.release/pdf/cfoi.pdf>

³⁸ See Robin Nagle, *City's Strongest don't always survive on the job as author exposes the daily perils of working in Sanitation Department*, NY Daily News (March 10, 2013) <http://www.nydailynews.com/new-york/sanit-workers-face-daily-perils-job-article-1.1284261>

2006 and 2011, real wages for sanitation workers fell in the commercial waste hauling industry for new hires in the Bronx, Brooklyn and Staten Island.³⁹

IV. Proposed Solutions

To increase recycling rates in New York City, advocates suggest that the City invest in high efficiency infrastructure for sorting recyclables and for organics recycling as well as a reporting system that generates reliable data. This will also help to generate more jobs in New York City. It is estimated that for every 1 job in landfilling or incineration there are 5 composting jobs and 20 recycling jobs.⁴⁰ Using this data, if the recycling rate increases to 70% in the commercial sector it is possible to create an additional 8,000 jobs.⁴¹

Truck pollution will greatly improve when the City requires trucks to comply with the EPA's most stringent efficiency standards in 2020.⁴² More efficient truck routes can be realized through a collection system that minimizes truck miles possibly through having "geographically dense collection zones."⁴³ This is what some refer to as a franchising. The National Waste & Recycling Association is opposed to imposing commercial waste franchises in New York City because it reduces choices for customers and eliminates competition. A spokesperson for the

³⁹ See ALIGN et al, *Climate Works for All: A Platform for Reducing Emissions, Protecting Our Communities, and Creating Good Jobs for New Yorkers* (2015) http://www.bluegreenalliance.org/news/publications/document/ClimateWorks_Report_LowerRes.pdf.

⁴⁰ See Tellus Institute with Sound Resource Management, *More Jobs, Less Pollution: Growing the Recycling Economy in the U.S.* (2011) http://docs.nrdc.org/globalwarming/files/glo_11111401a.pdf

⁴¹ See Transform Don't Trash NYC, *Dirty Wasteful & Unsustainable: The Urgent Need to Reform New York City's Commercial Waste System* (April 2015) <http://transformdonttrashnyc.org/wp-content/uploads/2015/04/tdt-report-FINAL.pdf>

⁴² See New York City Council LL 2013/145 *A Local law to amend the administrative code of the city of New York, in relation to reducing the emissions of pollutants from heavy duty trade waste hauling vehicles* (12/30/2013)

⁴³ See Transform Don't Trash NYC, *Dirty Wasteful & Unsustainable: The Urgent Need to Reform New York City's Commercial Waste System* (April 2015) <http://transformdonttrashnyc.org/wp-content/uploads/2015/04/tdt-report-FINAL.pdf>

group also suggested that it will raise costs significantly for businesses using carters in a franchising system.⁴⁴

In Mayor Bill de Blasio's OneNYC plan, there are five initiatives to reduce commercial waste disposal by 90% by 2030. These are:⁴⁵

1. Conduct a comprehensive study of commercial waste collection zones
2. Encourage periodic waste audits for large commercial buildings
3. Create a Zero Waste Challenge program for large commercial waste generators
4. Revise the commercial recycling rules to make recycling easier for businesses
5. Require all food service establishments to source-separate food waste.

Many of these initiatives are already underway while others are still being discussed.

V. Conclusion

At this hearing it is expected that various stakeholders will speak about the commercial waste industry and ways it can be improved by presenting solutions for the future of sustainability in the industry.

⁴⁴ See Allan Gerlat, *Group Advocates Franchising for Commercial Waste in New York City* (Oct. 3, 2013), Waste360, <http://waste360.com/commercial/group-advocates-franchising-commercial-waste-new-york-city>

⁴⁵ See, The City of New York Mayor Bill De Blasio, *One New York: The Plan for a Strong and Just City* (Apr. 22, 2015) <http://www.nyc.gov/html/onenyc/downloads/pdf/publications/OneNYC.pdf>.