

NEW YORK CITY BUSINESS INTEGRITY COMMISSION

**NOTICE OF ADOPTION OF FINAL RULE ON IMPROVING THE SAFETY OF THE
GENERAL PUBLIC**

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 New York City Business Integrity Commission (“BIC” or the “Commission”) by sections 1043(a) and 2101(b) of the New York City Charter and section 16-504 of the Administrative Code that the Commission adopts the following rule regarding improving the safety of the general public. BIC published a Notice of Public Hearing and Opportunity to Comment on the proposed rule in the *City Record* on August 17, 2018. On September 17, 2018, BIC held a public hearing on the proposed rule.

Statement of Basis and Purpose of Rule

Under Section 2101 of the New York City Charter, the Business Integrity Commission (BIC) is authorized to regulate the trade waste industry. As provided in Administrative Code § 16-504(d), BIC has the authority to establish standards for service and the regulation of conduct of businesses licensed or registered pursuant to Title 16-A of the Administrative Code, including but not limited to requirements governing the level of service to be provided by licensees, contracts for trade waste removal, billing form and procedures, the maintenance and inspection of records, the maintenance of appropriate insurance, and compliance with safety and health measures. Under Section 16-504(i), BIC is authorized to promulgate rules the Commission deems necessary and appropriate to effectively regulate the trade waste removal industry.

These rule amendments are designed to improve the safety of the general public. Specifically, the new amendments require licensees to increase the limits on commercial general liability, business automobile liability, and employers' liability insurance, and require registrants to increase the limit on business automobile liability insurance.

The amendments also require licensees and registrants to notify BIC of their drivers' Vehicle and Traffic Law violations and driver's license suspensions or revocations, crashes that involve a vehicle used in the licensee's or registrant's business, and to notify BIC of certain adverse actions by any federal, state, and local government authorities, including actions that result in the suspension or revocation of a permit, license or other permission required in connection with the operation of the licensee's or applicant's business or a penalty or fine of \$1,000 or more.

The amendments also require licensees and registrants to maintain written policies and procedures regarding compliance with all of the laws, rules and regulations of federal, state and local government authorities.

The amendments also require licensees and registrants to maintain Report of Motor Vehicle Accident (MV-104) forms and other forms related to crashes, as well as adverse determinations by any federal, state, and local government authorities.

BIC's authority for these rules is found in section 16-504 of the Administrative Code and sections 1043(a) and 2101(b) of the New York City Charter.

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

Section 1. The definition of DISCLOSURE contained in Section 1-01 of Subchapter A of Chapter 1 of Title 17 of the Rules of the City of New York is REPEALED and a new definition of CRASH is added to read as follows.

Crash. The term “crash” means a traffic incident involving the impact of a vehicle with another vehicle, person or property. A crash includes, but is not limited to, those events referenced as “incidents” and “accidents” by the Vehicle and Traffic Law.

§ 2. Subchapter A of Chapter 1 of Title 17 of the Rules of the City of New York is amended by adding a new Section 1-12 to read as follows:

§ 1-12 Disclosure of Certain Adverse Determinations by Governmental Agencies or Authorities.

Whenever a licensee or registrant or an applicant for a license or registration is required by the Administrative Code or this Chapter to disclose, provide notification of or maintain any determination by any federal, state, or local governmental agency or authority against such licensee, registrant or applicant, or principal, employee or agent of such licensee, registrant or applicant, including but not limited to any judgment, decree, order, finding by or settlement agreement with such governmental agency or authority, such judgment, decree, order, finding or settlement must be disclosed if:

(a) it resulted or will result in the suspension or revocation of a permit, license or other permission required in connection with the operation of such licensee’s, registrant’s or applicant’s business;

(b) it resulted or will result in a civil or administrative fine, penalty or settlement in excess of one thousand dollars (\$1,000) or any injunctive relief against such licensee, registrant or applicant, or principal, employee or agent of such licensee, registrant or applicant; or

(c) such determination relates to a violation of the Vehicle and Traffic Law or any other laws or regulations relating to the safe operation of a vehicle.

§ 3. Paragraphs 4, 5 and 6 of Subdivision (f) of Section 2-02 of Subchapter B of Chapter 1 of Title 17 of the Rules of the City of New York are amended to read as follows:

(4) Commercial General Liability Insurance with liability limits of no less than [one million dollars (\$1,000,000)] five million dollars (\$5,000,000) combined single limit per occurrence for bodily injury and property damage. The maximum deductible for such insurance shall be no more than [twenty-five thousand dollars (\$25,000)] fifty thousand dollars (\$50,000).

(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] two million dollars (\$2,000,000) combined single limit per accident for bodily injury and property damage.

(6) Employers' Liability Insurance with limits of no less than one million [(\$1,000,000)] five hundred thousand dollars (\$1,500,000) per accident. The policy or policies of insurance required by these rules must name the Commission as Certificate Holder and 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 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 must demonstrate that he or she has secured the insurance coverage required pursuant to this section and must maintain such required insurance coverage throughout the term of the license.

§ 4. Paragraph 10 of Subdivision (c) of Section 2-03 of Subchapter B of Chapter 1 of Title 17 of the Rules of the City of New York is amended to read as follows:

(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] two million dollars (\$2,000,000) combined single limit per accident for bodily injury and property damage. Such insurance policy must name the Commission as Certificate Holder.

§ 5. Paragraph 8 of Subdivision (a) of Section 2-04 of Subchapter B of Chapter 1 of Title 17 of the Rules of the City of New York is amended to read as follows:

(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] two million dollars (\$2,000,000) combined single limit per accident for bodily injury and property damage.

§ 6. Section 2-05 of Subchapter B of Chapter 1 of Title 17 of the Rules of the City of New York is amended to read as follows:

§ 2-05. Notification of Arrest, Conviction, Civil and Administrative Determinations, Vehicle Crashes, Suspension or Revocation of Driver's License, Traffic Violation, 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 must notify the Commission, within ten (10) business days, of the arrest or criminal conviction 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 must notify the Commission within ten (10) business days of any determination by any federal, state, or local governmental agency or authority against such licensee, registrant or applicant, including but not limited to any judgment, decree, order, finding by or settlement agreement with such governmental agency or authority.

(3) An applicant for a license or a licensee must notify the Commission within ten (10) business days of any crash that involved a vehicle used in the course of the business of such applicant or licensee. Additionally, such applicant or licensee must provide the Commission with a copy of the Report of Motor Vehicle Accident (MV-104) and any other forms filed with the New York State Department of Motor Vehicles within ten (10) business days from the date by which such applicant or licensee is required to file the forms with such department.

(4) An applicant for a license or a licensee must notify the Commission within ten (10) business days of the suspension or revocation of the driver's license of any person whose job duties include operating a vehicle on behalf of such applicant or licensee.

(5) An applicant for a license or a licensee must notify the Commission within ten (10) business days of all vehicle traffic summonses issued to such applicant or licensee as the lessee or owner of the vehicle or to any person while operating a vehicle on behalf of such applicant or licensee.

[(2)] (6) An applicant for a license or a licensee must notify the Commission within ten (10) business days of any material change as defined in 17 RCNY § 1-01 in the information submitted in an application or disclosure form submitted, pursuant to this chapter.

[(3)] (7) A licensee must notify the Commission within ten (10) 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 must disclose only such stock transfer or sale required to be disclosed by the Securities Exchange Commission or other Federal or State regulatory body. Such notification 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)] (8) In addition to notification of material change required by any other provision of this chapter, a licensee 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) (1) An applicant for registration and a registrant, including a registrant issued a registration after the granting of an exemption from the licensing requirement of Subdivision a of Section 16-505 of the Code, must notify the Commission within ten (10) business days of: (i) the addition of a principal to the business of a registrant 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 determination by any federal, state, or local governmental agency or authority against such licensee, registrant or applicant, including but not limited to any judgment, decree, order, finding by or settlement agreement with such governmental agency or authority; (iv) any crash that involved a vehicle used in the course of the business of the applicant for registration or registrant; (v) the suspension or revocation of the driver's license of any person whose job duties include operating a vehicle on behalf of the applicant for registration or registrant; (vi) all vehicle traffic summonses issued to the applicant for registration or registrant as the lessee or owner of the vehicle or to any person while operating a vehicle on behalf of such applicant or registrant; and (vii) any other material change in the information submitted pursuant to this subchapter.

(2) For any crash required to be reported pursuant to Subparagraph (iv) of Paragraph (1) of this Subdivision, an applicant for registration or registrant must provide the Commission with a copy of the Report of Motor Vehicle Accident (MV-104) and any other forms filed with the New York State Department of Motor Vehicles within ten (10) business days from the date by which such applicant or registrant is required to file the forms with such department.

(c) Notification pursuant to Paragraphs [(2), (3), and (4)] (1), (6), (7) and (8) of Subdivision (a) and Subparagraphs (i), (ii) and (vii) of Paragraph (1) of Subdivision (b) of this section must be sworn and notarized and 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)] (1) of Subdivision (a) of this section must be sworn and notarized and 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.

§ 7. Subdivisions (i), (j) and (k) of Section 5-03 of Subchapter E of Chapter 1 of Title 17 of the Rules of the City of New York are relettered subdivisions (l), (m) and (n) and new Subdivisions (i), (j) and (k) are added to read as follows:

(i) A licensee must maintain written policies and procedures regarding compliance with all of the laws, rules and regulations of federal, state and local government authorities having jurisdiction over any of the licensees' activities concerning vehicle specifications, sanitary requirements, handling, transport, receipt, transfer or disposal of trade waste, regulated medical waste or waste containing asbestos or other hazardous, toxic or dangerous material.

(j) A licensee must maintain all Report of Motor Vehicle Accident (MV-104) forms and any other forms that the licensee is required to file with the New York State Department of Motor Vehicles related to a crash.

(k) A licensee must maintain all determinations by any federal, state, or local governmental agency or authority against such licensee, including but not limited to any judgment, decree, order, finding by or settlement agreement with such governmental agency or authority.

§ 8. Subchapter G of Chapter 1 of Title 17 of the Rules of the City of New York is amended by adding Section 7-06 as follows:

§ 7-06 Recordkeeping.

(a) A registrant must maintain written policies and procedures regarding compliance with all of the laws, rules and regulations of federal, state and local government authorities having jurisdiction over any of the registrant's activities concerning vehicle specifications, sanitary requirements, handling, transport, receipt, transfer or disposal of trade waste, regulated medical waste or waste containing asbestos or other hazardous, toxic or dangerous material.

(b) A registrant must maintain all Report of Motor Vehicle Accident (MV-104) forms and any other forms that the registrant is required to file with the New York State Department of Motor Vehicles related to a crash.

(c) A registrant must maintain all determinations by any federal, state, or local governmental agency or authority against such registrant, including but not limited to any judgment, decree, order, finding by or settlement agreement with such governmental agency or authority.