The City of New York
BUSINESS INTEGRITY COMMISSION
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Daniel D. Brownell
Commissioner and Chair

Agenda for the Meeting of the New York City Business Integrity Commission June 22, 2016 at 10:45 a.m. 100 Church Street, 2nd floor, New York, NY

1. Proposed Rule: Delegation of authority to Commissioner and Chair re: rulemaking process

2. Final Rule: Amendment of the trade waste rate cap

3. Final Rule: Amendment of trade waste rules re: commercial recycling and organics collection

4. Recommendations of denials of applications for licenses and registrations

Statement of Basis and Purpose of Proposed Rule

Under section 2101 of the New York City Charter, the chair of the Business Integrity Commission ("BIC") has charge of the organization of the Commission and has authority to employ, assign and superintend the duties of such officers and employees as may be necessary to carry out the Commission's regulatory duties.

Under this proposed rule, the Business Integrity Commission would delegate authority to the chair to initiate the rulemaking process under the City Administrative Procedure Act. The Business Integrity Commission must still approve, by majority vote, any new rule before it is made final. This proposed rule is necessary for the Business Integrity Commission to continue to efficiently perform its regulatory duties.

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

New material is underlined.

Title 17 of the Rules of the City of New York is amended by adding a new chapter 3, to read as follows:

CHAPTER 3

RULEMAKING

§15-01 Proposed Rules

The chair may draft or direct to be drafted such proposed rules of the Commission as he or she may deem necessary to effectuate the provisions of section 2101 of the New York city charter and of title 16-A of the administrative code of the city of New York, and may provide for the publication and distribution of any such proposed rule and for a public hearing on any such proposed rule, all in accordance with the requirements of chapter 45 of the New York city charter. No rule of the Commission will be promulgated except by vote of a majority of the Commission, in accordance with section 1119 of the New York city charter.

Statement of Basis and Purpose of Proposed Rule

Under section 2101 of the New York City Charter, the Commission is authorized to regulate the trade waste industry and ensure businesses are able to operate in an honest and competitive environment free from the influences of organized crime and criminality. BIC is also authorized under sections 16-504(b) and (i) and 16-519 of the Administrative Code to set by rule the maximum rates by weight and by volume that trade waste haulers can charge for the removal of putrescible and recyclable commercial waste. Rates were last adjusted in 2013.

In accordance with section 16-519 of the Administrative Code, any change that BIC proposes to the maximum rates must be based upon a fair and reasonable return to the licensees who provide waste removal services to commercial establishments in New York City while also protecting those using these services from excessive or unreasonable charges. To achieve this balance, BIC established an administrative procedure that provides more transparency, standardization and regularity in the rate-setting process. Pursuant to Title 17, Chapter 1, § 5-02 (f) of the New York City Rules and Regulations ("NYCRR"), BIC held a hearing on October 30, 2015, relating to the maximum rates charged by a licensee for the collection, removal, disposal, or recycling of trade waste. The hearing was attended by representatives of the trade waste industry and other interested parties, some of whom testified at the hearing and submitted written testimony.

The Commission has carefully evaluated the evidence provided throughout the process including the oral statements made at the October 30, 2015 hearing and the written statements provided both prior to and after the hearing. Having reviewed the Producer Price Index as well as the other factors enumerated in NYCRR Title 17, Chapter 1, § 5-02(g), BIC proposes an increase to the current maximum rate allowed to be charged by the trade waste haulers of 3.3%. This increase would result in maximum rates of:

- $18.87 per cubic yard
- $12.38 per 100 pounds

"Shall" and "must" denote mandatory requirements and may be used interchangeably in the text below, unless otherwise specified or unless the context clearly indicates otherwise.

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

Section 1. 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 to read as follows:

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

(1) [$18.27] $18.87 per cubic yard.

(2) [$11.98] $12.38 per 100 pounds.

(3) Exempt Waste. This subdivision shall not apply to the removal of construction and demolition debris, infectious medical waste, covered electronic equipment as defined in § 421 of chapter 16 of the Code, waste from grease interceptors as defined in § 19-119(a) of title 15 of the Rules of the City of New York and paper that is collected for the purpose of shredding or destruction by the licensee.

Amendment of Maximum Rates for Trade Waste Removal **NEW YORK CITY LAW DEPARTMENT**
DIVISION OF LEGAL COUNSEL
100 CHURCH STREET
NEW YORK, NY 10007
212-356-4028

CERTIFICATION PURSUANT TO

CHARTER §1043(d)

RULE TITLE: Amendment of Maximum Rates for Trade Waste Removal

REFERENCE NUMBER: 2016 RG 008

RULEMAKING AGENCY: Business Integrity Commission

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

(i) is drafted so as to accomplish the purpose of the authorizing provisions of law;

(ii) is not in conflict with other applicable rules;

(iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and

(iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN
Acting Corporation Counsel

Date: February 10, 2016

NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS
253 BROADWAY, 10th FLOOR
NEW YORK, NY 10007
212-788-1400

CERTIFICATION / ANALYSIS
PURSUANT TO CHARTER SECTION 1043(d)

RULE TITLE: Amendment of Maximum Rates for Trade Waste Removal

REFERENCE NUMBER: BIC-3

RULEMAKING AGENCY: BIC

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

(i) Is understandable and written in plain language for the discrete regulated community or communities;

(ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and

(iii) Does not provide a cure period because it does not establish a violation, modification of a violation, or modification of the penalties associated with a violation.

/s/ Francisco X. Navarro — *February 10, 2016*
Mayor's Office of Operations — Date

Statement of Basis and Purpose of Proposed Rule

Businesses, also known as commercial establishments, in New York City are required to recycle in accordance with the Department of Sanitation's ("DSNY") commercial recycling rules creating following the passage of Local Law No. 87 of 1992, which amended §16-306 of the Administrative Code ("the Code"). BIC regulates private carters who collect and dispose of putrescible (commonly referred to as "garbage") and non-putrescible (commonly referred to as "recyclables") waste from commercial establishments in New York City that must recycle designated recyclable materials, including paper, cardboard, metal, glass and plastic.

On February 5, 2016, DSNY published in the City Record the adopted rules, which revised the City's current commercial recycling rules to simplify the requirements, which makes them more understandable for businesses and easier to follow. Prior to the adopted rules, certain types of businesses were required to recycle different materials than other types of businesses. Under the new rules, eliminating the distinction between businesses types and applying the same rules for all businesses will facilitate greater recycling participation and make recycling easier for businesses. In addition, allowing single stream collection and recycling (when all designated recyclable metal, glass, plastic and paper are placed in the same bags or bins by a business) and co-collection of recyclables (when all designated recyclable metal, glass and plastic is source separated from designated paper by the business, but a private carter places the source separated materials into the same compartment of a waste hauling truck) will help make commercial recycling easier to manage and can significantly increase diversion of recyclables from landfills.

On December 18, 2015, DSNY published in the City Record adopted rules governing organic waste generated by commercial establishments. Organic waste makes up approximately one-third of the waste generated by food-generating businesses in New York City. This material can be converted into soil enhancing compost or used as an energy source in aerobic and anaerobic digesters, but most of it is currently disposed of in landfills outside the City. Under Local Law 146 of 2013, codified in §16-306.1 of the Code, the Sanitation Commissioner must evaluate, at least annually beginning July 1, 2015, whether there exists sufficient regional organics waste processing capacity to require that certain food-generating businesses in the City, or a sub-set of them, arrange with their private carters to engage in alternative methods for handling organic waste separated by the businesses. Following site visits and surveys of active private organics waste processing facilities in the region and an evaluation of organic waste quantities generated by various food industry sectors in the city, DSNY identified that there is organics processing capacity available to a limited extent, and will require a subset of food-generating businesses in the city to separate their organic waste for collection and handling by their private carters.

As a result of the two adopted rules recently enacted by DSNY amending Chapter 1 of Title 16 of the Rules of the City of New York by adding a new Section 1-11 relating to the handling of organic waste generated by certain commercial establishments, and repealing and adding a new Section 1-10 of Chapter 1 of Title 16 of the Rules of the City of New York, relating to the recycling of private carter collected waste, BIC's rules must reflect these changes. Therefore, BIC is proposing rules detailing procedures that private carters must follow when they provide refuse, recycling and organic waste collection to the commercial establishments.

New material is underlined.

[Deleted material is in brackets.]

"Shall" and "must" denote mandatory requirements and may be used interchangeably in the rules of this department, unless otherwise specified or unless the context clearly indicates otherwise.

Section 1. The definitions as set forth in section 1-01 of subchapter A of Chapter 1 of Title 17 of the Rules of the City of New York are amended, and new definitions are added, in alphabetical order, to read as follows:

§ 1-01. Definitions.

For the purposes of this chapter, the following terms [shall] have the following meanings:

Applicant. ["Applicant" shall mean] The term "applicant" means, if a business entity submitting an application for a license, or for exemption from the licensing requirement of section 16-505 of the Code, or for registration pursuant to this chapter, the entity and each principal thereof.

Code. The term "Code" [shall mean] means the Administrative Code of the City of New York.

Commission. The term "Commission" [shall mean] means the Business Integrity Commission as established by §16-502 of the Code and section 2100 of the New York City Charter. Except in regard to a determination to refuse to issue a license pursuant to §16-509 of the Code, the term "Commission" shall also refer to an action of the Chair of the Commission, taken under delegation from the Commission pursuant to §16-504 of the Code.

Container. The term "container" means any receptacle that is used to collect waste for disposal and which generally is not disposed of after such use.

Designated Covered Establishment. The following commercial establishments are "designated covered establishments":

(1) an arena or stadium having a seating capacity of at least fifteen thousand (15,000) persons;
(2) a food service establishment that (i) is located within a hotel having at least one hundred and fifty (150) sleeping rooms; (ii) operates under common ownership or control of such hotel; and (iii) receives waste collection from the same private carter as such hotel;
(3) a food manufacturer that has a floor area of at least twenty-five thousand (25,000) square feet;
and
(4) a food wholesaler that has a floor area of at least twenty thousand (20,000) square feet.

Disclosure. The term "Disclosure" [shall mean] means the information to be disclosed pursuant to section 16-508 of the Code and section 1-06 of this chapter, contained in the form

provided by the Commission to be submitted with the application for a license or registration pursuant to this chapter. Disclosure of fines, penalties or settlements for regulatory violations set forth in clause i of paragraph (ii) of subdivision b of section 16-508 of the Code shall be made when any such fine, penalty, settlement is of an amount of five thousand dollars ($5,000) or more, or has resulted in the suspension or revocation of a license or other permission. Disclosure of injunctive relief with respect to such violations shall be made when such relief was or will be for a duration of six (6) months or more.

Exempt business. ["Exempt] The term "exempt business" [shall mean] means a business granted an exemption from the licensing requirements of subdivision a of section 16-505 of the Code and issued a registration pursuant to subdivision b of such section.

Former principal. ["Former] The term "former principal" [shall mean] means a person or entity which was formerly a principal of the applicant business at any time during the ten year period preceding the filing of an application or registration pursuant to this chapter.

Licensee. ["Licensee" shall mean] The term "licensee" means a business issued a license by the Commission.

Material change. ["Material] The term "material change" [shall mean] means a change in any information provided in response to an item identified by an asterisk on an application or disclosure form submitted to the Commission.

Organic Waste. The term "Organic Waste" has the same meaning as set forth in section 16-303of the Administrative Code of the City of New York, except that organic waste does not include food that is donated to a third party, food that is sold to farmers for feedstock, or meat byproducts that are sold to a rendering company.

Position. [“Position”] The term "position" in a trade association [shall mean] means an officer, member of the board of directors, partner, trustee, shareholder holding ten percent (10%) or more of the outstanding shares of stock in such association, or administrator, business agent or other status involving participation directly or indirectly in the management or control of such association.

Principal. ["Principal" shall mean] The term "principal" means, of a sole proprietorship, the proprietor; of a corporation, every officer and director and every stockholder holding ten percent or more of the outstanding shares of the corporation; of a partnership, all the partners; if another type of business entity, the chief operating officer or chief executive officer, irrespective of organizational title, and all persons or entities having an ownership interest of ten percent (10%) or more; and with respect to all business entities, all other persons participating directly or indirectly in the control of such business entity. Where a partner or stockholder holding ten percent (10%) or more of the outstanding shares of a corporation is itself a partnership, or a corporation, a "principal" [shall] also [include] includes the partners of such partnership or the officers, directors and stockholders holding ten percent (10%) or more of the outstanding shares of such corporation, as is appropriate. For the purposes of this chapter (1) an individual [shall be]

is considered to hold stock in a corporation where such stock is owned directly or indirectly by or for (i) such individual; (ii) the spouse of such individual (other than a spouse who is legally separated from such individual pursuant to a judicial decree or an agreement cognizable under the laws of the state in which such individual is domiciled); (iii) the children, grandchildren and parents of such individual; and (iv) a corporation in which any of such individual, the spouse, children, grandchildren or parents of such individual in the aggregate own fifty percent (50%) or more in value of the stock of such corporation; (2) a partnership [shall be] is considered to hold stock in a corporation where such stock is owned, directly or indirectly, by or for a partner in such partnership; and (3) a corporation [shall be] is considered to hold stock in a corporation that is an applicant as defined in this section where such corporation holds fifty percent (50%) or more in value of the stock of a third corporation that holds stock in the applicant corporation.

Recyclables. ["Recyclables" shall mean] The term "recyclables" means those materials defined in subdivision i of section 16-303 of the Code.

Registrant. ["Registrant" shall mean] The term "registrant" means a business required to be registered with the Commission or issued a registration from the Commission. "Class 1 Registrant" [shall mean] means a business required to register pursuant to subdivision b of section 16-505 of the Code in order to remove, collect or dispose of trade waste that is generated in the course of operation of such business. "Class 2 Registrant" [shall mean] means a trade waste broker required to register with the Commission and an exempt business issued a registration by the Commission pursuant to such subdivision.

Special trade waste district. ["Special trade waste district" shall mean] The term "special trade waste district" means a district established by the Commission pursuant to section 16-523 of the Code.

Trade association. ["Trade association" shall mean] The term "trade association" means an entity having as a primary purpose the promotion, advancement or self-regulation of businesses that remove, collect or dispose of trade waste, including but not limited to a corporation, unincorporated association, partnership, trust or limited liability company, whether or not such entity is organized for profit, not-for-profit, business or non-business purposes.

Trade waste or waste. [“Trade] The term "trade waste" or "waste" [shall mean] means:

(1) all putrescible and non-putrescible materials or substances, except as described in paragraph (2) of this subdivision, that are discarded or rejected by a commercial establishment required to provide for the removal of its waste pursuant to section 16-116 of the Code as being spent, useless, worthless or in excess to the owners at the time of such discard or rejection, including but not limited to garbage, refuse, street sweepings, rubbish, tires, ashes, contained gaseous material, incinerator residue, construction and demolition debris, medical waste, offal and any other offensive or noxious material. Such term shall also include recyclable materials as defined in [subdivision i of] section 16-303 of the Code that are generated by such commercial establishments.

(2) The following are not “trade waste” or “waste” for purposes of this chapter: sewage; industrial wastewater discharges; irrigation return flows; radioactive materials that are source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954, as amended, 41 U.S.C. § 2011 et seq.; materials subject to in-situ mining techniques which are not removed from the ground as part of the extraction process; and hazardous waste as defined in section 27-0901 of the Environmental Conservation Law.

Trade waste broker. ["Trade waste broker" shall mean] The term “trade waste broker” means a person or entity who for a fee brokers agreements between consumers and providers of trade waste removal, collection or disposal services or who conducts evaluations or analyses of the waste stream of such consumers in order to recommend cost efficient means of waste disposal or other changes in related business practices.

§ 2. Section 1-07 of subchapter A of Chapter 1 of Title 17 of the Rules of the City of New York is amended to read as follows:

§ 1-07. Enforcement and Compliance.

The Commission may conduct lawful inspections to ensure compliance with this chapter. Such inspections may include, but need not be limited to, the inspection and audit of records required to be kept pursuant to this chapter, as well as accompanying a licensee on its collection routes and a licensee or registrant to transfer stations, recycling facilities, organic waste processing facilities, dumps and when transferring waste to other vehicles, in order to determine compliance with the provisions of this chapter and Chapter 1 of Title 16-A of the Code. A licensee shall, upon request by the Commission, provide the Commission with a list of its collection routes and schedules.

§ 3. Section 5-01 of subchapter E of Chapter 1 of Title 17 of the Rules of the City of New York is amended and renumbered 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 **[**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 subdivision b of section 16-116 of the Code.**]** 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.

[(b)**]** (c) A licensee shall not charge a fee to any business for a sign or decal issued by the Commission.

[(c)**]** (d) A licensee shall conspicuously display its license in its place of business.

[(d)] (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.

§ 4. Paragraph (2) 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 is amended to read as follows:

(2) The Customer Register shall 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 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] Chapter; 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] Chapter that were delivered to putrescible solid waste transfer stations, nonputrescible solid waste transfer stations, or other facilities during the period for which the report is submitted.

§ 5. Subdivision (r) section 5-08 of Title 17 of subchapter E of Chapter 1 of the Rules of the City of New York is renumbered as subdivisions (s), former subdivision (s) is renumbered as subdivision (t) and is amended, and a new subdivision (r) is added, to read as follows:

(r) Any container provided by a licensee to a designated covered establishment for the collection of organic waste shall:

(1) meet the labeling requirements set forth in section 5-11 of this Chapter;

(2) have a lid and a latch 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.

[(r)] (s) A licensee shall, after removing the waste of a customer, return the receptacle from which such waste was removed to a place inside or in the rear of the premises from which such waste was removed. If this is not feasible, the licensee shall place such receptacle against the building line.

[(s)] (t) A licensee [who] 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 licensee of such trade waste.

§ 6. Subdivision (c) of section 5-11 of subchapter E of Chapter 1 of Title 17 of the Rules of the City of New York is renumbered as subdivision (d) and amended, former subdivision (d) is repealed, and new subdivisions (c) and (e) are added, to read as follows:

(c) Any container provided by a licensee to a designated covered establishment for the collection of organic waste shall be labeled to indicate that only organic waste may be placed in that container.

[(c)] (d) If trade waste is collected from any container [which] that does not have the volume capacity imprinted, the licensee collecting waste from such container shall 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.

[(d) For the purposes of this section, a container is defined as any receptacle that is used to collect waste for disposal and which is not disposed of after such use generally.]

(e) If organic waste is collected from a designated covered establishment in a container that does not have a label indicating that the container contains only organic waste, the licensee collecting waste from such container shall 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.

§ 7. Section 5-12 of subchapter E of Chapter 1 of Title 17 of the Rules of the City of New York is amended to read as follows:

§ 5-12. Recycling Requirements for Licensees.

(a) **Designated recyclable materials.** For purposes of this section, the term [designated recyclable materials, also referred to as designated materials, shall mean] "designated recyclable materials" means materials that have been designated for recycling by the Department of Sanitation in section 1-10(a) of title 16.

(b) **Licensees required to recycle.** A licensee that collects or transports designated recyclable materials that have been source-separated as required in [16 RCNY § 1-10(c)] section 1-10(b) of title 16 or materials that have been commingled pursuant to [16 RCNY § 1-10(d)] section 1-10(c) and paragraph [(5)] (2) of subdivision [c] (c) of this section shall transport such materials to putrescible or non-putrescible transfer stations or other facilities that accept such materials for recycling, reuse or sale for reuse. Such licensee shall not bring such materials for disposal, or cause such materials to be brought for disposal to any solid waste disposal facility, whether or not such disposal facility is operated by the Department of Sanitation, in an amount that should have been detected through reasonable inspection efforts by the licensee.

(c) **Collection restrictions for designated recyclable materials.**
[(1) Designated paper materials and textiles: The following collection restrictions apply to high grade office paper, newspaper, magazines, catalogs, phone books, corrugated cardboard (collectively referred to as designated paper materials) and textiles that have been properly separated by customers in accordance with the requirements of 16 RCNY § 1-10: Designated paper materials and textiles shall not be collected and transported in the same vehicle compartment with non-designated materials, except as otherwise provided in paragraph (5) of this subdivision; with metal components of bulk waste that are substantially soiled with a contaminating material; or with construction waste.
(2) Designated glass, metal and plastic containers, aluminum foil and aluminum foil products: The following collection restrictions apply to containers made of glass or metal, bottles and jugs made of polyethylene terephthalate plastic (PET, plastic resin #1) or high density polyethylene plastic (HDPE, plastic resin #2) (collectively referred to as designated glass, metal, and plastic containers), and aluminum foil and aluminum foil products that have been properly separated by customers in accordance with the requirements of 16 RCNY § 1-10:
(i) designated glass, metal and plastic containers and aluminum foil and aluminum foil products that have not been separately bagged in transparent or translucent bags shall be collected and transported in a vehicle compartment that contains only such designated materials or materials that have been commingled pursuant to paragraph (5) of this subdivision; (ii) designated glass, metal and plastic containers and aluminum foil and aluminum foil products and non-designated glass, metal or plastic materials that have been commingled pursuant to paragraph (5) of this subdivision and have been separately bagged by customers in transparent or translucent bags shall not be collected and transported in the same vehicle compartment as designated or nondesignated construction waste, but may be collected and transported in the same vehicle compartment with any other designated or non-designated materials.

(3) Metal components of bulk waste. The following collection restriction applies to metal components of bulk waste that have been properly separated by customers in accordance with the requirements of 16 RCNY § 1-10: metal components of bulk waste that are substantially soiled with a contaminating material shall not be collected and transported in the same vehicle compartment as designated paper materials or textiles.
(4) Construction waste. The following collection restrictions apply to components of construction waste that have been designated for recycling under 16 RCNY § 1-10: designated construction waste may be collected and transported in the same vehicle compartment as nondesignated components of construction waste, but shall not be collected and transported in the same vehicle compartment as any other designated or non-designated materials.
(5) Commingling non-designated materials with designated recyclable materials: Notwithstanding the provisions of paragraphs (1) and (2) of this subdivision, a licensee may collect and transport in the same vehicle compartment: non-designated paper and wood materials with designated paper materials and textiles, and non-designated glass, metal or plastic materials with designated glass, metal and plastic containers and aluminum foil and aluminum foil products, provided such non-designated materials are not substantially soiled with a contaminating material, and provided further that a written agreement exists between the customer and licensee that provides for the recycling, reuse or sale for reuse of all materials commingled pursuant to this subdivision. Such written agreement shall identify, by type, each non-designated material that will be commingled. The types of non-designated materials are nondesignated paper and wood materials, or non-designated glass, metal or plastic materials. Where such an agreement exists between the customer and licensee, the licensee shall dispose of the commingled designated and non-designated materials at putrescible or non-putrescible transfer stations, or other facilities that shall cause such materials to be recycled, reused or sold for reuse.]

(1) **Waste that has been source-separated for recycling by the customer.**

(i) A licensee collecting materials that have been source-separated by the customer may not commingle in the same vehicle compartment any of the following: (1) designated recyclable paper, (2) designated recyclable metal, glass, and plastic, (3) yard waste, (4) textiles, (5) construction and demolition debris, (6) organic waste, (7) any other materials that have special collection requirements pursuant to applicable local, state or federal law, or (8) other solid waste. Each of these terms is defined in section 1-01 of title 16.

(ii) Designated recyclable metal, glass and plastic may be commingled together, but may not be commingled in the same vehicle compartment with designated recyclable paper unless such materials are collected pursuant to single stream collection and recycling as allowed by paragraph (2) of subdivision (c) of this section.

(2) **Commingling of certain designated recyclable materials.** A licensee may collect waste consisting of designated metal, glass, and plastic commingled with designated recyclable paper if:

(i) it has furnished information to the Commission demonstrating its ability to use either (a) single stream collection and recycling, or (b) co-collection of recyclables; or

(ii) it will transport its own designated recyclable materials to a central holding location under its control from which such designated recyclable materials will be delivered by the licensee directly to a recycler or collected by a licensee that has furnished information to the Commission demonstrating its ability to use either single stream collection and recycling or co-collection of recyclables.

(3) Collection of organic waste that has been source-separated.

(i) Organic waste shall not be commingled with any trade waste or designated recyclable material. No trade waste or designated recyclable material shall be collected in the same truck compartment as organic waste.

(ii) A licensee that collects or transports organic waste that has been separated as required by the Department of Sanitation under 16 RCNY section 1-11(b)(1) shall transport such organic waste either:

A) directly to an organic waste processing facility for purposes of composting, aerobic digestion or anaerobic digestion; or

B) to a putrescible transfer station permitted or licensed by the State and the Department of Sanitation to handle source separated organic waste, and that has represented to the licensee that it will deliver such organic waste to an organic waste processing facility.

(iii) Except as otherwise provided under subparagraph (ii)(B) of this section, any licensee that delivers organic waste directly to an organic waste processing facility shall enter into a written agreement with such facility for the delivery of organic waste that identifies the name and contact information of the organic waste processing facility owner and its location. Such agreement shall be signed by both the licensee and the facility owner, and identify the quantity of estimated organic waste to be delivered on a monthly or quarterly basis. The licensee shall also furnish to the designated covered establishment, upon its request, a copy of such written agreement it has entered into with an organic waste processing facility for the delivery of the organic waste generated by such covered establishment. A copy of such written agreement shall also be provided to the Commissioner upon request.

(d) **Contract and bill requirements.**

(1) Contracts entered into with customers in accordance with § 5-05 shall state the estimated volume or weight of designated recyclable materials to be collected and transported pursuant to subdivision (c) of this section. [In the event the customer and licensee agree to commingle designated materials with non-designated materials pursuant to paragraph (5) of subdivision (c) of this section, the contract shall include such agreement and shall also provide for the recycling, reuse or sale for reuse of all materials commingled pursuant to such paragraph. Such contract shall also state the total combined volume or weight of commingled designated and non-designated materials to be collected and transported, and shall identify, by type, each non-designated material to be collected and transported. The types of non-designated materials are non-designated paper and wood materials, or non-designated glass, metal or plastic materials.]

(2) Contracts entered into with customers on or after July 19, 2016_shall specify that the licensee will not commingle source-separated organic waste with any trade waste or recyclable material, and such contracts may specify both the estimated volume or weight of organic waste collected and transported (that is separate from the estimated volume or weight of designated recyclable materials).

[(2)] (3) The written bill, statement or invoice provided to customers pursuant to [§] section 5-05 shall include an itemized list of charges detailing the cost per cubic yard or per 100 pounds and the volume or weight of designated recyclable materials collected and transported pursuant to paragraphs (1) and (2) of subdivision (c) of this section; or the cost per cubic yard or per 100 pounds and the volume or weight of designated recyclable materials [and non-designated materials] collected and transported pursuant to paragraphs [(5)] (1) and (2) of subdivision (c) of this section[.]; or the cost and volume or weight of organic materials transported pursuant to paragraph (3) of subdivision (c) of this section.

(e) Repealed.

§ 8. Section 7-01 of subchapter G of Chapter 1 of Title 17 of the Rules of the City of New York is amended to read as follows:

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

(a) A registrant shall 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.] Every registrant removing its own waste from its own commercial establishment shall post a sign or decal which the registrant shall obtain from the Commission. Such sign or decal shall conspicuously and legibly display the name, address,

telephone number, and number of registration. Such sign must also identify, by type, each designated recyclable material (as defined by the Department of Sanitation in section 1-01 of title 16) that will be collected and, if applicable, whether a registrant 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). Such sign or decal shall be prominently displayed as prescribed in section 16-116(b) of the Code by the owner, lessee or person in control of the commercial establishment.

(c) Any registrant that is also a designated covered establishment that removes or processes its own organic waste shall post a sign or decal which the registrant shall obtain from the Commission. Such sign or decal shall conspicuously and legibly state (i) that the registrant transports its organic waste to an entity that provides for beneficial organic waste reuse, or (ii) that the registrant provides for on-site processing of organic waste generated at its premises. Such sign or decal shall be prominently displayed as prescribed in section 16-116(b) of the Code by the owner, lessee or person in control of the commercial establishment.

§ 9. Section 7-04 of subchapter G of Chapter 1 of Title 17 of the Rules of the City of New York is amended to read as follows:

§ 7-04. Recycling Requirements.

(a) A registrant shall comply with the requirements for recycling set forth in subdivisions (a) through (c) of section 5-12 of this chapter[, except that notwithstanding the provisions of paragraphs (1) and (2) of subdivision (c) of such section, a registrant may collect and transport in the same vehicle compartment: non-designated paper and wood materials with designated paper materials and textiles, and non-designated glass, metal or plastic materials with designated glass, metal and plastic containers and aluminum foil and aluminum foil products, provided such non-designated materials are not substantially soiled with a contaminating material. The registrant shall dispose of the commingled designated and non-designated materials at putrescible or nonputrescible transfer stations, or other facilities that shall cause such materials to be recycled, reused or sold for reuse].

(b) A registrant that collects its own waste and receives free dump privileges at Department of Sanitation solid waste disposal facilities shall provide for source separation of designated recyclable materials (as defined in section 5-12 of this chapter) from solid waste and organic waste, if applicable.

(c) A registrant that is also a designated covered establishment shall comply with the requirements for disposing of organic waste set forth in subdivisions (a) through (c) of section 5-12 of this chapter. The registrant shall dispose of the organic waste either directly to an organic waste processing facility for purposes of composting, aerobic digestion or anaerobic digestion, or to a putrescible transfer station permitted or licensed by the State and the Department of Sanitation to handle source separated organic waste, and that has represented that it will deliver such organic waste to an organic waste processing facility.

(d) Any registrant that is also a designated covered establishment that delivers organic waste directly to an organic waste processing facility shall enter into a written agreement with such facility for the delivery of organic waste that identifies the name and contact information of the organic waste processing facility owner and its location. Such agreement shall be signed by both the registrant and the facility owner, and identify the quantity of estimated organic waste to be delivered on a monthly or quarterly basis. A copy of such written agreement shall be provided to the Commissioner upon request.

[(b)] (e) Registrants shall submit to the Commission quarterly reports, which shall state the name and address of each putrescible solid waste transfer station, non-putrescible solid waste transfer station, organic waste processing facility, or other facility used during the quarter for which the report is submitted. Such report shall also state the total volume and type of designated recyclable materials, and/or the total volume and type of commingled designated and non-designated materials, and/or the total volume and type of organic waste delivered to putrescible solid waste transfer stations, non-putrescible solid waste transfer stations, organic waste processing facilities, or other facilities during the quarter for which the report is submitted. Where applicable, such report shall also state the volume of construction waste delivered to construction and demolition debris transfer stations during the quarter for which the report is submitted. The report for the quarter ending on March 31 shall be due on April 30; the report for the quarter ending on June 30 shall be due on July 30; the report for the quarter ending on September 30 shall be due on October 30; and the report for the quarter ending on December 31 shall be due on January 30. In the event any of those dates falls on a weekend or holiday, the report shall be due the next business day.

§ 10. 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 [who] 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 subdivisions (a) through [(p)] (q) of section 5-08 and section 5-11 of this chapter.

NEW YORK CITY LAW DEPARTMENT
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100 CHURCH STREET
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CERTIFICATION PURSUANT TO

CHARTER §1043(d)

RULE TITLE: Commercial Recycling and Collection of Organic Waste

REFERENCE NUMBER: 2016 RG 036

RULEMAKING AGENCY: Business Integrity Commission

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

(i) is drafted so as to accomplish the purpose of the authorizing provisions of law;

(ii) is not in conflict with other applicable rules;

(iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and

(iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN
Acting Corporation Counsel

Date: April 27, 2016

NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS
253 BROADWAY, 10th FLOOR
NEW YORK, NY 10007
212-788-1400

CERTIFICATION / ANALYSIS
PURSUANT TO CHARTER SECTION 1043(d)

RULE TITLE: Commercial Recycling and Collection of Organic Waste

REFERENCE NUMBER: BIC-4

RULEMAKING AGENCY: Business Integrity Commission

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

(i) Is understandable and written in plain language for the discrete regulated community or communities;

(ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and

(iii) Does not provide a cure period because it does not establish a violation, modification of a violation, or modification of the penalties associated with a violation.

/s/ [Stephen Narloch] *[4/27/2016]*
Mayor's Office of Operations