NEW YORK CITY RULES & REGULATIONS
TITLE 17. BUSINESS INTEGRITY COMMISSION [FN*]
CHAPTER 1. TRADE WASTE. [FN*]

Subchapter A General Provisions
B Licensing and Registration
C Investigation of Employees and Agents
Appendix A Employees Subject to Disclosure Pursuant to Section 3-01
D Auditors and Monitors
E Conduct of Licensee
F Conduct of Trade Waste Brokers
G Conduct of Class 1 Registrants Removing Their Own Waste and Class 2 Registrants Granted Exemption from Licensing Requirements
H Special Trade Waste Districts (Reserved)

NEW YORK CITY RULES & REGULATIONS
TITLE 17. BUSINESS INTEGRITY COMMISSION [FN*]
CHAPTER 1. TRADE WASTE. [FN*]
SUBCHAPTER A. GENERAL PROVISIONS.

The Rules and Regulations of the City of New York is current through December 31, 2010.

§ 1-01 Definitions.
§ 1-02 Notice.
§ 1-03 Hearings.
§ 1-04 Penalties.
§ 1-05 Liability for Violations.
§ 1-06 Supplemental Disclosure.
§ 1-07 Enforcement and Compliance.
§ 1-08 Investigation of Customer Complaints.
§ 1-09 General Prohibitions.
§ 1-10 Forms Prescribed or Provided by the Commission.
§ 1-11 Commission Approval not to be Implied.
§ 1-12 [Reserved]
§ 1-13 Severability.

§ 1-01. Definitions.

For the purposes of this chapter, the following terms shall have the following meanings:
Applicant. "Applicant" shall mean, 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. "Code" shall mean the Administrative Code of the City of New York.
Commission. "Commission" shall mean 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.

Disclosure. "Disclosure" shall mean 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 months or more.

Exempt business. "Exempt business" shall mean 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 principal" shall mean 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 a business issued a license by the Commission.

Material change. "Material change" shall mean 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.

Position. "Position" in a trade association shall mean an officer, member of the board of directors, partner, trustee, shareholder holding ten percent 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, 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 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 or more of the outstanding shares of a corporation is itself a partnership, or a corporation, a "principal" shall also include the partners of such partnership or the officers, directors and stockholders holding ten percent or more of the outstanding shares of such corporation, as is appropriate. For the purposes of this chapter (1) an individual shall be 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 or more in value of the stock of such corporation; (2) a partnership shall be 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 considered to hold stock in a corporation that is an applicant as defined in this section where such corporation holds fifty

percent or more in value of the stock of a third corporation that holds stock in the applicant corporation.
Recyclables. "Recyclables" shall mean those materials defined in subdivision i of section 16-303 of the Code.
Registrant. "Registrant" shall mean a business required to be registered with the Commission or issued a registration from the Commission. "Class 1 Registrant" shall mean 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 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 a district established by the Commission pursuant to section 16-523 of the Code.
Trade association. "Trade association" shall mean 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 waste" or "waste" shall mean: (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 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.

HISTORICAL NOTE

Section added City Record July 17, 1996 eff. Aug. 16, 1996. [See Chapter 1 footnote]

Commission amended City Record Aug. 7, 2009 § 2, eff. Sept. 6, 2009. [See Note 2]
Commission amended City Record Nov. 26, 2008 § 2, eff. Dec. 26, 2008. [See Note 1]
NOTE

1. Statement of Basis and Purpose in City Record Nov. 26, 2008:
The NYC Business Integrity Commission is amending its trade waste regulations. The adopted amendments raise the maximum rate a licensed trade waste removal company can charge for the collection and removal of trade waste. Since 1997, the maximum rate a licensee can charge for waste removal has been $12.20 per cubic yard. In 2003, an alternate maximum rate of $8.00 per 100 lbs. was added. These two figures no longer represent appropriate maximum rates as they do not take into account current economic realities in the trade waste industry. The adopted amendments raise the rates to $15.89 per cubic yard and $10.42 per 100 lbs. The adopted amendments exempt haulers of electronic waste, grease trap waste and shredded paper from the maximum rate a licensee can charge for waste removal. The adopted amendments also make waste stream surveys optional rather than mandatory, make minor changes to the billing process to make it clearer and more useful for the consumer, eliminate certain obsolete clauses and procedures from the Commission's rules, and simplify regulations regarding the reporting of contracts, all with a goal of promoting competition in the industry and making the regulations more flexible and transparent.
2. Statement of Basis and Purpose in City Record Aug. 7, 2009:
The NYC Business Integrity Commission is amending its trade waste regulations. The rule raises the fees associated with licensing and registering trade waste removal companies in New York City. The licensing and registration fees have not been changed since the Commission's inception in 1997. The amended fees satisfy the Commission's statutory mandate to recoup all costs associated with licensing and registering through imposed fees. The rule addresses an industry-wide problem of cardboard theft by making it a violation of the Commission's rules to steal trade waste from another licensee. The rule also makes changes and additions relating to the operations of trade waste brokers, Class 2 registrations for businesses exempt from the licensing requirements under Administrative Code § 16-505(a), the subcontracting of contracts to licensees, the use and possession of trade waste license plates issued by the Commission, the certified financial statements required to be submitted by licensees, and the revocation, suspension and denial of licenses and registrations. These changes and additions clarify the existing rules.

§ 1-02. Notice.
Unless otherwise provided, all notice pursuant to this chapter, including but not limited to notice related to hearings, violations and subpoenae, may be served by first class mail addressed to the business address provided for an applicant, licensee, or registrant on the application submitted to the Commission or on the license or registration issued to the business. All such notice served on an employee or agent may be served by first class mail to the address listed for such employee or agent in the information provided to the Commission pursuant to section 2-02 of this chapter. Such notice may also be served by personal service or in any other manner reasonably calculated to achieve actual notice, including but not limited to any method authorized in the Civil Practice Law and Rules.

HISTORICAL NOTE

Section added City Record July 17, 1996 eff. Aug. 16, 1996. [See Chapter 1 footnote]

§ 1-03. Hearings.
(a) A hearing conducted pursuant to this chapter may be conducted by the Commission or, in the discretion of the Commission, by an administrative law judge employed or designated by the Commission, by the Office of Administrative Trials and Hearings (OATH) or by other administrative tribunal of competent jurisdiction; provided, however that hearings related to the violation of the provisions of section 16-505 of the Code and the rules of conduct set forth in subchapters E, F and G of this chapter may, except where the Commission is seeking revocation or suspension of a license or registration on the basis of such violations, be conducted by the Department of Consumer Affairs. All such hearings shall be conducted following the procedures set forth in the rules of OATH (48 RCNY § 1-01 et seq.); except in the case of hearings conducted by the Department of Consumer Affairs, which shall be held pursuant to the procedures for adjudication set forth in the rules of such Department. In the event that a hearing is conducted by an administrative law judge employed or designated by the Commission, by OATH or by other administrative tribunal, such administrative law judge shall make recommended findings of fact and a recommended decision to the Commission, which shall make the final determination. In the event that a hearing is held by the Department of Consumer Affairs, the Commissioner of such Department shall make the final determination.
(b) Any person who appears for a licensee or registrant at a hearing pursuant to this chapter shall present evidence that he or she is authorized to act as the representative of such licensee or registrant for all purposes related to the conduct of the hearing and the disposition of the matter adjudicated in the hearing.

HISTORICAL NOTE

Section added City Record July 17, 1996 eff. Aug. 16, 1996. [See Chapter 1 footnote]

Subd. (a) amended City Record Aug. 25, 2010 § 1, eff. Sept. 26, 2010 per City Record notice. [See T17 § 11-01 Note 1]
Subd. (a) amended City Record Aug. 7, 2009 § 3, eff. Sept. 6, 2009. [See T17 § 1-01 Note 2]

§ 1-04. Penalties.
In addition to any other penalty provided by law:
(a) Except as otherwise provided in subdivision b or subdivision c of this section, any person who violates any provision of sections 2-05 or 2-06 or any provision of subchapters E, F or G of this chapter shall be liable for a civil penalty which shall not exceed ten thousand dollars ($10,000) for each such violation. Such civil penalty may be recovered in a civil action or pursuant to the provisions of subdivision a of section 1-03 of this chapter.
(b)(1) Any person who violates subdivision a of section 16-505 or section 16-524 of the Code shall, upon conviction thereof, be punished for each violation by a criminal fine of not more than ten thousand dollars for each day of such violation or by imprisonment not exceeding six months, or both; and any such person shall be subject to a civil penalty of not more than five thousand dollars ($5,000) for each day of such violation which may be recovered in a civil action or pursuant to the provisions of subdivision a of section 1-03 of this chapter; and
(c) Any person who violates subdivision b of section 16-505 of the Code or any rule pertaining thereto, including rules pertaining to the display of license plates issued by the Commission,

shall, upon conviction thereof, be punished by a civil penalty not to exceed one thousand dollars ($1,000) for each such violation which may be recovered in a civil action or pursuant to the provisions of subdivision a of section 1-03 of this chapter.
(d) The corporation counsel is authorized to commence a civil action on behalf of the city for injunctive relief to restrain or enjoin any activity in violation of this chapter and for civil penalties.
(e)(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.
(2) Ten days after the posting of an order issued pursuant to paragraph (1) of this subdivision, this order may be enforced by any person so authorized by section 16-517 of the Code.
(3) Any vehicle or other device or instrumentality removed pursuant to the provisions of this section shall be stored in a garage, pound or other place of safety and the owner or other person lawfully entitled to the possession of such item may be charged with reasonable costs for removal and storage payable prior to the release of such item.
(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.
(5) It shall be a misdemeanor for any person to remove the seal from any premises or remove the seal from or make operable any vehicle or other device or instrumentality sealed or otherwise made inoperable in accordance with an order of the Commission.
(6) A vehicle or other device or instrumentality removed pursuant to this section that is not reclaimed within ninety days of such removal by the owner or other person lawfully entitled to reclaim such item shall be subject to forfeiture upon notice and judicial determination in accordance with provisions of law. Upon forfeiture, the Commission shall, upon a public notice of at least five days, sell such item at public sale. The net proceeds of such sale, after deduction of the lawful expenses incurred, shall be paid into the general fund of the City.

HISTORICAL NOTE

Section added City Record July 17, 1996 eff. Aug. 16, 1996. (Note internal renumbering and redesignations by the Law Department per Charter § 1045(b)) [See Chapter 1 footnote]

§ 1-05. Liability for Violations.
A business required to be licensed or registered pursuant to section 16-505 of the Code shall be liable for violations of any of the provisions of chapter 1 of Title 16-A of the Code or section 2-05 or 2-06 or any provisions of subchapters D, E, F or G of this chapter committed by any of its employees or agents.

HISTORICAL NOTE

Section added City Record July 17, 1996 eff. Aug. 16, 1996. (Note internal renumbering and redesignations by the Law Department per Charter § 1045(b)) [See Chapter 1 footnote]

§ 1-06. Supplemental Disclosure.
(a) In addition to the items set forth in clauses a through m of paragraph (ii) of subdivision b of section 16-508 of the Code, disclosure by the applicant shall include the following:
(1) information concerning any involvement of applicant in unlawful activities, including without limitation the making, creation or filing of false statements or records, violations of the Taft-Hartley Act, 29 U.S.C. § 186 or other provisions concerning payments to a labor union official or representative, agreements not to compete with a business, bribery, or participation in other anti-competitive or corrupt business practices and contacts with members and associates of organized crime;
(2) a listing of any criminal or civil investigation by a federal, state, or local prosecutorial agency, or investigative agency, in the five year period preceding the filing of an application for a license or registration pursuant to this chapter, wherein applicant has been granted immunity, or entered into a consent decree, order, or similar agreement;
(3) a listing of accounts held by the applicant business, during the five year period preceding the filing of an application for a license or registration pursuant to this chapter, with banks, credit unions, brokerage firms, and similar entities, and of the amounts held therein in the form of an identification of range of dollar value;
(4) a listing of any bankruptcy proceedings in which applicant or any predecessor trade waste business of applicant, as such term is defined in section 16-508 of the Code, was a debtor or any proceedings involving forfeiture, receivership, or independent monitoring, in which applicant or any predecessor trade waste business of applicant was a party or participated in during the ten year period preceding the filing of an application for a license or registration pursuant to this chapter;
(5) information concerning the acquisition, sale, assignment or loss of routes or customers by the applicant during the ten year period preceding the filing of the application; and
(6) information concerning the involvement and participation of the applicant in the activities of waste associations, including but not limited to payment of dues, attendance at meetings, participation in committee work or other decisionmaking processes, and use of or reliance upon the trade association to facilitate business transactions or resolve business disputes.
(b) In addition to the items set forth in clauses a through m of paragraph (ii) of subdivision b of section 16-508 of the Code and in subdivision a of this section, the applicant business shall include in the form submitted by it to the Commission the following information with respect to each of its former principals:

(1) The items set forth in clauses g, h, i, j, and l of paragraph (ii) of subdivision b of section 16-508 of the Code, pertaining to the period during which the former principal was a principal of the applicant business; and
(2) The items set forth in paragraphs (1), (2), (5) and (6) of subdivision (a) of this section pertaining to the period during which the former principal was a principal of the applicant business.
(c) With respect to disclosure under subdivision (b) of this section, the applicant business shall supply a certification, sworn and certified under penalty of criminal prosecution, that such information is complete and accurate to the best of its knowledge and belief and has been prepared based upon a diligent search of all business and other records in its possession or control.

HISTORICAL NOTE

Section added City Record July 17, 1996 eff. Aug. 16, 1996. (Note internal renumbering and redesignations by the Law Department per Charter § 1045(b)) [See Chapter 1 footnote]

§ 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, 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.

HISTORICAL NOTE

Section added City Record Sept. 3, 1996 eff. Oct. 3, 1996. [See T17 Subchapter E footnote]

§ 1-08. Investigation of Customer Complaints.
(a) In addition to any other investigations, the Commission may conduct an investigation into any complaint by a commercial establishment alleging violations of the provisions of Chapter 1 of Title 16-A of the Code or any provision of this chapter. The Commission may, in the course of such investigation, issue subpoenas, take depositions under oath, conduct hearings and use such other means as the Commission determines will assist such investigation, including but not limited to interviews with the complainant and other persons who may have knowledge of the facts involved in the complaint and assisting a customer in verifying the measurement of such customer's waste. The Commission may direct that a licensee conduct a waste stream survey in connection with its investigation.
(b) Where the Commission determines that evidence exists to support a complainant's allegations, the Commission may seek redress of injuries to the complainant as well as penalties as provided in section 1-04 of this chapter. Such redress and penalties may be sought in a hearing conducted pursuant to section 1-03 of this chapter, or, if the parties agree, redress may be sought

in an informal proceeding. Such a hearing or proceeding may include testimony by the complainant as well as evidence presented by the Commission.
(c) Any resolution of a complaint by a customer prior to a hearing or proceeding shall be submitted to the Commission for its review and approval. Where the Commission disapproves such a resolution, the Commission may continue to seek penalties regarding any violation by the licensee underlying the customer complaint.

HISTORICAL NOTE

Section added City Record Sept. 3, 1996 eff. Oct. 3, 1996. [See T17 Subchapter E footnote]

§ 1-09. General Prohibitions.
In addition to any other prohibition contained in Chapter 1 of Title 16-A of the Code or this chapter, an applicant, a licensee, a registrant, a principal of a licensee or a registrant, or an employee required to make disclosure pursuant to section 16-510 of the Code as listed in Appendix A of Subchapter C of this chapter shall not: violate or fail to comply with an applicable provision of this chapter; associate with a person whom such person knows or should know is a member or associate of an organized crime group (a person who has been identified by a federal, state, or local law enforcement agency as a member or associate of an organized crime group shall be presumed to be a member or associate of an organized crime group); refuse to answer an inquiry from the Commission; violate or fail to comply with any order or directive of the Commission; make a false or misleading statement to the Commission; make a false or misleading statement to a customer or prospective customer; threaten or attempt to intimidate a customer or prospective customer; retaliate against a customer or prospective customer that has made a complaint to the Commission or has exercised or attempted to exercise a right under the Code or this chapter; engage in a deceptive trade practice; discourage a customer or prospective customer who has a question or inquiry concerning the customer or prospective customer's rights or obligations concerning trade waste from contacting the Commission; request, participate in, or comply with, a resolution, consideration, hearing, mediation or adjudication by a trade association or any person holding a position in a trade association concerning a dispute between two or more licensees or trade waste removal businesses relating to a customer, route or stop; pay any money to a trade association or any person holding a position in a trade association for any activity relating to a sale, purchase, acquisition, or loss of a customer, route, or stop; falsify any business record; make, file, or submit a false statement or claim to a government agency or employee; violate any law concerning payments to labor unions or labor representatives; give or offer any money or other benefit to an official or employee of a private business with intent to induce that official or employee to engage in an unethical or illegal business practice; give or offer any money or other benefit to any public employee whose duties relate to the trade waste industry with the exception of funds that must be paid in accordance with a statute, rule, agency order, or court order; solicit business from a customer for any person who, or entity that, provides goods or services related to the removal, collection or disposal of trade waste and is not licensed by, or registered with, the Commission; agree with another trade waste business to divide or allocate customers or respect an existing division or allocation of customers by geography, territory or otherwise, except that this provision shall not apply to a covenant not to compete agreed to in connection with the sale of a licensee's business where the Commission has

expressly approved such covenant; discuss with, or agree upon, with another private carter the prices to be submitted on a bid for a trade waste contract; fail to timely pay taxes related to a trade waste business; operate a transfer station in violation of any federal, state, or local law or regulation; remove, collect or dispose of trade waste from a commercial establishment with which the applicant, licensee or registrant does not have a contract or agreement or other permission from the Commission to remove, collect or dispose of such commercial establishment's trade waste; or attempt to or conspire to engage in any act proscribed by this section.

HISTORICAL NOTE

Section amended City Record Aug. 7, 2009 § 4, eff. Sept. 6, 2009. [See T17 § 1-01 Note 2]

Section amended City Record June 12, 2000 eff. July 12, 2000. [See Note 1]
Section added City Record Sept. 3, 1996 eff. Oct. 3, 1996. (Note internal renumbering and redesignations by the Law Department per Charter § 1045(b) [See T17 Subchapter E footnote])
NOTE
1. Statement of Basis and Purpose in City Record June 12, 2000:
The City Council enacted Local Law 42 of 1996 and created the New York City Trade Waste Commission to rid the City's commercial carting industry of organized crime corruption, to protect businesses using private carting services, and to enhance competition in the industry. Local Law 42 vests the Commission with the power to make determinations concerning the fitness of persons and firms to participate in the commercial carting industry and to regulate the conduct of the entities and individuals subject to its jurisdiction. See Admin. Code § 16-504(a), (d). From time to time, in connection with fulfilling its mandate, the Commission issues orders and directives. In order to ensure compliance with such orders and directives, this amendment will add to the general prohibitions governing those subject to the Commission's jurisdiction a prohibition against violating any order or directive of the Commission.
In addition, in order that all firms and entities subject to the Commission's jurisdiction will be bound by the same basic rules governing their conduct in the carting industry, this amendment will include applicants for licenses and registrations, class 1 registrants (i.e., self-haulers), and principles and key employees among those subject to the general prohibitions.

§ 1-10. Forms Prescribed or Provided by the Commission.
Wherever any provision of this chapter requires that any document be employed, maintained, submitted or filed by a business required to be licensed or registered pursuant to this chapter, or that a form may be reviewed or approved by the Commission, the Commission may, in its discretion, prescribe the form of such document or provide an acceptable form. The Commission may also prescribe a uniform chart of accounts.

HISTORICAL NOTE

Section added City Record Sept. 3, 1996 eff. Oct. 3, 1996. [See T17 Subchapter E footnote]

§ 1-11. Commission Approval not to be Implied.
Whenever any document is to be filed, submitted, or provided to the Commission pursuant to a provision of this chapter, or is otherwise provided to the Commission, the document shall not be deemed acceptable to the Commission or approved by the Commission unless the Commission or Chair expressly sets forth such approval in writing. Failure of the Commission to disapprove or object to any action that a licensee or registrant proposes to take shall not be deemed an approval of such action by the Commission.

HISTORICAL NOTE

Section added City Record Sept. 3, 1996 eff. Oct. 3, 1996. [See T17 Subchapter E footnote]

§ 1-12. Membership in Prohibited Trade Association. [Repealed]

HISTORICAL NOTE

Section repealed City Record Oct. 6, 1997 eff. Oct. 6, 1997.

Section added City Record Nov. 15, 1996 eff. Dec. 15, 1996. [See T17 Subchapter E footnote]

§ 1-13. Severability.
The provisions of this chapter shall be severable and if any phrase, clause, sentence, paragraph, subdivision or section of this chapter, or the applicability thereof to any person or circumstance, shall be held invalid by any court of competent jurisdiction, the remainder of this chapter and the application thereof shall not be affected thereby.

HISTORICAL NOTE

Section added City Record Sept. 3, 1996 eff. Oct. 3, 1996. [See T17 Subchapter E footnote]

Section renumbered (formerly § 1-12) City Record Nov. 15, 1996 eff. Dec. 15, 1996.

NEW YORK CITY RULES & REGULATIONS
TITLE 17. BUSINESS INTEGRITY COMMISSION [FN*]
CHAPTER 1. TRADE WASTE. [FN*]
SUBCHAPTER B. LICENSING AND REGISTRATION.

The Rules and Regulations of the City of New York is current through December 31, 2010.

§ 2-01 License Application.
§ 2-02 Information Required on License Application.
§ 2-03 Application for Exemption from Licensing Requirements for Removal of Demolition Debris.
§ 2-04 Registration Application.
§ 2-05 Notification of Arrest, Conviction or Material Change in Information; Addition of New Principal or Employee.
§ 2-06 Non-Transferability of Licenses and Registrations.
§ 2-07 Terms and Fees.
§ 2-08 Refusal to Issue License or to Register Trade Waste Broker, Revocation and Suspension of License, or Class 2 Registration.

§ 2-01. License Application.
(a) Except as provided in subdivision b of this section, an applicant business required by section 16-505 of the Code to obtain a license for the removal, collection or disposal of trade waste shall submit the information contained in the license application form provided by the Commission and the disclosure required by the forms provided by the Commission. In addition, each principal of the applicant business shall: (i) be fingerprinted by a person designated for such purpose by the Commission and pay the fee prescribed by the Division of Criminal Justices Services to be submitted by the Commission to such Division for the purpose of obtaining criminal history records; and (ii) be photographed by the Commission and submit the disclosure required by the forms provided by the Commission. Notwithstanding paragraphs (i) and (ii) of this subdivision, an applicant may submit, in lieu of such fingerprints and disclosure, copies of submissions to any Federal, State or local regulatory entity containing information comparable to that required by the Commission, provided that the Commission may require fingerprinting and disclosure pursuant to such paragraphs where it finds that it has not received sufficient information or information that is comparable to Commission requirements. The Commission may compel attendance, examine, take testimony and require the production of evidence pursuant to the provisions of subdivision c of section 16-504 of the Code as the Commission deems necessary to investigate the truth and accuracy of the information submitted. A fee of six hundred dollars ($600) per applicant business and six hundred dollars ($600) per principal thereof shall be paid by the applicant for such investigation.
(b)(1) An application submitted by an applicant business that is a regional subsidiary of or otherwise owned, managed by or affiliated with a business that has national or international operations shall identify and provide fingerprints and disclosure for those principals for whom such fingerprints and disclosure are required pursuant to subdivision b of section 16-508 of the Code. In addition, such application shall be accompanied by: (i) an organizational chart that clearly identifies relationships between the “parent”‘ company and all affiliates and subsidiaries;

and (ii) a list, in chart or other form, of all persons not employed by the applicant who have managerial responsibilities for the New York operations of the applicant and a description of the nature of such responsibilities.
(2) Upon review of the materials submitted pursuant to subparagraphs (i) and (ii) of paragraph (1) of this subdivision, the Commission shall require fingerprints and disclosure from additional persons whom it identifies as having "direct management supervisory responsibility for the operations or performance of the applicant"' within the meaning of subdivision b of § 16-508 of the Code. Where the Commission requires fingerprints and disclosure with respect to such persons, it shall notify the applicant, identifying such person and specifying the date by which such information shall be submitted.
(c) Following receipt of the license application and the disclosure required by the forms provided by the Commission, the Commission may require such additional information related to such application and disclosure, including without limitation documents and deposition testimony, as the Commission determines is necessary to make a licensing determination.

HISTORICAL NOTE

Section amended City Record Nov. 26, 2008 § 3, eff. Dec. 26, 2008. [See T17 § 1-01 Note 1]

Section added City Record July 17, 1996 eff. Aug. 16, 1996. (Note internal renumbering and redesignations by the Law Department per Charter § 1045(b)) [See Chapter 1 footnote]
Subd. (a) amended City Record Aug. 7, 2009 § 5, eff. Sept. 6, 2009. [See T17 § 1-01 Note 2]

§ 2-02. Information Required on License Application.
An application for a license shall 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 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 percent or more, if the applicant is any other type of business entity. The application shall be sworn and certified under penalty of criminal prosecution. The application for a license shall include, but not be limited to the following information:
(a)(i) the name, address and telephone number(s) of the business submitting such application; (ii) the names, addresses, telephone number(s) and, if natural persons, the social security numbers of the principals of the applicant business and a description of the positions occupied or ownership interest held by each such principal; (iii) the names, job titles, social security numbers and addresses of all other employees or agents, or prospective employees or agents of the applicant who will perform work directly or indirectly related to trade waste removal; drivers' license numbers, with the class and expiration date, or other required operators' licenses, of all employees or agents who will operate vehicles in the business; (iv) if the applicant is doing business under an assumed name, a Certificate of Assumed Name, certified by the County Clerk if a sole proprietorship or partnership, or by the Secretary of State if a corporation; (v) if the applicant is a sole proprietorship, a notarized copy of the business certificate certified by the

County Clerk; (vi) if the applicant is a corporation, a copy of the certificate of incorporation; and (vii) if the applicant is a partnership, a copy of partnership papers, certified by the County Clerk.
(b) A disclosure form completed by the applicant business and disclosure forms completed by all of the principals of the business, except as provided in subdivisions (b) and (c) of section 2-01 of this subchapter, and disclosure forms completed by employees and agents or prospective employees or agents in the categories specified in Appendix A to this chapter.
(c) A business telephone number and a business address within the City of New York where notices may be delivered and legal process may be served, and where records required by these rules shall be maintained.
(d) A Federal or state tax identification number.
(e) A listing of each vehicle that will be operated pursuant to the license, and the vehicle identification number and registration number of such vehicle and a copy of the insurance card for each such vehicle.
(f) Before a license is issued, an applicant shall submit proof that the following insurance policies have been secured:
(1) The required workers' compensation and disability benefits coverage, or that the applicant is exempt from the Worker's Compensation Law, Section 57, and the Disability Benefits Law, Section 220, subdivision 8. Proof of coverage can be established by submitting the following Workers' Compensation Board forms:
C-105.2 Application for Certificate of Workers' Compensation Insurance;
DB-120.1 Employer's Application for Certificate of Compliance with Disability Benefits Law;
S1-12 Affidavit certifying that compensation has been secured.
Proof that no coverage is required can be provided by submitting the following Worker's Compensation Board form:
C-105.21 Statement that applicant does not require Workers' Compensation or Disability Benefits Coverage.
(2) Liability insurance against claims for injuries to persons or damages to property which may arise from or in connection with the licensee's business pursuant to the license. The licensee may purchase such policies in connection with one or more other licensees, provided that the coverages described in this subdivision are maintained.
(3) Commercial General Liability Insurance with liability limits of no less than one million dollars ($1,000,000). The maximum deductible for such insurance shall be no more than twenty-five thousand dollars ($25,000).
(4) Business Automobile Liability Insurance covering every vehicle operated by the licensee in his or her business, whether or not owned by the applicant, and every vehicle hired by the licensee with liability limits of no less than one hundred thousand dollars ($100,000) for personal injury to any one person and three hundred thousand dollars ($300,000) for personal injury to two or more persons and twenty-five thousand dollars ($25,000) for damage to property.
(5) Employers' Liability Insurance with limits of one million ($1,000,000) dollars per accident.
The policy or policies of insurance required by these rules shall name the Commission as Certificate Holder and shall be endorsed to state that coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except upon sixty days prior written notice to the Commission. Failure to maintain continuous insurance coverage meeting the requirements of these rules will result in revocation of the license. Such policy or policies of insurance shall be obtained from a company, or companies, duly authorized to do business in the State of New

York with a Best's rating of no less than A:X unless specific approval has been granted by the Mayor's Office of Operations to accept a company with a lower rating. Two certificates of insurance effecting the required coverage and signed by a person authorized by the insurer to bind coverage on its behalf, must be delivered to the Commission prior to the effective date of the license. A licensee shall demonstrate that he or she has secured the insurance coverage required pursuant to this section and shall maintain such required insurance coverage throughout the term of the license.
(g) If applicant transports or proposes to transport medical waste, asbestos or other hazardous materials for which a New York State Waste Transporter permit is required, a copy of such permit must be submitted with the application.

HISTORICAL NOTE

Section added City Record July 17, 1996 eff. Aug. 16, 1996. (Note internal renumbering and redesignations by the Law Department per Charter § 1045(b)) [See Chapter 1 footnote]

§ 2-03. Application for Exemption from Licensing Requirements for Removal of Demolition Debris and a Class 2 Registration.
(a) Class 2 Registration for Business Exempt from Licensing Requirements under Section 16-505(a). A business solely engaged in the removal of waste materials resulting from building demolition, construction, alteration or excavation, including waste materials resulting from building demolition, construction, alteration or excavation generated by such business, may, pursuant to subdivision a of section 16-505 of the Code, apply to the Commission for exemption from the licensing requirements of section 16-505 where no principal (except for a principal of a business solely in either or both of the class seven or the class three category of licensees as defined in rules previously promulgated by the Commissioner of Consumer Affairs pursuant to subchapter 18 of Chapter 2 of Title 20 of the Code) of such applicant is a principal of a business or a former business required to be licensed during the past ten years pursuant to this chapter or such former subchapter 18.
(b) An application for an exemption pursuant to this section shall 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 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 percent or more if the applicant is any other type of business entity. The application shall be certified under penalty of criminal prosecution, and shall, in addition, contain:
(1) a statement describing the nature of the applicant business, including a statement that the applicant business removes no waste other than materials resulting from building demolition, construction, alteration or excavation, and a description of the kinds of waste removed by the applicant business, the types of site from which such waste is removed and the nature of the customers of such applicant business.
(2) the names and addresses of the principals of such business, a description of the position occupied or ownership interest held by each such principal and a statement that no such principal

is or was a principal of (a) a business required to be licensed pursuant to section 16-505 of the Code and (b) a business or former business required to be licensed pursuant to former subchapter 18 of Chapter 2 of Title 20 of the Code, except for businesses solely in the class seven or the class three category of licenses defined in the rules promulgated pursuant to such former subchapter.
(c) Such application shall, in addition, contain the following information:
(1) If applicant transports asbestos or other hazardous materials for which a New York State Department of Environmental Conservation Waste Transporter permit is required, a copy of such permit must be submitted with the application.
(2) If such applicant is doing business under an assumed name, a Certificate of Assumed Name, certified by the County Clerk if a sole proprietorship or partnership or by the Secretary of State if a corporation, and in addition: if a sole proprietorship, a business certificate certified by the County Clerk, if a corporation, a copy of the certificate of incorporation; if a partnership, a copy of partnership papers, certified by the County Clerk.
(3) A business telephone number and a business address within the City of New York where notices may be delivered and legal process may be served, and where records required by these rules shall be maintained.
(4) A Federal or state, tax identification number.
(5) A listing of any criminal convictions of the applicant.
(6) A listing of any pending civil or criminal actions in any jurisdiction.
(7) A listing of any judgments finding liability of the applicant in a civil or administrative action related to the conduct of a business bearing a relationship to the removal of trade waste.
(8) A listing of each vehicle that will be operated pursuant to the license, and the vehicle identification number and registration number of such vehicle.
(9) A listing of the employees who will drive vehicles operated pursuant to this license, and the driver's license numbers of such employees.
(10) Evidence of business automobile liability insurance covering every vehicle operated by the applicant in his or her business, whether or not owned by the applicant, and every vehicle hired by the applicant, with liability limits of no less than one hundred thousand dollars ($100,000) for personal injury to any one person and three hundred thousand dollars ($300,000) for personal injury to two or more persons and twenty-five thousand dollars ($25,000) for damage to property. Such insurance policy shall name the Commission as Certificate Holder.
(d) An applicant eligible for an exemption pursuant to this section shall be photographed by the Commission and shall be issued a Class 2 registration by the Commission. Notwithstanding any other provision of this chapter, if at any time subsequent to the issuance of a registration to a business granted an exemption pursuant to this section, the Commission has reasonable cause to believe that any or all of the principals of such business do not possess good character, honesty and integrity, the Commission may require that such principal(s): (i) be fingerprinted by a person designated for such purpose by the Commission and pay the fee prescribed by the Division of Criminal Justice Services for the purpose of obtaining criminal history records; and (ii) submit to the Commission the disclosure required by the form provided by the Commission; provided that the Commission may consider a written statement from an applicant setting forth any special facts with respect to a principal in the applicant's business that the applicant believes should allow exemption of such principal from fingerprinting and disclosure. Notwithstanding the fingerprinting and disclosure requirements of paragraphs (i) and (ii) of this subdivision, an

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

HISTORICAL NOTE

Section added City Record July 17, 1996 eff. Aug. 16, 1996. (Note internal renumbering and redesignations by the Law Department per Charter § 1045(b)) [See Chapter 1 footnote]

Section heading amended City Record Aug. 7, 2009 § 6, eff. Sept. 6, 2009. [See T17 § 1-01 Note 2]
Subd. (a) amended City Record Aug. 7, 2009 § 6, eff. Sept. 6, 2009. [See T17 § 1-01 Note 2]
Subd. (c) amended City Record Aug. 7, 2009 § 6, eff. Sept. 6, 2009. [See T17 § 1-01 Note 2]

§ 2-04. Registration Application.
(a) Class 1 Registration. A person or business required, pursuant to subdivision b of section 16-505 of the Code, to register with the Commission to remove, collect or dispose of trade waste that is generated in the course of operation of such person's business shall submit a registration form, containing the information required by the Commission, including, but not limited to the following:
(1) A list of the names and addresses of all principals of the applicant and a description of the position occupied or ownership interest held by each such principal;
(2) If the applicant is doing business under an assumed name, a Certificate of Assumed Name, certified by the County Clerk if a sole proprietorship or partnership or by the Secretary of State if a corporation, and in addition: if the applicant is a sole proprietorship, a notarized copy of the Certificate of Business, certified by the County Clerk; if a corporation, a copy of the certificate of incorporation and a list of the names and addresses of all principals; if a partnership, a copy of partnership papers, certified by the County Clerk.
(3) A business telephone number and a business address within the City of New York where notices may be delivered and legal process may be served, and where records required by these rules shall be maintained, and the name of a person of suitable age and discretion who shall be designated as agent for the service of legal process;
(4) A Federal and state tax identification number;
(5) A listing of each vehicle that will be operated pursuant to the registration, and the vehicle identification number and registration number of such vehicle;
(6) A listing of the employees who will drive vehicles operated pursuant to the registration, and the driver's license numbers of such employees; and

(7) A listing of the locations from which the registrant will remove trade waste and to which the waste is proposed to be removed; and a description of the kinds of waste removed and the methods used to remove such waste. If the applicant transports asbestos or other hazardous materials for which a New York State Department of Environmental Conservation Waste Transporter permit is required, a copy of such permit must be submitted with the application;
(8) Evidence of business automobile liability insurance covering every vehicle operated by the registrant that will transport waste, whether or not owned by the applicant, and every such vehicle hired by the registrant, with liability limits of no less than one hundred thousand dollars ($100,000) for personal injury to any one person and three hundred thousand dollars ($300,000) for personal injury to two or more persons and twenty-five thousand dollars ($25,000) for damage to property.
(b) Class 2 Trade Waste Broker Registration. An application for registration required by subdivision b of section 16-505 of the Code to register as a trade waste broker shall 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 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 percent or more if the applicant is any other type of business entity. The application shall be certified under penalty of criminal prosecution. The principal of such applicant shall be photographed by the Commission and such application shall contain the following information:
(1) The names and addresses of all principals of the applicant and a description of the position occupied or ownership interest held by each such principal;
(2) If such applicant is doing business under an assumed name, a Certificate of Assumed Name, certified by the County Clerk if a sole proprietorship or partnership or by the Secretary of State if a corporation; if a sole proprietorship, a notarized Certificate of Business, certified by the County Clerk; if a corporation, a copy of the certificate of incorporation and a list of the names and addresses of all the principals; if such applicant is a partnership, a copy of partnership papers, certified by the County Clerk.
(3) A business telephone number and a business address within the City of New York where notices may be delivered and legal process may be served, and where records required by these rules shall be maintained, and the name of a person of suitable age and discretion who shall be designated as agent for the service of legal process;
(4) A Federal or state tax identification number;
(5) Where any principal of the applicant business is, or has been at any time during the past ten years, a principal of a trade waste removal business required to be licensed pursuant to Title 16-A of the Code or former subchapter 18 of chapter 2 of Title 20 of the Code, a listing of such trade waste removal business and the nature of the involvement of such principal in such business;
(6) A listing of any contractual or other business relationship, at any time during the past ten years, between the applicant business and a trade waste removal business required to be licensed pursuant to Title 16-A of the Code or former subchapter 18 of chapter 2 of Title 20 of the Code;
(7) A listing of any criminal convictions of the applicant;

(8) A listing of any pending civil or criminal actions with respect to the applicant business in any jurisdiction; and
(9) A listing of any suspensions or revocations of licenses or permits held by the applicant for the removal or recycling of trade waste in any jurisdiction or any judgments or orders finding liability of the applicant in a civil or administrative action related to the conduct of a business that removes or recycles trade waste, a trade waste broker business or the operation of a dump, landfill or transfer station.
(c)(1) Notwithstanding any provision of this chapter, the Commission may, when there is reasonable cause to believe that an applicant for registration as a trade waste broker or any or all of the principals of such applicant does not possess good character, honesty and integrity, require that such applicant or any or all of the principals of such applicant be fingerprinted by a person designated for such purpose by the Commission and pay the fee prescribed by the Division of Criminal Justice Services for the purpose of obtaining criminal history records and provide to the Commission the disclosure required by the form provided by the Commission. Following receipt of such disclosure, the Commission may require such additional information relating to such disclosure, including without limitation documents and deposition testimony, as the Commission determines is necessary to render a determination. The Commission may, after notice and the opportunity to be heard, refuse to register such applicant for the reasons set forth in paragraphs (i) through (x) of subdivision a of section 16-509 of the Code.
(2) If at any time subsequent to the registration of a trade waste broker, the Commission has reasonable cause to believe that any or all of the principals of such business do not possess good character, honesty and integrity, the Commission may require that such principal(s) be fingerprinted by a person designated for such purpose by the Commission and pay the fee prescribed by the Division of Criminal Justice Services for the purpose of obtaining criminal history records and provide the disclosure required by the form provided by the Commission; provided that the Commission may consider a written statement from an applicant setting forth any special facts with respect to a principal in the applicant's business that the applicant believes should allow exemption of such principal from fingerprinting and disclosure. Notwithstanding the fingerprinting and disclosure requirements of this paragraph, an applicant may submit, in lieu of such fingerprints and disclosure, copies of submissions to any federal, state or local regulatory entity containing information comparable to that required by the Commission, provided that the Commission may require fingerprinting and disclosure where it finds that it has not received sufficient information or information that is comparable to Commission requirements. Following receipt of disclosure required by the forms provided by the Commission, the Commission may require additional information related to such disclosure, including without limitation documents and deposition testimony, as the Commission determines is necessary to render determination. The Commission may, after notice and the opportunity to be heard, revoke the registration of such business for the reasons set forth in paragraphs (i) through (x) of subdivision a of section 16-509 of the Code.

HISTORICAL NOTE

Section added City Record July 17, 1996 eff. Aug. 16, 1996. (Note internal renumbering and redesignations by the Law Department per Charter § 1045(b)) [See Chapter 1 footnote]

Subd. (b) amended City Record Aug. 7, 2009 § 7, eff. Sept. 6, 2009. [See T17 § 1-01 Note 2]

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

(a)(1) An applicant for a license or a licensee and an applicant for exemption from the requirement for a license or an applicant granted such exemption shall notify the Commission, within ten calendar days, of the arrest or criminal conviction subsequent to the submission of the application of any principal or any employee or agent, or any prospective employee or agent identified on the application, of which the applicant for a license or the licensee had knowledge or should have known.

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

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

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

(b) An applicant for registration and a registrant, including a registrant issued a registration subsequent to the granting of an exemption from the licensing requirement of subdivision a of section 16-505 of the Code, shall notify the Commission within ten business days of:

(i) the addition of a principal to the business of a registrant subsequent to 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; and
(iii) any other material change in the information submitted pursuant to this sub- chapter.
(c) Notification pursuant to paragraphs (2), (3) and (4) of subdivision (a) and subdivision (b) of this section shall be sworn and notarized and shall 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 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 percent or more if the applicant is any other type of business entity. Notification pursuant to paragraph i of subdivision a of this section shall be sworn and notarized and shall 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.

HISTORICAL NOTE

Section added City Record July 17, 1996 eff. Aug. 16, 1996. (Note internal renumbering and redesignations by the Law Department per Charter § 1045(b)) [See Chapter 1 footnote]

§ 2-06. Non-Transferability of Licenses and Registrations.
A license or registration issued by the Commission pursuant to this subchapter shall not be transferable. A licensee or registrant shall not permit the use by any other person of the license or registration number issued pursuant to this subchapter.

HISTORICAL NOTE

Section added City Record July 17, 1996 eff. Aug. 16, 1996. [See Chapter 1 footnote]

§ 2-07. Terms and Fees.
(a) The term of a license or registration shall be two years. The fee for a license shall be five thousand dollars ($5,000) and the fee for each vehicle in excess of one operated pursuant to a license shall be five hundred dollars ($500). The fee for Class 2 registration pursuant to section 2-03 of this subchapter shall be three thousand five hundred dollars ($3,500) and the fee for each vehicle operated pursuant to a Class 2 registration shall be five hundred dollars ($500). The fee for Class 1 registration shall be one thousand dollars ($1,000) and the fee for each vehicle operated pursuant to a Class 1 registration shall be four hundred dollars ($400). The fee for trade waste broker registration shall be five thousand dollars ($5000).
(b) The fee for a license or registration shall be submitted upon submission of an application for the license or registration.

HISTORICAL NOTE

Section added City Record July 17, 1996 eff. Aug. 16, 1996. [See Chapter 1 footnote]

Subd. (a) amended City Record Aug. 7, 2009 § 8, eff. Sept. 6, 2009. [See T17 § 1-01 Note 2]
Subd. (b) amended City Record Aug. 7, 2009 § 8, eff. Sept. 6, 2009. [See T17 § 1-01 Note 2]

§ 2-08. Refusal to Issue License or Registration; Revocation and Suspension of License or Registration.

(a) Where the Staff of the Commission proposes that the Commission refuse, pursuant to section 16-509 or 16-507 of the Code, as the case may be, to issue a license to remove, collect, or dispose of trade waste or a registration as a trade waste broker or a Class 1 registration or Class 2 registration for a business exempt from licensing requirements, the applicant shall be notified in writing of the reasons for the proposed refusal of such license or registration and that the applicant may, within ten (10) business days of the date of such notification, respond in writing to the Commission setting forth the reasons such applicant believes that it should not be denied such license or registration. In the exercise of its discretion, the Commission, considering the reasons for the proposed refusal to issue the license or registration, the nature of the issues raised in connection therewith, and the response submitted by the applicant, may make a final determination regarding the issuance of such license or registration or through the Chair or his or her designee, afford the applicant such further opportunity to be heard in such proceeding as is deemed appropriate. A final determination to refuse to issue a license or registration pursuant to this section shall be by majority vote of the Commission. Such determination and the reasons therefor shall be communicated to the applicant in writing.

(b) The Commission may, after notice to a licensee, Class 2 registrant under section 16-505(a), Class 1 registrant or trade waste broker registrant, and the opportunity for a hearing conducted pursuant to section 1-03 of subchapter A of this chapter, revoke or suspend a license or a registration issued pursuant to this subchapter for the reasons set forth in section 16-513 of the Code. The Commission may suspend a license, Class 2 registration under section 16-505(a), Class 1 registration or trade waste broker registration pursuant to section 16-514 of the Code without a prior hearing. Upon notification of an emergency suspension pursuant to such section, a licensee or registrant may apply to the Chair of the Commission for immediate review of such suspension. The Chair shall determine such appeal forthwith. In the event that such appeal is denied, an opportunity for a hearing pursuant to section 1-03 of subchapter A of this chapter shall be provided on an expedited basis, within a period not to exceed four business days, and the Commission shall issue a final determination no later than four days following the conclusion of such hearing.

HISTORICAL NOTE

Section amended City Record Aug. 7, 2009 § 9, eff. Sept. 6, 2009. [See T17 § 1-01 Note 2]

Section added City Record July 17, 1996 eff. Aug. 16, 1996. (Note internal renumbering and redesignations by the Law Department per Charter § 1045(b)) [See Chapter 1 footnote]
Subd. (a) amended City Record May 9, 1997 eff. June 8, 1997. [See Note 1]
Subd. (b) repealed City Record Oct. 6, 1997 eff. Oct. 6, 1997.
Subd. (b) added City Record Nov. 15, 1996 eff. Dec. 15, 1996.
Subd. (c) relettered (formerly (b)) City Record Nov. 15, 1996 eff. Dec. 15, 1996.
NOTE

1. Statement of Basis and Purpose in City Record May 9, 1997:
Section 16-504 of the Administrative Code of the City of New York authorizes the New York City Trade Waste Commission (the "Commission") to promulgate rules to effectuate the purposes of the legislation creating the Commission, including the issuance of licenses to remove trade waste and registrations to remove trade waste and to become a broker. The proposed amendment to section 2-08 is intended to clarify that the Commission will make a final determination with respect to a proposed refusal to issue a license or registration after the applicant has been notified of the reasons a recommendation has been made to the Commission to disapprove the application and the applicant has had an opportunity to respond in writing, and that the applicant may, in the Commission's discretion, be afforded further opportunity to be heard in an appropriate form.
The addition of a new paragraph (iv) to section 5-02(c) requires all trade waste removal businesses to conduct waste stream surveys of existing customers under contract in order to ensure that customers are not being overcharged and that carters have accurately evaluated customers' waste streams.

CASE NOTE

¶ 1. In one case, petitioner's application for a license to operate a trade waste business was denied. Under the Rules of the Business Integrity Commission, petitioner had ten business days to submit a response to the Commission's staff recommendation (17 RCNY § 2-08(a)). The Commissioner violated that rule by failing to grant petitioner an adjournment to file a supplemental response to the staff recommendation after the Commissioner erroneously omitted paper exhibits to the copy of the staff recommendation provided to petitioner. The Commissioner delayed nearly six weeks in supplying the missing exhibits. Under the circumstances, the court remanded the case to the Commission for a new determination. De Costello Carting v. Maldonado, 20 A.D.3d 477, 797 N.Y.S.2d 771, (2nd Dept. 2005).

NEW YORK CITY RULES & REGULATIONS
TITLE 17. BUSINESS INTEGRITY COMMISSION [FN*]
CHAPTER 1. TRADE WASTE. [FN*]
SUBCHAPTER C. INVESTIGATION OF EMPLOYEES AND AGENTS.

The Rules and Regulations of the City of New York is current through December 31, 2010.

§ 3-01 Employees and Agents Required to Submit Fingerprints and Disclosure.
§ 3-02 Investigation of Other Employees or Agents.
§ 3-03 Notification by Licensee of Additional Employee or Agent.
§ 3-04 Displaced Employee List.

§ 3-01. Employees and Agents Required to Submit Fingerprints and Disclosure.
(a) Each person not otherwise a principal as defined in section 1-02 of this chapter who is an employee or agent or prospective employee or agent of an applicant for a license or a licensee and who is in a managerial capacity or in a job category listed in Appendix A to this subchapter, shall: (i) be fingerprinted by a person designated for such purpose by the Commission and pay the fee prescribed by the Division of Criminal Justice Services for the purpose of obtaining criminal history records; and (ii) be photographed by the Commission and provide the disclosure set forth in subparagraphs (b) through (n) of paragraph (ii) of subdivision b of section 16-508 of the Code on the form provided by the Commission and pay the fee of three hundred fifty ($350) dollars for the investigation of such information. Following receipt of such disclosure, the Commission may require such additional information, including without limitation documents and deposition testimony, as the Commission determines is necessary to render determination.
(b) Where, at any time subsequent to an investigation of an employee or agent pursuant to the provisions of subdivision a of this section, the Commission has reasonable cause to believe that such employee or agent lacks good character, honesty and integrity, the Commission may conduct an additional investigation of such employee or agent and may require, if necessary, that such employee or agent provide information updating, supplementing or explaining information previously submitted.
(c) Where, following a background investigation required by subdivision a of this section, the official designated by the Commission to review the findings of such investigation concludes that an employee or agent or a prospective employee or agent lacks good character, honesty and integrity, such person shall be provided with notice of such conclusion and the reasons therefor and may contest the conclusion in person or in writing to such official. Such official shall review such response and, in the event that he or she continues to find that such person lacks good character, honesty and integrity, shall submit such final conclusion to the Commission. In the exercise of its discretion, the Commission, considering the information which forms the basis for the conclusion of such official, the nature of the issues raised in connection therewith, and of any response submitted by the employee or agent, may: (i) make a final determination regarding such person; (ii) notify such person that he or she may appear in person to meet with the Commission or a designee of the Commission in order to present oral explanation and respond to questions prior to a final determination being made; or (iii) notify such person that he or she shall be provided the opportunity for a hearing pursuant to the provisions of section 1-03 of this chapter prior to a final determination being made. In the event that a subsequent investigation of an

employee or agent conducted pursuant to subdivision b of this section results in a conclusion by the reviewing official that such person lacks good character, honesty and integrity, the Commission shall provide such person with notice and the opportunity for a hearing pursuant to the provisions of section 1-03 of this chapter to contest such determination before the Commission makes a final determination.

HISTORICAL NOTE

Section added City Record July 17, 1996 eff. Aug. 16, 1996. [See Chapter 1 footnote]

§ 3-02. Investigation of Other Employees or Agents.
(a) Where the Commission has reasonable cause to believe that an employee or agent or prospective employee or agent of a licensee or an applicant for a license not subject to the provisions of section 3-01 of this subchapter lacks good character, honesty and integrity, the Commission shall notify such employee or agent or prospective employee or agent that he or she shall: (i) be fingerprinted by a person designated for such purpose by the Commission and pay the fee prescribed by the Division of Criminal Justice Services for the purpose of obtaining criminal history records; and (ii) provide the disclosure required in subparagraphs (b) through (n) of paragraph (ii) of subdivision b of section 16-508 of the Code on the form provided by the Commission and pay the fee of three hundred fifty dollars ($350) for the investigation of such information. Following receipt of such disclosure, the Commission may require such additional information related to such disclosure, including without limitation documents and deposition testimony, as the Commission determines is necessary to render determination.
(b) Where, in conjunction with the application for a license for trade waste removal pursuant to section 16-508 of the Code and following a background investigation conducted pursuant to this section, the official designated by the Commission to review the findings of such investigation concludes that an employee or agent or prospective employee or agent not subject to the provisions of section 3-01 of this chapter and identified on a list submitted by such applicant pursuant to section 2-02 of this chapter of the Code lacks good character, honesty and integrity, such person shall be provided with notice of such conclusion and the reasons therefore and may contest the conclusion in person or in writing to such official. Such official shall review such response and, in the event that he or she continues to find that such person lacks good character, honesty and integrity, shall submit such final conclusion to the Commission. In the exercise of its discretion, the Commission considering the information which forms the basis for the conclusion of such official, the nature of the issues raised in connection therewith, and of any response submitted by the employee or agent, may: (i) make a final determination regarding such person; (ii) notify such person that he or she may appear in person to meet with the Commission or a designee of the Commission in order to present oral explanation and respond to questions prior to a final determination being made; or (iii) notify such person that he or she shall be provided the opportunity for a hearing pursuant to the provisions of section 1-03 of this chapter prior to a final determination being made. Where, at any time subsequent to the issuance of the license and following an investigation conducted pursuant to the provisions of this subdivision of any such employee or agent identified on the list submitted by such applicant pursuant to section 2-02 of this chapter, the reviewing official concludes that such employee or agent lacks good character, honesty and integrity, such person shall be provided with notice of such conclusion and the

reasons therefor and the opportunity for a hearing pursuant to the provisions of section 1-03 of this chapter in order to contest such conclusion before the Commission makes a final determination.
(c) Where, within sixty days following notification by a licensee pursuant to section 16-520 of the Code that the licensee proposes to hire or retain or has hired or retained an additional employee or agent who is not subject to the provisions of section 3-01 of this subchapter, the Commission requires such person to be fingerprinted and submit the information required pursuant to this section and at any time thereafter the official designated by the Commission to review the findings of such investigation concludes that such person lacks good character, honesty and integrity, such person shall be provided with notice of such conclusion and the reasons therefor and the opportunity to respond in writing to the Commission before the Commission makes a final determination. Where, following such sixty day period, the Commission requires a background investigation pursuant to this subdivision and the reviewing official makes such a conclusion, the Commission shall provide such person with notice and an opportunity for a hearing pursuant to the provisions of section 1-03 of this chapter in order to contest such conclusion before the Commission makes a final determination.
(d) A licensee shall not employ or engage as an agent any person with respect to whom the Commission has made a final determination, following a background investigation conducted pursuant to this subdivision, that such person lacks good character, honesty and integrity.

HISTORICAL NOTE

Section added City Record July 17, 1996 eff. Aug. 16, 1996. [See Chapter 1 footnote]

§ 3-03. Notification by Licensee of Additional Employee or Agent.
A licensee shall provide the Commission with notice of at least ten business days of the proposed addition of a new employee or agent in a managerial capacity or in a job category listed in Appendix A to this subchapter to the business of such licensee. The Commission may waive or shorten such period upon a showing that there exists a bona fide business requirement therefor. Except where the Commission determines within such period, based upon information available to it, that the addition of such new employee or agent may have a result inimical to the purposes of Local Law 42 and this chapter, the licensee may add such new employee or agent pending the completion of review by the Commission. The licensee shall be afforded an opportunity to demonstrate to the Commission that the addition of such new employee or agent pending completion of such review would not have a result inimical to the purposes of this chapter. If upon the completion of such review, the Commission determines that such employee or agent lacks good character, honesty and integrity, the license shall cease to be valid unless such employee or agent leaves the employ of such licensee within the time period prescribed by the Commission.

HISTORICAL NOTE

Section added City Record July 17, 1996 eff. Aug. 16, 1996. [See Chapter 1 footnote]

§ 3-04. Displaced Employee List.
(a) The Commission shall maintain a displaced employee list containing the names and contact addresses and telephone numbers of persons formerly employed by a business engaged in the collection, removal or disposal of trade waste whose employment ended following the denial or revocation of a license by the Commission.
(b) Upon the denial or revocation of a license by the Commission, a person who was employed by the business whose license has been refused or revoked and who wishes his or her name to be on the displaced employee list shall so notify the Commission in writing and provide his or her name, contact address or telephone number to the Commission. The Commission shall remove an employee's name from the list forthwith upon receipt of a written request for such removal from the employee.
(c) The addition or deletion of information regarding a former employee shall be made only at the written request of such former employee.
(d) The Commission shall make the displaced employee list available to an applicant for a license pursuant to this chapter upon the request of such applicant, and may notify applicants, licensees and registrants of the availability of such list. The provision of such list shall in no way be construed as a recommendation by the City regarding the employment of any person on such list, nor shall the City be responsible for the accuracy of the information on the list.

HISTORICAL NOTE

Section added City Record July 17, 1996 eff. Aug. 16, 1996. [See Chapter 1 footnote]

APPENDIX A. EMPLOYEES SUBJECT TO DISCLOSURE PURSUANT TO SECTION 3-01
Employees who perform the following functions shall be subject to disclosure pursuant to § 3-01 of subchapter C of this chapter:

Solicitation of Businesses;
Bill Collection;
Evaluation of Trade Waste Stream of Customers;
Dispatchers who have regular contacts with customers;
Persons who have authority to agree or refuse to service customers;
Persons who have authority to resolve complaints.

HISTORICAL NOTE

Appendix added City Record July 17, 1996 eff. Aug. 16, 1996. (Note internal renumbering and redesignations by the Law Department per Charter § 1045(b)) [See Chapter 1 footnote]

NEW YORK CITY RULES & REGULATIONS
TITLE 17. BUSINESS INTEGRITY COMMISSION [FN*]
CHAPTER 1. TRADE WASTE. [FN*]
SUBCHAPTER D. AUDITORS AND MONITORS.

The Rules and Regulations of the City of New York is current through December 31, 2010.

§ 4-01 Responsibilities of Auditors.
§ 4-02 Responsibilities of Monitors.

§ 4-01. Responsibilities of Auditors.
Where the Commission requires, pursuant to subdivision a of section 16-511 of the Code, that a licensee enter into a contract with an independent auditor, such licensee shall cooperate with such auditor in the performance of the responsibilities set forth in such contract and this section.
(a) An auditor shall: (1) investigate the activities of the licensee with respect to: compliance with the provisions of Local Law Number 42 for the Year 1996 and the provisions of this chapter; compliance with all Federal, State and local laws applicable to trade waste removal and any rules or regulations promulgated thereunder; any transfer of ownership interest in the business of the licensee; any litigation entered into by the licensee against a customer or another licensee or its customer or a trade waste broker; any sales, assignments or purchases of contracts; any activity of the licensee that may violate laws or regulations prohibiting anti-competitive activities or unfair trade practices; and any membership in a trade association;
(2) audit the books and records of the licensee;
(3) have authority to verify employees and capital equipment of the licensee;
(4) accompany trucks operated by the licensee in order to verify amounts of trade waste collected and the disposal of such waste;
(5) verify the costs and revenues relating to business arrangements of the licensee with truckers, transfer stations, landfills, recycleries, trade waste brokers and manufacturers, including paper processors and printing establishments; and
(6) have such additional duties and responsibilities as the Commission determines are necessary in the case of a licensee in order to ensure that such licensee performs in a manner consistent with the purposes of Local Law Number 42 for the Year 1996.
(b) An auditor shall promptly report the findings of investigations conducted pursuant to this section to the Commission but shall report to the Commission on his or her activities at least on a quarterly basis, except that an auditor shall report immediately to the Commission any failure of the licensee to cooperate in such investigation, decisions by the licensee to assign contracts for the removal, collection or disposal of trade waste, decisions to transfer ownership interest or assets in excess of ten thousand dollars ($10,000) to another person or entity or the initiation of litigation against a customer, another trade waste removal business or its customer or a trade waste broker.

HISTORICAL NOTE

Section added City Record July 17, 1996 eff. Aug. 16, 1996. (Note internal renumbering and

redesignations by the Law Department per Charter § 1045(b)) [See Chapter 1 footnote]

§ 4-02. Responsibilities of Monitors.
Where the Commission requires, pursuant to subdivision b of section 16-511 of the Code, that an applicant for a license or a licensee enter into a contract with an independent monitor, the applicant or licensee shall cooperate with the monitor in the exercise of his or her responsibilities set forth in such contract and this section. Where an applicant or licensee is subject to a receivership, the applicant or licensee shall furnish the monitor with the relevant orders of the court regarding such receivership.
(a) A monitor shall: (1) investigate the activities of the applicant or licensee with respect to compliance with the provisions of any court order to which the applicant or licensee is subject; the provisions of Local Law Number 42 for the Year 1996 and the provisions of this chapter; compliance with all Federal, State and local laws applicable to trade waste removal and any rules or regulations promulgated thereunder; any transfer of ownership interest in the business of the applicant or licensee; any litigation entered into by the applicant or licensee against a customer or another applicant or licensee or its customer or a trade waste broker; any sales, assignments or purchases of contracts; any activity of the applicant or licensee that may violate laws or regulations prohibiting anti-competitive activities or unfair trade practices; and any membership in a trade association;
(2) audit the books and records of the licensee;
(3) have authority to verify employees and capital equipment of the applicant or licensee;
(4) accompany trucks operated by the applicant or licensee in order to verify amounts of trade waste collected and the disposal of such waste;
(5) verify the costs and revenues relating to business arrangements of the applicant or licensee with truckers, transfer stations, landfills, recycleries, trade waste brokers and manufacturers, including paper processors and printing establishments; and
(6) have such additional duties and responsibilities as the Commission determines are necessary in the case of the applicant or licensee in order to ensure that such applicant or licensee performs in a manner consistent with the purposes of Local Law Number 42 for the Year 1996.
(b) A monitor shall have authority to approve or disapprove: (i) the involvement in the conduct of the business of a principal who is a defendant in the criminal action for which the applicant or licensee has been indicted in any particular aspect of the business of the licensee, where the monitor has reasonable cause to believe that such involvement would be inconsistent with the purposes of Local Law Number 42 for the Year 1996; (ii) the assignment of contracts by the applicant or licensee; (iii) the transfer of ownership interest or assets of the applicant or licensee business of ten thousand dollars ($10,000) and more; (iv) cash expenditures and contracts, with the exception of collective bargaining agreements, for services of ten thousand dollars ($10,000) and more; (v) membership in a trade association; (vi) litigation against a customer, another applicant or licensee or a customer of such business or a trade waste broker; and (vii) the hiring or firing of personnel when the monitor has reasonable cause to believe that such actions are inconsistent with the purposes of Local Law Number 42 for the Year 1996. The monitor may, in addition, prohibit persons from the premises of the applicant or licensee or from involvement in the business of the applicant or licensee, when the monitor determines that such prohibition is necessary to effectuate the purposes of Local Law Number 42 for the Year 1996.

(c) A monitor shall report the findings of investigations conducted pursuant to this section to the Commission on a monthly basis, except that a monitor shall report immediately to the Commission any failure of the applicant or licensee to cooperate in such investigation, decisions by the applicant or licensee to assign contracts for the removal, collection or disposal of trade waste, decisions to transfer ownership interest or assets in excess of ten thousand dollars ($10,000) to another person or entity or the initiation of litigation against a customer, another trade waste removal business or its customer or a trade waste broker.

HISTORICAL NOTE

Section added City Record July 17, 1996 eff. Aug. 16, 1996. (Note internal renumbering and redesignations by the Law Department per Charter § 1045(b)) [See Chapter 1 footnote]

NEW YORK CITY RULES & REGULATIONS
TITLE 17. BUSINESS INTEGRITY COMMISSION [FN*]
CHAPTER 1. TRADE WASTE. [FN*]
SUBCHAPTER E. CONDUCT OF LICENSEE. [FN*]

The Rules and Regulations of the City of New York is current through December 31, 2010.

§ 5-01 Sign Required; Display of License.
§ 5-02 Rates.
§ 5-03 Record Keeping; Customer, Financial and Other Reporting Requirements.
§ 5-04 Compliance with Applicable Law and Regulation.
§ 5-05 Agreements and Contracts with Customers; Service to Customers.
§ 5-06 Acceptance of Customers.
§ 5-07 Employee Information.
§ 5-08 Operations.
§ 5-09 Membership in Trade Associations.
§ 5-10 License Plates and Vehicle Markings.
§ 5-11 Labeling of Containers.
§ 5-12 Recycling Requirements for Licensees.

§ 5-01. Sign 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.
(b) A licensee shall not charge a fee to any business for a sign or decal issued by the Commission.
(c) A licensee shall conspicuously display its license in its place of business.
(d) 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.

HISTORICAL NOTE

Section added City Record Sept. 3, 1996 eff. Oct. 3, 1996. [See Subchapter E footnote]

Subd. (d) added City Record Aug. 25, 2010 § 2, eff. Sept. 26, 2010 per City Record notice. [See T17 § 11-01 Note 1]

§ 5-02. Rates.

(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) $15.89 per cubic yard.

(2) $10.42 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.

(b) The rates set forth in subdivision a of this section are maximum rates. Nothing in such subdivision shall be construed to prevent customers and trade waste removal businesses from negotiating rates lower than the rates set forth therein, and trade waste removal businesses and customers are encouraged to do so.

(c)(1) Surveys. In the event that a written contract or other agreement between a licensee and a customer contemplates a “flat” billing method, whether based on weight or on volume, a customer shall have the right to have such fee determined by a survey provided at no charge by the licensee. The time period over which the survey is to be conducted shall be determined by mutual agreement between the customer and the licensee. The survey must reflect the average amount of waste collected, either in volume or by weight, over the survey period. The cost charged to the customer for waste removal service shall be established by multiplying the negotiated dollar rate per cubic yard or per 100 pounds of waste by the total number of cubic yards or 100-pound increments, generated in the billing the period. For purpose of a “flat” billing method, a licensee may round up the total volume or weight for the billing period to the next highest cubic yard or 100 pounds. Prior to conducting the survey, the licensee shall inform the customer in writing that the survey is to be conducted and of the customer's right to participate in the survey by independently monitoring the waste collected during the survey period and by attempting to reach an agreement with the licensee on the survey information. A copy of the waste survey, in a form prescribed by the commission, must be signed by the owner of the business to be served or the owner's authorized representative and the licensee. The licensee must provide a copy of the waste survey to the customer and a copy must be retained by the licensee as part of the records required pursuant to section 5-03 of this chapter. In the event the customer utilizes the services of a trade waste broker, the trade waste broker's survey can be used in lieu of a survey conducted by the licensee, provided the trade waste broker is registered with the commission. For customers who are charged on the basis of estimated weight, nothing in this section shall preclude such a customer's right to have its refuse accurately weighed during the survey period.

(2) The licensee or customer may require a new survey of the customer's waste stream to be provided by the licensee in the manner described in paragraph (1) of this subdivision at no charge to the customer or to be conducted by a registered trade waste broker, provided that no more than two (2) surveys may be required within any twelve (12)-month period.

(3) A licensee shall not submit a false or misleading survey to a customer or prospective customer.
(d) Scales. Licensees who charge on the basis of the weight of a customer's waste shall use weighing devices, whether owned, rented or borrowed by the licensee, that are accurate to within five (5) percent. Licensees who use the services of a person or entity to weigh a customer's waste have the responsibility of insuring that the weighing devices used by such person or entity are accurate to within five (5) percent. The weight of a customer's waste shall be determined net of the weight of the can, container, dumpster or other rigid container in which it is placed by the customer.
(e) Charges by a licensee to a customer shall be based solely on volume or weight, and a licensee shall not charge an additional fee for services, materials or the use of a waste container or receptacle (except for compactors and roll-off boxes) provided by such licensee.

HISTORICAL NOTE

Section added City Record Sept. 3, 1996 eff. Oct. 3, 1996. (Note internal renumbering and redesignations by the Law Department per Charter § 1045(b)) [See Subchapter E footnote]

Subd. (a) amended City Record Nov. 26, 2008 § 4, eff. Dec. 26, 2008. [See T17 § 1-01 Note 1]
Subd. (a) amended City Record Aug. 11, 2003 § 1, eff. Sept. 15, 2003. This amendment inadvertently omitted paragraph (3) and editor has included it here. [See Note 2]
Subd. (a) repealed and added City Record Mar. 26, 1997 eff. Apr. 27, 1997. [See Note 1]
Subd. (b) repealed and added City Record Mar. 26, 1997 eff. Apr. 27, 1997. [See Note 1]
Subd. (c) amended City Record Nov. 26, 2008 § 4, eff. Dec. 26, 2008. [See T17 § 1-01 Note 1]
Subd. (c) amended City Record Aug. 11, 2003 § 1, eff. Sept. 15, 2003. [See Note 2]
Subd. (c) par (iv) added City Record May 9, 1997 eff. June 8, 1997. [See T17 § 2-08 Note 1]
Subd. (c) par (v) relettered (formerly (iv)) City Record May 9, 1997 eff. June 8, 1997.
Subd. (d) amended City Record Aug. 11, 2003 § 1, eff. Sept. 15, 2003. [See Note 2]
Subd. (e) amended City Record Nov. 26, 2008 § 4, eff. Dec. 26, 2008. [See T17 § 1-01 Note 1]

NOTE
1. Statement of Basis and Purpose in City Record Mar. 26, 1997:
Section 16-519 of the Administrative Code of the City of New York provides that the Trade Waste Commission “shall have the power to fix by rule and from time to time refix maximum and minimum rates.” Section 13 of Local Law 42 provides that “the rates for the removal, collection or disposal of trade waste set forth in rules of the department of consumer affairs . . . shall remain in effect until the New York city trade waste commission . . . has fixed new rates or has determined that fixed rates shall not apply.” The maximum rates in effect as last set by the Department of Consumer Affairs were $14.70 per cubic yard of uncompacted (loose) trade waste and $46.70 per cubic yard of pre-compacted trade waste. The pertinent Department of Consumer Affairs rule provided that additional charges could be imposed if the trade waste removal business employees had to walk certain distances from the building line or use an elevator to collect the waste. This amendment to section 5-02 lowers the maximum rates to $12.20 per cubic yard of uncompacted (loose) trade waste and $30.19 per cubic yard of precompacted waste. The amendment eliminates the distance and elevator charges that had been permitted under the

Department of Consumer Affairs rule. The amendment sets new maximum rates determined after review of public comments. Customers are encouraged to negotiate lower rates. Indeed, New York City businesses may now obtain waste removal service for under $10 per loose cubic yard and under $25 per pre-compacted cubic yard by soliciting competitive bids. A report explaining in detail the Commission's reasons for promulgating this final rule is available for inspection by appointment at the offices of the Trade Waste Commission. 253 Broadway, Tenth Floor, New York, New York 10007, telephone number 212-676-6300.
2. Statement of Basis and Purpose in City Record Aug. 11, 2003:
The NYC Business Integrity Commission is amending its trade waste regulations. The adopted regulations accomplish several purposes. They amend the rate cap on commercial carting, permitting licensed carters to charge by weight as well as by volume. The latter scheme has been in place since 1997 and has become outdated and inadequate as the sole method for charging customers for commercial garbage removal. The adopted regulations also allow the use of scales in commercial carting, amend the rule on waste stream surveys, and make minor changes in several other regulations, all with a view to making the regulations more flexible and encouraging competition in the trade waste removal industry.

§ 5-03. Record Keeping; Customer, Financial and Other Reporting Requirements.
(a) A licensee shall maintain records concerning its business including but not limited to: bills and purchase invoices (with notations identifying whether the bill or invoice was paid and, if so, the check number and date), deposit slips, copies of checks received from payors, bank statements, cancelled checks, tax returns (copies of Federal, State, and local returns with all supporting schedules), copies of accountants' workpapers, insurance policies, drivers' route trip sheets, collective bargaining agreements, petty cash disbursement records, IRS W-2 forms, IRS W-4 forms, IRS 1099 forms, I-9 forms, internal memoranda concerning the licensee's finances or one or more customers or prospective customers of the licensee, contracts, documents concerning route sales and contract assignments, waste surveys, rate schedules, discount rate lists, documents concerning mergers, acquisitions, subcontracts and asset sales, copies of cash receipts, documents reflecting electronic fund transfers, written correspondence, lists of collection routes and schedules, submissions to and notices from the Commission, and all documents supporting, evidencing, or used to create the reports, books, journals, registers, and ledgers that the licensee is required to maintain pursuant to this section.
(b) A licensee shall provide each payor with a written receipt for all cash payments setting forth the name and address of the licensee, the license number of the licensee, the date of the payment, the amount of the payment and the identity of the payor. Each such receipt shall be signed by the licensee or the licensee's authorized agent. A duplicate copy of the receipt shall be kept by the licensee as part of its books and records. For the purposes of this section, the term “payor”‘ shall mean any person who remunerates the licensee for any purpose.
(c) A licensee shall not make any payment in excess of one thousand dollars ($1,000) in cash or by check made payable to “Petty Cash”‘. A licensee shall not make any check payable to “Cash”‘.
(d) A licensee shall maintain a complete and accurate set of books of account reflecting the operation of the licensee's business. Such books may be maintained on a computerized accounting system, and shall be kept on either a cash or an accrual basis of accounting in accordance with Generally Accepted Accounting Principles. The books shall be kept on a

quarterly or monthly basis and shall be brought up to date no later than thirty days after the end of each preceding quarter or month. The books shall include the following journals and ledgers:
(1) Cash Receipts Journal showing for each payment received (A) the date payment was received; (B) the identity of the payor; (C) the amount of the payment; (D) the check number; and (E) a brief explanation of the purpose of the payment. Payments for routes or contracts sold shall be described in detail.
(2) Cash Disbursements Journal showing for each payment made (A) the date payment was made; (B) the identity of the payee; (C) the amount of the payment; (D) the check number; and (E) a brief explanation of the purpose of the payment. Payments for routes or contracts purchased shall be described in detail.
(3) Disposal Expense Subsidiary Journal showing details of all expenses incurred, and credits (including cash) obtained in connection with disposing or recycling collected waste including the name of the disposal facility or vehicle or recycling facility, the type of disposal or recycling facilities used (e.g., landfill, transfer station, or recycling center), the complete address of each disposal facility or vehicle or recycling facility, the date on which the disposal or recycling occurred, the date on which payment was made, the check number, the invoice number, the type of collected waste, the amount of collected waste that was delivered to such disposal or recycling facility or facilities (in compacted cubic yards and tons), the rate charged per cubic yard or ton, the total amount billed by the vehicle or facility, and the amount paid. The monthly or quarterly closing shall include a total of the amount of collected waste that was delivered to each disposal or recycling facility or vehicle (in compacted cubic yards and tons), a total of the amount billed by each disposal or recycling vehicle and facility, and the amount paid, and shall also include a total for each of these categories for all of the vehicles and facilities;
(4) Payroll Journal showing (A) the name of the employee; (B) job title and position of the employee; (C) the home address of the employee; (D) the social security number of the employee; (E) Gross pay; (F) Deductions; (G) Net Pay.
(5) General Journal showing all non-cash transactions including adjusting entries, reversing entries, correcting entries, and reclassifying entries with explanations.
(6) General Ledger maintaining an account for each kind of asset, liability, capital, income and expense accounts. Each posting to an account must include date, folio page and amount. Balances of each account must be updated on a monthly basis.
(7) Customer Subsidiary Ledger shall include a separate account for each customer, arranged alphabetically, showing (A) the name of the customer; (B) the address(es) where the waste is collected; (C) the customer's billing address; (D) telephone number; (E) the current negotiated rate per cubic yard or per 100 pounds charged; (F) the actual weekly or monthly charges; and (G) the date, check number and amount of payments.
(8) Fixed Assets Subsidiary Ledger shall include an account or record for each kind of fixed asset, including trucks, containers and other waste removal equipment, showing (A) the date the asset was acquired; (B) the amount paid for the asset; (C) a description of the asset including the serial number, VIN number if applicable, make, year of manufacture, capacity, and type; (D) estimated life of each asset; (E) estimated salvage value of each asset; and (F) method of depreciation, additions and disposals, invoice number and check number.
(9) Accounts Payable Subsidiary Ledger shall show the following for each account (A) the date of purchase; (B) the name of the vendor or supplier; (C) the amount payable; and (D) a brief explanation.

(10) Other Subsidiary Ledgers shall be kept for accounts that are not maintained elsewhere, including subsidiary ledgers for Loans and Notes Payable and Loans and Notes Receivable (which shall include details of each loan and note including the date of the payment, the identity of the debtor or creditor, the form of the payment, and the check number, if applicable).
(e) A licensee shall maintain annual financial statements in a form or computer format prescribed by the Commission. The Commission may require that such financial statements be audited by an independent certified public accountant who is not employed by or related to the licensee or any principal of the licensee and has no financial interest in the licensee or any principal of the licensee. The financial statements shall include a balance sheet, an income statement, a statement of cash flows and a statement of retained earnings or (if the licensee is a sole proprietorship or partnership) capital. The auditor shall render an opinion as to whether the financial statements accurately reflect the financial position of the licensee as of the balance sheet date and the results of its operations and cash flows for the year ended, except that the auditor need not opine on paragraphs (3) and (4) of this subdivision. The auditor shall also issue a supplemental opinion on the licensee's compliance with the financial record-keeping and reporting requirements of the Commission. Such supplemental opinion shall detail each and every variance or deviation from the Commission's requirements noted during the auditor's examination of the licensee's financial books and records. The licensee shall certify, and the principal responsible for the licensee's financial affairs shall swear under oath upon penalty of perjury, that the financial statement accurately reflects the licensee's accounts and financial operations. At the completion of the audit, the licensee shall obtain from the auditor copies of the accountant's work papers, and shall retain such papers with the licensee's records.
(1) The balance sheet shall include the balance for each group or type of asset, liability, and capital amount at the end of the accounting period.
(2) The income statement shall include the balance of each group or type of income and expense for the accounting period. Income and expenses related to waste removal, collection, disposal and recycling shall be shown in such a manner as to be traceable from the income statement to the General Ledger, Customer Ledger, Cash Receipts Journal, Cash Disbursements Journal, Disposal Expense Subsidiary Journal, invoices, cancelled checks, cash receipts, bank statements, and deposit slips.
(3) The following schedules shall be included in the financial statement in support of the balance sheet and income statement: (A) a truck and container analysis; (B) a schedule of investments; (C) allowances for doubtful accounts; (D) prepaid expenses; (E) miscellaneous current and other assets; (F) fixed assets, depreciation and accumulated depreciation; (G) route purchases; (H) notes payable and receivable; (I) taxes prepaid and accrued; (J) miscellaneous current and accrued liabilities; (K) capital stock; (L) additional paid-in capital; (M) retained earnings; (N) intangible assets and accumulated amortization; and (O) waste collection analysis.
(4) Operating, administrative and general expenses shall be summarized and shall include schedules as follows: (A) a payroll analysis with details of drivers' and helpers' wages, mechanics' wages, workers' compensation insurance, disability insurance, payroll taxes, and pension and welfare fund payments; (B) a truck and container analysis with details of garage, rent, gas, oil, tolls, truck insurance, repairs, maintenance, truck rental, license plates, license fees, truck mileage taxes, depreciation, and other related expenses; (C) a disposal analysis with details of all expenses incurred, and credits (including cash) obtained in connection with disposing or recycling collected waste including the name of the disposal facility or vehicle or recycling

facility, the type of disposal or recycling facilities used (e.g., landfill, transfer station, or recycling center), the complete address of each disposal facility or vehicle or recycling facility, the amount of collected waste that was delivered to such disposal or recycling facility or facilities (in compacted cubic yards and tons), the rate charged per cubic yard or ton, the total amount billed by the vehicle or facility, and the amount paid; (D) a compensation schedule for officers, directors and owners; (E) a revenue analysis; (F) an analysis of interest paid and received; and (G) an amortization expense analysis.

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

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

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

(2) The Customer Register shall 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 § 5-12 of this Title; and/or the total combined volume or weight and type of designated recyclable materials and non-designated materials collected and transported from each customer pursuant to paragraph (5) of subdivision (c) of § 5-12 of this Title that were delivered to putrescible solid waste transfer stations, non-putrescible solid waste transfer stations, or other facilities during the period for which the report is submitted.

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

(h) A licensee shall maintain a register of all complaints that such licensee receives from customers or prospective customers.
(i) All records, receipts, documents, journals, ledgers, registers, and books that must be maintained pursuant to this section shall be maintained for five years unless the Commission directs otherwise. This period for record keeping shall only be reduced if the Commission so directs in a specific case in writing. The Commission may in specific instances, in its discretion, require more or less exacting record-keeping and reporting requirements and may require the retention of identified records for a period of time exceeding five years.
(j) All records, receipts, documents, journals, ledgers, registers, and books that must be maintained pursuant to this section shall be made available for inspection and audit by the Commission. The Commission may conduct such an inspection or audit at the licensee's place of business or, at the Commission's discretion, at the offices of the Commission. The licensee shall cooperate with the representatives of the Commission conducting any such inspection or audit.
(k) If any due date under this section falls on a weekend or City holiday, the due date shall be deemed to be the first business day following such weekend or holiday.
(l) Repealed.

HISTORICAL NOTE

Section added City Record Sept. 3, 1996 eff. Oct. 3, 1996. (Note internal renumbering and redesignations by the Law Department per Charter § 1045(b)) [See Subchapter E footnote]

Subd. (d) par (7) amended City Record Aug. 11, 2003 § 2, eff. Sept. 15, 2003. [See T17 § 5-02 Note 2]
Subd. (e) open par amended City Record Aug. 7, 2009 § 10, eff. Sept. 6, 2009. [See T17 § 1-01 Note 2]
Subd. (g) amended City Record Nov. 26, 2008 § 5, eff. Dec. 26, 2008. [See T17 § 1-01 Note 1]
Subd. (g) amended City Record Aug. 11, 2003 § 3, eff. Sept. 15, 2003. [See T17 § 5-02 Note 2]
Subd. (l) repealed City Record Nov. 26, 2008 § 5, eff. Dec. 26, 2008. [See T17 § 1-01 Note 1]

§ 5-04. Compliance with Applicable Law and Regulation.
All licensees shall at all times comply with all the laws, rules and regulations of Federal, State and local governmental authorities having jurisdiction over any of the licensees' activities, including, but not limited to, rules and regulations of the Department of Environmental Protection, the Department of Health, the Department of Sanitation and the Department of Transportation concerning the vehicle specifications, sanitary requirements, handling, transport, receipt, transfer or disposal of trade waste, regulated medical waste or waste containing asbestos or other hazardous, toxic or dangerous material. Failure to comply with these laws, rules or regulations shall be grounds for suspension and/or revocation of the license and, in addition to any other penalty provided by law, the imposition of penalties pursuant to section 1-04 of this chapter.

HISTORICAL NOTE

Section added City Record Sept. 3, 1996 eff. Oct. 3, 1996. [See Subchapter E footnote]

§ 5-05. Agreements and Contracts with Customers; Service to Customers.
(a) Term and form of contract; requirements; service and discontinuation of service; increase of rates. (1) An oral agreement for the collection, removal or disposal of trade waste shall be terminable at will by the customer and upon fourteen (14) days written notice by the licensee. A contract for the collection, removal or disposal of trade waste shall not exceed two years in duration. A written contract for the removal, collection or disposal of trade waste that contains no provision regarding duration shall be terminable at will by the customer and upon fourteen (14) days written notice by the licensee. A written contract shall provide that the licensee shall remove the customer's waste from the location designated by the customer. A sample standard contract form shall be submitted to the Commission at the time an application for a license is submitted, and a licensee shall submit any subsequent changes in the standard form to the Commission thirty (30) days prior to implementing such change. Nothing in this provision shall be construed to prevent a licensee from negotiating terms at variance with the standard form contract, except that a licensee shall not vary such contract in any manner identified by the Commission as inconsistent with the purposes of Chapter 1 of Title 16-A of the Code by the Commission after review of such standard form.
(2) A licensee shall comply with the service and other terms set forth in the written contract or oral agreement with the customer, including the agreed-upon frequency and time schedule for the collection of waste. A schedule agreed to in writing shall not be altered without the written agreement of the customer's owner or authorized representative. When a licensee offers to provide a commercial establishment with trade waste services, the licensee shall provide such customer with a copy of the Commission's informational notice to customers. The licensee shall provide the customer with such additional informational notices as the Commission shall require throughout the term of service to the customer by the licensee.
(3) A licensee shall not discontinue service to any customer, or raise the rates charged to such customer, unless at least fourteen (14) days written notice to the customer shall have been given. No contract for the removal, collection or disposal of waste shall provide that a licensee may discontinue service upon shorter notice.
(b) Subcontracting, assignment of contracts, mergers and acquisitions. (1) A licensee shall apply for review by the Commission before subcontracting or assigning a contract and shall seek such review by the Commission thirty (30) days before such subcontract or assignment is proposed to take effect. The Commission may issue any order with respect to the transaction consistent with the purposes of Local Law 42. An assignee or subcontractor of contracts for the removal, collection or disposal of trade waste shall notify, within fifteen (15) days of the effective date of such assignment or subcontract, each party to a contract so assigned of such assignment or subcontract and of the right of such party to terminate such contract upon thirty days notice during the three months subsequent to receiving notice of such assignment or subcontract. Such notification shall be by certified mail with the receipt of delivery retained by the assignee or subcontractor and shall be upon a form approved by the Commission. Where no written contract exists with a customer for the removal, collection or disposal of trade waste, a company that assumes such trade waste removal from another company shall provide such customer with notification, within fifteen (15) days of such assignment or subcontract, on a form approved by the Commission by certified mail with the receipt for delivery retained by the assignee or subcontractor, that a new company will be providing such trade waste removal and that the

customer has the right to terminate such service. A licensee shall not act as a subcontractee unless the subcontractor licensee has received express approval for the subcontracting arrangement from the Commission.
(2) A licensee shall apply for review by the Commission before acquiring, selling or merging with another trade waste removal, collection or disposal business and shall seek such review by the Commission no later than thirty (30) days before such acquisition, sale or merger is to take effect. The Commission may issue any order with respect to the transaction consistent with the purposes of Local Law 42. The Commission may, in its discretion, require that either the purchaser or seller post a bond or place money in escrow with the Commission in an amount that the Commission believes, in its discretion, is needed to cover any outstanding or potential fines or penalties owed or that may be owed to the Commission, any customer complaints that have been heard pursuant to section 1-03 of this chapter in regard to which a final determination has not been rendered, and any restitution ordered by the Commission which the selling or dissolving licensee has failed to make to the customer. In the event that the seller fails to post such bond or place money in escrow as set forth in this paragraph, the Commission may seek from the purchaser any and all outstanding fines or penalties for violations of Chapter 1 of Title 16-A of the Code and this chapter, and any outstanding ordered customer restitution.
(3) Investigation, inspection, and evaluation fee. The fee for investigation and review of any proposed asset sale, assignment of contract, merger, acquisition, or similar transaction, shall be fifteen hundred dollars ($1500) per principal and entity involved. After submission to the Commission of an appropriate request for review of such a transaction, the Commission shall notify the parties to the transaction of the total fee amount due and owing, which shall be paid in full within ten days after such notification. The Commission, in its discretion, may waive or reduce fees upon written request in light of one or more of the following reason(s):
(i) specified persons or entities have recently undergone completed background investigations by the Commission;
(ii) the value of the transaction under review is minimal;
(iii) specified persons or entities need not undergo background investigations because of their attenuated connection to the transaction;
(iv) the transaction does not involve the sale, assignment, or other transfer of any accounts or customer contracts (e.g. trucks or other non-customer assets);
(v) the transaction involves less than 5 customers;
(vi) the transaction involves unique characteristics or other mitigating factors that would warrant a reduction or waiver of fees.
(4) Requests for authorization of subcontracting, assignment, and other such arrangements. All trade waste subcontracting, assignment, and similar arrangements must be submitted to the Commission for authorization. Requests for approval of such an arrangement should be submitted in writing to the Commission; and the arrangement shall not go forward unless and until it has been approved in advance by the Commission. The request shall identify the customer(s) involved (including name, address, contact person, and contract terms), state the requested length of the arrangement, and describe the business justification for the arrangement. Copies of all affected contracts or proposed contracts must be submitted with the request.
(5) Customer's thirty (30) day termination right during ninety (90) day post-assignment period. During the ninety (90) day period following the assignment or other transfer of a customer contract to another trade waste removal business, the customer has the right to terminate its

carting contract on thirty (30) days notice. All contracts signed by affected customers during the ninety (90) day period subsequent to contract assignment or transfer remain terminable on thirty (30) days notice throughout the ninety (90) day period and any such contract signed during that ninety (90) day period must contain prominent notice of this fact.
(c) Customer's contract termination right after denial of license application or revocation of license. During the ninety (90)-day period following the effective date of the denial of the license application of a trade waste removal business or the revocation of the license of such a business, the customers of that business have the right to terminate any contracts for trade waste removal entered into during that period, on thirty (30) days' written notice to the other contracting party. Any contract for trade waste removal entered into by any such customer during the ninety (90)-day post-denial period shall be terminable at will by the customer throughout that period, on said written notice. Any such contract shall contain prominent notice of the customer's right to terminate the contract at any time within such period upon such notice.
(d) Written contract. At the time service to a customer is commenced, the licensee shall take all steps necessary to attempt to reach an agreement with the customer on the terms and conditions of the service to be provided, and within forty (40) days of the commencement of service shall prepare a written contract that clearly and legibly sets forth the terms and conditions of the agreement negotiated by the licensee and the customer, and deliver such contract to the customer. Such contract shall 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, signed by both the licensee and the customer's owner or authorized representative before such term or condition takes effect. The proposed contract offered by the licensee shall be accompanied by a notice that shall state: "You are not required to sign this contract. If you have any questions or complaints, call the Business Integrity Commission at 212-676-6300."' One copy of such signed and dated contract and a copy of any signed and dated amendments must be provided to the customer's owner or authorized representative by the licensee.
(e) Customer's decision not to sign a contract. A customer is not required to sign a contract. In the event a customer fails or refuses to sign a contract that has been tendered to the customer pursuant to subdivision c of this section a licensee will be deemed to have complied with such subdivision if the licensee complies with the requirements in paragraphs (1) through (3) of this subdivision, provided however that a licensee shall not discontinue service to such a customer, or raise the rates charged such a customer, unless at least fourteen (14) days written notice of such discontinuance or rate increase shall have been given such customer. Where a written contract with a customer has not been obtained by the licensee, the licensee shall:
(1) demonstrate that a contract has been tendered to the customer in accordance with subdivision c of this section, within 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 year after the eventual discontinuance of service to the customer; and
(3) make available to the Commission upon its request a copy of the contract and the return receipt.
(f) Liability for negligence. No contract or contract amendment shall provide that the licensee is exempt from liability for damage caused by its negligence or the negligence of any of its agents.

(g) Standard bills, statements, invoices. A licensee shall 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 100 pounds on which the invoice is based;
(6) an itemized list of charges detailing the cubic yards or weight of putrescible waste removed, recyclables removed, and any additional charges;
(7) where the customer is being charged on a “flat” or “average” billing basis,
a. the total charges for waste removal for the billing period;
b. an itemized statement of the estimated volume or weight of the putrescible waste removed and the charge for the removal of such waste;
c. an itemized statement of the estimated volume or weight, if any, of the recyclable waste removed and the charge for the removal of such waste;
d. a statement as to the method by which the estimated volume or weight was determined; and
(8) a separate statement of sales tax collected.
On or after February 1, 2009, such bill shall be on a form approved by the Commission.

HISTORICAL NOTE

Section added City Record Sept. 3, 1996 eff. Oct. 3, 1996. (Note internal renumbering and redesignations by the Law Department per Charter § 1045(b)) [See Subchapter E footnote]

Subd. (a) par 1 amended City Record Nov. 26, 2008 § 6, eff. Dec. 26, 2008. [See T17 § 1-01 Note 1]
Subd. (b) par (1) amended City Record Aug. 7, 2009 § 11, eff. Sept. 6, 2009. [See T17 § 1-01 Note 2]
Subd. (b) par (3) amended City Record Nov. 26, 2008 § 7, eff. Dec. 26, 2008. [See T17 § 1-01 Note 1]
Subd. (b) par (3) added City Record Mar. 4, 1997 eff. Apr. 3, 1997.
Subd. (b) par (4) amended City Record Nov. 26, 2008 § 7, eff. Dec. 26, 2008. [See T17 § 1-01 Note 1]
Subd. (b) par (4) added City Record Apr. 10, 1998 eff. Apr. 10, 1998. [See Note 2]
Subd. (b) par (5) added City Record Apr. 10, 1998 eff. Apr. 10, 1998. [See Note 2]
Subd. (c) added City Record June 8, 1999 eff. July 8, 1999. [See Note 1]
Subd. (d) amended City Record Nov. 26, 2008 § 8, eff. Dec. 26, 2008. [See T17 § 1-01 Note 1]
Subds. (d-g) relettered (formerly subds. c-f) City Record June 8, 1999 eff. July 8, 1999.
Subd. (e) amended City Record Nov. 26, 2008 § 8, eff. Dec. 26, 2008. [See T17 § 1-01 Note 1]

Subd. (e) par (1) amended City Record Aug. 7, 2009 § 11, eff. Sept. 6, 2009. [See T17 § 1-01 Note 2]
Subd. (g) amended City Record Nov. 26, 2008 § 8, eff. Dec. 26, 2008. [See T17 § 1-01 Note 1]
Subd. (g) amended City Record Aug. 11, 2003 § 4, eff. Sept. 15, 2003. [See T17 § 5-02 Note 2]

NOTE

1. Statement of Basis and Purpose in City Record June 8, 1999:
One of the means by which organized crime exerted its corrupting influence over the commercial carting industry in New York City for four decades was by compelling customers to enter into long-term waste removal contracts with onerous terms, including "evergreen" clauses. Historically, the anticompetitive cartel deprived customers of their right to enter into fairly negotiated contracts with the carters of their choice by allocating customers without their consent to cartel members.
When the City Council enacted Local Law 42 of 1996 to rid the industry of corruption, it sought to redress the practice of exploitative contracting by vesting the New York City Trade Waste Commission with the power and duty to establish requirements governing contracts for trade waste removal. See Admin. Code § 16-504(d). This rule will give customers whose carting company's license application has been denied (or whose license has been revoked) by the Commission a ninety-day period in which to "shop around" for another carting company. The rule will stimulate competition in the industry by encouraging customers to solicit bids from numerous carting companies and "leveling the playing field" for companies soliciting the business of those customers; attempts by license-denied or license-revoked carting companies to "steer" customers to designated successors will be discouraged. The rule is modeled on an existing rule pertaining to customers' rights during the ninety-day period following the sale of a trade waste removal business, see 17 RCNY § 5-05(b)(5), the operation of which, in the Commission's estimation, has been significantly procompetitive.
2. Statement of Basis and Purpose in City Record Apr. 10, 1998:
Rule 5-05(b) requires that all subcontracting arrangements receive the approval of the Commission. Subparagraph (iv) of the final rule specifies the process and information necessary to obtain such approval. In addition, certain subcontracting arrangements may previously have received approval from the Department of Consumer Affairs. These arrangements have not been approved, however, by the Commission. Accordingly, the final rule makes explicit the requirement that all existing subcontracting arrangements, including those already putatively approved by the DCA, must be submitted to the Commission for review.
Local Law 42 and its enabling regulations provide that contracts assigned pursuant to a sale, subcontracting, or other assignment, or transfer become terminable on thirty days notice and remain so terminable for ninety (90) days. The final rule clarifies that even if a trade waste removal business enters into a new contract during that ninety day period, this "new" contract also must be terminable on thirty days notice until the full ninety days has expired. This rule removes any potential ambiguity in this matter and effectuates the purposes of Local law 42 by ensuring that customers receive the full benefit of the ninety-day period.

§ 5-06. Acceptance of Customers.

(a) Whenever a prospective or actual customer has been unable to obtain a licensee to remove his or her waste upon terms and conditions satisfactory to both the prospective or actual customer

and licensee, the Commission may require a licensee collecting trade waste in or near the area in which the customer conducts business, to collect and remove such waste at a rate designated by the Commission.
(b) A licensee who has been ordered to serve a customer pursuant to subdivision (a) of this section may, within five days of such directive, object to the Commission, setting forth the reasons why such licensee should not be compelled to serve such customer, but must comply with any final order to serve. Failure to comply with such an order shall be a violation of this section.

HISTORICAL NOTE

Section amended City Record Aug. 11, 2003 § 5, eff. Sept. 15, 2003. [See T17 § 5-02 Note 2]

Section added City Record Sept. 3, 1996 eff. Oct. 3, 1996. [See Subchapter E footnote]

§ 5-07. Employee Information.
A licensee shall provide to the Commission the names of any employees hired or to whom offers of employment are extended subsequent to the issuance of a license and the information required in regard to employees and such prospective employees on the application for a license pursuant to section 2-02 of this chapter.

HISTORICAL NOTE

Section added City Record Sept. 3, 1996 eff. Oct. 3, 1996. [See Subchapter E footnote]

§ 5-08. Operations.
(a) A licensee shall maintain any premises where trade waste removal vehicles and machinery are kept in a safe and sanitary condition.
(b) All vehicles operated pursuant to a license shall 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 shall 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.
(c) Materials loaded into vehicles shall be dumped or unloaded and disposed of only at points where disposal of the particular material may be made lawfully.
(d) Vehicles with open top box type bodies and containers on or in platform or panel type body vehicles shall not be filled or loaded over their capacity. In no case shall such vehicles be filled or loaded above water level of body or container.
(e) Trade waste vehicle operators of all types of vehicles shall 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.
(f) Each open top box type vehicle body shall be loaded only from front to rear and the partial load kept securely and fully covered at all times. Each such vehicle shall have a heavy tarpaulin cover which shall be secured over the vehicle body at all times other than when the vehicle body is being loaded or unloaded or is empty.

(g) 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.
(h) 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.
(i) After materials are dumped for disposal the vehicle body and each container used, shall be emptied thoroughly and cleared of all loose materials.
(j) Vehicles and containers shall be thoroughly cleaned inside and outside frequently so that they shall present a good appearance and be maintained free of dirt and offensive odors at all times.
(k) Bodies of dead animals shall not be dissected outside of the premises from which removed, in the loading process or in the vehicle.
(l) All loading hoppers, doors, covers, or other closures of loading openings of all vehicles shall be kept closed and secured at all times excepting during actual loading through the particular opening.
(m) A licensee shall 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 licensee shall 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 licensee shall 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 shall be surrounded by an opaque fence which shall be at least eight (8) feet high.
(p) A vehicle used to transport waste shall operate in compliance with all traffic laws, rules and regulations and shall not be permitted to stand with the motor idling in violation of section 24-163 of the Code.
(q) Any waste receptacle provided by a licensee to a customer shall be made of metal or other material or grade and type acceptable to the Department of Sanitation, the Department of Health and the Department of Housing Preservation and Development, as provided in section 16-120 of the Code. Receptacles used for liquid waste provided by the licensee shall be constructed, and maintained by the licensee, so as to hold their contents without leakage. All containers provided by the licensee shall be provided and maintained with tight fitting covers.
(r) 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) A licensee who 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.

HISTORICAL NOTE

Section added City Record Sept. 3, 1996 eff. Oct. 3, 1996. [See Subchapter E footnote]

§ 5-09. Membership in Trade Associations.
(a) No licensee or principal thereof shall be a member or hold a position in any trade association: (i) where such association, or a predecessor thereof as determined by the Commission has violated state or federal antitrust statutes or regulations, or has been convicted of a racketeering activity or similar crime, including but not limited to the offenses listed in subdivision one of section nineteen hundred sixty-one of the Racketeer Influenced and Corrupt Organizations statute (18 U.S.C. § 1961 et seq.) or of an offense listed in subdivision one of section 460.10 of the penal law, as such statutes may be amended from time to time; (ii) where a person holding a position in such trade association, or a predecessor thereof as determined by the Commission, has violated state or federal antitrust statutes or regulations, or has been convicted of a racketeering activity or similar crime, including but not limited to the offenses listed in subdivision one of section nineteen hundred sixty-one of the Racketeer Influenced and Corrupt Organizations statute (18 U.S.C. § 1961 et seq.) or of an offense listed in subdivision one of section 460.10 of the penal law, as such statutes may be amended from time to time; (iii) where a person holding a position in such trade association, or a predecessor thereof as determined by the Commission, is a member or associate of an organized crime group as identified by a federal, state or city law enforcement or investigative agency; or (iv) where the trade association has failed to cooperate fully with the Commission in connection with any investigation conducted pursuant to this chapter. The Commission may determine, for purposes of this subdivision, that a trade association is a predecessor of another such trade association by finding that transfers of assets have been made between them or that all or substantially all of the persons holding positions in the two associations are the same.
(b) Notwithstanding the provisions of subdivision a of this section, the Commission may permit a licensee to be a member of a trade association where such membership would be prohibited by such subdivision upon a determination that such association no longer operates in a manner inconsistent with the purposes of this chapter.

HISTORICAL NOTE

Section added City Record Sept. 3, 1996 eff. Oct. 3, 1996. [See Subchapter E footnote]

§ 5-10. License Plates and Vehicle Markings.
(a) Upon issuance of a license, the Commission shall issue to the licensee two license plates for each vehicle that will transport trade waste pursuant to such license and for which a fee has been paid pursuant to section 2-07 of this chapter. Such plates shall at all times be affixed in the manner prescribed by the Commission to a visible and conspicuous part of each such vehicle. A licensee 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 license and for which a fee has not been paid. A license plate issued by the Commission for such a covered and identified vehicle shall not be transferred to any other vehicle. Upon the sale, dissolution, suspension or discontinuance, whether voluntary or due to the revocation of a license, of the business of a licensee, such plates shall be forthwith surrendered to the Commission. All license plates issued by the Commission

are the property of the Commission, and the Commission reserves the right to reclaim such plates at any time.
(b) Each vehicle shall have the name and business address of the licensee lettered legibly in letters and figures not less than eight inches in height, and in a color that contrasts with the color of the vehicle, on each side of the vehicle body or upon each door of the vehicle cab at all times.

HISTORICAL NOTE

Section added City Record Sept. 3, 1996 eff. Oct. 3, 1996. (Note internal renumbering and redesignations by the Law Department per Charter § 1045(b)) [See Subchapter E footnote]

Subd. (a) amended City Record Aug. 7, 2009 § 12, eff. Sept. 6, 2009. [See T17 § 1-01 Note 2]

§ 5-11. Labeling of Containers.
(a) All containers or receptacles from which trade waste is collected by any licensee shall 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 licensee, it shall be the responsibility of that licensee to imprint and maintain the licensee's name and license number along with the accurate true measurement of the volume of the container. A licensee shall, 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 which 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 business days of the time it had actual or constructive knowledge of this matter.
(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.

HISTORICAL NOTE

Section added City Record Sept. 3, 1996 eff. Oct. 3, 1996. [See Subchapter E footnote]

§ 5-12. Recycling Requirements for Licensees.
(a) Designated recyclable materials. For purposes of this section, designated recyclable materials, also referred to as designated materials, shall mean materials that have been designated for recycling by the Department of Sanitation in 16 RCNY § 1-10(a).
(b) Licensees required to recycle. A licensee that collects or transports designated recyclable materials that have been separated as required in 16 RCNY § 1-10(c) or materials that have been commingled pursuant to 16 RCNY § 1-10(d) and paragraph (5) of subdivision 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 non-designated 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 non-designated 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 non-designated 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.
(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) The written bill, statement or invoice provided to customers pursuant to § 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 paragraph (5) of subdivision (c) of this section.
(e) Repealed.

HISTORICAL NOTE

Section added City Record Sept. 3, 1996 eff. Oct. 3, 1996. [See Subchapter E footnote]

Subd. (d) amended City Record Nov. 26, 2008 § 9, eff. Dec. 26, 2008. [See T17 § 1-01 Note 1]
Subd. (d) amended City Record Aug. 11, 2003 § 6, eff. Sept. 15, 2003. [See T17 § 5-02 Note 2]
Subd. (e) repealed City Record Nov. 26, 2008 § 9, eff. Dec. 26, 2008. [See T17 § 1-01 Note 1]
Subd. (e) amended City Record Aug. 11, 2003 § 6, eff. Sept. 15, 2003. [See T17 § 5-02 Note 2]

NEW YORK CITY RULES & REGULATIONS
TITLE 17. BUSINESS INTEGRITY COMMISSION [FN*]
CHAPTER 1. TRADE WASTE. [FN*]
SUBCHAPTER F. CONDUCT OF TRADE WASTE BROKERS.

The Rules and Regulations of the City of New York is current through December 31, 2010.

§ 6-01 Presentation of Registration to Customer; Posting of Registration.
§ 6-02 Acceptance of Payment.
§ 6-03 Collection of Fees Prohibited.
§ 6-04 Records and Reporting Requirements.

§ 6-01. Presentation of Registration to Customer; Posting of Registration.
A trade waste broker shall not conduct an evaluation or analysis of a business' trade waste stream or broker a transaction between a commercial establishment and a trade waste business required to be licensed pursuant to this chapter, unless such broker has first presented a copy of his or her registration to such customer or prospective customer. A trade waste broker shall conspicuously post the registration issued by the Commission at the broker's place of business.

HISTORICAL NOTE

Section added City Record Sept. 3, 1996 eff. Oct. 3, 1996. [See T17 Subchapter E footnote]

§ 6-02. Acceptance of Payment.
(a) A trade waste broker who conducts an evaluation or analysis of a trade waste stream shall not request or accept any payment in regard to such evaluation or analysis from a party other than the customer or prospective customer for whom such services are performed unless such broker has first disclosed to such customer or prospective customer in writing that the broker proposes to request or accept such payment. A copy of such notice to the customer or prospective customer shall be submitted to the Commission within fifteen (15) days of such disclosure.
(b) A trade waste broker who brokers a transaction between a customer or prospective customer of trade waste removal, collection or disposal services and a trade waste business required to be licensed pursuant to this chapter shall not request or accept payment from such trade waste business. A trade waste broker shall not broker a transaction between a customer or prospective customer and a trade waste business owned by, operated by, or affiliated with the trade waste broker or any principal thereof.
(c) A trade waste broker who brokers a transaction between a customer or prospective customer of trade waste removal, collection or disposal services and a trade waste business required to be licensed pursuant to this chapter shall state in writing to such customer or prospective customer that such broker has examined the rate schedules made available by the Commission pursuant to section 5-02 of this chapter.

HISTORICAL NOTE

Section added City Record Sept. 3, 1996 eff. Oct. 3, 1996. [See T17 Subchapter E footnote]

Subd. (b) amended City Record Aug. 7, 2009 § 13, eff. Sept. 6, 2009. [See T17 § 1-01 Note 2]

§ 6-03. Collection of Fees Prohibited; Contract Duration.
(a) A trade waste broker shall not engage in the collection of fees from commercial establishments for trade waste removal by a trade waste business required to be licensed 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 provision for the collection by a trade waste broker of fees for trade waste removal shall be submitted to the Commission and shall set forth the fee charged for such collection, the rates charged by the trade waste removal business, the method of billing employed by the trade waste removal business and shall provide that the trade waste broker provide the customer with a monthly statement detailing the volume of trade waste removed.
(c) A contract for the provision of brokering services to a commercial establishment shall not exceed two years in duration.

HISTORICAL NOTE

Section added City Record Sept. 3, 1996 eff. Oct. 3, 1996. [See T17 Subchapter E footnote]

Section heading amended City Record Aug. 25, 2010 § 4, eff. Sept. 26, 2010 per City Record notice. [See T17 § 11-01 Note 1]
Subd. (c) added City Record Aug. 25, 2010 § 4, eff. Sept. 26, 2010 per City Record notice. [See T17 § 11-01 Note 1]

§ 6-04. Records and Reporting Requirements.
A trade waste broker shall maintain a complete and accurate set of books of account reflecting operation of the broker's business and documents, receipts, bills and other written records that concern such business. Such records shall be maintained for five years unless the Commission directs otherwise. The period for which records must be retained may be reduced only where the Commission so directs in a specific case in writing. The Commission may, in specific instances at its discretion, require more or less exacting record keeping and reporting requirements and may require the retention of identified records for a period exceeding five years. Such records shall be made available for inspection and audit by the Commission. The Commission may conduct such an inspection or audit at the trade waste broker's place of business or, at the Commission's discretion, at the offices of the Commission. The trade waste broker shall cooperate with the representatives conducting any such inspection or audit.
(a) A trade waste broker shall keep a register of customers in a form or in a computer format approved by the Commission. This register shall contain a list of all businesses that have been served by the trade waste broker during the period covered by such register and shall describe the services performed for each business, the fees charged to such business by the trade waste broker for such services, any fee collected from any other source in relation to such services, and the name of the business to which such fees were charged.

(b) In addition to the requirements for the customer ledger set forth in subdivision a of this section, where, pursuant to section 6-03 of this chapter, a trade waste broker collects fees from a commercial establishment for trade waste removal by a trade waste removal business required to be licensed pursuant to this chapter, such broker shall include in the customer register a description of the other services provided for the customer as required by paragraph (iii) of such subdivision and shall retain for inspection by the Commission a copy of the customer's request for such collection service as required by paragraph (ii) of such subdivision and the contract governing the agreement to provide services.

HISTORICAL NOTE

Section added City Record Sept. 3, 1996 eff. Oct. 3, 1996. [See T17 Subchapter E footnote]

NEW YORK CITY RULES & REGULATIONS
TITLE 17. BUSINESS INTEGRITY COMMISSION [FN*]
CHAPTER 1. TRADE WASTE. [FN*]
SUBCHAPTER G. CONDUCT OF CLASS 1 REGISTRANTS REMOVING THEIR OWN WASTE AND CLASS 2 REGISTRANTS GRANTED EXEMPTION FROM LICENSING REQUIREMENTS.

The Rules and Regulations of the City of New York is current through December 31, 2010.

§ 7-01 Posting of Registration.
§ 7-02 Compliance with Applicable Law Required.
§ 7-03 License Plates.
§ 7-04 Recycling Requirements.
§ 7-05 Operations.

§ 7-01. Posting of Registration.

(a) A registrant shall conspicuously post 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.

HISTORICAL NOTE

Section amended City Record Aug. 25, 2010 § 3, eff. Sept. 26, 2010 per City Record notice. [See T17 § 11-01 Note 1]

Section added City Record Sept. 3, 1996 eff. Oct. 3, 1996. [See T17 Subchapter E footnote]

§ 7-02. Compliance with Applicable Law Required.

All registrants shall at all times comply with all the laws, rules and regulations of Federal, State and local governmental authorities having jurisdiction over any of the registrants' activities, including, but not limited to, rules and regulations of the Department of Environmental Protection, the Department of Health, the Department of Sanitation and the Department of Transportation concerning the vehicle specifications, sanitary requirements, handling, transport, receipt, transfer or disposal of trade waste, regulated medical waste or waste containing asbestos or other toxic or dangerous material. Failure to comply with these laws, rules or regulations shall be grounds for suspension and/or revocation of the registration and, in addition to any other penalty provided by law, the imposition of penalties pursuant to section 1-05 of this chapter.

HISTORICAL NOTE

Section added City Record Sept. 3, 1996 eff. Oct. 3, 1996. [See T17 Subchapter E footnote]

§ 7-03. License Plates.
(a) Upon issuance of a registration, the Commission shall issue to a registrant who removes trade waste generated in the course of operation of his or her business and to a registrant exempt from the licensing requirements of this chapter two license plates for each vehicle that will transport trade waste pursuant to such registration and for which a fee has been paid to the Commission pursuant to section 2-07 of this chapter. A registrant shall not permit a vehicle to be used in the course of collecting, removing or disposing of waste that has not been identified and covered by the registration and for which a fee has not been paid. A license plate issued by the Commission for such a covered and identified vehicle shall not be transferred to any other vehicle. Upon the sale, dissolution, suspension or discontinuance, whether voluntary or due to the revocation of such registration, of the business of the registrant, such plates shall be forthwith surrendered to the Commission. All license plates issued by the Commission are the property of the Commission, and the Commission reserves the right to reclaim such plates at any time. Notwithstanding any other provision of this chapter, the penalty for violation of this section shall not exceed five thousand dollars ($5,000) for each such violation.
(b) Each vehicle shall have the name and business address of the registrant lettered legibly in letters and figures not less than eight inches in height, in a color that contrasts with the color of the vehicle, on each side of the vehicle body or upon each door of the vehicle cab, in a manner prescribed by the Commission, at all times.

HISTORICAL NOTE

Section added City Record Sept. 3, 1996 eff. Oct. 3, 1996. (Note internal renumbering and redesignations by the Law Department per Charter § 1045(b)) [See T17 Subchapter E footnote]

Subd. (a) amended City Record Aug. 7, 2009 § 14, eff. Sept. 6, 2009. [See T17 § 1-01 Note 2]

§ 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 non-putrescible transfer stations, or other facilities that shall cause such materials to be recycled, reused or sold for reuse.
(b) 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, 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 delivered to putrescible solid waste transfer stations, non-putrescible solid waste transfer stations, 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.

HISTORICAL NOTE

Section added City Record Sept. 3, 1996 eff. Oct. 3, 1996. [See T17 Subchapter E footnote]

§ 7-05. Operations.

A registrant who 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) of section 5-08 and section 5-11 of this chapter.

HISTORICAL NOTE

Section amended City Record Aug. 7, 2009 § 15, eff. Sept. 6, 2009. [See T17 § 1-01 Note 2]

Section added City Record Sept. 3, 1996 eff. Oct. 3, 1996. [See T17 Subchapter E footnote]

NEW YORK CITY RULES & REGULATIONS
TITLE 17. BUSINESS INTEGRITY COMMISSION [FN*]
CHAPTER 1. TRADE WASTE. [FN*]
SUBCHAPTER H. SPECIAL TRADE WASTE DISTRICTS [RESERVED].

The Rules and Regulations of the City of New York is current through December 31, 2010.

[RESERVED].