

**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 THE USE OF CERTAIN  
RECEPTACLES BY A CHAIN OF STORES**

**MONDAY, JULY 31, 2023  
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 the use of certain receptacles by a chain of stores.

This rule was published by DSNY in the City Record on June 30, 2023, with a scheduled hearing date of today, July 31, 2023. 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.

DSNY rules currently allow for all commercial establishments to set out their waste and recyclable materials within one hour of closing, provided that the scheduled collection occurs before the establishment next reopens for business and only if such materials are placed out for collection in receptacles with tight-fitting lids. Those establishments that place materials out for collection in bags, regardless of the time they close, may place such materials at the curb no earlier than 8:00 p.m.

DSNY recently proposed a rule that requires all food-related businesses to set out any putrescible solid waste, including refuse and organic waste, at the curb for private carter collection in rigid receptacles with tight-fitting lids. This new proposed rule would amend this recent rule and expand this requirement to include all commercial establishments that are a part of a chain of stores, regardless of whether such establishments are food-related businesses. A chain of stores includes a commercial establishment that operates five or more stores located within the city of New York that are engaged in the same general field of business and conduct business under the same business name or operate under common ownership or management or pursuant to a franchise agreement with the same franchisor.

These changes are a part of the City's commitment to cleaning up New York City streets and reducing food sources for rats. Businesses are generators of putrescible waste, including organics, and bags of waste set out for collection on the curb, even when in compliance with existing waste set out requirements, attract rats and vermin and are unsightly. Requiring these businesses that produce any amount of food waste to place their putrescible waste in rigid containers with tight-fitting lids will meaningfully limit potential food sources for vermin while also helping to keep our sidewalks free of unattractive piles of black bags.

These changes align with other City initiatives to increase the use of containers for waste storage and collection, creating cleaner, more livable, and more vibrant streets and neighborhoods across New York City.

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](mailto: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 requested 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 state 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 five minutes.

Bruce Colley Organization Testimony  
DSNY Containerization Rule  
July 31, 2023

Good Afternoon,

I would like to thank the Mayor's Office and the Department of Sanitation for vigorously attempting to address New York City's rodent problem. Ridding the city of rats is good for all business, residents and tourism.

My name is Bruce Colley, I am a McDonald's Franchisee and have owned & operated restaurants in the five boroughs for over 40 years!

I want to make it clear that I am only expressing concerns on behalf of my organization, I do not represent other McDonald's franchisees or McDonald's Corporation. With that said, I would like to express some serious concerns about these rules for the record:

New York City is unique and challenging place to operate a restaurant. Real Estate is expensive, space is at a premium and storage is limited. I know that despite popular misconceptions, many chain business and restaurant operators are small entrepreneurs, juggling the requirements of their franchise agreements in addition to the challenges of every small business owner. As someone with multiple, restaurant locations throughout the city, I am very concerned about doing this right and being successful, while managing the many facets of this implementation.

May I say, I it is startling and concerning how quickly the food service rule was implemented, with only one hearing for restaurants and very little consultation with the restaurant industry leading up to it. The very entities it will affect! The many suggestions by restauranters previously provided, were seemingly ignored. The turnaround time given for the implementation and the enforcement of these rules is unrealistic!

A one-month grace period is not enough time to understand the rules; distill the information for my management team; work out details with my

carting company; and implement an operational system that fits the specific demands of each location; and requires increased manual labor from our crew members. This includes the transport of heavy bins and the maintenance of multiple containers per location. Not to mention, in our high-volume restaurants we will require multiple bins, and in this heat, the smell may create yet another unpleasant condition.

Moreover, can a sufficient number of businesses even purchase and/or receive these bins in time? Especially since all of NYC businesses are all ordering at the same time. It would have been constructive to work out with the business community beforehand to find the best ways to roll out these rule changes, so that we can methodically reach a shared goal to reduce refuse and organics – together.

According to Google the average NYC sidewalk is 13ft wide. If you go to areas like Jackson Heights, Queens, they can be as small as 8ft wide. This makes it impractical or feasible to station garbage containers at the front façade of the restaurant. My staff has been on the containerization calls, and the instructions are not clear on front-of-building storage. There is no guarantee that pedestrians will have total access to the sidewalks, in high traffic areas, if the sidewalks are less than 10ft wide.

Additionally, the culture in NYC is one where people throw food scraps, dump their garbage on top of, or rummage through, private garbage collection bins. On DSNY's containerization calls, it has been made clear that business owners are responsible for the garbage put on top or around containers. However, if we are closed, there is no one to monitor or enforce placing garbage on top of or around these bins. At a minimum, I believe the rules should be amended to provide that business operators will be exempt from fines and penalties if evidence demonstrates that the external garbage was deposited by the public or someone other than the business.

Given how vague much of the instruction is from DSNY, I am worried that this will be more of an opportunity to fine my business than to mitigate the rat population. I hope that is not the case. Will the Department of Sanitation be willing to be flexible and work with businesses around attacking the

issue of rat mitigation and less focused on catching businesses without a secure lid? How can we monitor the success of this new rule to reduce the rat population? How can we monitor the added cost of this new rule and prepare a cost/benefit analysis? What are the Key Performance Indicators (KPIs) to decide if it should be continued? I am very willing to work with the City to ensure success of a program that delivers result without being vague, burdensome, and possibly expensive!

I respectfully request that the City take into consideration these concerns, and to also consider granting additional time for stores to implement final rules. Thank you for your time and consideration!

# Proposed Rule Relating to the Use of Certain Receptacles by Chain Stores

 [rules.cityofnewyork.us/rule/proposed-rule-relating-to-the-use-of-certain-receptacles-by-chain-stores/](https://rules.cityofnewyork.us/rule/proposed-rule-relating-to-the-use-of-certain-receptacles-by-chain-stores/)



---

**Rule status:** Proposed

**Agency:** DSNY

**Comment by date:** July 31, 2023

[Rule Full Text](#)

[DSNY-Proposed-Amendment-of-Rules-re-Use-of-Certain-Receptacles-by-Chain-Businesses-with-Hearing-Date.pdf](#)

DSNY recently proposed a rule that requires all food-related businesses to set out any putrescible solid waste, including refuse and organic waste, at the curb for private carter collection in rigid receptacles with tight-fitting lids. This new proposed rule would amend this recent rule and expand this requirement to include all commercial establishments that are a part of a chain of stores, regardless of whether such establishments are food-related businesses.

Attendees who need reasonable accommodation for a disability such as a sign language translation should contact the agency by calling 1 (646) 885-4996 or emailing eluna@dshny.nyc.gov by **July 24, 2023**

**Send comments by**

## **Public Hearings**

---

### Public Hearing

Date

July 31, 2023

10:00am - 11:00am EDT

Location

Connect Virtually

<https://tinyurl.com/2p9ysta3>

Meeting number: 2634 835 4444

Password: 35F83pmJf8S (35383765 from phones and video systems)

Join by video system

Dial 26348354444@webex.com

You can also dial 173.243.2.68 and enter your meeting number.

Join by phone

+1-408-418-9388 United States Toll

Disability Accommodation

**Comments are now closed.**

---

**Online comments: 4**

**Nancy Sheran**

Why not make this rule apply to any business that handles food or food products? Many businesses, such as retail stores, or movie theaters may not fall into the category of 'food-related business', yet they sell prepared or packaged foods or serve food. Candies are also 'food.'

Comment added July 28, 2023 1:54pm

## **Charles Stewart**

I support this rule, and it should go further. All commercial establishments also ought to be allowed to establish a permanent trash receptacle in a parking space in front of their business.

Comment added July 29, 2023 1:01pm

## **Cheryl Martin**

I think I read somewhere that schools and hospitals would be exempted. I'm curious how this will work with Manhattan office buildings that have a cafe or cafeteria for their employees . Will they also be exempted or will there be multiple receptacles along the curb?

Comment added July 29, 2023 5:56pm

## **I. DuBois**

Yes, food waste should be separately disposed of. Important to note, when usable food is routinely thrown out by a food business at the end of the day because it is no longer "fresh," but still safe, it should be taken to homeless shelters, or at least alert them for a pick-up, not thrown in the garbage. I have often read that American waste more food per capita than any other country,

Comment added July 31, 2023 7:38am