

**NEW YORK CITY BUSINESS INTEGRITY COMMISSION**

**NOTICE OF ADOPTION OF FINAL RULE ON OMNIBUS RULE AMENDMENT**

NOTICE IS HEREBY GIVEN in accordance with the requirements of section 1043 of the New York City Charter and exercising the authority vested in the Commission by sections 1043(a) and 2101(b) of the New York City Charter that the New York City Business Integrity Commission (“BIC” or the “Commission”) adopts the following Omnibus Rule Amendment. BIC published a Notice of Opportunity to Comment on the proposed rule in the *City Record* on April 28, 2017. On June 7, 2017, BIC held a public hearing on the proposed rule. BIC received public comments on the proposed rule. As a result of those comments, the Commission shortened Title 17, Section 5-05(a)(4). In addition, the Commission removed the proposed amendment regarding service by e-mail from Title 17 Sections 1-02, 11-20, and 12-25.

## **Statement of Basis and Purpose of Rule**

Several of the Commission's rules have not been updated since they were promulgated. The result is that these rules may not reflect some of the changes in technology and changes in the trade waste industry and the public wholesale food markets. In addition to adding clarifying language and making rules easier to understand and consistent with each other, the Commission is eliminating some existing rules because they are obsolete. These rules apply to trade waste licensees, registrants, applicants for trade waste licenses and registrations, wholesale business registrants, market business registrants, labor union and labor organization registrants, wholesale trade association registrants, photo identification card holders, and applicants for the same.

Under these rule modifications, the Business Integrity Commission will:

- Remove references to the Department of Consumer Affairs as the forum for certain hearings;
- Specify exceptions to the disclosure of criminal history pursuant to the New York State Executive Law (the so-called "Ban the Box" legislation);
- Clearly add the failure to appear, be examined, or to provide testimony under oath as prohibited conduct;
- Remove the obsolete requirement for a uniform chart of accounts;
- Require applicants to provide e-mail addresses on applications;
- Require applicants/licensees/registrants to provide driver's license information for employees who will operate vehicles pursuant to the license or registration;
- Clearly specify reasons that a contract between a trade waste licensee and a customer will be voidable;
- Clarify language to require that changes in material information are required to be provided to the Commission within 10 business days;
- Clarify language regarding when Commission-issued license plates must be returned to the Commission;
- Eliminate the obsolete requirement for trade waste brokers to post their Commission-issued registration at their place of business;
- Remove some obsolete requirements for trade waste brokers. Simplify other requirements for trade waste brokers;
- Remove the obsolete requirement that all written communications, advertisements, etc. must include licensee's and registrant's BIC-issued number;
- Clearly state that license and registration renewal applications must be timely-filed;
- Eliminate fees for Class 1 registrants that are not-for-profit corporations;
- Require licensees to file a customer register on a quarterly basis;
- Allow registrants the option to deliver insurance certificates to BIC in person, by regular mail, or by e-mail; and
- Convert text throughout to plain language and use other plain language edits to make the text easier to read.

Working with the City's rulemaking agencies, the Law Department, and OMB, the Office of Operations conducted a retrospective rules review of the City's existing rules, identifying those rules that will be repealed or modified to reduce regulatory burdens, increase equity, support small businesses, and simplify and update content to help support public understanding and compliance. These rule modifications were identified through this initiative.

BIC's authority for these rules is found in sections 1043(a) and 2101(b) of the New York City Charter.

New material is underlined; deleted text is in [] brackets.

Section 1. Section 1-02 of Title 17 of the Rules of the City of New York is amended to read as follows:

**§ 1-02. Notice.**

Unless otherwise provided, all notice pursuant to this chapter, including but not limited to notice related to hearings, violations, summons, and subpoenae, may be served by first class mail addressed to the business address. [provided for an applicant, licensee, or registrant on the application submitted to the Commission or on the license or registration issued to the business.] All such notice served on an employee or agent may be served by first class mail. [to the address listed for such employee or agent in the information provided to the Commission pursuant to section 2-02 of this chapter.] Such notice may also be served by personal service or in any other manner reasonably calculated to achieve actual notice, including but not limited to any method authorized in the Civil Practice Law and Rules.

Section 2. Section 1-03 of Title 17 of the Rules of the City of New York is amended to read as follows:

**§ 1-03. Hearings.**

(a) A hearing conducted pursuant to this chapter may be conducted by the Commission or, in the discretion of the Commission, by an administrative law judge employed or designated by the Commission, by the Office of Administrative Trials and Hearings (OATH) or by other administrative tribunal of competent jurisdiction. [; provided, however that hearings related to the violation of the provisions of section 16-505 of the Code and the rules of conduct set forth in subchapters E, F and G of this chapter may, except where the Commission is seeking revocation or suspension of a license or registration on the basis of such violations, be conducted by the Department of Consumer Affairs.] All such hearings shall be conducted following the procedures set forth in the rules of OATH (48 RCNY section 1-01 et seq.). [; except in the case of hearings conducted by the Department of Consumer Affairs, which shall be held pursuant to the procedures for adjudication set forth in the rules of such Department.] [In the event that] If a hearing is conducted by an administrative law judge employed or designated by the Commission, by OATH, or by other administrative tribunal, such administrative law judge shall make recommended findings of fact and a recommended decision to the Commission, which shall make the final determination. [In the event that a hearing is held by the Department of Consumer Affairs, the Commissioner of such Department shall make the final determination.]

(b) Any person who appears for a licensee or registrant at a hearing pursuant to this chapter [shall] must present evidence that he or she is authorized to act as the representative of such licensee or registrant

for all purposes related to the conduct of the hearing and the disposition of the matter adjudicated in the hearing.

Section 3. Section 1-06 of Title 17 of the Rules of the City of New York is amended to read as follows:

**§ 1-06. Supplemental Disclosure.**

(a) In addition to the items set forth in clauses (a) through (m) of paragraph (ii) of subdivision b of section 16-508 of the Code, disclosure by the applicant [shall] must include the following:

(1) information concerning any involvement of applicant in unlawful activities, including without limitation the making, creation, or filing of false statements or records, violations of the Taft-Hartley Act, 29 U.S.C. § 186 or other provisions concerning payments to a labor union official or representative, agreements not to compete with a business, bribery, or participation in other anti-competitive or corrupt business practices, and contacts with members and associates of organized crime;

(2) a listing of any criminal or civil investigation by a federal, state, or local prosecutorial agency, or investigative agency, in the five (5) year period preceding the filing of an application for a license or registration pursuant to this chapter, wherein applicant has been granted immunity, or entered into a consent decree, order, or similar agreement, except where such disclosure is protected by subdivision 16 of section 296 of article 15 of the New York State Executive Law;

(3) a listing of accounts held by the applicant business, during the five (5) year period preceding the filing of an application for a license or registration pursuant to this chapter, with banks, credit unions, brokerage firms, and similar entities, and of the amounts held therein in the form of an identification of range of dollar value;

(4) a listing of any bankruptcy proceedings in which applicant or any predecessor trade waste business of applicant, as such term is defined in section 16-508 of the Code, was a debtor or any proceedings involving forfeiture, receivership, or independent monitoring, in which applicant or any predecessor trade waste business of applicant was a party or participated in during the ten (10) year period preceding the filing of an application for a license or registration pursuant to this chapter;

(5) information concerning the acquisition, sale, assignment, or loss of routes or customers by the applicant during the ten (10) year period preceding the filing of the application; and

(6) information concerning the involvement and participation of the applicant in the activities of [waste] trade associations, including but not limited to payment of dues, attendance at meetings, participation in committee work or other [decision -making] decision-making processes, and use of or reliance upon the trade association to facilitate business transactions or resolve business disputes.

(b) In addition to the items set forth in clauses a through m of paragraph (ii) of subdivision b of section 16-508 of the Code and in subdivision a of this section, the applicant business [shall] must include in the form submitted by it to the Commission the following information with respect to each of its former principals:

(1) The items set forth in clauses g, h, i, j, and l of paragraph (ii) of subdivision b of section 16-508 of the Code, pertaining to the period during which the former principal was a principal of the applicant business; and

(2) The items set forth in paragraphs (1), (2), (5), and (6) of subdivision (a) of this section pertaining to the period during which the former principal was a principal of the applicant business.

(c) With respect to disclosure under subdivision (b) of this section, the applicant business [shall] must supply a certification, sworn and certified under penalty of criminal prosecution, that such information is complete and accurate to the best of its knowledge and belief and has been prepared based upon a diligent search of all business and other records in its possession or control.

Section 4. Section 1-09 of Title 17 of the Rules of the City of New York is amended to read as follows:

**§ 1-09. General Prohibitions.**

In addition to any other prohibition contained in Chapter 1 of Title 16-A of the Code or this chapter, an applicant, a licensee, a registrant, a principal of a licensee or a registrant, or an employee required to make disclosure pursuant to section 16-510 of the Code as listed in Appendix A of Subchapter C of this chapter [shall] must not:

- (a) violate or fail to comply with an applicable provision of this chapter;
- (b) associate with a person whom such person knows or should know is a member or associate of an organized crime group (a person who has been identified by a federal, state, or local law enforcement agency as a member or associate of an organized crime group shall be presumed to be a member or associate of an organized crime group);
- (c) refuse to answer an inquiry from the Commission;
- (d) violate or fail to comply with any order or directive of the Commission;
- (e) fail to appear, to be examined, or to provide testimony under oath to the Commission;
- (f) make a false or misleading statement to the Commission;
- (g) make a false or misleading statement to a customer or prospective customer;
- (h) threaten or attempt to intimidate a customer or prospective customer;
- (i) retaliate against a customer or prospective customer that has made a complaint to the Commission or has exercised or attempted to exercise a right under the Code or this chapter;
- (j) engage in a deceptive trade practice;
- (k) discourage a customer or prospective customer who has a question or inquiry concerning the customer or prospective customer's rights or obligations concerning trade waste from contacting the Commission;
- (l) request, participate in, or comply with, a resolution, consideration, hearing, mediation, or adjudication by a trade association or any person holding a position in a trade association concerning a dispute between two (2) or more licensees or trade waste removal businesses relating to a customer, route, or stop;
- (m) pay any money to a trade association or any person holding a position in a trade association for any activity relating to a sale, purchase, acquisition, or loss of a customer, route, or stop;

- (n) falsify any business record;
- (o) make, file, or submit a false statement or claim to a government agency or employee;
- (p) violate any law concerning payments to labor unions or labor representatives;
- (q) give or offer any money or other benefit to an official or employee of a private business with intent to induce that official or employee to engage in an unethical or illegal business practice;
- (r) give or offer any money or other benefit to any public employee whose duties relate to the trade waste industry with the exception of funds that must be paid in accordance with a statute, rule, agency order, or court order;
- (s) solicit business from a customer for any person who, or entity that, provides goods or services related to the removal, collection, or disposal of trade waste and is not licensed by, or registered with, the Commission;
- (t) agree with another trade waste business to divide or allocate customers or respect an existing division or allocation of customers by geography, territory, or otherwise, except that this provision shall not apply to a covenant not to compete agreed to in connection with the sale of a licensee's business where the Commission has expressly approved such covenant;
- (u) discuss with, or agree upon, with another private carter the prices to be submitted on a bid for a trade waste contract;
- (v) fail to timely pay taxes related to a trade waste business;
- (w) operate a transfer station in violation of any federal, state, or local law or regulation;
- (x) remove, collect, or dispose of trade waste from a commercial establishment with which the applicant, licensee, or registrant does not have a contract or agreement or other permission from the Commission to remove, collect, or dispose of such commercial establishment's trade waste; or
- (y) attempt to or conspire to engage in any act proscribed by this section.

Section 5. Section 1-10 of Title 17 of the Rules of the City of New York is amended to read as follows:

**§ 1-10. Forms Prescribed or Provided by the Commission.**

Wherever any provision of this chapter requires that any document be employed, maintained, submitted, or filed by a business required to be licensed or registered pursuant to this chapter, or that a form may be reviewed or approved by the Commission, the Commission may, in its discretion, prescribe the form of such document or provide an acceptable form. [The Commission may also prescribe a uniform chart of accounts.]

Section 6. Section 2-01 of Title 17 of the Rules of the City of New York is amended to read as follows:

**§ 2-01. License Application.**

(a) Except as provided in subdivision b of this section, an applicant business required by section 16-505 of the Code to obtain a license for the removal, collection, or disposal of trade waste [shall] must submit the information contained in the license application form provided by the Commission and the disclosure required by the forms provided by the Commission. In addition, each principal of the applicant business [shall] must:

(i) be fingerprinted by a person designated for such purpose by the Commission and pay the fee prescribed by the Division of Criminal Justice Services [to be submitted by the Commission to such Division] for the purpose of obtaining criminal history records; and

(ii) be photographed by the Commission and submit the disclosure required by the forms provided by the Commission.

Notwithstanding paragraphs (i) and (ii) of this subdivision, an applicant may submit, in lieu of such fingerprints and disclosure, copies of submissions to any Federal, State, or local regulatory entity containing information comparable to that required by the Commission, provided that the Commission may require fingerprinting and disclosure pursuant to such paragraphs where it finds that it has not received sufficient information or information that is comparable to Commission requirements. The Commission may compel attendance, examine, take testimony, and require the production of evidence pursuant to the provisions of subdivision c of section 16-504 of the Code as the Commission deems necessary to investigate the truth and accuracy of the information submitted. A fee of six hundred dollars (\$600) per applicant business and six hundred dollars (\$600) per principal thereof [shall] must be paid by the applicant for such investigation.

(b) (1) An application submitted by an applicant business that is a regional subsidiary of or otherwise owned, managed by, or affiliated with a business that has national or international operations [shall] must identify and provide fingerprints and disclosure for those principals for whom such fingerprints and disclosure are required pursuant to subdivision b of section 16-508 of the Code. In addition, such application [shall] must be accompanied by:

(i) an organizational chart that clearly identifies relationships between the “parent” company and all affiliates and subsidiaries; and

(ii) a list, in chart or other form, of all persons not employed by the applicant who have managerial responsibilities for the New York operations of the applicant – i.e., employees of a parent company or an affiliate – and a description of the nature of such responsibilities.

(2) Upon review of the materials submitted pursuant to subparagraphs (i) and (ii) of paragraph (1) of this subdivision, the Commission shall require fingerprints and disclosure from additional persons whom it identifies as having “direct management supervisory responsibility for the operations or performance of the applicant” within the meaning of subdivision b of § [16 508] 16-508 of the Code. Where the Commission requires fingerprints and disclosure with respect to such persons, it shall notify the applicant, identifying such person and specifying the date by which such information [shall] must be submitted.

(c) Following receipt of the license application and the disclosure required by the forms provided by the Commission, the Commission may require such additional information related to such application and disclosure, including without limitation documents and deposition testimony, as the Commission determines is necessary to make a licensing determination.

Section 7. Section 2-02 of Title 17 of the Rules of the City of New York is amended to read as follows:

**§ 2-02. Information Required on License Application.**



An application for a license [shall] must be signed by all persons participating directly or indirectly in the control of the applicant business and by: the proprietor of an applicant if the applicant is a sole proprietorship; every officer and director and stockholder holding ten (10) percent or more of the outstanding shares of a corporation, if the applicant is a corporation; all the partners, if the applicant is a partnership; the chief operating officer or chief executive officer, irrespective of organizational title and all persons or entities having an ownership interest of ten (10) percent or more, if the applicant is any other type of business entity. The application [shall] must be sworn and certified under penalty of criminal prosecution. The application for a license [shall] must include, but not be limited to, the following information:

- (a) (i) the name, address, e-mail address designated for communications with the business that will be checked regularly, website (if any), and telephone number(s) of the business submitting such application;
  - (ii) the names, addresses, e-mail address(es), telephone number(s), and, if natural persons, the social security numbers of the principals of the applicant business and a description of the positions occupied or ownership interest held by each such principal;
  - (iii) the names, job titles, social security numbers, e-mail addresses, and addresses of all other employees or agents, or prospective employees or agents of the applicant, who will perform work directly or indirectly related to trade waste removal; driver's license numbers, with the class and expiration date, or other required operators' licenses, of all employees or agents who will operate vehicles in the business;
  - (iv) if the applicant is doing business under an assumed name, a Certificate of Assumed Name, certified by the County Clerk if a sole proprietorship or partnership, or by the Secretary of State if a corporation;
  - (v) if the applicant is a sole proprietorship, a notarized copy of the business certificate certified by the County Clerk;
  - (vi) if the applicant is a corporation, a copy of the certificate of incorporation; and
  - (vii) if the applicant is a partnership, a copy of partnership papers, certified by the County Clerk.
- (b) A disclosure form completed by the applicant business and disclosure forms completed by all of the principals of the business, except as provided in subdivisions (b) and (c) of section 2-01 of this subchapter, and disclosure forms completed by employees and agents or prospective employees or agents in the categories specified in Appendix A to this chapter.
- (c) A business telephone number and a business address within the City of New York where notices may be delivered and legal process may be served, and where records required by these rules [shall] must be maintained.
- (d) A Federal or state tax identification number.
- (e) A listing of each vehicle that will be operated pursuant to the license, and the vehicle identification number and registration number of such vehicle and a copy of the insurance card for each such vehicle.
- (f) Before a license is issued, an applicant [shall] must submit proof that the following insurance policies have been secured:
- (1) The required [workers' compensation and disability benefits coverage] Workers' Compensation and Disability Benefits Coverage, or proof that the applicant is exempt from the [Worker's]



Workers' Compensation Law, Section 57, and subdivision 8 of section 220 of the Disability Benefits Law [Section 220, subdivision 8]. Proof of coverage can be established by submitting the following Workers' Compensation Board forms:

(i) C-105.2 Application for Certificate of Workers' Compensation Insurance;

(ii) DB-120.1 Employer's Application for Certificate of Compliance with Disability Benefits Law;

(iii) S1-12 Affidavit certifying that compensation has been secured.

(2) Proof that no coverage is required can be provided by submitting the following [Worker's] Workers' Compensation Board form:

(i) C-105.21 Statement that applicant does not require Workers' Compensation or Disability Benefits Coverage.

[(2)] (3) Liability insurance against claims for injuries to persons or damages to property which may arise from or in connection with the licensee's business pursuant to the license. The licensee may purchase such policies in connection with one (1) or more other licensees, provided that the coverages described in this subdivision are maintained.

[(3)] (4) Commercial General Liability Insurance with liability limits of no less than one million dollars (\$1,000,000). The maximum deductible for such insurance shall be no more than twenty[-five thousand dollars (\$25,000).

[(4)] (5) Business Automobile Liability Insurance covering every vehicle operated by the licensee in his or her business, whether or not owned by the applicant, and every vehicle hired by the licensee with liability limits of no less than one hundred thousand dollars (\$100,000) for personal injury to any one person and three hundred thousand dollars (\$300,000) for personal injury to two (2) or more persons and twenty-five thousand dollars (\$25,000) for damage to property.

[(5)] (6) Employers' Liability Insurance with limits of one million (\$1,000,000) dollars per accident. The policy or policies of insurance required by these rules [shall] must name the Commission as Certificate Holder and [shall] must be endorsed to state that coverage shall not be suspended, voided, canceled, or reduced in coverage or in limits except upon sixty (60) days prior written notice to the Commission. Failure to maintain continuous insurance coverage meeting the requirements of these rules will result in revocation of the license. Such policy or policies of insurance [shall] must be obtained from a company, or companies, duly authorized to do business in the State of New York with a Best's rating of no less than A:X unless specific approval has been granted by the Mayor's Office of Operations to accept a company with a lower rating. Two (2) certificates of insurance effecting the required coverage and signed by a person authorized by the insurer to bind coverage on its behalf, must be delivered to the Commission prior to the effective date of the license. A licensee [shall] must demonstrate that he or she has secured the insurance coverage required pursuant to this section and [shall] must maintain such required insurance coverage throughout the term of the license.

(g) If applicant transports or proposes to transport medical waste, asbestos, or other hazardous materials for which a New York State Waste Transporter permit is required, a copy of such permit must be submitted with the application.

Section 8. Section 2-03 of Title 17 of the Rules of the City of New York is amended to read as follows:

**§ 2-03. Application for Exemption from Licensing Requirements for Removal of Demolition Debris and a Class 2 Registration.**

(a) Class 2 Registration for Business Exempt from Licensing Requirements under Section 16-505(a). A business solely engaged in the removal of waste materials resulting from building demolition, construction, alteration, or excavation, including waste materials resulting from building demolition, construction, alteration, or excavation generated by such business, may, pursuant to subdivision a of section 16-505 of the Code, apply to the Commission for exemption from the licensing requirements of section 16-505 where no principal [(except for a principal of a business solely in either or both of the class seven or the class three category of licensees as defined in rules previously promulgated by the Commissioner of Consumer Affairs pursuant to subchapter 18 of Chapter 2 of Title 20 of the Code)] of such applicant is a principal of a business or a former business required to be licensed during the past ten (10) years pursuant to this chapter [or such former subchapter 18].

(b) An application for an exemption pursuant to this section [shall] must be signed by all persons participating directly or indirectly in the control of the applicant business and by: the proprietor of an applicant if the applicant is a sole proprietorship; every officer and director and stockholder holding ten (10) percent or more of the outstanding shares of a corporation, if the applicant is a corporation; all the partners, if the applicant is a partnership; the chief operating officer or chief executive officer, irrespective of organizational title and all persons or entities having an ownership interest of ten (10) percent or more if the applicant is any other type of business entity. The application [shall] must be certified under penalty of criminal prosecution, and [shall] must, in addition, contain:

(1) A statement describing the nature of the applicant business, including a statement that the applicant business removes no waste other than materials resulting from building demolition, construction, alteration, or excavation, and a description of the kinds of waste removed by the applicant business, the types of sites from which such waste is removed, and the nature of the customers of such applicant business.

(2) The names, e-mail addresses, and addresses of the principals of such business, a description of the position occupied or ownership interest held by each such principal, and a statement that no such principal is or was a principal of [(a)] a business required to be licensed pursuant to section 16-505 of the Code [and (b) a business or former business required to be licensed pursuant to former subchapter 18 of Chapter 2 of Title 20 of the Code, except for businesses solely in the class seven or the class three category of licenses defined in the rules promulgated pursuant to such former subchapter].

(c) Such application [shall] must, in addition, contain the following information:

(1) If applicant transports asbestos or other hazardous materials for which a New York State Department of Environmental Conservation Waste Transporter permit is required, a copy of such permit must be submitted with the application.

(2) If such applicant is doing business under an assumed name, a Certificate of Assumed Name, certified by the County Clerk if a sole proprietorship or partnership or by the Secretary of State if a corporation, and in addition: if a sole proprietorship, a business certificate certified by the County Clerk[.]; if a corporation, a copy of the certificate of incorporation; if a partnership, a copy of partnership papers, certified by the County Clerk.

(3) A business telephone number and a business address within the City of New York where notices may be delivered and legal process may be served, and where records required by these rules [shall] must be maintained.

(4) A Federal or state[, ] tax identification number.

(5) A listing of any criminal convictions of the applicant, except where such disclosure is protected by subdivision 16 of section 296 of article 15 of the New York State Executive Law.

(6) A listing of any pending civil or criminal actions in any jurisdiction, except where such disclosure is protected by subdivision 16 of section 296 of article 15 of the New York State Executive Law.

(7) A listing of any judgments finding liability of the applicant in a civil or administrative action related to the conduct of a business bearing a relationship to the removal of trade waste.

(8) A listing of each vehicle that will be operated pursuant to the license, and the vehicle identification number and registration number of such vehicle.

(9) A listing of the employees who will drive vehicles operated pursuant to this license, and the driver's license numbers, driver's license classes, and driver's license expiration dates of such employees.

(10) Evidence of business automobile liability insurance covering every vehicle operated by the applicant in his or her business, whether or not owned by the applicant, and every vehicle hired by the applicant, with liability limits of no less than one hundred thousand dollars (\$100,000) for personal injury to any one person and three hundred thousand dollars (\$300,000) for personal injury to two (2) or more persons and twenty-five thousand dollars (\$25,000) for damage to property. Such insurance policy [shall] must name the Commission as Certificate Holder.

(d) An applicant eligible for an exemption pursuant to this section shall be photographed by the Commission and shall be issued a Class 2 registration by the Commission. Notwithstanding any other provision of this chapter, if at any time [subsequent to] after the issuance of a registration to a business granted an exemption pursuant to this section, the Commission has reasonable cause to believe that any or all of the principals of such business do not possess good character, honesty, and integrity, the Commission may require that such principal(s):

- (i) be fingerprinted by a person designated for such purpose by the Commission and pay the fee prescribed by the Division of Criminal Justice Services for the purpose of obtaining criminal history records; and
- (ii) submit to the Commission the disclosure required by the form provided by the Commission; provided that the Commission may consider a written statement from an applicant setting forth any special facts with respect to a principal in the applicant's business that the applicant believes should allow exemption of such principal from fingerprinting and disclosure.

Notwithstanding the fingerprinting and disclosure requirements of paragraphs (i) and (ii) of this subdivision, an applicant may submit, in lieu of such fingerprints and disclosure, copies of submissions to any federal, state or local regulatory entity containing information comparable to that required by the Commission, provided that the Commission may require fingerprinting and disclosure pursuant to such paragraphs where it finds that it has not received sufficient information or information that is comparable to Commission requirements. Following receipt of the disclosure required by the forms provided by the Commission, the Commission may require such additional information related to such disclosure, including without limitation documents and deposition testimony, as the Commission determines is necessary to render determination. The Commission may, after notice and the opportunity to be heard, [revoke the registration of such business] refuse to register such applicant for the reasons set forth in paragraphs (i) through (x) of subdivision a of section 16-509 of the Code.

(e) At any time after the registration of an applicant eligible for an exemption pursuant to this section, the Commission may, after notice and the opportunity to be heard, revoke the registration of such business for the reasons set forth in paragraphs (i) through (x) of subdivision a of section 16-509 of the Code.

(f) If an application for the renewal of a license or registration is not submitted to the Commission within the time period required by the Commission, the Commission may reject the renewal application and require the applicant to file a new application for a license or registration. If a new application is required by the Commission, the provisions pertaining to the application process set forth in Chapter 1 of Title 16-A of the Code and of this subchapter shall apply.

Section 9. Section 2-04 of Title 17 of the Rules of the City of New York is amended to read as follows:

**§ 2-04. Registration Application.**

(a) Class 1 Registration. A person or business required, pursuant to subdivision b of section 16-505 of the Code, to register with the Commission to remove, collect, or dispose of trade waste that is generated in the course of operation of such person's business [shall] must submit a registration form, containing the information required by the Commission, including, but not limited to the following:

(1) A list of the names, e-mail addresses, and addresses of all principals of the applicant and a description of the position occupied or ownership interest held by each such principal;

(2) If the applicant is doing business under an assumed name, a Certificate of Assumed Name, certified by the County Clerk if a sole proprietorship or partnership or by the Secretary of State if a corporation, and in addition: if the applicant is a sole proprietorship, a notarized copy of the Certificate of Business, certified by the County Clerk; if a corporation, a copy of the certificate of incorporation and a

list of the names and addresses of all principals; if a partnership, a copy of partnership papers, certified by the County Clerk;

(3) A business telephone number and a business address within the City of New York where notices may be delivered and legal process may be served, and where records required by these rules [shall] must be maintained, and the name of a person of suitable age and discretion who [shall be] is designated as agent for the service of legal process;

(4) A Federal and state tax identification number;

(5) A listing of each vehicle that will be operated pursuant to the registration, and the vehicle identification number and registration number of such vehicle;

(6) A listing of the employees who will drive vehicles operated pursuant to the registration, and the driver's license numbers, the driver's license classes, and the driver's license expiration dates of such employees; and

(7) A listing of the locations from which the registrant will remove trade waste and to which the waste is proposed to be removed; and a description of the kinds of waste removed and the methods used to remove such waste. If the applicant transports asbestos or other hazardous materials for which a New York State Department of Environmental Conservation Waste Transporter permit is required, a copy of such permit must be submitted with the application;

(8) Evidence of business automobile liability insurance covering every vehicle operated by the registrant that will transport waste, whether or not owned by the applicant, and every such vehicle hired by the registrant, with liability limits of no less than one hundred thousand dollars (\$100,000) for personal injury to any one person and three hundred thousand dollars (\$300,000) for personal injury to two (2) or more persons and twenty-five thousand dollars (\$25,000) for damage to property.

(b) Class 2 Trade Waste Broker Registration. An application for registration required by subdivision b of section 16-505 of the Code to register as a trade waste broker [shall] must be signed by all persons participating directly or indirectly in the control of the applicant business and by: the proprietor of an applicant if the applicant is a sole proprietorship; every officer and director and stockholder holding ten (10) percent or more of the outstanding shares of a corporation, if the applicant is a corporation; all the partners, if the applicant is a partnership; the chief operating officer or chief executive officer, irrespective of organizational title and all persons or entities having an ownership interest of ten (10) percent or more, if the applicant is any other type of business entity. The application [shall] must be certified under penalty of criminal prosecution. The principal of such applicant shall be photographed by the Commission, and such application [shall] must contain the following information:

(1) The names, [and] addresses, and e-mail addresses of all principals of the applicant and a description of the position occupied or ownership interest held by each such principal;

(2) If such applicant is doing business under an assumed name, a Certificate of Assumed Name, certified by the County Clerk if a sole proprietorship or partnership or by the Secretary of State if a

corporation; if a sole proprietorship, a notarized Certificate of Business, certified by the County Clerk; if a corporation, a copy of the certificate of incorporation and a list of the names and addresses of all the principals; if such applicant is a partnership, a copy of partnership papers, certified by the County Clerk.

(3) A business telephone number and a business address within the City of New York where notices may be delivered and legal process may be served, and where records required by these rules [shall] must be maintained, and the name of a person of suitable age and discretion who [shall be] is designated as agent for the service of legal process;

(4) A Federal or state tax identification number;

(5) The names, addresses, e-mail addresses, telephone numbers, social security numbers, and dates of birth of all employees or agents, or prospective employees or agents of the applicant, who will perform work related to the trade waste removal industry;

~~(6)~~ Where any principal of the applicant business is, or has been at any time during the past ten ~~(10)~~ years, a principal of a trade waste removal business required to be licensed pursuant to Title 16- [ ]A of the Code [or former subchapter 18 of chapter 2 of Title 20 of the Code], a listing of such trade waste removal business and the nature of the involvement of such principal in such business;

~~(7)~~ A listing of any contractual or other business relationship, at any time during the past ten ~~(10)~~ years, between the applicant business and a trade waste removal business required to be licensed pursuant to Title 16-A of the Code [or former subchapter 18 of chapter 2 of Title 20 of the Code];

~~(8)~~ A listing of any criminal convictions of the applicant, except where such disclosure is protected by subdivision 16 of section 296 of article 15 of the New York State Executive Law;

~~(9)~~ A listing of any pending civil or criminal actions with respect to the applicant business in any jurisdiction; and

~~(10)~~ A listing of any suspensions or revocations of licenses or permits held by the applicant for the removal or recycling of trade waste in any jurisdiction or any judgments or orders finding liability of the applicant in a civil or administrative action related to the conduct of a business that removes or recycles trade waste, a trade waste broker business, or the operation of a dump, landfill, or transfer station.

(c) (1) Notwithstanding any provision of this chapter, the Commission may, when there is reasonable cause to believe that an applicant for registration as a trade waste broker or an applicant for registration to remove, collect, or dispose of trade waste that is generated in the course of operation of such person's business or any or all of the principals of such applicant does not possess good character, honesty, and integrity, require that such applicant or any or all of the principals of such applicant be fingerprinted by a person designated for such purpose by the Commission and pay the fee prescribed by the Division of Criminal Justice Services for the purpose of obtaining criminal history records and provide to the Commission the disclosure required by the form provided by the Commission. Following receipt of such disclosure, the Commission may require such additional information relating to such disclosure, including without limitation documents and deposition testimony, as the Commission determines is necessary to



render a determination. The Commission may, after notice and the opportunity to be heard, refuse to register such applicant for the reasons set forth in paragraphs (i) through (x) of subdivision a of section 16-509 of the Code.

(2) If at any time [subsequent to] after the registration of a trade waste broker or the registration of an entity that removes, collects, or disposes of trade waste that is generated in the course of operation of such person's business, the Commission has reasonable cause to believe that any or all of the principals of such business do not possess good character, honesty, and integrity, the Commission may require that such principal(s) be fingerprinted by a person designated for such purpose by the Commission and pay the fee prescribed by the Division of Criminal Justice Services for the purpose of obtaining criminal history records and provide the disclosure required by the form provided by the Commission; provided that the Commission may consider a written statement from an applicant setting forth any special facts with respect to a principal in the applicant's business that the applicant believes should allow exemption of such principal from fingerprinting and disclosure. Notwithstanding the fingerprinting and disclosure requirements of this paragraph, an applicant may submit, in lieu of such fingerprints and disclosure, copies of submissions to any federal, state, or local regulatory entity containing information comparable to that required by the Commission, provided that the Commission may require fingerprinting and disclosure where it finds that it has not received sufficient information or information that is comparable to Commission requirements. Following receipt of disclosure required by the forms provided by the Commission, the Commission may require additional information related to such disclosure, including without limitation documents and deposition testimony, as the Commission determines is necessary to render determination. The Commission may, after notice and the opportunity to be heard, revoke the registration of such business for the reasons set forth in paragraphs (i) through (x) of subdivision a of section 16-509 of the Code.

(3) If an application for renewal of a Class 1 registration or a Class 2 trade waste broker registration is not submitted to the Commission within the time required by the Commission, the Commission may reject the renewal application and require the applicant to file a new application for a Class 1 Registration or a Class 2 Trade Waste Broker Registration. If a new application is required by the Commission, the provisions pertaining to the application process as set forth in Chapter 1 of Title 16-A of the Code and of this subchapter shall apply.

Section 10. Section 2-05 of Title 17 of the Rules of the City of New York is amended to read as follows:

**§ 2-05. Notification of Arrest, Conviction or Material Change in Information; Addition of New Principal or Employee.**

(a) (1) An applicant for a license or a licensee and an applicant for exemption from the requirement for a license or an applicant granted such exemption [shall] must notify the Commission, within ten (10) [calendar] business days, of the arrest or criminal conviction [subsequent to] after the submission of the application of any principal or any employee or agent[,], or any prospective employee or agent identified on the application, of which the applicant for a license or the licensee had knowledge or should have known, except where such disclosure is protected by subdivision 16 of section 296 of article 15 of the New York State Executive Law;



(2) An applicant for a license or a licensee [shall] must notify the Commission within ten (10) [calendar] business days of any material change as defined in section 1-01 of this chapter in the information submitted in an application or disclosure form submitted pursuant to this chapter.

(3) A licensee [shall] must notify the Commission within ten (10) [calendar] business days of contract closing of any change in the capital stock or ownership in the business of the licensee, including but not limited to a stock transfer or sale of the outstanding shares of the business or sale or merger of such business; provided, however that a business whose equity securities are publicly traded on a national or regional stock or securities exchange [shall be required to make] must [disclosure] disclose [of] only such stock transfer or sale required to be disclosed by the Securities Exchange Commission or other Federal or State regulatory body. Such notification [shall] must include a list of any persons formerly possessing ownership interest in the licensee business who will have any beneficial interest in the current business and a copy of the contract or agreement.

(4) In addition to notification of material change required by any other provision of this chapter, a licensee [shall] must provide the Commission with notice of at least ten (10) business days of the proposed addition of a new principal (other than a person or entity that becomes a principal through the acquisition of outstanding shares of a business whose equity securities are registered under Federal and State securities laws and publicly traded on a national or regional stock or security exchange) to the business of such licensee. The Commission may waive or shorten such period upon a showing that there exists a bona fide business requirement therefor. Except where the Commission determines within such period, based upon information available to it, that the addition of such new principal may have a result inimical to the purposes of this chapter, the licensee may add such new principal pending the completion of review by the Commission. The licensee shall be afforded an opportunity to demonstrate to the Commission that the addition of such new principal pending completion of such review would not have a result inimical to the purposes of this chapter. If upon the completion of such review, the Commission determines that such principal lacks good character, honesty, and integrity, the license shall cease to be valid unless such principal divests his or her interest, or discontinues his or her involvement in the business of such licensee, as the case may be, within the time period prescribed by the Commission.

(b) An applicant for registration and a registrant, including a registrant issued a registration [subsequent to] after the granting of an exemption from the licensing requirement of subdivision a of section 16-505 of the Code, [shall] must notify the Commission within ten (10) business days of: (i) the addition of a principal to the business of a registrant [subsequent to] after the submission of the application for registration or exemption from the licensing requirement pursuant to this chapter; (ii) the arrest or criminal conviction of any principal of a Class 2 registrant of which such applicant or registrant had knowledge or should have known, except where such disclosure is protected by subdivision 16 of section 296 of article 15 of the New York State Executive Law; and (iii) any other material change in the information submitted pursuant to this sub-[ ]chapter.

(c) Notification pursuant to paragraphs (2), (3), and (4) of subdivision (a) and subdivision (b) of this section [shall] must be sworn and notarized and [shall] must be signed by all persons participating directly or indirectly in the control of the applicant business and by: the proprietor of an applicant if the applicant is a sole proprietorship; every officer and director and stockholder holding ten (10) percent or more of the outstanding shares of a corporation, if the applicant is a corporation; all the partners, if the applicant is a partnership; the chief operating officer or chief executive officer, irrespective of organizational title and

all persons or entities having an ownership interest of ten (10) percent or more if the applicant is any other type of business entity. Notification pursuant to paragraph (i) of subdivision (a) of this section [shall] must be sworn and notarized and [shall] must be signed by the chief operating officer or chief executive officer, irrespective of organizational title, of the applicant or licensee, as the case may be.

Section 11. Section 2-07 of Title 17 of the Rules of the City of New York is amended to read as follows:

**§ 2-07. Terms and Fees.**

[(a)] The term of a license or registration shall be two (2) years. The fee for investigation of a license applicant shall be five thousand dollars (\$5,000), and the fee for each vehicle in excess of one (1) operated pursuant to a license shall be five hundred dollars (\$500). The fee for investigation of a Class 2 registration applicant pursuant to section 2-03 of this subchapter shall be three thousand and five hundred dollars (\$3,500), and the fee for each vehicle operated pursuant to a Class 2 registration shall be five hundred dollars (\$500). The fee for investigation of a Class 1 registration applicant shall be one thousand dollars (\$1,000), and the fee for each vehicle operated pursuant to a Class 1 registration shall be four hundred dollars (\$400). There shall be no fee for a Class 1 registrant that is a Not-For-Profit Corporation. The fee for investigation of a trade waste broker registration application shall be five thousand dollars (\$5,000).

[(b)] The fee for a license or registration shall be submitted upon submission of an application for the license or registration.]

Section 12. Section 4-01 of Title 17 of the Rules of the City of New York is amended to read as follows:

**§ 4-01. Responsibilities of Auditors.**

Where the Commission requires, pursuant to subdivision a of section 16-511 of the Code, that a licensee enter into a contract with an independent auditor, such licensee [shall] must cooperate with such auditor in the performance of the responsibilities set forth in such contract and this section.

(a) An auditor shall:

- (1) Investigate the activities of the licensee with respect to:
  - (i) compliance with the provisions of Local Law Number 42 for the Year 1996 and the provisions of this chapter;
  - (ii) compliance with all Federal, State, and local laws applicable to trade waste removal and any rules or regulations promulgated thereunder;
  - (iii) any transfer of ownership interest in the business of the licensee;
  - (iv) any litigation entered into by the licensee against a customer or another licensee or its customer or a trade waste broker;
  - (v) any sales, assignments or purchases of contracts;
  - (vi) any activity of the licensee that may violate laws or regulations prohibiting anti-competitive activities or unfair trade practices; and
  - (vii) any membership in a trade association;

- (2) Audit the books and records of the licensee;
- (3) Have authority to verify employees and capital equipment of the licensee;
- (4) Accompany trucks operated by the licensee in order to verify amounts of trade waste collected and the disposal of such waste;
- (5) Verify the costs and revenues relating to business arrangements of the licensee with truckers, transfer stations, landfills, recycleries, trade waste brokers, and manufacturers, including paper processors and printing establishments; and
- (6) Have such additional duties and responsibilities as the Commission determines are necessary in the case of a licensee in order to ensure that such licensee performs in a manner consistent with the purposes of Local Law Number 42 for the Year 1996.

(b) An auditor [shall] must promptly report the findings of investigations conducted pursuant to this section to the Commission but [shall] must report to the Commission on his or her activities at least on a quarterly basis, except that an auditor [shall] must report immediately to the Commission any [failure of the licensee to cooperate in such investigation,] decisions by the licensee to assign contracts for the removal, collection, or disposal of trade waste, decisions to transfer ownership interest or assets in excess of ten thousand dollars (\$10,000) to another person or entity or the initiation of litigation against a customer, another trade waste removal business or its customer, or a trade waste broker. The licensee must fully cooperate with the auditor, and the auditor must immediately report to the Commission any failure of the licensee to cooperate.

Section 13. Section 4-02 of Title 17 of the Rules of the City of New York is amended to read as follows:

**§ 4-02. Responsibilities of Monitors.**

Where the Commission requires, pursuant to subdivision b of section 16-511 of the Code, that an applicant for a license or a licensee enter into a contract with an independent monitor, the applicant or licensee [shall] must cooperate with the monitor in the exercise of his or her responsibilities set forth in such contract and this section. Where an applicant or licensee is subject to a receivership, the applicant or licensee [shall] must furnish the monitor with the relevant orders of the court regarding such receivership.

- (a) A monitor shall:
  - (1) Investigate the activities of the applicant or licensee with respect to:
    - (i) compliance with the provisions of any court order to which the applicant or licensee is subject;
    - (ii) the provisions of Local Law Number 42 for the Year 1996 and the provisions of this chapter;
    - (iii) compliance with all Federal, State, and local laws applicable to trade waste removal and any rules or regulations promulgated thereunder;
    - (iv) any transfer of ownership interest in the business of the applicant or licensee;

- (v) any litigation entered into by the applicant or licensee against a customer or another applicant or licensee or its customer or a trade waste broker;
- (vi) any sales, assignments, or purchases of contracts;
- (vii) any activity of the applicant or licensee that may violate laws or regulations prohibiting anti-competitive activities or unfair trade practices; and
- (viii) any membership in a trade association;

(2) audit the books and records of the licensee;

(3) have authority to verify employees and capital equipment of the applicant or licensee;

(4) accompany trucks operated by the applicant or licensee in order to verify amounts of trade waste collected and the disposal of such waste;

(5) verify the costs and revenues relating to business arrangements of the applicant or licensee with truckers, transfer stations, landfills, recycleries, trade waste brokers, and manufacturers, including paper processors and printing establishments; and

(6) have such additional duties and responsibilities as the Commission determines are necessary in the case of the applicant or licensee in order to ensure that such applicant or licensee performs in a manner consistent with the purposes of Local Law Number 42 for the Year 1996.

(b) A monitor shall have authority to approve or disapprove:

(i) the involvement in the conduct of the business of a principal who is a defendant in the criminal action for which the applicant or licensee has been indicted in any particular aspect of the business of the licensee, where the monitor has reasonable cause to believe that such involvement would be inconsistent with the purposes of Local Law Number 42 for the Year 1996;

(ii) the assignment of contracts by the applicant or licensee;

(iii) the transfer of ownership interest or assets of the applicant or licensee business of ten thousand dollars (\$10,000) and more;

(iv) cash expenditures and contracts, with the exception of collective bargaining agreements, for services of ten thousand dollars (\$10,000) and more;

(v) membership in a trade association;

(vi) litigation against a customer, another applicant or licensee or a customer of such business or a trade waste broker; and

(vii) the hiring or firing of personnel when the monitor has reasonable cause to believe that such actions are inconsistent with the purposes of Local Law Number 42 for the Year 1996.

The monitor may, in addition, prohibit persons from the premises of the applicant or licensee or from involvement in the business of the applicant or licensee, when the monitor determines that such prohibition is necessary to effectuate the purposes of Local Law Number 42 for the Year 1996.

(c) A monitor [shall] must report the findings of investigations conducted pursuant to this section to the Commission on a monthly basis, except that a monitor [shall] must report immediately to the Commission any [failure of the applicant or licensee to cooperate in such investigation,] decisions by the

applicant or licensee to assign contracts for the removal, collection, or disposal of trade waste, decisions to transfer ownership interest or assets in excess of ten thousand dollars (\$10,000) to another person or entity, or the initiation of litigation against a customer, another trade waste removal business or its customer, or a trade waste broker. The licensee must fully cooperate with the monitor, and the monitor must immediately report to the Commission any failure of the licensee to cooperate.

Section 14. Section 5-01 of Title 17 of the Rules of the City of New York is amended to read as follows:

**§ 5-01. Sign or Decal Required; Display of License.**

- (a) Every licensee shall provide to every recipient of its services a sign or decal which the licensee shall obtain from the Commission. A licensee shall not provide such a sign or decal to a business unless such licensee has entered into an agreement with such business to provide waste removal services. Such sign or decal shall conspicuously and legibly display the name, address, telephone number, number of license and the day and approximate time of waste collection. Such sign or decal must also identify, by type, each designated recyclable material (as defined in section 1-01 of title 16) that will be collected by a licensee and, if applicable, whether a licensee will be using single stream collection and recycling (as defined in section 1-01 of title 16) or co-collection of recyclables (as defined in section 1-01 of title 16). Any licensee that provides organic waste removal services to a designated covered establishment shall also provide a sign or decal that provides the name of the licensee that collects the designated covered establishment's organic waste. Any licensee that provides organic waste removal services to a designated covered establishment shall also provide the designated covered establishment with a sign or decal that states (i) the name of the licensee that collects the designated covered establishment's organic waste; or (ii) that the licensee transports its organic waste to an entity that provides for beneficial organic waste reuse; or (iii) that the licensee provides for on-site processing of organic waste generated at its premises.
- (b) Such sign(s) or decal(s) shall be conspicuously posted as prescribed in section 16-116(b) of the Code by the owner, lessee or person in control of the commercial establishment which receives the licensee's services. The licensee shall provide each sign or decal to the customer and shall inform the customer of its obligation to post the sign or decal in accordance with the requirements of section 16-116(b) of the Code.
- (c) A licensee shall not charge a fee to any business for a sign or decal issued by the Commission.
- (d) A licensee shall conspicuously display its license in its place of business.
- [(e) All written communications with a customer or potential customer (including, without limitation, receipts and correspondence), all advertisements and the letterhead of a licensee must contain the license number assigned to the licensee by the Commission. The license number must be clearly identified as a Commission license number. Any listing consisting solely of the name, address and telephone number of the licensee need not include the licensee's license number.]

Section 15. Section 5-03 of Title 17 of the Rules of the City of New York is amended to read as follows:

**§ 5-03. Record Keeping; Customer, Financial and Other Reporting Requirements.**

- (a) A licensee [shall] must maintain records concerning its business including but not limited to:
- (i) bills and purchase invoices (with notations identifying whether the bill or invoice was paid and, if so, the check number and date),
  - (ii) deposit slips,
  - (iii) copies of checks received from payors,
  - (iv) bank statements,
  - (v) cancelled checks,
  - (vi) tax returns (copies of Federal, State, and local returns with all supporting schedules),
  - (vii) copies of accountants' workpapers,
  - (viii) insurance policies,
  - (ix) drivers' route trip sheets,
  - (x) collective bargaining agreements,
  - (xi) petty cash disbursement records,
  - (xii) IRS W-2 forms,
  - (xiii) IRS W-4 forms,
  - (xiv) IRS 1099 forms,
  - (xv) I-9 forms,
  - (xvi) internal memoranda concerning the licensee's finances or one (1) or more customers or prospective customers of the licensee,
  - (xvii) contracts,
  - (xviii) documents concerning route sales and contract assignments,
  - (xix) waste surveys,
  - (xx) rate schedules,
  - (xxi) discount rate lists,
  - (xxii) documents concerning mergers, acquisitions, subcontracts, and asset sales,
  - (xxiii) copies of cash receipts,
  - (xxiv) documents reflecting electronic fund transfers,
  - (xxv) written correspondence,
  - (xxvi) lists of collection routes and schedules,
  - (xxvii) submissions to and notices from the Commission, and
  - (xxviii) all documents supporting, evidencing, or used to create the reports, books, journals, registers, and ledgers that the licensee is required to maintain pursuant to this section.
- (b) A licensee [shall] must provide each payor with a written receipt for all cash payments setting forth the name and address of the licensee, the license number of the licensee, the date of the payment, the amount of the payment, and the identity of the payor. Each such receipt [shall] must be signed by the licensee or the licensee's authorized agent. A duplicate copy of the receipt [shall] must be kept by the licensee as part of its books and records. For the purposes of this section, the term "payor" [shall] mean any person who remunerates the licensee for any purpose.
- (c) A licensee [shall] must not make any payment in excess of one thousand dollars (\$1,000) in cash or by check made payable to "Petty Cash." A licensee [shall] must not make any check payable to "Cash."



(d) A licensee [shall] must maintain a complete and accurate set of books of account reflecting the operation of the licensee's business. Such books may be maintained on a computerized accounting system[,] and [shall] must be kept on either a cash or an accrual basis of accounting in accordance with Generally Accepted Accounting Principles. The books [shall] must be kept on a quarterly or monthly basis and [shall] must be brought up to date no later than thirty (30) days after the end of each preceding quarter or month. The books [shall] must include the following journals and ledgers:

- (1) Cash Receipts Journal showing for each payment received:
  - (A) the date payment was received;
  - (B) the identity of the payor;
  - (C) the amount of the payment;
  - (D) the check number; and
  - (E) a brief explanation of the purpose of the payment. Payments for routes or contracts sold [shall] must be described in detail.
  
- (2) Cash Disbursements Journal showing for each payment made:
  - (A) the date payment was made;
  - (B) the identity of the payee;
  - (C) the amount of the payment;
  - (D) the check number; and
  - (E) a brief explanation of the purpose of the payment. Payments for routes or contracts purchased [shall] must be described in detail.
  
- (3) Disposal Expense Subsidiary Journal showing:
  - (A) details of all expenses incurred;
  - (B) credits (including cash) obtained in connection with disposing or recycling collected waste including:
    - (C) the name of the disposal facility or vehicle or recycling facility,
    - (D) the type of disposal or recycling facilities used ([e.g.,] e.g., landfill, transfer station, or recycling center),
    - (E) the complete address of each disposal facility or vehicle or recycling facility,
    - (F) the date on which the disposal or recycling occurred,
    - (G) the date on which payment was made,
    - (H) the check number,
    - (I) the invoice number,
    - (J) the type of collected waste,
    - (K) the amount of collected waste that was delivered to such disposal or recycling facility or facilities (in compacted cubic yards and tons),
    - (L) the rate charged per cubic yard or ton,
    - (M) the total amount billed by the vehicle or facility, and
    - (N) the amount paid.

The monthly or quarterly closing [shall] must include a total of the amount of collected waste that was delivered to each disposal or recycling facility or vehicle (in compacted cubic yards and tons), a total



of the amount billed by each disposal or recycling vehicle and facility, and the amount paid[,] and [shall] must also include a total for each of these categories for all of the vehicles and facilities;

- (4) Payroll Journal showing:
  - (A) the name of the employee;
  - (B) job title and position of the employee;
  - (C) the home address of the employee;
  - (D) the social security number of the employee;
  - (E) [Gross] gross pay;
  - (F) [Deductions] deductions;
  - (G) [Net [Pay] net pay.

(5) General Journal showing all non-cash transactions including adjusting entries, reversing entries, correcting entries, and reclassifying entries with explanations.

(6) General Ledger maintaining an account for each kind of asset, liability, capital, income, and expense accounts. Each posting to an account must include date, folio page, and amount. Balances of each account must be updated on a monthly basis.

(7) Customer Subsidiary Ledger [shall] must include a separate account for each customer, arranged alphabetically, showing:

- (A) the name of the customer;
- (B) the address(es) where the waste is collected;
- (C) the customer's billing address;
- (D) telephone number;
- (E) the current negotiated rate per cubic yard or per one hundred (100) pounds charged;
- (F) the actual weekly or monthly charges; and
- (G) the date, check number, and amount of payments.

(8) Fixed Assets Subsidiary Ledger [shall] must include an account or record for each kind of fixed asset, including trucks, containers, and other waste removal equipment, showing:

- (A) the date the asset was acquired;
- (B) the amount paid for the asset;
- (C) a description of the asset including the serial number, VIN number if applicable, make, year of manufacture, capacity, and type;
- (D) estimated life of each asset;
- (E) estimated salvage value of each asset; and
- (F) method of depreciation, additions and disposals, invoice number, and check number.

(9) Accounts Payable Subsidiary Ledger [shall] must show the following for each account:

- (A) the date of purchase;
- (B) the name of the vendor or supplier;
- (C) the amount payable; and
- (D) a brief explanation.

(10) Other Subsidiary Ledgers [shall] must be kept for accounts that are not maintained elsewhere, including subsidiary ledgers for Loans and Notes Payable and Loans and Notes Receivable (which [shall] must include details of each loan and note including the date of the payment, the identity of the debtor or creditor, the form of the payment, and the check number, if applicable).

(e) A licensee [shall] must maintain annual financial statements in a form or computer format prescribed by the Commission. The Commission may require that such financial statements be audited by an independent certified public accountant who is not employed by or related to the licensee or any principal of the licensee and has no financial interest in the licensee or any principal of the licensee. The financial statements [shall] must include a balance sheet, an income statement, a statement of cash flows, and a statement of retained earnings or (if the licensee is a sole proprietorship or partnership) capital. The auditor shall render an opinion as to whether the financial statements accurately reflect the financial position of the licensee as of the balance sheet date and the results of its operations and cash flows for the year ended, except that the auditor need not opine on paragraphs (3) and (4) of this subdivision. The auditor shall also issue a supplemental opinion on the licensee's compliance with the financial record-keeping and reporting requirements of the Commission. Such supplemental opinion shall detail each and every variance or deviation from the Commission's requirements noted during the auditor's examination of the licensee's financial books and records. The licensee [shall] must certify, and the principal responsible for the licensee's financial affairs [shall] must swear under oath upon penalty of perjury, that the financial statement accurately reflects the licensee's accounts and financial operations. At the completion of the audit, the licensee [shall] must obtain from the auditor copies of the accountant's work papers[,] and [shall] must retain such papers with the licensee's records.

(1) The balance sheet [shall] must include the balance for each group or type of asset, liability, and capital amount at the end of the accounting period.

(2) The income statement [shall] must include the balance of each group or type of income and expense for the accounting period. Income and expenses related to waste removal, collection, disposal, and recycling [shall] must be shown in such a manner as to be traceable from the income statement to the General Ledger, Customer Ledger, Cash Receipts Journal, Cash Disbursements Journal, Disposal Expense Subsidiary Journal, invoices, cancelled checks, cash receipts, bank statements, and deposit slips.

(3) The following schedules [shall] must be included in the financial statement in support of the balance sheet and income statement:

- (A) a truck and container analysis;
- (B) a schedule of investments;
- (C) allowances for doubtful accounts;
- (D) prepaid expenses;
- (E) miscellaneous current and other assets;
- (F) fixed assets, depreciation, and accumulated depreciation;
- (G) route purchases;
- (H) notes payable and receivable;
- (I) taxes prepaid and accrued;
- (J) miscellaneous current and accrued liabilities;
- (K) capital stock;

- (L) additional paid-in capital;
- (M) retained earnings;
- (N) intangible assets and accumulated amortization; and
- (O) waste collection analysis.

(4) Operating, administrative, and general expenses [shall] must be summarized and [shall] must include schedules as follows:

(A) a payroll analysis with details of drivers' and helpers' wages, mechanics' wages, workers' compensation insurance, disability insurance, payroll taxes, and pension and welfare fund payments;

(B) a truck and container analysis with details of garage, rent, gas, oil, tolls, truck insurance, repairs, maintenance, truck rental, license plates, license fees, truck mileage taxes, depreciation, and other related expenses;

(C) a disposal analysis with details of all expenses incurred, and credits (including cash) obtained in connection with disposing or recycling collected waste including the name of the disposal facility or vehicle or recycling facility, the type of disposal or recycling facilities used (*e.g.*, landfill, transfer station, or recycling center), the complete address of each disposal facility or vehicle or recycling facility, the amount of collected waste that was delivered to such disposal or recycling facility or facilities (in compacted cubic yards and tons), the rate charged per cubic yard or ton, the total amount billed by the vehicle or facility, and the amount paid;

(D) a compensation schedule for officers, directors, and owners;

(E) a revenue analysis;

(F) an analysis of interest paid and received; and

(G) an amortization expense analysis.

(f) On or before June 30 of each year but not later than six (6) months following the end of the licensee's fiscal year, all licensees [shall] must file a report on a form or computer format prescribed by the Commission. If the Commission requires a revision of the report after review by an auditor on the Commission's staff, an amended report [shall] must be submitted to the Commission no later than the date specified by the Commission. The Commission may require that the annual report include the financial statement described in subdivision (e) of this section and other information and documents concerning the licensee's operations, including but not limited to: financial information reported on a calendar year basis, the management letter issued by the licensee's auditor to the licensee, and information concerning: affiliations with other licensees; organization and control of the licensee, corporate control over the licensee; corporations controlled by the licensee; officers and directors of the licensee; allocation of recyclables and non-recyclables; security holders of and voting powers within the licensee; subcontracting, management, engineering, and contracts of the licensee.

(g) A licensee [shall] must maintain a complete and accurate Customer Register on a form or in a computer format approved by the Commission[, and file the Customer Register with the Commission].

(1) The Customer Register [shall] contain a list of all customers currently served by the licensee and [shall] include the customer's name and the name of an authorized representative of the customer, any trade name, the address or addresses of service, the billing address, the telephone number, the date on which services commenced, the total charge per month, and such other information as may be specified by Commission directives.

(2) The Customer Register [shall] must state the name [and address] of each putrescible solid waste transfer station, non-putrescible solid waste transfer station, or other facility used during the period for which the report is submitted. Such report [shall] must also state the total volume or weight and type of designated recyclable materials collected and transported [from each customer pursuant to paragraphs (1) through (3) of subdivision (c) of section 5-12 of this Title; ] and/or the total combined volume or weight and type of designated recyclable materials and non-designated materials collected and transported [from each customer pursuant to paragraph (5) of subdivision (c) of section 5-12 of this Title that were delivered] to putrescible solid waste transfer stations, non-putrescible solid waste transfer stations, or other facilities during the period for which the report is submitted.

(3) A complete and up-to-date Customer Register [shall] be filed on January 31 for the period October 1 to December 31; on April 30 for the period January 1 to March 31; on July 31 for the period April 1 to June 30; and on October 31 for the period July 1 to September 30[twice each year: on January 30 for the period from June 1 through December 31, and on July 31 for the period from January 1 through June 30], or as often as ordered by the Commission. In the event that the Commission grants a new license, the newly licensed company [shall] must [submit] file its first Customer Register to the Commission no later than ninety (90) days after the granting of its license, unless otherwise directed by the Commission. This subdivision [shall apply] applies to companies operating with temporary permission of the Commission, pending decision on their license application.

(h) A licensee [shall] must maintain a register of all complaints that such licensee receives from customers or prospective customers.

(i) All records, receipts, documents, journals, ledgers, registers, and books that must be maintained pursuant to this section [shall] must be maintained for five (5) years unless the Commission directs otherwise. This period for record keeping shall only be reduced if the Commission so directs in a specific case in writing. The Commission may in specific instances, in its discretion, require more or less [exacting] detailed and/or frequent record-keeping and reporting requirements and may require the retention of identified records for [a period of time exceeding] more than five (5) years.

(j) All records, receipts, documents, journals, ledgers, registers, and books that must be maintained pursuant to this section [shall] be made available for inspection and audit by the Commission. The Commission may conduct such an inspection or audit at the licensee's place of business or, at the Commission's discretion, at the offices of the Commission. The licensee [shall] must cooperate with the representatives of the Commission conducting any such inspection or audit.

(k) If any due date under this section falls on a weekend or City holiday, the due date shall be deemed to be the first business day following such weekend or holiday.

(l) Repealed.

Section 16. Section 5-05 of Title 17 of the Rules of the City of New York is amended to read as follows:

**§ 5-05. Agreements and Contracts with Customers; Service to Customers.**

(a) Term and form of contract; requirements; service and discontinuation of service; increase of rates.

(1) An oral agreement for the collection, removal, or disposal of trade waste shall be terminable at will by the customer and upon fourteen (14) days' written notice by the licensee. A contract for the collection, removal, or disposal of trade waste shall not exceed two (2) years in duration. A written contract for the removal, collection, or disposal of trade waste that contains no provision regarding duration shall be terminable at will by the customer and upon fourteen (14) days' written notice by the licensee. A written contract [shall] must provide that the licensee [shall] must remove the customer's waste from the location designated by the customer. A sample standard contract form [shall] must be submitted to the Commission [at the time] when an application for a license is submitted, and a licensee [shall] must submit any subsequent changes in the standard form to the Commission thirty (30) days' prior to implementing such change. Nothing in this provision shall be construed to prevent a licensee from negotiating terms at variance with the standard form contract, except that a licensee [shall] must not vary such contract in any manner identified by the Commission as inconsistent with the purposes of Chapter 1 of Title 16-A of the Code by the Commission after review of such standard form.

(2) A licensee [shall] must comply with the service and other terms set forth in the written contract or oral agreement with the customer, including the agreed-upon frequency and [time] schedule for the collection of waste. A schedule agreed to in writing [shall] must not be altered without the written agreement of the customer's owner or authorized representative. When a licensee offers to provide a commercial establishment with trade waste services, the licensee [shall] must provide such customer with a copy of the Commission's informational notice to customers. The licensee [shall] must provide the customer with such additional informational notices as the Commission shall require throughout the term of service to the customer by the licensee.

(3) A licensee [shall] must not discontinue service to any customer, or raise the rates charged to such customer, unless at least fourteen (14) days' written notice to the customer [shall have been] is given. No contract for the removal, collection, or disposal of waste shall provide that a licensee may discontinue service upon shorter notice.

(4) A written contract that does not meet the requirements of federal, state, or local law is voidable by either party.

(b) Subcontracting, assignment of contracts, mergers, and acquisitions.

(1) A licensee [shall] must apply for review by the Commission before subcontracting or assigning a contract and [shall] must seek such review by the Commission thirty (30) days before such subcontract or assignment is proposed to take effect. The Commission may issue any order with respect to the transaction consistent with the purposes of Local Law 42. An assignee or subcontractor of contracts for the removal, collection, or disposal of trade waste [shall] notify, within fifteen (15) days of the effective date of such assignment or subcontract, each party to a contract so assigned of such assignment or subcontract and of the right of such party to terminate such contract upon thirty (30) days' notice during the three (3) months [subsequent to] after receiving notice of such assignment or subcontract. Such notification [shall] must be by certified mail with the receipt of delivery retained by the assignee or

subcontractor and [shall] must be upon a form approved by the Commission. Where no written contract exists with a customer for the removal, collection, or disposal of trade waste, a company that assumes such trade waste removal from another company [shall] must provide such customer with notification[,] within fifteen (15) days of such assignment or subcontract, on a form approved by the Commission by certified mail with the receipt for delivery retained by the assignee or subcontractor, that a new company will be providing such trade waste removal, and that the customer has the right to terminate such service. A licensee [shall] must not [act as a subcontractee unless the subcontractor licensee has] enter into a subcontract before [received] receiving express approval for the subcontracting arrangement from the Commission.

(2) A licensee [shall] must apply for review by the Commission before acquiring, selling, or merging with another trade waste removal, collection, or disposal business and [shall] must seek such review by the Commission no later than thirty (30) days before such acquisition, sale, or merger is to take effect. The Commission may issue any order with respect to the intended transaction consistent with the purposes of Local Law 42. The Commission may, in its discretion, require that either the purchaser or seller post a bond or place money in escrow with the Commission in an amount that the Commission believes, in its discretion, is needed to cover any outstanding or potential fines or penalties owed or that may be owed to the Commission, any customer complaints that have been heard pursuant to section 1-03 of this chapter in regard to which a final determination has not been rendered, and any restitution ordered by the Commission which the selling or dissolving licensee has failed to make to the customer. [In the event that] If the seller fails to post such bond or place money in escrow as set forth in this paragraph, the Commission may seek from the purchaser any and all outstanding fines or penalties for violations of Chapter 1 of Title 16-A of the Code and this chapter[,] and any outstanding ordered customer restitution.

(3) Investigation, inspection, and evaluation fee. The fee for investigation and review of any proposed transaction described in paragraphs (1) and (2) of this subdivision shall be four thousand and five hundred dollars (\$4,500) per entity involved and one thousand and two hundred dollars (\$1,200) per principal involved. After submission to the Commission of an appropriate request for review of such a transaction, the Commission shall notify the parties to the transaction of the total fee amount due and owing, which [shall] must be paid in full within ten (10) days after such notification. The Commission, in its discretion, may waive or reduce fees upon written request in light of one (1) or more of the following reason(s):

- (i) specified persons or entities have recently undergone completed background investigations by the Commission;
- (ii) the value of the transaction under review is minimal;
- (iii) specified persons or entities need not undergo background investigations because of their attenuated connection to the transaction;
- (iv) the transaction does not involve the sale, assignment, or other transfer of any accounts or customer contracts ([e.g.] e.g., trucks or other non-customer assets);
- (v) the transaction involves less than five (5) customers;



(vi) the transaction involves unique characteristics or other mitigating factors that would warrant a reduction or waiver of fees.

(4) Requests for authorization of subcontracting, assignment, and other such arrangements. All trade waste subcontracting, assignment, and similar arrangements must be submitted to the Commission for authorization. Requests for approval of such an arrangement [should] must be submitted in writing to the Commission[;], and the arrangement [shall] must not go forward unless and until it has been approved in advance by the Commission. The request [shall] must identify the customer(s) involved (including name, address, contact person, and contract terms), state the requested length of the arrangement, and describe the business justification for the arrangement. Copies of all affected contracts or proposed contracts must be submitted with the request.

(5) Customer's thirty (30) day termination right during ninety (90) day post-assignment period. During the ninety (90) day period following the assignment or other transfer of a customer contract to another trade waste removal business, the customer has the right to terminate its carting contract on thirty (30) days' notice. All contracts signed by affected customers during the ninety (90) day period subsequent to contract assignment or transfer remain terminable on thirty (30) days' notice throughout the ninety (90) day period, and any such contract signed during that ninety (90) day period must contain prominent notice of this fact.

(c) Customer's contract termination right after denial of license application or revocation of license. During the ninety (90)[-]\_day period following the effective date of the denial of the license application of a trade waste removal business or the revocation of the license of such a business, the customers of that business have the right to terminate any contracts for trade waste removal entered into during that period, on thirty (30) days' written notice to the other contracting party. Any contract for trade waste removal entered into by any such customer during the ninety (90)[-] day post-denial period shall be terminable at will by the customer throughout that period[,] on said written notice. Any such contract [shall] must contain prominent notice of the customer's right to terminate the contract at any time within such period upon such notice.

(d) Written contract. [At the time] When service to a customer is commenced, the licensee [shall] must take all steps necessary to attempt to reach an agreement with the customer on the terms and conditions of the service to be provided[,] and within forty (40) days of the commencement of service, [shall] must prepare a written contract that clearly and legibly sets forth the terms and conditions of the agreement negotiated by the licensee and the customer[,] and deliver such contract to the customer. Such contract [shall] must provide that it shall be effective only upon being dated and signed by the licensee and the customer's owner or authorized representative and that a change of any term or condition of such contract must be made in writing, dated, and signed by both the licensee and the customer's owner or authorized representative before such term or condition takes effect. The proposed contract offered by the licensee [shall] be accompanied by a notice [that shall state] stating: "You are not required to sign this contract. If you have any questions or complaints, call the Business Integrity Commission at 212-[676-6300]437-0600." One (1) copy of such signed and dated contract, and a copy of any signed and dated amendments must be provided to the customer's owner or authorized representative by the licensee.



(e) Customer's decision not to sign a contract. A customer is not required to sign a contract. If[n the event] a customer fails or refuses to sign a contract that has been tendered to the customer pursuant to subdivision c of this section, a licensee will be deemed to have complied with such subdivision if the licensee complies with the requirements in paragraphs (1) through (3) of this subdivision[,] provided, however, that a licensee [shall] must not discontinue service to such a customer, or raise the rates charged such a customer, unless at least fourteen (14) days' written notice of such discontinuance or rate increase [shall have been] was given to such customer. Where a written contract with a customer has not been obtained by the licensee, the licensee [shall] must:

(1) demonstrate that a contract has been tendered to the customer in accordance with subdivision c of this section, within forty (40) days of the commencement of service; and

(2) keep a copy of the contract tendered on file along with the signed returned postal receipt for a period of one (1) year after the eventual discontinuance of service to the customer; and

(3) make available to the Commission upon its request a copy of the contract and the return receipt.

(f) Liability for negligence. No contract or contract amendment shall provide that the licensee is exempt from liability for damage caused by its negligence or the negligence of any of its agents.

(g) Standard bills, statements, invoices. A licensee [shall] must provide a written bill, statement, or invoice at least once every month to each and every customer to which such licensee provides services. Such bill, statement, or invoice must conspicuously contain all of the following:

(1) the licensee's name, address, telephone number, license number;

(2) the customer's name and complete address;

(3) a notice to customers as follows: NOTICE TO CUSTOMERS--The maximum rate that may be charged by your trade waste removal business is regulated by the New York City Business Integrity Commission. If you should have a question or a complaint concerning waste removal, contact the New York City Business Integrity Commission; and

(4) the maximum rates in effect with a statement indicating that the rates so identified are maximum legal rates and that lower rates may be lawfully charged;

(5) the negotiated rate per cubic yard or per one hundred (100) pounds on which the invoice is based;

(6) an itemized list of charges detailing the cubic yards or weight of putrescible waste removed, recyclables removed, and any additional charges;

(7) where the customer is being charged on a "flat" or "average" billing basis,

a. the total charges for waste removal for the billing period;

b. an itemized statement of the estimated volume or weight of the putrescible waste removed and the charge for the removal of such waste;

c. an itemized statement of the estimated volume or weight, if any, of the recyclable waste removed and the charge for the removal of such waste;

d. a statement as to the method by which the estimated volume or weight was determined; and

(8) a separate statement of sales tax collected.

[On or after February 1, 2009, s] Such bill [shall] **must** be on a form approved by the Commission.

Section 17. Section 5-07 of Title 17 of the Rules of the City of New York is amended to read as follows:

**§ 5-07. Employee Information.**

[A licensee shall provide to the Commission the names of any employees hired or to whom offers of employment are extended subsequent to the issuance of a license and the information required in regard to employees and such prospective employees on the application for a license pursuant to section 2-02 of this chapter.] Within 10 business days of hiring an employee or extending an offer of employment to a prospective employee, a licensee or an applicant for a license must provide the Commission with the name of such employee or prospective employee and the information required pursuant to section 2-02 of this chapter.

Section 18. Section 5-10 of Title 17 of the Rules of the City of New York is amended to read as follows:

**§ 5-10. License Plates and Vehicle Markings.**

(a) Upon issuance of a license, the Commission shall issue to the licensee two (2) license plates for each vehicle that will transport trade waste pursuant to such license and for which a fee has been paid pursuant to section 2-07 of this chapter. Such plates [shall] must at all times be affixed [in the manner] as prescribed by the Commission to a visible and conspicuous part of each such vehicle. A licensee [shall] must not permit a vehicle to be used in the course of collecting, removing, or disposing of waste that has not been identified and covered by the license and for which a fee has not been paid. A license plate issued by the Commission for such a covered and identified vehicle [shall] must not be transferred to any other vehicle. Upon the sale[, or dissolution[, suspension or discontinuance, whether voluntary or due to the revocation of a license,] of the business of a licensee, or upon the suspension, revocation, or expiration of a Commission-issued license, such plates [shall] must be [forthwith] immediately surrendered to the Commission. All license plates issued by the Commission are the property of the Commission, and the Commission reserves the right to reclaim such plates at any time.

(b) Each vehicle [shall] must have the name and business address of the licensee lettered legibly in letters and figures not less than (8) inches in height, and in a color that contrasts with the color of the vehicle, on each side of the vehicle body or upon each door of the vehicle cab at all times.

Section 19. Section 6-01 of Title 17 of the Rules of the City of New York is amended to read as follows:

**§ 6-01. Presentation of Registration to Customer[; Posting of Registration].**

A trade waste broker [shall] must not [conduct an evaluation] evaluate or [analysis of] analyze a business' trade waste stream or broker a transaction between a commercial establishment and a trade waste business required to be licensed or registered pursuant to this chapter, unless such broker has first presented a copy of his or her registration to such customer or prospective customer. [A trade waste broker shall conspicuously post the registration issued by the Commission at the broker's place of business.]

Section 20. Section 6-02 of Title 17 of the Rules of the City of New York is amended to read as follows:

**§ 6-02. Acceptance of Payment.**

(a) A trade waste broker who [conducts an evaluation] evaluates or [analysis] analyzes [of] a trade waste stream [shall] must not request or accept any payment in regard to such evaluation or analysis from a party other than the customer or prospective customer for whom such services are performed unless such broker has first disclosed to such customer or prospective customer in writing that the broker proposes to request or accept such payment. A copy of such notice to the customer or prospective customer [shall] must be submitted to the Commission within fifteen (15) days of such disclosure.

(b) A trade waste broker who brokers a transaction between a customer or prospective customer of trade waste removal, collection, or disposal services and a trade waste business required to be licensed or registered pursuant to this chapter [shall] must not request or accept payment from such trade waste business. A trade waste broker [shall] must not broker a transaction between a customer or prospective customer and a trade waste business owned by, operated by, or affiliated with the trade waste broker or any principal thereof without disclosing the relationship between the trade waste broker and the trade waste business to the customer or prospective customer.

(c) A trade waste broker who brokers a transaction between a customer or prospective customer of trade waste removal, collection, or disposal services and a trade waste business required to be licensed or registered pursuant to this chapter [shall] must state in writing to such customer or prospective customer that such broker has examined the rate schedules made available by the Commission pursuant to section 5-02 of this chapter.

Section 21. Section 6-03 of Title 17 of the Rules of the City of New York is amended to read as follows:

**§ 6-03. Collection of Fees Prohibited; Contract Duration.**

(a) A trade waste broker [shall] must not engage in the collection of fees from commercial establishments for trade waste removal by a trade waste business required to be licensed or registered pursuant to this chapter except where:

- (i) the contract for such fee collection complies with standards set forth in subdivision (b) of this section;
- (ii) such fee collection is upon the request of the customer; and
- (iii) such fee collection is part of an agreement providing for other services such as periodic waste evaluation and consulting with respect to source separation, recycling, or other business practices relating to trade waste.

(b) A contract that includes a provision for the collection by a trade waste broker of fees for trade waste removal [shall] must be submitted to the Commission and [shall] must set forth:

- (i) the fee charged for such collection,
- (ii) the rates charged by the trade waste removal business,
- (iii) the method of billing employed by the trade waste removal business, and
- (iv) [shall] must provide that the trade waste broker provide the customer with a monthly statement detailing the volume of trade waste removed.

(c) A contract for the provision of brokering services to a commercial establishment [shall] must not exceed two (2) years in duration.

Section 22. Section 6-06 of Title 17 of the Rules of the City of New York is amended to read as follows:

**§ 6-06. Agreements and Contracts with Customers; Service to Customers.**

(a) Trade waste removal providers. A trade waste broker may only arrange for trade waste removal services to be provided by haulers licensed or registered by the Commission, in accordance with section 16-505 of the Code.

(b) Term and form of contract; requirements; service and discontinuation of service; increase of rates.

(1) A contract for the services of a trade waste broker entered into after the effective date of this rule shall not exceed two (2) years in duration.

(2) A contract to provide the services of a trade waste broker entered into prior to the effective date of this rule [shall] must terminate on the date provided therein or shall be deemed to terminate no later than two (2) years following such effective date, whichever date is earlier.

(3) A written contract to provide the services of a trade waste broker that contains no provision regarding duration must be terminable at will by either party upon fourteen (14) days' written notice to the other party.

(4) An oral agreement between a customer and a trade waste broker must be terminable at will by either party upon fourteen (14) days' written notice to the other party.

[(5) A trade waste broker must not discontinue service to any customer, or raise the rates charged to such customer, unless at least fourteen (14) days' written notice is provided to the customer.

No contract for trade waste broker services shall provide that the broker may discontinue service upon shorter notice.]

([6]5) Where a broker is arranging for an agreement between a customer and a licensee, [provider of trade waste removal, collection, or disposal services,] a written contract [shall] must provide that the [broker]licensee will arrange for removal of the customer's waste from the location designated by the customer, and state the time the waste removal will begin and the rate the customer will pay the [broker]licensee. Where the services to be provided by the broker also include evaluation or analysis of the waste stream, the written contract [shall] must provide a brief description of such evaluation or analysis the broker will perform and the rate the customer will pay to either the broker or the licensee. [A sample standard contract form shall be submitted to the Commission at the time an application for a trade waste broker registration is submitted. Brokers registered prior to the effective date of this rule shall submit a sample standard contract form with their first renewal application submitted after such effective date. A broker must submit any subsequent changes in the standard form to the Commission thirty (30) days prior to implementing such change.] Nothing in this provision should be construed to prevent a broker from negotiating terms at variance with the standard form contract, except that a broker shall not vary such contract in any manner inconsistent with Chapter 1 of Title 16-A of the Code or any provision of these rules.

([7]6) A trade waste broker must comply with the terms of service and any other terms set forth in the written contract or oral agreement with the customer. A contract agreed to in writing should not be altered without the written agreement of the customer or authorized representative.

([8]7) The broker must provide the customer with any other additional informational notices required by the Commission throughout the term of service to the customer by the broker.

(c) Written contract. At the time service to a customer is commenced, the trade waste broker must take all steps necessary to attempt to reach an agreement with the customer on the terms and conditions of the service to be provided. Within forty (40) days of the commencement of service, the broker [shall] must prepare a written contract that clearly and legibly sets forth the terms and conditions of the agreement negotiated by the broker and the customer[, ] and deliver such contract to the customer. The contract must provide that it is only effective upon being dated and signed by the broker and the customer or authorized representative. Additionally, the contract must specify that a change of any term or condition of such contract must be made in writing, dated, and signed by both the broker and the customer or authorized representative before such term or condition takes effect. The proposed contract offered by the trade waste broker must be accompanied by a notice that states: "You are not required to sign this contract. If you have any questions or complaints, call the Business Integrity Commission at 212-[676-6300]435-0600." The broker must provide one (1) copy of such signed and dated contract and a copy of any signed and dated amendments to the customer or authorized representative.

(d) Customer's decision not to sign a written contract. A customer is not required to sign a written contract. In the event a customer fails or refuses to sign a contract that has been tendered to the customer pursuant to subdivision (d) of this section a broker will be deemed to have complied with such subdivision if the broker complies with the requirements in paragraphs (1) through (3) of this subdivision. [However the broker must not discontinue service to the customer, or raise the rates charged, unless at least fourteen

(14) days' written notice of such discontinuance or rate increase have been given to the customer.] Where a written contract with a customer has not been obtained by the trade waste broker, the broker [shall] must: (1) Demonstrate that a written contract has been tendered to the customer in accordance with subdivision (d) of this section, within forty (40) days of the commencement of service; (2) Keep a copy of the contract tendered on file along with the signed returned postal receipt for a period of one (1) year after [the eventual discontinuance of] service to the customer ends; and (3) Make available to the Commission upon its request a copy of the contract and the return receipt.

(e) Liability for negligence. No contract or contract amendment between a broker and a customer may provide that the broker is exempt from liability for damage caused by the broker's negligence or the negligence of any of its agents.

(f) Standard bills, statements, invoices.

(1) A broker must provide a written bill, statement, or invoice at least once every month to each customer to which such broker provides services. Such bill, statement, or invoice must clearly contain all of the following:

(i) The trade waste broker's name, address, telephone number, and registration number;

(ii) The customer's name and complete address;

(iii) The maximum rates in effect with a statement indicating that the rates so identified are maximum legal rates and that lower rates may be lawfully charged;

(iv) The negotiated rate per cubic yard or per one hundred (100) pounds on which the invoice is based;

(v) An itemized list of charges detailing the cubic yards or weight of putrescible waste removed, recyclables removed, and any additional charges;

(vi) Where the customer is being charged on a "flat" or "average" billing basis: a. The total charges for waste removal for the billing period; b. An itemized statement of the estimated volume or weight of the putrescible waste removed and the charge for the removal of such waste; c. An itemized statement of the estimated volume or weight, if any, of the recyclable waste removed and the charge for the removal of such waste; and d. A statement as to the method by which the estimated volume or weight was determined; and

(vii) A separate statement of sales tax collected.

(2) When the trade waste broker has brokered an agreement between a customer and provider of trade waste removal, collection, or disposal services, the broker [shall] must provide a notice to customers as follows, on a form approved by the Commission: NOTICE TO CUSTOMERS--[ ]The New York City Business Integrity Commission regulates the maximum rate your licensed trade waste hauler may charge. If you should have a question or a complaint concerning waste removal, contact the New York City Business Integrity Commission.

(3) If all trade waste being transported is exempt waste under section 5-02(a)(3) of this chapter, the Notice shall be as follows: NOTICE TO CUSTOMERS--[ ]If you have a question or a complaint concerning waste removal, contact the New York City Business Integrity Commission.

[(g) Subcontracting, assignment of contracts, mergers and acquisitions.

(1) Subcontracting broker services.



(i) A trade waste broker shall apply for review by the Commission before subcontracting or assigning a contract for brokering and shall seek such review by the Commission thirty (30) days before such subcontract or assignment is proposed to take effect. A request for subcontracting or assignment of contract must be submitted on a form prescribed by the commission and must identify the customer(s) involved (including name, address, contact person, and contract terms), state the requested length of the arrangement, and describe the business justification for the arrangement. Copies of all affected contracts or proposed contracts must be submitted with the request. The Commission will not approval such a transaction unless the Commission determines that the transaction is consistent with the purposes of Chapter 1 of Title 16-A of the Administrative Code. A trade waste broker may only subcontract or assign a contract to another trade waste broker registered by the Commission. A trade waste broker must not act as a subcontractee unless the subcontractor broker has received express written approval for the subcontracting arrangement from the Commission.

(ii) Upon approval by the Commission, within fifteen (15) days of the effective date of such assignment or subcontract, an assignee or subcontractor of a broker contract shall notify each party to the contract of such assignment or subcontract and of the right of such party to terminate such contract upon thirty days' notice within three months of receiving notice of such assignment or subcontract. Such notification shall be by certified mail with the receipt of delivery retained by the assignee or subcontractor and shall be upon a form approved by the Commission. Where no written broker contract exists with a customer, within fifteen (15) days of such assignment or subcontract, on a form approved by the Commission, a trade waste broker that assumes responsibility for the broker services from another broker must provide such customer with notification that a new company will be providing broker services and that the customer has the right to terminate such service. Such notification must be provided by certified mail with the receipt for delivery retained by the assignee or subcontractor.

(2) Mergers and acquisitions. A trade waste broker must apply for review by the Commission before acquiring, merging with, consolidating with, or exchanging any interest of any business that is subject to the Commission's jurisdiction pursuant to Title 16-A of the Administrative Code. Such application for review shall be submitted on a form prescribed by the Commission no later than thirty (30) days before such transaction is to take effect. The Commission will not approve such a transaction unless the Commission determines that the transaction is consistent with the purposes of Chapter 1 of Title 16-A of the Administrative Code. The Commission may, in its discretion, require that either the purchaser or seller post a bond or place money in escrow with the Commission in an amount that the Commission believes, in its discretion, is needed to cover any outstanding or potential fines or penalties owed or that may be owed to the Commission, any customer complaints that have been heard pursuant to section 1-03 of this chapter in regard to which a final determination has not been rendered, and any restitution ordered by the Commission which the selling or dissolving broker has failed to make to the customer. In the event that the seller fails to post such bond or place money in escrow as set forth in this paragraph, the Commission may seek from the purchaser any and all outstanding fines or penalties for violations of Chapter 1 of Title 16-A of the Code and this chapter and any outstanding customer restitution.

(3) Investigation, inspection, and evaluation fee. The fee for investigation and review of any proposed transaction described in paragraph 2 of this subdivision shall be four thousand and five hundred dollars (\$4500) per entity involved and twelve hundred (\$1200) per principal involved. After submission to the Commission of an appropriate request for review of such a transaction, the Commission shall notify the parties to the transaction of the total fee amount due and owing. This fee must be paid in full within



ten days after such notification. The Commission, in its discretion, may waive or reduce fees upon written request in light of one or more of the following reason(s):

- (i) Specified persons or entities have recently undergone completed background investigations by the Commission;
- (ii) The value of the transaction under review is minimal;
- (iii) Specified persons or entities need not undergo background investigations because of their attenuated connection to the transaction;
- (iv) The transaction does not involve the sale, assignment, or other transfer of any accounts or customer contracts (e.g. trucks or other non-customer assets);
- (v) The transaction involves fewer than 5 customers;
- (vi) The transaction involves unique characteristics or other mitigating factors that would warrant a reduction or waiver of fees.

(4) Customer's thirty (30) day termination right during ninety (90) day post-assignment period. During the ninety (90) day period following any transaction for which Commission approval is required pursuant to this subdivision (g), the customer has the right to terminate its contract with the broker on thirty (30) days' notice. All contracts signed by affected customers during the ninety (90) day period subsequent to such transaction remain terminable on thirty (30) days' notice throughout the ninety (90) day period and any such contract signed during that ninety (90) day period must contain prominent notice of this fact.]

Section 23. Section 7-01 of Title 17 of the Rules of the City of New York is amended to read as follows:

**§ 7-01. [Posting] Display of Registration.**

[(a) ] A registrant [shall] must conspicuously [post] display the registration issued by the Commission at the registrant's place of business.

[(b) All written communications with a customer or potential customer (including, without limitation, receipts and correspondence), all advertisements and the letterhead of a registrant must contain the registration number assigned to the registrant by the Commission. The registration number must be clearly identified as a Commission registration number. Any listing consisting solely of the name, address and telephone number of the registrant need not include the registrant's registration number.]

Section 24. Section 7-03 of Title 17 of the Rules of the City of New York is amended to read as follows:

**§ 7-03. License Plates.**

(a) Upon issuance of a registration, the Commission shall issue to a registrant who removes trade waste generated in the course of operation of his or her business and to a registrant exempt from the licensing requirements of this chapter two (2) license plates for each vehicle that will transport trade waste pursuant to such registration and for which a fee has been paid to the Commission pursuant to section 2-07 of this chapter. A registrant shall not permit a vehicle to be used in the course of collecting, removing, or disposing of waste that has not been identified and covered by the registration and for which a fee has not been paid. A license plate issued by the Commission for such a covered and identified vehicle [shall] must not be transferred to any other vehicle. Upon the sale[, ] or dissolution[, ] suspension or discontinuance, whether

voluntary or due to the revocation of such registration, of the business of the registrant,] of the business of a registrant, or upon the suspension, revocation, or expiration of a Commission-issued registration, such plates [shall] must be [forthwith] immediately surrendered to the Commission. All license plates issued by the Commission are the property of the Commission, and the Commission reserves the right to reclaim such plates at any time. Notwithstanding any other provision of this chapter, the penalty for violation of this section shall not exceed five thousand dollars (\$5,000) for each such violation.

(b) [ ]Each vehicle [shall] must have the name and business address of the registrant lettered legibly in letters and figures not less than eight (8) inches in height, in a color that contrasts with the color of the vehicle, on each side of the vehicle body or upon each door of the vehicle cab, in a manner prescribed by the Commission, at all times.

Section 25. Section 11-05 of Title 17 of the Rules of the City of New York is amended to read as follows:

**§ 11-05. Application for a Wholesale Business or Market Business Registration.**

(a) An application for registration or renewal thereof [shall] must be made on a form prescribed by the Commission. The application form [shall] must be certified under penalty of perjury and signed by all principals of the applicant business. The registration application [shall] must include[, without limitation,] all of the following information:

- (1) the name, address, e-mail address designated for communications with the business that will be checked regularly, and telephone number(s) of the business submitting such application;
- (2) the names, addresses, e-mail address(es), telephone number(s) and social security numbers of all current and past principals of the applicant and a description of the positions occupied or ownership interest held by each such principal;
- (3) the names, job titles, social security numbers, [and] addresses, and e-mail address of all other employees or agents of the applicant;
- (4) a list of vehicles used in the course of the applicant's business;
- (5) employment and business background information on the principals such as the principal's employment history, wholesale or market business interests, and any related business interests;
- (6) if the applicant is doing business under an assumed name, a Certification of Assumed Name, certified by the County Clerk if a sole proprietorship or partnership, or by the Secretary of State if a corporation;
- (7) if the applicant business is a sole proprietorship, a notarized copy of the business certificate certified by the County Clerk;
- (8) if the applicant is a corporation, a copy of the certificate of incorporation;
- (9) if the applicant is a partnership, a copy of partnership papers, certified by the County Clerk;
- (10) a listing of the names and addresses of any person having a beneficial interest in the applicant[, ] and the amount and nature of such interest;
- (11) a listing of any determination by a federal, state, or city regulatory agency of a violation by such applicant of laws or regulations relating to the conduct of the applicant's business where such violation has resulted in the suspension or revocation of a permit, license, or other permission required in connection with the operation of such business or in a civil fine, penalty, settlement, or injunctive relief;
- (12) a listing of all criminal convictions, in any jurisdiction, of the applicant, except where such disclosure is protected by subdivision 16 of section 296 of article 15 of the New York State Executive Law;
- (13) a federal or state tax identification number; and

(14) such other information that the Commission deems appropriate.

(b) Notwithstanding any provision of this subchapter:

(1) the Commission may, when there is reasonable cause to believe that an applicant for a registration or any or all of the principals of such applicant does not possess good character, honesty, and integrity, require that such applicant or any or all of the principals of such applicant be fingerprinted by a person designated for such purpose by the Commission, pay the fee prescribed by the Division of Criminal Justice Services for the purpose of obtaining criminal history records, and provide to the Commission the disclosure required by the form provided by the Commission. The Commission also may require such additional information, in lieu of or in addition to such fingerprinting and/or disclosure, including without limitation documents and/or an in-person interview, as the Commission determines is appropriate and reasonable to render a determination. After providing notice and an opportunity to be heard, the Commission may refuse to register such applicant for the reasons set forth in section 22-259 of the Code, or defer a decision whether to register such applicant when there is a pending indictment or criminal action or pending civil or administrative action as provided in paragraph (ii) of subdivision b of section 22-259 of the Code.

(2) If at any time [subsequent to] after the registration of a wholesale business or a market business the Commission has reasonable cause to believe that any or all of the principals of such business do not possess good character, honesty, and integrity, the Commission may require that any or all of the principals be fingerprinted by a person designated for such purpose by the Commission, pay the fee prescribed by the Division of Criminal Justice Services for the purpose of obtaining criminal history records, and provide the disclosure required by the form provided by the Commission. The Commission also may require additional information in lieu of or in addition to such fingerprinting and/or disclosure, including without limitation documents and an in-person interview, as the Commission determines is appropriate and reasonable to render a determination.

(c) If an application for the renewal of a registration is not submitted to the Commission within the time period required by the Commission, the Commission may reject the renewal application and require the applicant to file a new application for registration. If a new application is required by the Commission, the provisions pertaining to the application process as set forth in Chapter 1-B of Title 22 of the Code and this subchapter shall apply.

Section 26. Section 11-09 of Title 17 of the Rules of the City of New York is amended to read as follows:

**§ 11-09. Wholesale Business and Market Business Operations.**

(a) Registration not transferable. Wholesale businesses and market businesses [shall] must not transfer their registration or registration numbers as part of the sale of such businesses.

(b) Furnishing and display of registration or registration numbers. A wholesale business or market business [shall] must conspicuously and prominently display its registration certificate issued by the Commission at its place of business.

(c) Recordkeeping. Wholesale businesses or market businesses [shall] must retain copies of all invoices and other documents reflecting deliveries or payments from or to suppliers and customers.

Electronic copies of such books and records [shall be] are acceptable. Such bills and records [shall] must accurately reflect the amount of goods or services involved in each transaction, and [shall] must, along with all other records produced or received in the normal course of business, be retained for a minimum of thirty-six (36) months, and [shall] must be made available for immediate inspection and/or copying upon request by the market manager, a designee of the market manager, or an employee of the Commission.

(d) [Worker's] Workers' Compensation Insurance. Wholesale businesses or market businesses [shall] must submit proof that they have obtained the required [Worker's] Workers' Compensation and [disability [benefits [coverage,] Disability Benefits Coverage or that they are exempt from section 57 of the [Worker's] Workers' Compensation Law[,], and subdivision [eight] 8 of section 220 of the Disability Benefits Law.

(1) Proof of coverage can be established by submitting the following [Worker's] Workers' Compensation Board forms:

(i) C-105.2 Application for Certificate of [Worker's] Workers' Compensation Insurance;

(ii) DB-120.1 Employer's Application for Certificate of Compliance with Disability Benefits Law;

(iii) S1-12 Affidavit certifying that compensation has been secured.

(2) Proof that no coverage is required can be provided by submitting the following Workers'[s] Compensation Board form[;]:

(i) C-105.21 Statement that applicant does not require [Worker's] Workers' Compensation or Disability Benefits Coverage.

(e) Liability insurance. Wholesale businesses or market businesses [shall] must procure and maintain throughout the term of the registration the following types of insurance against claims for injuries to persons or damages to property which may arise from or in connection with the business:

(1) Commercial general liability insurance with liability limits of no less than one million dollars (\$1,000,000) combined single limit per occurrence for bodily injury, personal, and property damage. The maximum deductible for such insurance shall be no more than twenty-five thousand dollars (\$25,000).

(2) Business automobile liability insurance covering every vehicle operated by the wholesale business or market business, whether or not owned by the business, and every vehicle hired by the applicant with liability limits of no less than one million dollars (\$1,000,000) combined single limit per accident for bodily injury and property damage.

(f) The policy or policies of insurance required by this section [shall] must name the Commission as certificate holder and [shall] must be endorsed to state that the coverage shall not be suspended, voided,

canceled, or reduced in coverage or in limits except upon sixty (60) days prior written notice to the Commission. Failure to maintain continuous insurance coverage meeting the requirements of these rules will result in revocation of the registration. Such policy or policies of insurance [shall] must be obtained from a company[,] or companies duly authorized to do business in the State of New York with a Best's rating of no less than A:X unless specific approval has been granted by the Commission to accept a company with a lower rating. [Two (2)] A [certificates] certificate of insurance effecting the required coverage and signed by a person authorized by the insurer to bind coverage on its behalf[,] must be delivered to the Commission prior to the effective date of the[license] registration. Delivery to the Commission's offices may be made in person, by first class mail, or by e-mail to Licensing@bic.nyc.gov. A registrant [shall] must demonstrate that the registrant has secured the insurance coverage required pursuant to this section and [shall] must maintain such required insurance coverage throughout the term of the registration.

(g) Wholesale businesses and market businesses shall be jointly and severally liable for any violation of Chapter 1-B of Title 22 of the Code or of this subchapter by any of their employees or agents.

(h) Each wholesale business and market business [shall] must permit the Commission, or any person designated by the Commission, to enter its premises whenever in the discretion of the Commission such entry is necessary.

Section 27. Section 11-20 of Title 17 of the Rules of the City of New York is amended to read as follows:

**§ 11-20. Notice.**

Unless otherwise provided, all notices pursuant to Chapter 1-B of Title 22 of the Code or this subchapter, including but not limited to notice related to hearings, violations, and [subpoenas] subpoenae, may be served by first class mail addressed to the business address provided to the Commission by the applicant, registrant, or photo identification card holder[, or on the registration issued to the business]. All such notices served on an employee or agent may be served by first class mail to the address listed for such employee or agent in the information provided to the Commission. Such notice also may be served by personal service or in any other manner reasonably calculated to achieve actual notice, including but not limited to any method authorized in the Civil Practice Law and Rules.

Section 28. Section 12-08 of Title 17 of the Rules of the City of New York is amended to read as follows:

**§ 12-08. Information Required on License Application**

(a) The application for a loading or unloading license accompanying the response to the request for licensing proposals [shall] must be signed by all principals of the applicant and certified under penalty of perjury.

(b) The application [shall] must include, but not be limited to the following information:

(1) The name, [and] address, e-mail address designated for communications with the business that will be checked regularly, website (if any), and telephone number(s) of the business submitting such

application[of the applicant submitting such response] and the names, addresses, e-mail address(es), telephone number(s), and[,] social security numbers of the principals of the applicant business.

(2) (i) If such applicant is a corporation, a copy of the certificate of incorporation and the names and addresses of all officers and directors.

(ii) If such applicant is a partnership, a copy of partnership papers, certified by the County Clerk.

(iii) If such applicant is a limited liability company, a copy of the articles of organization and the names and addresses of all members.

(iv) If the applicant is doing business under an assumed name, a Certificate of Assumed Name, certified by the County Clerk.

(3) Complete responses by the applicant business under an assumed name, a Certificate of Assumed Name, certified by the County Clerk.

(4) The names and addresses and dates of birth of all employees and/or agents of the applicant who will perform work directly or indirectly related to loading or unloading, as the case may be, whether inside or outside the market area; [driver's license numbers, with class and expiration date, or other required operator's licenses, of all employees and /or agents who will operate vehicles within the market area;] and completed disclosure forms, as required pursuant to section 22-216 of the Code for each current or identified employee and/or agent who will be required to possess a Class A photo identification card.

(5) A business telephone number and a business address within the City of New York where notices may be delivered and legal process may be served, and where records required by these rules [shall] must be maintained, and the name of a person of suitable age and discretion who [shall] must be designated as agent for the service of legal process.

(6) A tax identification number.

(7) A statement of financial responsibility in the form prescribed by the Commission demonstrating the capacity to conduct the business for which the license is sought and setting forth the amounts and sources of funds used or intended to be used in the operation of the business. Proof of such financial capacity [shall] must include, at a minimum, a demonstration of the current financial ability to pay all monthly expenses relating to required equipment, insurance, personnel, and other items for a period of at least three (3) months.

(8) Proof of insurance required.

(i) Before a license is issued, an applicant [shall] must submit proof that the following insurance policies have been secured:

(A) The required [Worker's Compensation and disability benefits coverage] Workers' Compensation and Disability Benefits Coverage, or proof that the applicant is exempt from section 57 of the [Worker's] Workers' Compensation Law and subdivision



[eight] § of section 220 of the Disability Benefits Law. Proof of coverage can be established by submitting the following [Worker's] Workers' Compensation Board forms:

(I) C-105.2 Application for Certificate of [Worker's] Workers' Compensation Insurance;

(II) DB-120.1 Employer's Application for Certificate of Compliance with Disability Benefits Law;

(III) S1-12 Affidavit certifying that compensation has been secured;

Proof that no coverage is required can be provided by submitting the following [Worker's] Workers' Compensation Board form:

(IV) C-105.21 Statement that applicant does not require [Worker's] Workers' Compensation or Disability Benefits Coverage.

(B) Liability insurance against claims for injuries to persons or damage to property which may arise from or in connection with the applicant's business pursuant to the license. The applicant may purchase such policies in conjunction with one (1) or more other licensees, provided that the following coverages are maintained:

(I) Commercial general liability insurance with liability limits for unloading businesses of no less than one million dollars (\$1,000,000) and for loading businesses no less than five hundred thousand dollars (\$500,000) combined single limit per occurrence for bodily injury, personal, and property damage. The maximum deductible for such insurance shall be no more than twenty-five thousand dollars (\$25,000).

(II) Business automobile liability insurance covering every vehicle operated by the applicant in its business, whether or not owned by the applicant, and every vehicle hired by the applicant with liability limits of no less than one million dollars (\$1,000,000) combined single limit per accident for bodily injury and property damage.

(ii) The policy or policies of insurance required by this paragraph [shall] must name the Commission as certificate holder and [shall] must be endorsed to state that coverage [shall] must not be suspended, voided, canceled, reduced in coverage, or in limits except upon sixty (60) days prior written notice to the Commission.

(iii) The licensee [shall] must maintain all required insurance coverage throughout the term of the license. Failure to maintain continuous insurance coverage meeting the requirements of these rules will result in the revocation of the license.

(iv) All required policies of insurance [shall] must be obtained from a company, or companies, duly authorized to do business in the State of New York with a Best's rating of no less

than A:X unless specific approval has been granted by the Commission to accept a company with a lower rating.

(v) [Two (2)] A certificate[s] of insurance effecting the required coverage and signed by a person authorized by the insurer to bind coverage on its behalf must be delivered to the Commission prior to the effective date of the license. Delivery to the Commission's offices may be made in person, by first class mail, or by e-mail to Licensing@bic.nyc.gov.

(9) Proof of a performance bond, or other security that the Commission in its discretion so requires, in an amount, if any, determined by the Commission that will secure the City for the provision of unloading services or loading services, as the case may be, in the event of a default of a licensee as provided by section 22-204 or section 22-206 of the Code. The requirement of a performance bond, or other security that the Commission in its discretion so requires, may be imposed by the Commission at any time, including after a license has been issued.

(c) Requirements for proposals. Responses to requests for proposals [shall] must be in the form prescribed by the Commission and [shall] must contain the proposed information concerning the services to be performed and the conduct of the business described in subdivision b of section 22-204 of the Code with respect to unloading licenses and in subdivision b of section 22-206 of such Code with respect to loading licenses. The proposal [shall] must be signed by all the principals of the applicant and certified under penalty of perjury.

(d) Examination of records. The Commission may require an applicant to produce for inspection such business records as the Commission deems necessary to verify the truth and accuracy of information submitted pursuant to an application for a license.

Section 29. Section 12-14 of Title 17 of the Rules of the City of New York is amended to read as follows:

**§ 12-14. Application for a Wholesale Seafood Business and Seafood Delivery Business Registration.**

(a) An application or renewal thereof for a wholesale seafood business or a seafood delivery business, pursuant to sections 22-209 and 22-211 of the Code, [shall] must be made of a form prescribed by the Commission. The application [shall] must be certified under penalty of perjury and signed by all principals of the applicant business. The registration application [shall] must include, but not be limited to, the following information:

(1) the name, address, e-mail address designated for communications with the business that will be checked regularly, website (if any), and telephone number(s) of the business submitting such application; (2) the names, addresses, e-mail address(es), telephone number(s), and social security numbers of all current and past principals of the applicant and a description of the positions occupied or ownership interest held by each such principal;

(3) the names, job titles, social security numbers, and addresses of all other employees or agents of the applicant;

(4) a list of vehicles used in the course of the applicant's business;

(5) employment and business background information on the principals such as the principal's employment history, wholesale or market business interests, and any related business interests;

- (6) if the applicant is doing business under an assumed name, a Certificate of Assumed Name, certified by the County Clerk if a sole proprietorship or partnership, or by the Secretary of State if a corporation;
- (7) if the applicant business is a sole proprietorship, a notarized copy of the business certificate certified by the County Clerk;
- (8) if the applicant is a corporation, a copy of the certificate of incorporation;
- (9) if the applicant is a partnership, a copy of the partnership papers, certified by the County Clerk;
- (10) a listing of the names and addresses of any person having a beneficial interest in the applicant, and the amount and nature of such interest;
- (11) a listing of any determination by a federal, state, or city regulatory agency of a violation by such applicant of laws or regulations relating to the conduct of the applicant's business where such violation has resulted in the suspension or revocation of a permit, license, or other permission required in connection with the operation of such business or in a civil fine, penalty, settlement, or injunctive relief;
- (12) a listing of all criminal convictions, in any jurisdiction, of the applicant, except where such disclosure is protected by subdivision 16 of section 296 of article 15 of the New York State Executive Law;
- (13) a federal or state tax identification number; and
- (14) such other information that the Commission deems appropriate.

(b) Notwithstanding any provision of this subchapter:

(1) the Commission may, when there is reasonable cause to believe that an applicant for registration as a wholesale seafood business or seafood delivery business or any or all of the principals of such applicant business does not possess good character, honesty, and integrity, require that any or all such principals be fingerprinted by a person designated for such purpose by the Commission and pay the prescribed fee for the purpose of obtaining criminal history records and provide to the Commission the disclosure required by the form provided to the Commission. The Commission also may require such additional information, in lieu of or in addition to such fingerprinting and/or disclosure, including without limitation documents and an in-person interview, as the Commission determines is appropriate and reasonable to render a determination.

(2) If at any time subsequent to the registration of a wholesale seafood business or a seafood delivery business, the Commission has reasonable cause to believe that any or all of the principals, employees or agents of such business do not possess good character, honesty, and integrity, the Commission may require that any or all of such principals be fingerprinted by a person designated for such purpose by the Commission and pay the fee prescribed by the Division of Criminal Justice Services for the purpose of obtaining criminal history records and provide the disclosure required by the form provided by the Commission. The Commission also may require additional information, in lieu of or in addition to such fingerprinting and/or disclosure, including, without limitation, documents and an in-person interview, as the Commission determines is appropriate and reasonable to render a determination.

(c) If a renewal application is not submitted to the Commission within the time period required by the Commission, the Commission may reject the renewal application and instead require the applicant to file a new application in accordance with the provisions pertaining to the application process as set forth in Chapter 1-A of Title 22 of the Code and this subchapter.

Section 30. Section 12-15 of Title 17 of the Rules of the City of New York is amended to read as follows:

## § 12-15. Wholesale Seafood Business Operations.

### (a) Registration not transferable.

(1) A wholesale seafood business [shall] must not transfer its registration or registration number as part of the sale of such business.

(2) A wholesaler [shall] must not allow the use by any other person of the registration or registration number or the name of the business to which such registration has been issued.

(3) A wholesaler [shall] must not allow any other person to place seafood in the space which the wholesaler has subleased from a cooperative association, except that a wholesaler may, as provided in subdivision d of section 22-209 of the Code, permit the use of such space by another registered wholesaler who has received a shipment of seafood that cannot be accommodated in the space from which such registered wholesaler operates. No fee may be charged for such temporary use and any such use must be reported to the Commission as soon as practicable, with details specifying the dates, times, and extent of such use. A wholesaler may also, as set forth in subdivision e of section 22-209 of the Code and pursuant to the provisions regarding approval of the Commission and limitations upon the charging of fees set forth in such subdivision, allow the use by no more than one (1) other registered wholesaler on other than a temporary basis of no more than forty-nine (49) percent of the space which the wholesaler has subleased from a cooperative association.

### (b) Furnishing and display of registration numbers.

(1) A wholesaler [shall] must furnish, by telephone or in writing, to each supplier, distributor, or other person from whom the wholesaler orders or agrees to receive seafood the registration number and the name of the business to which such registration number has been issued.

(2) The name and registration number of a wholesale seafood business [shall] must be affixed and prominently displayed on all premises from which such wholesale seafood business is conducted.

### (c) Record keeping.

(1) Wholesalers [shall] must retain copies of all bills from and records of payments to unloaders, suppliers, and shippers of seafood and payment from retailers. Such bills and records [shall] must accurately reflect the amount of seafood involved in each transaction and [shall] must, along with all other records produced in the normal course of business, be retained for a minimum of thirty-six (36) months, and [shall] must be made available for immediate inspection and/or copying upon request by the market manager or a designee of the market manager or an employee of the Commission. Electronic copies of such books and records [shall be] are acceptable.

(2) Wholesalers or a designee of the wholesaler [shall] must sign each bill of lading acknowledging delivery and receipt of the seafood indicated thereon, noting any discrepancies.

(d) [Worker's] Workers' Compensation Insurance. A wholesaler [shall] must submit proof that it has obtained the required [Worker's Compensation and disability benefits coverage] Workers' Compensation and Disability Benefits Coverage, or that it is exempt from section 57 of the [Worker's] Workers' Compensation Law, and subdivision [eight] § of section 220 of the Disability Benefits Law.

(1) Proof of coverage can be established by submitting the following [Worker's] Workers' Compensation Board forms:

- (i) C:105.2 Application for Certificate of [Worker's] Workers' Compensation Insurance;
- (ii) DB-120.1 Employer's Application for Certificate of Compliance with Disability Benefits Law;
- (iii) S1-12 Affidavit certifying that compensation has been secured;

(2) Proof that no coverage is required can be provided by submitting the following [Worker's] Workers' Compensation Board form[;]:

- (i) C-105.21 Statement that applicant does not require [Worker's] Workers' Compensation or Disability Benefits Coverage.

(e) Liability insurance. A wholesaler [shall] must procure and maintain throughout the term of the registration the following types of insurance against claims for injuries to persons or damages to property which may arise from or in connection with the wholesale business. The wholesaler may purchase such policies in conjunction with one (1) or more other wholesalers, provided that the following coverages described in this subdivision are maintained with respect to each wholesaler:

(1) Commercial general liability insurance with liability limits of no less than one million dollars (\$1,000,000) combined single limit per occurrence for bodily injury, personal, and property damage. The maximum deductible for such insurance shall be no more than twenty-five thousand dollars (\$25,000).

(2) Business automobile liability insurance covering every vehicle operated by the wholesaler, whether or not owned by wholesaler, and every vehicle hired by the wholesaler with liability limits of no less than one million dollars (\$1,000,000) combined single limit per accident for bodily injury and property damage.

(f) (1) The policy or policies of insurance required by this section [shall] must name the Commission as certificate holder and [shall] must be endorsed to state that the coverage [shall] must not be suspended, voided, canceled, reduced in coverage, or in limits except upon sixty (60) days prior written notice to the Commission.

(2) A wholesaler [shall] must demonstrate that it has secured the insurance coverage required pursuant to this subdivision and [shall] must maintain such required insurance coverage throughout the

term of the registration. Failure to maintain continuous insurance coverage meeting the requirements of these rules will result in revocation of the registration.

(3) All required policies of insurance [shall] must be obtained from a company, or companies, duly authorized to do business in the State of New York with a Best's rating of no less than A:X unless specific approval has been granted by the Commission to accept a company with a lower rating.

(4) [Two (2)] A [certificates] certificate of insurance effecting the required coverage and signed by a person authorized by the insurer to bind coverage on its behalf, must be delivered to the Commission prior to the effective date of the [license] registration. Delivery to the Commission's offices may be made in person, by first class mail, or by e-mail to Licensing@bic.nyc.gov.

(g) Payment bond. A wholesaler [shall] must, in the discretion of the Commission, procure and maintain a payment bond or other security ensuring payment to suppliers of such wholesaler or to unloading businesses in an amount, if any, to be determined by the Commission taking into account such factors as the wholesaler's volume of business and credit worthiness. The requirement of a payment bond, or other security that the Commission in its discretion so requires, may be imposed by the Commission at any time, including after a registration has been issued.

Section 31. Section 12-16 of Title 17 of the Rules of the City of New York is amended to read as follows:

#### **§ 12-16. Seafood Delivery Operations.**

A seafood deliverer shall be subject to the requirements for conducting a seafood delivery business that are contained in this section.

(a) The market manager may designate an area or areas within the market area where seafood deliverers [shall] must park while picking up seafood from wholesalers for delivery.

(b) (1) Seafood deliverers [shall] must possess a valid driver's license as required by section 501 of the Vehicle and Traffic Law.

(2) All vehicles employed in a seafood delivery business [shall] must possess: proper vehicle registration as required by section 401 of the Vehicle and Traffic Law; and insurance coverage required by Article 6 of the Vehicle and Traffic Law.

(c) A seafood deliverer [shall] must not offer to sell seafood for sale within the market area for resale to the public unless the seafood deliverer is also registered as a wholesaler.

(d) Seafood deliverers [shall] must comply at all times with all applicable federal, state, and city regulations regarding the proper handling of seafood.

(e) [Worker's] Workers' Compensation Insurance. A seafood deliverer [shall] must submit proof that it has obtained the required [Worker's] Compensation and disability benefits coverage] Workers' Compensation and Disability Benefits Coverage, or that it is exempt from section 57 of the [Worker's] Workers' Compensation Law, and subdivision [eight] § of section 220 of the Disability Benefits Law.



(1) Proof of coverage can be established by submitting the following [Worker's] Workers' Compensation Board forms:

(i) C:105.2 Application for Certificate of [Worker's] Workers' Compensation Insurance;

(ii) DB-120.1 Employer's Application for Certificate of Compliance with Disability Benefits Law;

(iii) S1-12 Affidavit certifying that compensation has been secured;

(2) Proof that no coverage is required can be provided by submitting the following Workers'[s] Compensation Board form[;]:

(i) C-105.21 Statement that applicant does not require [Worker's] Workers' Compensation or Disability Benefits Coverage.

(f) Liability insurance. A seafood deliverer [shall] must procure and maintain throughout the term of the registration the following types of insurance against claims for injuries to persons or damages to property which may arise from or in connection with the seafood deliverer's business. The seafood deliverer may purchase such policies in conjunction with one (1) or more other seafood deliverers, provided that the following coverages described in this subdivision are maintained with respect to each seafood deliverer:

(1) Commercial general liability insurance with liability limits of no less than one million dollars (\$1,000,000) combined single limit per occurrence for bodily injury, personal, and property damage. The maximum deductible for such insurance shall be no more than twenty-five thousand dollars (\$25,000).

(2) Business automobile liability insurance covering every vehicle operated by the seafood deliverer, whether or not owned by the seafood deliverer, and every vehicle hired by the seafood deliverer with liability limits of no less than one million dollars (\$1,000,000) combined single limit per accident for bodily injury and property damage.

(g) (1) The policy or policies of insurance required by this section [shall] must name the Commission as certificate holder and [shall] must be endorsed to state that the coverage [shall] must not be suspended, voided, canceled, reduced in coverage, or in limits except upon sixty (60) days prior written notice to the Commission.

(2) A seafood deliverer [shall] must demonstrate that it has secured the insurance coverage required pursuant to this subdivision and [shall] must maintain such required insurance coverage throughout the term of the registration. Failure to maintain continuous insurance coverage meeting the requirements of these rules will result in revocation of the registration.

(3) All required policies of insurance [shall] must be obtained from a company, or companies, duly authorized to do business in the State of New York with a Best's rating of no less than A:X unless specific approval has been granted by the Commission to accept a company with a lower rating.

(4) [Two (2)] A [certificates] certificate of insurance effecting the required coverage and signed by a person authorized by the insurer to bind coverage on its behalf, must be delivered to the Commission prior to the effective date of the [license] registration. Delivery to the Commission's offices may be made in person, by first class mail, or by e-mail to Licensing@bic.nyc.gov.

Section 32. Section 12-25 of Title 17 of the Rules of the City of New York is amended to read as follows:

**§ 12-25. Notice.**

Unless otherwise provided, all notices pursuant to Chapter 1-A of Title 22 of the Code or this subchapter, including but not limited to notice related to hearings, violations, and [subpoenas] subpoenae, may be served by first class mail addressed to the business address provided to the Commission by the applicant, licensee, registrant, or photo identification card holder[, or on the license or registration issued to the business]. All such notices served on an employee or agent may be served by first class mail to the address listed for such employee or agent in the information provided to the Commission. Such notice also may be served by personal service or in any other manner reasonably calculated to achieve actual notice, including but not limited to any method authorized in the Civil Practice Law and Rules.

Section 33. Section 14-07 of Title 17 of the Rules of the City of New York is amended to read as follows:

**§ 14-07. Issuance of Photo Identification Cards.**

(a) A person wishing to apply for a photo identification card [shall] must provide the information required in the application form provided by the Commission, which form [shall] must be signed and certified under penalty of perjury by the applicant. The application [shall] must include, but not be limited to, the following information: name, address, and telephone number(s) of the applicant, the applicant's employment history, the applicant's business interests, and any other such information required by the Commission.

(b) Persons required to have photo identification cards [shall] must notify the Commission of any material change in the information submitted pursuant to subdivision (a) of this section, including without limitation, any change in employment, as well as any arrests or criminal convictions, except where such disclosure is protected by subdivision 16 of section 296 of article 15 of the New York State Executive Law; and shall notify the Commission, in a signed and notarized writing, of any such change within ten (10) business [calendar] days thereof.

(c) Notwithstanding any provision of this subchapter, the Commission may, when there is reasonable cause to believe that an applicant for or holder of a photo identification card does not possess good character, honesty, and integrity, require that such person be fingerprinted by a person designated for such purpose by the Commission, pay the fee prescribed by the Division of Criminal Justice Services for the purpose of obtaining criminal history records, and provide to the Commission the disclosure required by the form provided by the Commission. The Commission also may require such additional information in lieu of or in addition to such fingerprinting and/or disclosure, including without limitation documents

and/or an in-person interview, as the Commission determines is appropriate and reasonable to render a determination.

[(2) ] (d) The Commission may refuse to issue a photo identification card for the reasons set forth in subdivisions b, d, and e of section 22-259 of the Code[,] or may defer a decision whether to issue such card when there is an indictment or a criminal or civil action pending against or involving the applicant as provided in paragraph (b)(ii) of such section.

[(d) ] (e) Where the staff of the Commission recommends that the Commission refuse, pursuant to section 22-259 of the Code, to issue a photo identification card, the applicant shall be notified in writing of the reasons for the proposed refusal of such photo identification card and that the applicant may, within ten (10) business days of the date of such notification, respond in writing to the Commission setting forth the reasons such applicant believes that it should not be denied such photo identification card. In the exercise of its discretion, the Commission, considering the reasons for the proposed refusal to issue the photo identification card, the nature of the issues raised in connection therewith, and the response submitted by the applicant, may make a final determination regarding the issuance of such photo identification card or afford the applicant such further opportunity to be heard in such proceeding as is deemed appropriate. A final determination and the reasons therefor shall be communicated to the applicant in writing.

Section 34. Section 14-09 of Title 17 of the Rules of the City of New York is amended to read as follows:

**§ 14-09. Market Business Operations.**

(a) (1) A market business [shall] must not transfer its registration number as part of the sale of such market business.

(2) A market business [shall] must not allow the use by any other person of the registration number or the name of the business to which such registration number has been issued. [In the event that] If a market business seeks to sublease or otherwise allow the use of its premises, or any portion thereof, for the operation of a market business by another person, where such sublease it permitted under the terms of the lease, the [Commissioner] Chairperson may, upon application and payment of the required fee by the prospective sublessee pursuant to the provisions of these rules, issue a registration number to such sublessee. Absent the issuance of such registration number, no market business may permit a sublessee to operate a market business on such premises.

(b) The name and registration number of a market business [shall] must be affixed and prominently displayed on all premises and vehicles from which such market business is conducted.

(c) Market businesses [shall] must retain copies of all invoices and other documents reflecting deliveries or payments from or to suppliers and customers. Such books and records [shall] must accurately reflect the amount of goods or services involved in each transaction, and [shall] must, along with all other records produced or received in the normal course of business, be retained for a minimum of thirty-six (36) months, and [shall] must be made available for immediate inspection and/or copying upon request by the market manager or a designee of the market manager or an employee of the Commission. Electronic copies of such books and records [shall be] are acceptable.

(d) A market business [shall] must submit proof that it has obtained the required Workers' Compensation and Disability Benefits Coverage, or that it is exempt from section 57 of the [Worker's] Workers' Compensation Law, and subdivision [eight] § of section 220 of the Disability Benefits Law.

(1) Proof of coverage can be established by submitting the following [Worker's] Workers' Compensation Board forms:

- (i) C:105.2 Application for Certificate of [Worker's] Workers' Compensation Insurance;
- (ii) DB-120.1 Employer's Application for Certificate of Compliance with Disability Benefits Law;

(iii) S1-12 Affidavit certifying that compensation has been secured;

(2) Proof that no coverage is required can be provided by submitting the following [Worker's] Workers' Compensation Board form[;]:

- (i) C-105.21 Statement that applicant does not require [Worker's] Workers' Compensation or Disability Benefits Coverage.

(e) **Liability Insurance.** A market business [shall] must procure and maintain throughout the term of the registration the following types of insurance against claims for injuries to persons or damages to property which may arise from or in connection with the market business.

(1) Commercial General Liability insurance with liability limits of no less than one million dollars (\$1,000,000) combined single limit per occurrence for bodily injury, personal, and property damage. The maximum deductible for such insurance shall be no more than twenty-five thousand dollars (\$25,000).

(2) Business Automobile Liability Insurance covering every vehicle operated by the market business, whether or not owned by the market business, and every vehicle hired by the applicant with liability limits of no less than one million dollars (\$1,000,000) combined single limit per accident for bodily injury and property damage.

(f) The policy or policies of insurance required by this rule [shall] must name the City of New York and the Commission and any other agency or entity of the City as may be required as parties insured thereunder, and [shall] must be endorsed to state that coverage [shall] must not be suspended, voided, canceled, reduced in coverage, or in limits except upon sixty (60) days prior written notice to the Commission. Failure to maintain continuous insurance coverage meeting the requirements of these rules will result in revocation or suspension of registration. Such policy or policies of insurance [shall] must be obtained from a company, or companies, duly authorized to do business in the State of New York with a Best's rating of no less than A:X unless specific approval has been granted by the Commission to accept a company with a lower rating. [Two (2)] A [certificates] certificate of insurance effecting the required coverage and signed by a person authorized by the insurer to bind coverage on its behalf, must be delivered to the Commission prior to the effective date of the [license] registration. Delivery to the Commission's offices may be made in person, by first class mail or by e-mail to Licensing@bic.nyc.gov. A registrant

[shall] must demonstrate that the registrant has secured the insurance coverage required pursuant to this section and [shall] must maintain such required insurance coverage throughout the term of the registration.

(g) A market business shall be jointly and severally liable for any violation of Chapter 1-B of Title 22 of the Code or of this subchapter by any of its employees or agents.

(h) Each market business [shall] must permit the Commission, or any person designated by the Commission, to enter its premises whenever in the discretion of the Commission such entry is necessary.