

NEW YORK CITY BUSINESS INTEGRITY COMMISSION

**NOTICE OF ADOPTION OF FINAL RULE REGARDING COMMERCIAL WASTE
ZONE IMPLEMENTATION AND MAXIMUM RATE CAP**

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 that the Commission adopts the following rules concerning commercial waste zone implementation and the maximum rate cap imposed upon licensed waste haulers. The adopted rules also modify traffic safety reporting rules, clarify the recycling requirements for self-hauler registrants, and require the surrender of Commission issued plates upon vehicle disposition. The Commission published a Notice of Public Hearing and Opportunity to Comment on the proposed rules in the *City Record* on June 6, 2024. On July 9, 2024, The Commission held a public hearing on the proposed rules. The Commission considered the comments received in connection with the hearing and has determined that no changes to the rules are necessary.

Statement of Basis and Purpose of Final Rule

Local Laws 198 and 199 of 2019 enacted important changes in the provisions of law relating to the Business Integrity Commission and the commercial waste industry. Local Law 198 expanded the power of the Commission to include enforcement of traffic safety requirements for vehicles used in the collection, removal, transportation or disposal of trade waste. Local Law 199, codified in Title 16-B of the New York City Administrative Code, required that the geographic area of New York City be divided into 20 Commercial Waste Zones (CWZs). This rule implements those local laws. Among other things, the Commission shall:

- Modify some rules that affect trade waste licensees once particular commercial waste zones are implemented, specifically indicating which sections will no longer apply to carters within designated CWZs.
- Modify traffic safety reporting rules that affect trade waste licensees and registrants. Such rules are not necessary since the Commission’s authority was expanded to include traffic safety requirements for vehicles used in the collection, removal, transportation or disposal of trade waste.
- Require the surrender of Commission-issued trade waste license plates upon the disposition of a vehicle that has been issued such license plates, and
- Clarify the recycling requirements for self-hauler registrants – that is, any person registered by the Commission to handle trade waste generated in the course of operation of such person’s business.

In addition, the rule increases the maximum rate that a licensee may charge for the collection, removal, disposal, or recycling of trade waste. This increase reflects the inflation of trade waste disposal and hauling costs that has occurred since the maximum rates were last amended in

2022. The Commission primarily considered the United States Bureau of Labor Statistics Producer Price Index and available data from the trade waste industry in determining the rate cap increase.

The Commission'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.

§ 1. The definition of "special trade waste district" set forth 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 such section is further amended by adding the following definitions in the appropriate alphabetical order:

Awardee. The term "awardee" means an entity with whom the Department of Sanitation enters into an agreement for the provision of commercial waste collection services pursuant to section 16-1002 of the Administrative Code.

Designated carter. The term "designated carter" or "carter" means a licensee that is authorized to provide commercial waste collection services pursuant to an agreement between an awardee and the Department of Sanitation entered into pursuant to section 16-1002 of the Administrative Code. The term "designated carter" may describe the awardee or another licensee that the awardee has designated to fulfill the terms of such agreement as specified therein, and provided further that notwithstanding any other provision of this section, the term "designated carter" may also include a person that the awardee has designated to fulfill the terms of such agreement as specified therein who is operating in accordance with the provisions of Title 16-A of the Administrative Code and the rules promulgated pursuant to such title and who is authorized by the commission to collect certain categories of commercial waste without a license.

Designated recyclable materials. The term "designated recyclable materials" means materials that have been designated for recycling by the Department of Sanitation in 16 RCNY § 1-10(a).

Final implementation date. The term "final implementation date" means the last day of the transition period.

Single stream collection and recycling. "Single stream collection and recycling" means a system in which designated recyclable metal, glass and plastic, and designated recyclable paper, are placed in the same bags or bins by the generator. Such bags and/or the contents of such bins are placed into one waste hauling truck, separate from solid waste and organic waste, and are delivered directly to a recycling processing facility. Such recycling processing facility must be designed to receive, separate and process for reuse or sale commingled loads of designated recyclable metal, glass and plastic, and designated recyclable paper.

Transition period. The term "transition period" means the period between the implementation start date established by the Department of Sanitation for a commercial waste zone and the final implementation date established by such Department for such zone.

§ 2. Section 1-02 of subchapter A of chapter 1 of Title 17 of the Rules of the City of New York is amended as follows:

§ 1-02 Notice. Unless otherwise provided, all notice, pursuant to this chapter, including but not limited to notice related to hearings, violations, summonses, and subpoenae, may be served by first class mail addressed to the business address. All such notice served on an employee or agent may be served by first class mail. Such notice may also be served by personal service, e-mail, 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.

§ 3. Paragraphs (1) and (4) of subdivision (f) of section 1-04 of subchapter A of chapter 1 of Title 17 of the Rules of the City of New York is amended as follows:

(1) In addition to any other penalty prescribed in this section for the violation of subdivisions a or b of section 16-505 [or subdivision a of section 16-524] of the Code, or when there have been three or more violations of the provisions herein within a three year period, the Commission shall, after notice and the opportunity to be heard have been provided, be authorized: to order any person in violation of such provisions immediately to discontinue the operation of such activity at the premises from which such activity is operated; to order that any premises from which activity in violation of such provisions is operated shall be sealed, provided that such premises are used primarily for such activity; and to order that any vehicles or other devices or instrumentalities utilized in the violation of such provisions shall be removed, sealed, or otherwise made inoperable. An order pursuant to this paragraph shall be mailed to and posted at the premises from which activity in violation of such provisions occurs.

(4) A premise ordered sealed or a vehicle or other device or instrumentality removed pursuant to this section shall be unsealed or released upon payment of all outstanding fines and all reasonable costs for removal and storage and, where the underlying violation is for unlicensed or unregistered activity [or unauthorized activity in a special trade waste district], that a license has been obtained or a business registered or proof satisfactory to the Commission that such premise or item will not be used in violation of subdivision a or b of section 16-505 [or subdivision a of section 16-524 of the Code].

§ 4. Subdivision (c) of section 1-12 of subchapter A of chapter 1 of Title 17 of the Rules of the City of New York, relating to disclosures of violations of the vehicle and traffic law, is REPEALED, and subdivisions (a) and (b) of such section are amended to read as follows:

(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; or

(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].

§ 5. Paragraph (5) of subdivision (a) of section 2-05 of subchapter B of chapter 1 of Title 17 of the Rules of the City of New York, relating to notifications of vehicle traffic summonses, is REPEALED; paragraphs (6), (7), and (8) of such subdivision are renumbered paragraphs (5), (6), and (7); and the title, paragraph (1) of subdivision (b) and subdivision (d) of section 2-05 are 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.

(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; (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.

(d) Notification pursuant to Paragraphs (1), (2), (5), (6), and (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 (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.

§ 6. Subdivision (a) of section 5-01 of subchapter E of chapter 1 of Title 17 of the Rules of the City of New York is amended to read as follows:

(a) Every licensee must provide [to every recipient of its services] its customers with a sign or decal which the licensee must obtain from the Commission. A licensee must 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 must conspicuously and legibly display the licensee's name, address, telephone number, [number of] license number 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 16 RCNY § 1-01) that will be collected by a licensee and, if applicable, whether a licensee will be using single stream recycling collection (as defined in 16 RCNY § 1-01) or co-collection of recyclables (as defined in 16 RCNY § 1-01).] Any licensee that provides organic waste removal services to a designated covered establishment must also provide the designated covered establishment with a sign or decal that states (i) the name, address, telephone number, number of license and the day and approximate time of organic waste collection from the designated covered establishment; or (ii) the name, address, telephone number, number of license and the day and approximate time of organic waste collection and a statement that the licensee transports its organic waste to an entity that provides for beneficial organic waste reuse; or (iii) the name, address, telephone number, number of license and the day and approximate time of organic waste collection and a statement that the licensee provides for on-site processing of organic waste generated at its premises.

§ 7. Subdivision (a) of section 5-02 of subchapter E of chapter 1 of Title 17 of the Rules of the City of New York is amended and a new subdivision (h) is added, to read as follows:

(a) A trade waste removal business must not demand, charge, exact, or accept rates for the collection, removal, disposal, or recycling of trade waste greater than the following maximum rates:

- (1) [~~\$24.21~~] \$26.87 per cubic yard
- (2) [~~\$15.89~~] \$17.64 per 100 pounds.

(h) Upon the final implementation date for a particular commercial waste zone, licensees who are designated carters will not be subject to the requirements of this section in that particular zone. Licensees who operate in any zones prior to the final implementation date for such zone will continue to be subject to the requirements of this section.

§ 8. Paragraphs 1 and 3 of subdivision (g) of section 5-03 of subchapter E of chapter 1 of Title 17 of the Rules of the City of New York are amended and a new paragraph 4 is added, to read as follows:

(1) The Customer Register must contain a list of all customers currently served by the licensee and 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.

(3) A complete and up-to-date Customer Register must 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, or as often as ordered by the Commission. In the event that the Commission grants a new license, the newly licensed company must file its first Customer Register [to] with the Commission no later than ninety (90) days after the granting of the license, unless otherwise directed by the Commission. This subdivision applies to companies operating with temporary permission of the Commission, pending decision on their license application.

(4) Upon the final implementation date for a particular commercial waste zone, licensees who are designated carters will not be subject to the requirements of this subdivision in such zone. Licensees who operate in any zones prior to the final implementation date for such zone will continue to be subject to the requirements of this subdivision.

§ 9. Subdivisions (l), (m), (n), and (o) of section 5-03 of subchapter E of chapter 1 of Title 17 of the Rules of the City of New York are amended to read as follows:

(l) 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. Upon the final implementation date for a particular commercial waste zone, licensees who are designated carters will not be subject to the requirements of this subdivision in such zone. Licensees who operate in any zones that have not been implemented will continue to be subject to the requirements of this subdivision.

(m) A licensee must maintain copies of all inspection and certification of repair forms required by 17 RCNY § 5-10(e) for at least five (5) years, and copies of such forms (paper or electronic) must be available in the corresponding vehicles at all times for six (6) months. Upon the final implementation date for a particular commercial waste zone, licensees who are designated carters will not be subject to the requirements of this subdivision in such zone. Licensees who operate in any zones that have not been implemented will continue to be subject to the requirements of this subdivision.

(n) A licensee must maintain copies of all daily inspection reports required by 17 RCNY § 5-10(f) for at least five (5) years, and copies of such reports (paper or electronic) must be available in the corresponding vehicles at all times for fourteen (14) days. Upon the final implementation date for a particular commercial waste zone, licensees who are designated carters will not be subject to the requirements of this subdivision in such zone. Licensees who operate in any zones that have not been implemented will continue to be subject to the requirements of this subdivision.

(o) A licensee must maintain records demonstrating compliance with 17 RCNY § 5-14 that include, at a minimum, the date training was provided, the names of each employee that received the training, and each employee's job duties. Upon the final implementation date for a particular commercial waste zone, licensees who are designated carters will not be subject to the requirements of this subdivision in such zone. Licensees who operate in any zones that have not been implemented will continue to be subject to the requirements of this subdivision.

§ 10. Subdivision (a) of section 5-05 of subchapter E of chapter 1 of Title 17 of the Rules of the City of New York is amended to read as follows:

(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 must provide that the licensee must remove the customer's waste from the location designated by the customer. A sample standard contract form must be submitted to the Commission when an application for a license is submitted, and a licensee 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 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. Upon the final implementation date for a particular commercial waste zone, licensees who are designated carters will not be subject to the requirements of this paragraph in such zone. Licensees who operate in any zones that have not been implemented will continue to be subject to the requirements of this paragraph.

(2) A licensee 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 schedule for the collection of waste. A schedule agreed to in writing 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 must provide such customer with a copy of the Commission's informational notice to customers. The licensee 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. Upon the final implementation date for a particular commercial waste zone, licensees who are designated carters will not be subject to the requirements of this paragraph in such zone. Licensees who operate in any zones that have not been implemented will continue to be subject to the requirements of this paragraph.

(3) A licensee 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 is given. No contract for the removal, collection, or disposal of waste shall provide that a licensee may discontinue service upon shorter notice. Upon the final implementation date for a particular commercial waste zone, licensees who are designated carters will not be subject to the requirements of this paragraph in such zone. Licensees who operate in any zones that have not been implemented will continue to be subject to the requirements of this paragraph.

(4) A written contract that does not meet the requirements of Federal, State, or Local Law is voidable by either party.

§ 11. Paragraph (1) of subdivision (b) of section 5-05 of subchapter E of chapter 1 of Title 17 of the Rules of the City of New York is amended to read as follows:

(b) *Subcontracting, assignment of contracts, [mergers] Mergers, and [acquisitions] Acquisitions*

(1) A licensee must apply for review by the Commission before subcontracting or assigning a contract and 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 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 after receiving notice of such assignment or subcontract. Such notification must be by certified mail with the receipt of delivery retained by the assignee or subcontractor and 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 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 must not enter into a subcontract before receiving express approval for the subcontracting arrangement from the Commission. Upon the final implementation date for a particular commercial waste zone, licensees who are designated carters will not be subject to the requirements of this paragraph in such zone. Licensees who operate in any zones that have not been implemented will continue to be subject to the requirements of this paragraph.

§ 12. Subdivisions (d), (e), and (g) of section 5-05 of subchapter E of chapter 1 of Title 17 of the Rules of the City of New York are amended to read as follows:

(d) *Written contract.* When service to a customer is commenced, the licensee 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, 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 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 be accompanied by a notice stating: "You are not required to sign this contract. If you have any questions or complaints, call the Business Integrity Commission at (212) 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. Upon the final implementation date for a particular commercial waste zone, licensees who are designated carters will not be subject to the requirements of this subdivision in such zone. Licensees who operate in any zones that have not been implemented will continue to be subject to the requirements of this subdivision.

(e) *Customer's decision not to sign a contract.* A customer is not required to sign a contract. If a customer fails or refuses to sign a contract that has been tendered to the customer, pursuant to Subdivision [c] (d) 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 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 was given to such customer. Where a written contract with a customer has not been obtained by the licensee, the licensee must:

- (1) demonstrate that a contract has been tendered to the customer in accordance with Subdivision [c] d 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.

Upon the final implementation date for a particular commercial waste zone, licensees who are designated carters will not be subject to the requirements of this subdivision in such zone. Licensees who operate in any zones that have not been implemented will continue to be subject to the requirements of this subdivision.

(g) *Standard bills, statements, invoices.* A licensee 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.

Such bill must be on a form approved by the Commission. Upon the final implementation date for a particular commercial waste zone, licensees who are designated carters will not be subject to

the requirements of this subdivision in such zone. Licensees who operate in any zones that have not been implemented will continue to be subject to the requirements of this subdivision.

§ 13. Section 5-06 of subchapter E of chapter 1 of Title 17 of the Rules of the City of New York is amended by adding a subdivision (c) to read as follows:

(c) Upon the final implementation date for a particular commercial waste zone, licensees who are designated carters will not be subject to the requirements of this section in such zone. Licensees who operate in any zones that have not been implemented will continue to be subject to the requirements of this section.

§ 14. Subdivision (r) of section 5-08 of subchapter E of chapter 1 of Title 17 of the Rules of the City of New York is amended and a subdivision (w) of such section is added, all to read as follows:

(r) Any container provided by a licensee to a [designated covered establishment] customer for the collection of [organic] trade waste must:

- (1) meet the labeling requirements set forth in 17 RCNY § 5-11;
- (2) have a lid and a latch, lock, or other fastening or sealing mechanism or cord that keeps the lid closed and is resistant to tampering by rodents or other wildlife; and
- (3) have the capacity to meet the disposal needs of the [designated covered establishment] customer.

(w) Upon the final implementation date for a particular commercial waste zone, licensees who are designated carters will not be subject to the requirements of this section in such zone. Licensees who operate in any zones that have not been implemented will continue to be subject to the requirements of this section.

§ 15. Subdivisions (a), (c), (d), (e), (f), and (g) of section 5-10 of subchapter E of chapter 1 of Title 17 of the Rules of the City of New York are amended to read as follows:

(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 17 RCNY § 2-07. Beginning on January 1, 2020, the Commission will not issue license plates for any vehicle that does not comply with the requirements set forth in § 24-163.11(b) of the Administrative Code. Beginning on January 1, 2023, the Commission will not issue license plates for any vehicle that does not comply with the requirements set forth in § 16-526 of the Administrative Code. License plates issued by the Commission must at all times be affixed as prescribed by the Commission to a visible and conspicuous part of each such vehicle. A licensee 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 must not be transferred to any other vehicle. Upon the sale or dissolution of the business of a licensee, or upon the suspension, revocation, or expiration of a Commission-issued license, such plates must

be immediately surrendered to the Commission. Upon the disposition of a vehicle that has been issued license plates by the Commission, such license plates must be 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.

(c) Each vehicle having a gross vehicle weight rating of twenty-six thousand pounds or more and a conventional cab configuration in which the engine is mounted in front of the operator must be equipped with a convex mirror positioned in front of such vehicle. When such vehicle is being operated, such mirror shall be adjusted so as to enable the operator thereof to see all points on an imaginary horizontal line which is three feet above the road, is one foot directly forward from the midpoint of the front of such motor vehicle, and extends the full width of the front of such vehicle or combination of such vehicles. Upon the final implementation date for a particular commercial waste zone, licensees who are designated carters will not be subject to the requirements of this subdivision in such zone. Licensees who operate in any zones that have not been implemented will continue to be subject to the requirements of this subdivision.

(d) Nothing may be placed or suspended in or on the vehicle or windshield so as to obstruct the operator's vision through the windshield or other windows. Nothing in this subdivision shall be construed to prohibit the placement or suspension of an object in or on the vehicle windshield in order to comply with or as expressly permitted by federal, state or local law. Upon the final implementation date for a particular commercial waste zone, licensees who are designated carters will not be subject to the requirements of this subdivision in such zone. Licensees who operate in any zones that have not been implemented will continue to be subject to the requirements of this subdivision.

(e) A trade waste vehicle must not be operated unless such vehicle is in safe operating condition and has passed an inspection conducted by a qualified inspector demonstrating compliance with the terms of this section at least once during the preceding six months. Upon the final implementation date for a particular commercial waste zone, licensees who are designated carters will not be subject to the requirements of this subdivision in such zone. Licensees who operate in any zones that have not been implemented will continue to be subject to the requirements of this subdivision.

(f) A trade waste vehicle must not be operated unless the operator of such vehicle is satisfied such vehicle is in safe operating condition. A licensee must require the operator of such vehicle to inspect such vehicle following each day's work and to prepare a daily inspection report that identifies such vehicle and any defect that would affect the safety of operation of such vehicle. Such daily inspection report must cover at a minimum the following parts and accessories: service and parking brakes, steering mechanism, tires, wheels and rims, side guards, coupling devices, mirrors, lighting devices and reflectors, horn, windshield wipers, and emergency equipment. Copies of such daily inspection reports must be kept in the corresponding vehicle in accordance with the requirements of subdivision (n) of 17 RCNY § 5-03. The operator of such vehicle must review the most recent daily inspection report and determine whether required repairs have been made when evaluating the condition of such vehicle. Upon the final implementation date for a particular commercial waste zone, licensees who are designated carters will not be

subject to the requirements of this subdivision in such zone. Licensees who operate in any zones that have not been implemented will continue to be subject to the requirements of this subdivision.

(g) The Commission or a person designated by the Commission may inspect trade waste vehicles, equipment, licenses, registrations, inspection reports, and fleet records of each licensee at any time at its own discretion. Upon the final implementation date for a particular commercial waste zone, licensees who are designated carters will not be subject to the requirements of this subdivision in such zone. Licensees who operate in any zones that have not been implemented will continue to be subject to the requirements of this subdivision.

§ 16. Subdivisions (c) and (e) of section 5-11 of subchapter E of chapter 1 of Title 17 of the Rules of the City of New York are REPEALED; and subdivision (d) of such section is relettered (c).

§ 17. Section 5-12 of Title 17 of the Rules of the City of New York is amended by adding a subdivision (e) to read as follows:

(e) Upon the final implementation date for a particular commercial waste zone, licensees who are designated carters will not be subject to the requirements of this section in such zone. Licensees who operate in any zones that have not been implemented will continue to be subject to the requirements of this section.

§ 18. Subdivision (a) of section 6-03 of Title 17 of the Rules of the City of New York is amended to read as follows:

(a) A trade waste broker 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 must be submitted to the Commission and 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) 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 must not exceed two (2) years in duration.

§ 19. Paragraph 3 of subdivision (j) of section 6-04 of subchapter F of chapter 1 of Title 17 of the Rules of the City of New York is amended to read as follows:

(3) A complete and up-to-date Customer Register must be filed twice each year; on January [30] 31 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 registration, the newly registered trade waste broker must submit its first Customer Register to the Commission no later than 90 days after the granting of its registration, unless otherwise directed by the Commission.

§ 20. Section 6-06 of subchapter F of chapter 1 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 § 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 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.

~~(3)~~[(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.

~~(4)~~[(5)] Where a broker is arranging for an agreement between a customer and a licensee, a written contract must provide that the 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 licensee. Where the services to be provided by the broker also include evaluation or analysis of the waste stream, the written contract 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. 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.

~~(5)~~[(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.

~~(6)~~[(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 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) [435] 437-0600." 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)] (c) 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. Where a written contract with a customer has not been obtained by the trade waste broker, the broker must: (1) Demonstrate that a written contract has been tendered to the customer in accordance with Subdivision [(d)](c) 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 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 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 17 RCNY § 5-02(a)(3), 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.

§ 21. Subdivision (a) of section 7-03 of subchapter G of chapter 1 of Title 17 of the Rules of the City of New York is amended to read as follows:

(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 17 RCNY § 2-07. Beginning on January 1, 2020, the Commission will not issue license plates for any vehicle that does not comply with the requirements set forth in § 24-163.11(b) of the Administrative Code. Beginning on January 1, 2023, the Commission will not issue license plates for any vehicle that does not comply with the requirements set forth in § 16-526 of the Administrative Code. 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 must not be transferred to any other vehicle. Upon the sale or dissolution of the business of a registrant, or upon the suspension, revocation, or expiration of a Commission-issued registration, such plates must be immediately surrendered to the Commission. Upon the disposition of a vehicle that has been issued license plates by the Commission, such license plates must be 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 subdivision shall not exceed five thousand dollars (\$5,000) for each such violation.

§ 22. Subdivisions (a), (c), (d) and (e) of section 7-04 of subchapter G of chapter 1 of Title 17 of the Rules of the City of New York are REPEALED; subdivisions (b) and (e) of such section are relettered (f) and (g), respectively; and new subdivisions (a), (b), (c), (d), and (e) are added and relettered subdivision (f) is amended to read as follows:

(a) Source-Separation Required.

(1) A registrant that is authorized pursuant to subdivision (b) of section 16-505 of the Administrative Code to remove, collect or dispose of trade waste that is generated in the course of operation of such registrant's business must source separate designated recyclable materials as required in section 1-10(b) of title 16 of the Rules of the City of New York unless such registrant is authorized by the commission to use single stream collection and recycling.

(2) Such registrant that is also a designated covered establishment must source separate organic waste as required by subdivision (c) of section 16-306.1 of the Administrative Code and section 1-11 of title 16 of the Rules of the City of New York.

(b) Commingling Prohibited.

(1) A registrant that is authorized pursuant to section 16-505(b) of the Administrative Code to remove, collect or dispose of trade waste that is generated in the course of operation of such registrant's business may not commingle in the same vehicle compartment any of the following: (i) designated recyclable paper, (ii) designated recyclable metal, glass, and plastic, or (iii) any other trade waste. Such registrant may commingle designated recyclable metal, glass and plastic in the same vehicle compartment, but may not commingle such metal, glass and plastic in the same vehicle compartment with designated recyclable paper unless such registrant is authorized by the commission to use single stream collection and recycling to collect such materials.

(2) Such registrant that is also a designated covered establishment may not commingle organic waste with any other trade waste in the same vehicle compartment.

(c) *Recycling Required.* When transporting designated recyclable materials that have been source-separated as required in 16 RCNY § 1-10(b) or materials that have been commingled pursuant to subdivision (e) of this section, a registrant that is authorized pursuant to section 16-505(b) of the Administrative Code to remove, collect or dispose of trade waste that is generated in the course of operation of such registrant's business must transport such materials to a putrescible or non-putrescible transfer station or other facility that accepts such materials for recycling, reuse or sale for reuse. Such registrant shall not bring such materials for disposal to any solid waste disposal facility, whether or not such disposal facility is operated by the Department of Sanitation, except in an amount that could not have been detected through reasonable inspection efforts by the registrant.

(d) *Organic Waste.*

(1) A registrant that is authorized pursuant to section 16-505(b) of the Administrative Code to remove, collect or dispose of trade waste that is generated in the course of operation of such registrant's business that is also a designated covered establishment must transport such organic waste directly to an organic waste processing facility for purposes of composting, aerobic digestion or anaerobic digestion, or to a putrescible transfer station that is authorized by the New York State Department of Environmental Conservation and the Department of Sanitation to handle source separated organic waste or is otherwise in compliance with all applicable state and local permitting requirements regarding handling of source separated organic waste.

(2) Notwithstanding any other provision of this section, such registrant may deliver organic waste for beneficial use to a farm or other facility for purposes of feeding animals.

(e) *Authorization to use single stream collection and recycling.* Notwithstanding subdivision (d) of this section, a registrant that is authorized pursuant to section 16-505(b) of the Administrative Code to remove, collect or dispose of trade waste that is generated in the course of operation of such registrant's business may commingle designated metal, glass, and plastic with designated recyclable paper, provided that it has furnished information to the commission demonstrating its ability to use single stream collection and recycling and the commission has authorized such registrant's use of single stream collection.

(f) A registrant that [collects its own waste] is authorized pursuant to section 16-505(b) of the Administrative Code to remove, collect or dispose of trade waste that is generated in the course of

operation of such registrant's business and receives free dump privileges at Department of Sanitation solid waste disposal facilities [shall provide for], even if such registrant is not a designated covered establishment, must source [separation] separate [of] designated recyclable materials [(as defined in 17 RCNY § 5-12) from solid waste] and organic waste[, if applicable] from all other trade waste.

§ 23. Section 7-05 of subchapter G of chapter 1 of Title 17 of the Rules of the City of New York is amended to read as follows:

§ 7-05 Operations. [A registrant that removes, collects or disposes of trade waste shall keep the sidewalk, flagging, curbstone and roadway abutting any area from which waste is removed free from obstruction, garbage, litter, debris and other offensive material resulting from the removal by the registrant of trade waste and shall comply with the requirements for operation contained in 17 RCNY § 5-11 and subdivisions (a) through (q) and (u) through (v) of 17 RCNY § 5-08.]

(a) A registrant that removes, collects or disposes of trade waste must keep the sidewalk, flagging, curbstone and roadway abutting any area from which waste is removed free from obstruction, garbage, litter, debris and other offensive material resulting from the removal by the registrant of trade waste.

(b) A registrant must maintain any premises where trade waste removal vehicles and machinery are kept in a safe and sanitary condition.

(c) All trade waste vehicles operated pursuant to a registration must be loaded at all times in such a manner and by such methods as to prevent the release or discharge of dust and to prevent spilling of materials upon sidewalks or streets and every operator of a vehicle must remove immediately from sidewalks or streets all materials spilled, littered, or thrown thereon in loading operations or in the handling and return of receptacles or while traveling.

(d) Materials loaded into vehicles must be dumped or unloaded and disposed of only at points where disposal of the particular material is lawful.

(e) Trade waste vehicles with open top box type bodies and containers on or in platform or panel type body vehicles must not be filled or loaded over their capacity. Such vehicles must never be filled or loaded above water level of body or container.

(f) Trade waste vehicle operators of all types of vehicles must exercise care at all times to prevent the making of unnecessary or avoidable noise in the course of operating such vehicles or loading trade waste.

(g) Each open top box type vehicle body must be loaded only from front to rear and the partial load kept securely and fully covered at all times. Each such vehicle must have a heavy tarpaulin cover which must be secured over the vehicle body at all times other than when the vehicle body is being loaded or unloaded or is empty.

(h) Materials loaded in or upon vehicles shall not be re-worked, re-sorted, picked over, or rehandled while vehicle is on the streets and material shall not be transferred nor reloaded from a vehicle while on the streets to or into any other vehicle, except that operators of vehicles of the totally enclosed walk-in door type may sort materials only within and inside the body, during which periods the door or doors may be kept open.

(i) Materials shall not be carried at any time upon any vehicle other than solely within the vehicle body or solely within containers on or in the vehicle body when such materials are to be removed in containers.

(j) After materials are dumped for disposal, the vehicle body and each container used must be emptied thoroughly and cleared of all loose materials.

(k) Vehicles and containers must be thoroughly cleaned inside and outside frequently so that they present a good appearance and be maintained free of dirt and offensive odors at all times.

(l) All loading hoppers, doors, covers, or other closures of loading openings of all vehicles must be kept closed and secured at all times except during actual loading through the particular opening.

(m) A registrant must provide for the general cleanliness of, and the control of odors and extermination of pests and rodents on and around, the vehicles used to transport trade waste and the locations where such vehicles are stored when not in use.

(n) A registrant must provide for off-street parking for vehicles used to transport waste, and shall not permit such vehicles to be parked on the street during the hours when they are not in use.

(o) A registrant must keep closed the doors of any garage, or the gate to any outdoor premises, from which vehicles used in the transport of waste are dispatched except when such vehicles are entering or leaving such premises. The perimeter of any outdoor location used to store vehicles must be surrounded by an opaque fence at least eight (8) feet high.

(p) A trade waste vehicle used to transport waste must operate in compliance with all traffic laws, rules and regulations and shall not be permitted to stand with the motor idling in violation of § 24-163 of the Administrative Code.

(q) Any waste receptacle provided by a registrant to a customer must be made of metal or other material or grade and type acceptable to the Department of Sanitation, the Department of Health and Mental Hygiene, and the Department of Housing Preservation and Development, as provided in section 16-120 of the Administrative Code. Receptacles used for liquid waste provided by the registrant must be constructed and maintained by the registrant so as to hold their contents without leakage. All containers provided by the registrant must be provided and maintained with tight fitting covers.

(r) A registrant must not permit or require any vehicle operator to drive the registrant's vehicles unless the vehicle operator complies with the hours of service requirements set forth in Part 395.3 of Title 49 of the Code of Federal Regulations.

(s) A registrant must ensure that the trade waste vehicles operated on behalf of the registrant are not engaging in a pattern of unsafe practices. Each such pattern of unsafe practices is a violation of this subdivision. For purposes of this subdivision, "a pattern of unsafe practices" means four instances of prohibited conduct set forth in paragraphs (1) through (6) of this subdivision within a six-month period by the registrant's vehicle operators in the aggregate:

(1) A trade waste vehicle must not drive in reverse unless such movement can be made safely and without interfering with traffic for the minimum distance to allow for the safe collection of trade waste.

(2) A trade waste vehicle must not make a U turn, except where legally permitted at marked center lines and from designated lanes.

(3) A trade waste vehicle must stop at all steady red lights until such light turns green. A trade waste vehicle must stop at all flashing red lights and stop signs before entering an intersection.

(4) A trade waste vehicle must be driven only in the direction designated for the roadway.

(5) A trade waste vehicle must not obstruct a bike lane, bus stop, sidewalk, crosswalk, or intersection.

(6) Under no circumstances shall an individual ride on or cling to the outside of a trade waste vehicle while the vehicle is operating on a roadway.

§ 24. Subchapter G of chapter 1 of Title 17 of the Rules of the City of New York is amended by adding a new section 7-09 to read as follows:

§ 7-09 Trade Waste Containers.

(a) All containers or receptacles from which trade waste is collected by any registrant must have the volume capacity of each container or receptacle painted on the front of the container or receptacle in Arabic numerals at least 4 inches in height and followed by the indication "cu. yd." when the volume of the container or receptacle is measured in cubic yards or "GAL." when the volume of the container or receptacle is measured in gallons.

(b) If a container is provided by a registrant, such registrant must imprint and maintain the registrant's name and registration number along with the accurate true measurement of the volume of the container. A registrant must, at no charge, mark each unmarked container provided by a customer with the name of the owner of the container and the accurate true measurement of the volume of the container.

(c) If trade waste is collected from any container that does not have the volume capacity imprinted, the registrant collecting waste from such container must report the exact location of such container to the Commission within three (3) business days of the time it had actual or constructive knowledge of the improper labeling.



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Hon. Elizabeth Crotty
Commissioner, Business Integrity Commission

Re: Amendment of Rules Relating to Trade Waste Licensees and Registrants

No. 2024 RG 014

Dear Commissioner Crotty:

Pursuant to New York City Charter § 1043 subd. c, the above-referenced rule has been reviewed and determined to be within the authority delegated by law to your agency.

Sincerely,

/s/ Steven L. Goulden

STEVEN GOULDEN
Senior Counsel
Division of Legal Counsel

cc: Olga Statz (BIC)
Matthew Finkel (BIC)