

**RULES OF THE CITY OF NEW YORK  
FULTON FISH MARKET**

**TITLE 66  
CHAPTER 1  
SUBCHAPTER B**

**FULTON FISH MARKET**

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**§1-21 Scope.** This subchapter shall govern the licensing, registration and other requirements relating to: the unloading of seafood for delivery to wholesalers in the Fulton Fish Market distribution area; services related to the loading of seafood that has been delivered to purchasers by wholesalers in such market area; conduct of wholesale seafood businesses and the placement of seafood on the street by wholesalers for sale within such market area; the delivery of seafood from wholesalers in such market area by truck or other vehicle to retail establishments in the city of New York or other locations outside the market area; the conduct of other business and activities related to the distribution of seafood in the market area; and traffic, safety and sanitary conditions in the market area.

**§1-22 Definitions.** For the purposes of this subchapter, the following terms shall have the following meanings:

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**Applicant.** “Applicant” shall mean, if a business entity submitting a response to a request for licensing proposals, an application for a temporary license or a registration application, the entity itself and all the Principals thereof; if an individual submitting an application for a photo identification card, such individual.

**Business related to seafood distribution.** “Business related to seafood distribution” shall mean any business located in the market area, other than an unloading, loading, wholesaler or seafood delivery business, that provides or maintains items or services necessary to seafood distribution, including, but not limited to, the provision or maintenance of ice or other equipment or supplies;

**Business entity.** “Business entity” shall mean a sole proprietorship, partnership, corporation, or other entity established under law and authorized to conduct business within the state of New York.

**Commissioner.** “Commissioner” shall mean the Commissioner of Business Services.

**Department.** “Department” shall mean the New York City Department of Business Services.

**Designated waiting area.** “Designated waiting area” shall mean that area set aside by the market manager during regular unloading hours in which trucks shall wait until unloaders are assigned to them.

**Fulton Fish Market distribution area.** “Fulton fish market distribution area” or “market area” shall mean the area beginning at the point where the westerly street line of Water Street intersects the southerly street line of Maiden Lane; thence easterly along the southerly street line of Maiden Lane as extended to the East River U.S. Pierhead Line; thence northerly along the East River U.S. Pierhead Line to the northerly street line of Robert Wagner Sr. Place as extended; thence westerly along the northerly street line of Robert Wagner Sr. Place to the prolongation of the westerly street line of Pearl Street; thence southerly along the westerly street line of Pearl Street to the southerly street line of Fulton Street; thence easterly along the southerly street line of Fulton Street to the westerly street line of Water Street; thence southerly along the westerly street line of Water Street to the point of beginning.

**Hearing officer.** “Hearing officer” shall mean a person appointed or designated to conduct hearings pursuant to the procedures set forth in §1-38 of this subchapter relating to the suspension and revocation of a license or the suspension, revocation and refusal to renew a registration pursuant to §§22-209, 22-217 and 22-218 of the Administrative Code and the provisions of this subchapter.

**Loader.** “Loader” shall mean an individual who performs loading services.

**Loading business.** “Loading business” shall mean any business entity that, for a payment, provides loading services.

**Loading services.** "Loading services" shall mean services performed by a loader and provided by a loading business for a purchaser of seafood, including parking such purchaser's vehicle, moving such vehicle when necessary for traffic control, loading seafood onto such vehicle, and ensuring the security of such vehicle and the seafood loaded thereon; provided, however, that the term shall not mean the loading of seafood onto the vehicle of a purchaser when such loading is performed by an employee of a wholesaler delivering seafood from such wholesaler to the vehicle of the purchaser thereof or by a purchaser or an employee of such purchaser.

**License.** "License" shall mean an unloading business license or a loading business license issued by the commissioner authorizing the conduct of such business in the market area.

**Market hours.** "Market hours" shall mean the hours of operation of the market area as designated by the market manager for purposes of the requirement in §22-203 of the Administrative Code that persons required to possess photo identification cards must display such cards while in the market area. Such hours shall be posted in appropriate locations throughout the market area.

**Market manager.** "Market manager" shall mean a person designated by the Commissioner to supervise operations in the market area. Such supervision shall include, without limitation: implementation of these rules and the authority to enforce violations of any provision of Chapter 1-A of Title 22 of the Administrative Code or these rules; supervision of Department staff employed in the market area; response to complaints relating to the operation of businesses in the market area; examination of documents required to be maintained by a licensee or registrant pursuant to this chapter; referrals, where appropriate, to any law enforcement, adjudicatory, investigative or prosecutorial agency of matters occurring within the market area; and such other functions and duties as the commissioner may assign consistent with the provisions of this subchapter.

**Principal.** "Principal" shall mean, of a sole proprietorship, the proprietor; of a corporation, every officer, director and stockholder holding ten percent or more of the outstanding shares of the corporation; of a partnership, all the partners; of 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 often 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 subchapter (i) an individual shall be considered to hold stock in a corporation where such stock is owned directly or indirectly by or for (a) such individual, (b) 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), (c) the children, grandchildren and parents of such individual, (d) a partnership in which such individual is a partner, in proportion to the partnership interest of such individual, and (e) a corporation in which any of such individual, the spouse, children, grandchildren and parents of such individual own fifty percent or more in value of the stock; (ii) a partnership shall be considered to own stock in a corporation where such stock is

owned, directly or indirectly, by or for a partner in such partnership; and (iii) 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.

**Registration.** “Registration” shall mean wholesaler registration or seafood deliverer registration as required pursuant to §22-209 of the Administrative Code and §1-31 of this subchapter.

**Regular loading hours.** “Regular loading hours” shall mean the hours designated by the market manager for the loading of seafood. Notice of such designation and of any changes thereto shall be posted in appropriate locations.

**Regular unloading hours.** “Regular unloading hours” shall mean the hours designated by the market manager for the unloading of seafood from trucks. Notice of such designation and of any changes thereto shall be posted in appropriate locations.

**Seafood.** “Seafood” shall mean fish, seafood or consumables derived therefrom.

**Seafood delivery business.** “Seafood delivery business” or “seafood deliverer” shall mean any business entity, that, for payment, delivers seafood from wholesalers in the market area by truck or other vehicle to retail establishments or other wholesalers in the city of New York or other locations outside the market area.

**Stand permit.** “Stand permit” shall mean an occupancy permit granted by the commissioner subject to such conditions as the commissioner shall prescribe authorizing use of city property by a wholesaler for the placement of seafood in an area extending into a city street.

**Unloader.** “Unloader” shall mean an individual who performs unloading services.

**Unloading area.** “Unloading area” shall mean a location, approved or designated by the market manager, in which seafood may be unloaded from trucks for delivery to wholesalers or for transfer and distribution to other locations. Notice of such designations and of any changes thereto shall be posted in appropriate locations.

**Unloading business.** “Unloading business” shall mean any business entity that, for a payment, provides unloading services.

**Unloading dispatcher.** “Unloading dispatcher” shall mean any person designated by the market manager to supervise the unloading procedure.

**Unloading services.** “Unloading services” shall mean the unloading of seafood from a truck or other vehicle that has transported such seafood from suppliers and the delivery thereof to wholesalers or the transfer thereof to other trucks or vehicles for transport to other locations.

**Wholesaler.** "Wholesaler" or "wholesale seafood business" shall mean any business entity which sells or offers to sell seafood for resale to the public, whether or not such business entity also sells or offers to sell seafood directly to the public; except that "wholesaler" shall not include any such entity that is primarily engaged in the sale of seafood that has been processed and packaged by another business for sale to consumers in such packaged form.

**§1-23 Photo Identification Cards.**

(a) **Identification cards required.** (1) No person who is an officer, principal, employee or agent of any unloader, loader, wholesaler, seafood deliverer, or other business related to the distribution of seafood in the market area who performs any function in the market area directly related to the distribution of seafood shall perform such function without a photo identification card issued by the Commissioner pursuant to the provisions of this section and §22-203 of the Administrative Code; except that no enforcement of this provision shall take place against a person who has been working in such a capacity in the market area as of the effective date of Local Law No. 50 for the Year 1995 unless and until, with respect to a person required to possess a Class A photo identification card, (a) such person has failed, within the time period prescribed by the Commissioner, to submit to fingerprinting or to submit the information required pursuant to §22-216 of the Administrative Code or (b) the application of such person for a photo identification card has been denied by the Commissioner; and except that, with respect to such a person required to possess a Class B photo identification card, no enforcement shall take for fifteen days following the effective date of this subchapter, provided that, with respect to such a person whom the Commissioner has required to submit to fingerprinting and disclosure requirements, no enforcement shall take place unless and until (a) such person has failed, within the time period prescribed by the Commissioner, to submit to fingerprinting or to submit the information required pursuant to §22-216 of the Administrative Code or (b) the application of such person for a photo identification card has been denied.

(2) Such identification card shall be displayed so as to be readily visible to others at all times during market hours.

(3) The market manager may, where appropriate, issue a provisional identification card to an employee who has submitted the information and fee required by this subchapter. Such provisional identification card shall be valid until the Commissioner has either issued or denied a permanent identification card, unless such provisional card has been revoked or suspended prior thereto in accordance with the procedures set forth in this subchapter. The market manager may also, in his or her discretion, make provision for temporary photo identification cards, which shall be valid for a period not to exceed six weeks, to be issued to persons employed by unloaders, wholesalers, loaders, seafood deliverers, or other businesses related to seafood distribution on a seasonal or otherwise temporary basis, subject to the provisions of this section. The market manager may also provide for a business to arrange to pre qualify for photo identification cards potential employees whom the business may hire on a seasonal or other temporary basis.

(4) The fee for a photo identification card shall be twenty dollars (\$20) and for the replacement of a photo identification card that has been lost or stolen shall be fifteen dollars (\$15).

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(b) ***Class A photo identification cards.*** A person who performs any function in the market area directly related to the handling and transportation of seafood within or from the market area and who is a principal, employee or agent of an unloader or a loader subject to the licensing requirement of Chapter 1-A of Title 22 of the Administrative Code must obtain a Class A photo identification card issued by the Commissioner from the market manager. Issuance of Class A photo identification cards shall be subject to the provisions of §22-216 of such Code.

(1) The photo identification card of a principal, employee or agent of an unloader shall contain such information as the Commissioner deems appropriate, including the name of such person, the number of the license issued to such business under §22-204 of the Administrative Code and § 1-27 of these rules and shall specify the position held by such person in the business.

(2) The photo identification card of a employee or agent of a loading business shall contain such information as the Commissioner deems appropriate the name of such person, the' number of the license issued to such business under §22-206 of the Administrative Code and §1-27 of this subchapter and shall indicate the designated or approved locations in which the person may work and whether he or she is a supervisor or staff employee of the loading business.

(c) [Reserved]

(d) ***Suspension, revocation and refusal to issue class A photo identification card.***

(1) In order to apply for a photo identification card pursuant to this section, the applicant shall first: (aa) be fingerprinted; (bb) provide in full the background information required pursuant to subdivision (a) of §22-216 of the Administrative Code in both parts of the form attached as Appendix A of this subchapter; and (cc) shall pay a fee of sixty dollars (\$60) for such fingerprinting and a fee of one hundred and fifty dollars (\$150) for investigation of such background information.

(2) The Commissioner may refuse to issue a Class A photo identification card for the reasons set forth in subdivision (b) of §22-216 of the Administrative Code or may defer the decision whether to issue such card for reasons of a pending indictment or criminal or civil action as provided in paragraph (2) of such subdivision. When a Class A photo identification card is denied for lack of good character, honesty and integrity, or when the decision to issue such card is deferred, the applicant shall be given notice of the reasons for such denial or decision to defer and may respond in writing to the Commissioner within five days of receipt of such notice. The Commissioner shall review such response and make a final determination whether to issue a Class A photo identification card to the applicant.

(3) The Commissioner may, after notice and the opportunity for a hearing, revoke or suspend a Class A photo identification card pursuant to the provisions of §22-217 and §22-218 of the Administrative Code.

(e) ***Class B photo identification cards.*** A person who will perform any function directly related to the distribution of seafood in the market area and who is a principal, employee or agent of a wholesaler, seafood deliverer or other business conducting activities related to the distribution of seafood in the market area must obtain a Class B photo identification card from the market manager.

(1) The photo identification card of a principal of a wholesaler and of the employees and agents of such wholesaler shall contain such information as the Commissioner deems appropriate, including the name of the person, the registration number issued to such wholesaler pursuant to §22-209 of the Administrative Code and §1-32 of this subchapter, the location in the market area of such wholesale seafood business and whether the person is an owner, employee or agent of the wholesale seafood business.

(2) The photo identification card of a principal, employee or agent of a seafood deliverer or other business related to seafood distribution shall contain such information as the Commissioner deems appropriate, including the name of the person, the registration number of such business where registration of such business is required pursuant to the provisions of Chapter 1-A of Title 22 of the Administrative Code, the name of such business, and the location in the market area where such business is normally conducted.

(3) The photo identification card of a person who is a principal, employee or agent of more than one wholesale seafood business or seafood delivery business shall reflect the multiple affiliations of such person.

**(f) *Refusal to issue Class B photo identification card or deferral of decision to issue Class B photo identification card.*** Notwithstanding any provision of this subchapter:

(1) the Commissioner may, for the reasons set forth in paragraph (ii) of subdivision (b) of §22-203 of the Administrative Code, require that an applicant for a Class B photo identification card shall, within ten days: (aa) be fingerprinted, (bb) provide the background information required by §22-216 of the Administrative Code as set forth in both parts of the form constituting Appendix A of this subchapter, and (cc) pay a fee of sixty dollars (\$60) for such fingerprinting and a fee of one hundred and fifty dollars (\$150) for such background investigation;

(2) Where the provisions of paragraph (i) of this subdivision apply, the Commissioner may refuse to issue a Class B photo identification card for any of the reasons set forth in subdivision (b) of §22-216 of the Administrative Code or may defer the decision whether to issue such card for reasons of a pending indictment, or civil or criminal action as provided in paragraph (ii) of such subdivision. When a Class B photo identification card is denied for lack of good character, honesty or integrity or when the decision whether to issue such card is deferred, the applicant shall be given notice of the reasons for such denial and may respond in writing within five days of receipt of such denial or decision to defer. The Commissioner shall review such response and make a final determination whether to issue the Class B photo identification card.

**(g) *Suspension and revocation of class B photo identification card.***

(1) The Commissioner may, after notice and the opportunity for a hearing, suspend or revoke a Class B photo identification card for any of the actions set forth in subdivision (c) of §22-217 of the Administrative Code or the reasons set forth in §22-218 of such Code.

(2) In addition to the reasons set forth in paragraph (i) of this subdivision, if, at any time subsequent to the issuance of a Class B photo identification card, the Commissioner has reasonable cause to believe that a person who possesses such card lacks good character, honesty and integrity, the Commissioner may require that such person be fingerprinted, provide the additional background information required by subdivision (a) of §22-216 of the Administrative Code as set forth in Part II of the form constituting Appendix B of this subchapter and pay the fees prescribed

therefor in paragraph (1) of subdivision (d) of this section. The Commissioner may, after notice and the opportunity for a hearing, revoke the photo identification card of such person for the reasons set forth in subdivision (b) of §22-216 of the Administrative Code.

**§1-24 Unloading and Loading Licenses required.**

(a) *Unloading licenses.* No person shall operate an unloading business in the market area without a license to conduct such business issued by the Commissioner pursuant to this subchapter on and after the date that unloading licenses have been issued pursuant to this subchapter, except that no enforcement of this provision shall take place against a person who has been operating an unloading business in the market area as of the effective date of Local Law No. 50 for the Year 1995 unless and until (aa) the principals of such business have failed to submit to fingerprinting or to submit the information required pursuant to §22-216 of the Administrative Code within the time period prescribed by the Commissioner, (bb) such business has failed to respond to a request for unloading licensing proposals by the date specified by the Commissioner and in the form and containing the information required by the Commissioner, or (cc) such license has been denied by the Commissioner.

(b) *Loading licenses.* No person shall operate a loading business in the market area without a license to conduct such business issued by the Commissioner pursuant to this subchapter on and after the date that loading licenses have been issued pursuant to this subchapter, except that no enforcement of this provision shall take place against a person who has been operating a loading business in the market area as of the effective date of Local Law No. 50 for the Year 1995 unless and until (aa) the principals of such business have failed to submit to fingerprinting or to submit the information required pursuant to §22-216 of the Administrative Code within the time period prescribed by the Commissioner, (bb) such business has failed to respond to a request for loading licensing proposals by the date specified by the Commissioner and in the form and containing the information required by the Commissioner, or (cc) such license has been denied by the Commissioner.

(c) *Penalties for unlicensed activity.* Any person who violates the provisions of this section shall, upon conviction thereof, be subject to criminal and civil penalties as provided in subdivision (b) of §22-215 of the Administrative Code and subdivision (b) of §1-36 of this subchapter.

**§1-25 Application for License.**

(a) *Procedure.* (1) A person operating or wishing to operate an unloading business or a loading business in the market area shall submit an application for a license and a response to a request for licensing proposal issued by the Commissioner pursuant to §22-204 or §22-206 of the Administrative Code no later than the dates specified in such request for proposal.

(2) Notice of the availability of requests for licensing proposals to conduct an unloading business or a loading business in the market area, and the date or dates by which such proposals must be submitted, shall be posted in locations within the market area and published in The City

Record and any other locations and publications as the Commissioner may determine are appropriate.

(b) **License fee.** The fee for a license shall be one thousand dollars (\$1000) and the fee for extension of such license for an additional year shall be five hundred dollars (\$500). The fee for a temporary license shall be prorated to a two-year term. .

(c) **Term of license.** Each license shall be valid for two years and may be extended for an additional year at the discretion of the Commissioner. A temporary license shall be valid for a period not to exceed one year, provided that such license shall not extend beyond the term of the original license.

(d) **License non-transferable; notification requirements for addition of principal.**

(1) A license shall not be transferable.

(2) A licensee shall provide the Commissioner with advance notice of at least ten (10) business days of the proposed addition of a new principal to the business of the licensee. Such notification shall include a complete response to the applicable disclosure form required of applicants for licenses by the Commissioner pursuant to subdivision (a) of §22-216 of the Administrative Code, as attached as Appendix B of this subchapter, payment of the fee for the investigation of the information submitted therein, and the fingerprinting of the new principal in the manner set forth in subdivision (a) of §22-216 of the Administrative Code. The Commissioner may waive or shorten such period upon a showing that there exists a bona fide business requirement therefor.

(3) Except where the Commissioner determines within such 10 day period, based on information available to him or her, that the addition of such new principal may have a result inimical to the purposes of Chapter 1-A of Title 22 of the Administrative Code, the licensee may add such new principal pending the completion of review under §22-216 of the Administrative Code. In the event of such determination, the licensee shall be afforded an opportunity to demonstrate to the Commissioner that the addition of such new principal pending completion of review under §22-216 of the Administrative Code would not have a result inimical to the purposes of Chapter 1-A of Title 22 of the Administrative Code. If upon the completion of such review, the Commissioner 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 Commissioner.

(e) **Fingerprinting.** All applicants submitting responses to requests for licensing proposals shall be fingerprinted. The fee for the processing of fingerprints shall be sixty (\$60) dollars per set.

(f) **Information required on application.** The application accompanying the response to the request for licensing proposal shall include, but not be limited to the following information:

(1) The name and address of the applicant submitting such response and the social security numbers of the principals of the applicant business.

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- (i) If such applicant is a corporation, a copy of the certificate of incorporation and the names and addresses of all officers and directors.
- (ii) If such applicant is a partnership, a copy of partnership papers, certified by the County Clerk.
  - (A) If the applicant is doing business under an assumed name, a Certificate of Assumed Name, certified by the County Clerk.
  - (B) Complete responses by the applicant business and by all of the principals of the business to the applicable disclosure form required by the Commissioner pursuant to subdivision (a) of §22-216 of the Administrative Code as attached as Appendix B of this subchapter. The fee for the investigation of the information submitted therein shall be three hundred dollars (\$300).

(2) The names and addresses and dates of birth of all employees and/or agents of the applicant who will perform work directly or indirectly related to loading or unloading, as the case may be, whether inside or outside the market area; drivers' license numbers, with the class and expiration date, or other required operators' licenses, of all employees and/or agents who will operate vehicles within the market area; and completed disclosure forms, as required pursuant to §22-216 of the Administrative Code and set forth as the form constituting Appendix A of this subchapter, for each current or identified employee and/or agent who will be required to possess a Class A photo identification card.

(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 tax identification number.

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

(g) ***Proof of insurance required.*** 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, §57, and the Disability Benefits Law, §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.

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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.

(i) Commercial General Liability Insurance with liability limits of, for unloading businesses no less than one million dollars (\$1,000,000.00) and for loading businesses no less than five hundred thousand dollars (\$500,000) combined single limit per occurrence for bodily injury, personal and property damage. The maximum deductible for such insurance shall be no more than twenty-five thousand dollars (\$25,000.00).

(A) 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 million dollars (\$1,000,000) combined single limit per accident for bodily injury and property damage.

(B) Employers' Liability Insurance with limits of one million dollars per accident.

(3) A performance bond or other security, if the Commissioner in his or her discretion so requires, in an amount, if any, determined by the Commissioner that will secure the City for the provision of unloading services or loading services, as the case may be, in the event of a default of a licensee as provided by §22-204 or §22-206 of the Administrative Code. The policy or policies of insurance required by these rules shall name the City of New York and the Department of Business Services and any other agency or entity of the City as may be required by the Commissioner as parties insured thereunder, 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 Commissioner. Failure to maintain continuous insurance coverage meeting the requirements of these rules will result in automatic cancellation 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 Commissioner prior to the effective date of the license.

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

(i) ***Examination of records.*** The Commissioner may require an applicant to produce for inspection such business records as the Commissioner deems necessary to verify the truth and accuracy of information submitted pursuant to subdivision (f) of this section.

**§1-26 License Conditions.**

A license to conduct an unloading business in the market area shall be subject to conditions specifying rates, insurance and bonding, performance standards and customer service, and any other requirements as may be set forth as conditions of such license pursuant to subdivision (d) of §22-204 of the Administrative Code. A license to conduct a loading business shall be subject to conditions specifying rates, insurance and bonding, performance standards and customer service, and any other requirements set forth as conditions of such license pursuant to subdivision (d) of §22-206 of the Administrative Code. In addition, a license to conduct an unloading business and a license to conduct a loading business shall be subject to the following conditions.

(a) ***Maintenance of insurance.*** A licensee shall demonstrate that he, she or it has secured the insurance coverage required pursuant to §1-25 of this subchapter, and shall maintain such required insurance coverage throughout the term of the license.

(b) ***Notification of material change in information.***

(1) The licensee must notify the market manager, within ten calendar days, of any material changes in the information submitted pursuant to subdivision (f) of §1-25 of this subchapter, as identified on the form constituting Appendix B to this subchapter, as such Appendix may be amended from time to time in accordance with applicable requirements. Such notification shall be notarized and shall be signed by the licensee if an individual, or, if the licensee is a corporation, by an officer of the corporation, or if the licensee is a partnership, by a partner.

(2) ***A license shall not be altered by a licensee.*** Any license that is altered by the licensee shall be null and void.

(c) ***Notification of arrest or conviction.*** A licensee must notify the Commissioner of the arrest or criminal conviction of any principal of the licensee, or of the arrest or criminal conviction of any employee and/or agent of the licensee of which the licensee had knowledge or should have known.

(d) ***Liability for violations.*** A licensee shall be liable for violation of the provisions of this subchapter by his, her or its employees or agents.

**§1-27 License Issuance.**

(a) Following review of proposals submitted in response to a request for licensing proposals issued pursuant to §22-204 or §22-206 of the Administrative Code, as the case may be, the Commissioner may, at his or her discretion, issue one or more licenses to conduct an unloading business or a loading business in the market area to the business entity or entities the Commissioner has determined are most qualified to provide such services in a safe, orderly and cost-efficient manner.

(b) The Commissioner may refuse to consider a proposal from or to issue a license pursuant to the provisions set forth in subdivision (b) of §22-216 of the Administrative Code or may defer a decision on whether to consider such proposal or issue such license when there is a pending indictment or a criminal or civil action as provided in paragraph (ii) of such subdivision.

(c) When a license or consideration of a proposal is denied for lack of good character, honesty and integrity or when the decision to issue such license or to consider such proposal is deferred, the applicant shall be given notice of the reasons for such denial or deferral and may respond in writing within five days of receipt of such notice. The Commissioner shall review such response and shall make a final determination whether to issue the license or consider the proposal.

(d) Notwithstanding any other provision of this section, the Commissioner may, for the reasons set forth in the Administrative Code, determine not to issue a license or licenses to conduct unloading or loading businesses in the market area, as the case may be, and instead arrange for the Department, a designee of the Department or an entity under contract to the Department to provide such services.

**§1-28 Revocation or Suspension of a License.**

(a) The Commissioner may, after due notice, which shall be served by first class mail addressed to the business address of the unloader or the loader, and the opportunity for a hearing, in addition to any other penalties provided in this chapter, suspend or revoke a license upon the occurrence of anyone or more of the following conditions:

(1) A licensee and/or any of the principals, employees and/or agents of the business has been found to be in violation of any provision of Chapter 1-A of Title 22 of the Administrative Code or of this subchapter.

(2) A licensee and/or any of the principals, employees or agents has repeatedly failed to obey the orders of the market manager or of his or her staff.

(3) A licensee has failed to pay any fines imposed pursuant to Chapter 1-A of Title 22 of the Administrative Code or this subchapter.

(4) A licensee has been found in violation of any laws prohibiting deceptive, unfair, or unconscionable trade practices, or has been found in persistent or substantial violation of any City, State or Federal law, rule or regulation regarding the handling of seafood. For purposes of this provision:

(i) "persistent" shall mean three or more violations within a six month period; and

(ii) "substantial violation" shall mean a violation which has a bearing on the continued fitness of a licensee to operate a business in the market area.

(5) A licensee or any of the principals of such business has been convicted of a crime which, under Article Twenty-three-a of the Correction Law, would provide a basis for the market manager to suspend or revoke, such license.

(6) Whenever the Commissioner determines, after consideration of the factors set forth in subdivision (b) of §22-216 of the Administrative Code, that the licensee or any of its principals lacks good character, honesty, or integrity.

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(7) Whenever there has been any false statement or any misrepresentation as to a material fact in the application or accompanying papers upon which the issuance of the license was based.

(8) Whenever the licensee has failed to notify the market manager as required by subdivision (b) of §1-26 of this subchapter and the conditions of its license of a material change in the information on the application for such license or of the arrest or criminal conviction of the licensee or of any of its principals, or of the arrest or criminal conviction any of its employees and/or agents of which the licensee had knowledge or should have known.

(b) An order of suspension pursuant to this section shall state the period of time such suspension shall remain in effect; such period shall be reasonable in relationship to the violation(s) underlying the suspension.

(c) Notwithstanding any other provision of this subchapter, the market manager may, if he or she determines that the operation of an unloading or a loading business creates an imminent danger to life or property, immediately suspend a license without a prior hearing, provided that the licensee may immediately appeal such suspension to a Deputy Commissioner of the Department. In the event that the Deputy Commissioner upholds the suspension imposed by the market manager, an opportunity for a hearing shall be provided on an expedited basis, within a period not to exceed four business days and the Commissioner shall issue a final determination no later than four business days following the conclusion of such hearing.

(d) Suspension or revocation of a license shall require the immediate surrender of the license and all photo identification cards issued for principals, employees and/or agents of the licensee. Violation of the provisions of this subdivision may result in revocation of the suspended license or the imposition of civil or criminal penalties as provided in subdivision (b) of §22-215 of the Administrative Code or both.

**§1-29 Unloading Operations.**

An unloading business shall comply with the conditions for conducting unloading operations that are contained in the license issued to such unloading business pursuant to §22-204 of the Administrative Code. In addition, an unloading business shall be subject to the provisions of this section.

**(a) *Order of unloading.***

(1) Upon arrival, trucks shall be directed to the designated waiting area. The unloading dispatcher designated by the market manager shall record relevant information, including the license number and time of arrival and shall inspect and make a copy of the manifest for seafood to be delivered by each truck that enters a designated waiting area.

(2) Trucks shall remain in the designated waiting area until directed by the unloading dispatcher to proceed to a designated unloading area.

(3) Except as otherwise provided in paragraph four of this subdivision, unloaders shall unload trucks in order of their arrival at the designated waiting area, based on the time of arrival recorded by the unloading dispatcher.

(4) Notwithstanding paragraph three of this subdivision, the unloading dispatcher may permit the unloader to unload out of order of arrival if the truck is delivering fewer than three pallets of seafood; if the truck contains live seafood; if the seafood requires special handling or equipment which only a particular unloader can provide; or for other reasons which the unloading dispatcher determines justify expedited unloading.

**(b) *Unloading assignments and hours.***

(1) An unloading business shall not conduct unloading in an area unless the market manager has approved the use of such area by such unloading business or has assigned such unloading business to such area. The market manager may rotate such assignments. The market manager may also designate an unloading area or areas on property owned or controlled by the city in which all unloading of seafood for the market area shall take place, and the Commissioner may require payment of a fee for the use by unloading businesses of such area or areas. A business entity that conducts an unloading business on private property shall demonstrate to the market manager that he or she possesses a deed, lease or other permission allowing the right to use such property during regular unloading hours.

(2)(i) Except as provided in subparagraph (b) of this paragraph, an unloading business licensed pursuant to this subchapter shall be available throughout the regular unloading hours to unload trucks directed to such business by the unloading dispatcher.

(ii) If, toward the end of the regular unloading hours, the market manager determines that the presence of an unloading business is not required because of the small number of trucks awaiting unloading or expected to unload, he or she may allow such unloading business to leave. Where more than one unloading business is operating pursuant to an unloading license issued by the Commissioner, the market manager shall arrange for the rotation of such businesses required to remain present during such periods.

(iii) The market manager shall provide that an unloading business be on call to unload any truck that may arrive after the regular unloading hours and shall designate such unloading business. Where more than one unloading business is operating pursuant to an unloading license issued by the Commissioner, the market manager shall rotate the responsibility to unload trucks after regular unloading hours on a periodic basis. Each unloading business shall provide for an unloading crew and a supervisor of such unloading crew to be on duty during the hours that such business is on call. Such unloader may, where authorized in the conditions of his or her unloading license, charge a surcharge not to exceed the amount specified in such conditions for unloading after the regular unloading hours. Such surcharge shall be posted with the unloading rates as required in subdivision (c) of this section.

(3) An unloading business and an unloader shall at all times unload trucks in the order directed by the unloading dispatcher.

(4) An unloading business and an unloader shall not refuse to unload any truck directed to his, her or its approved or assigned unloading area by the unloading dispatcher.

**(c) *Rates, billing procedures and record keeping.***

(1) An unloading business may charge no more than those rates for unloading that are specified in the conditions of the unloading license issued pursuant to §22-204 of the Administrative Code and the provisions of this subchapter, and shall post such rates in such appropriate locations within the market area as the market manager shall specify.

(2) An unloading business shall direct the unloader to verify that the information on the bill of lading conforms to the seafood he or she delivers to the wholesaler, and to sign and legibly record the license number of the unloading business on the bill of lading and obtain a signature thereon from the wholesaler or a person authorized by the wholesaler to sign for such delivery acknowledging receipt of the seafood indicated thereon, noting any discrepancies.

(3) Except as otherwise authorized in writing by the market manager, an unloading business shall provide for the weekly billing of wholesalers for seafood delivered, shall retain copies of all such bills and of all other records produced in the normal course of business for thirty-six months and shall make all such records available for immediate inspection and/or copying upon request by the market manager or a designee of the market manager. Each bill shall specify for each delivery the shipper, the date and time of delivery to the wholesaler, the quantity and type of seafood delivered and amount charged for the delivery.

(4) The provisions of this subdivision shall not apply where the Department, a designee of the Department or an entity under contract to the Department performs unloading services pursuant to paragraph (ii) of subdivision (g) of §22-204 or §22-208 of the Administrative Code.

**(d) *Prohibited acts.***

(1) An unloading business or an unloader shall not engage in any other business or perform any other service in the market area that would interfere with the ability of the unloading business adequately and effectively to perform unloading activities under this subchapter.

(2) An unloading business or an unloader shall not interfere with the Market manager or his or her staff in the discharge of his or her functions or interfere with or obstruct the orderly functioning of the unloading process by threats, intimidation or coercion, or by unloading any truck out of order or soliciting any other unloading business or unloader to unload any truck out of order, or by refusing to unload or soliciting any other unloading business or unloader to refuse to unload any truck directed to him, her or it by the unloading dispatcher.

(3) An unloading business or an unloader shall not charge any fees in addition to the fees for unloading specified in the conditions of the unloading license issued by the Commissioner, nor shall an unloading business or an unloader request or accept other fees or gratuities relating to unloading from wholesalers or truckers.

(4) An unloading business or an unloader shall not violate applicable Federal, State and City regulations regarding the handling of seafood.

**§1-30 Loading Operations.** A loader shall comply with the conditions for conducting a loading business that are contained in the license issued to such loading business pursuant to §22-206 of the Administrative Code. In addition, a loading business shall be conducted subject to the provisions of this section.

**(a) *Loading charges and vouchers.***

(1) A loading business shall post copies of the schedule of the rates set forth in the conditions of his, her or its license to be charged for the parking of vehicles and for the services performed by such loading business in appropriate areas within the market area as determined by the market manager. The market manager may issue vouchers for sale to persons who wish to park and use loading services in the market area. Where the market manager has issued such vouchers, persons parking and using loading services in the market area shall pay loaders for such parking and loading services only with vouchers purchased from the market manager.

(2) A loading business or a loader shall not charge more than the rates that are contained in the conditions of the loading license and are shown on a schedule posted pursuant to paragraph (1) of this subdivision. Where the market manager has issued vouchers pursuant to this subdivision, loaders shall accept payment for parking and loading services only in voucher form and shall not charge, request or accept any cash payment or other fees or gratuities in connection with loading. Where such vouchers have been issued, the market manager shall redeem those vouchers presented to him or her by a loading business for payment.

**(b) *Loading Assignments and Hours.***

(1) A loading business shall provide loading services only in locations designated or approved by the market manager for such purpose.

(2) A loading business that is conducted on private property shall demonstrate to the market manager that such business possesses a deed to such property or a lease or other permission to use such property during regular loading hours. A lease or an occupancy permit from the Commissioner is required for the use of City property for a loading business.

(3) All loading and services related to loading shall take place during the regular loading hours designated by the market manager.

**(c) *Prohibited acts.***

(1) Where the market manager has issued vouchers pursuant to subdivision (a) of this section, a loading business or a loader shall accept payment for parking and loading services only in voucher form. A loading business or a loader shall not charge other than the fees contained in the conditions of the loading license and shown in the schedule of rates posted pursuant to subdivision (a) of this section nor shall a loading business or a loader solicit or accept gratuities from purchasers of seafood or fees other than for the services specified on such schedule.

(2) A loading business or a loader shall not attempt to force any person to park his or her vehicle in the location designated or approved by the market manager for the use of such loading business.

(3) A loading business or a loader shall not refuse to perform loading or services related to loading for any person when space is available for such person's vehicle in the location designated or approved by the market manager for the use of the loading business.

(4) A loading business or a loader shall not, by threats, intimidation or any other action, force any person to agree to use the services of such business or prevent any person from using the services of any other loading business. A loading business or a loader shall not solicit, threaten, or enter into agreement with another loader to refuse loading services to any person.

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(5) A loading business or a loader shall not move or otherwise interfere with any vehicle, except that a loader may move a vehicle for the purposes of facilitating traffic flow or loading operations when the owner of such vehicle has entrusted the loader with the keys to the vehicle.

(6) A loading business or a loader shall not violate applicable federal, state or city regulations regarding the proper handling of seafood.

**§1-31 Wholesaler and Seafood Deliverer Registration Required.**

(a) As of fifteen days following the effective date of this subchapter, no wholesaler or seafood deliverer shall operate a wholesale seafood business, place seafood on the street, or operate a seafood delivery business in the market area unless such business has been registered with the Commissioner and received a registration number and a stand permit where such permit is required. A registration and stand permit issued pursuant to this chapter shall be valid for two years, and may be renewed for two years periods thereafter.

(b) Notwithstanding subdivision (a) of this section, a wholesaler or seafood deliverer who has been operating a wholesale seafood business or a seafood delivery business in the market area as of the effective date of Local Law No. 50 for the year 1995 and who has been required by the Commissioner to submit to fingerprinting and to submit background information pursuant to §22-209 of the Administrative Code may continue to operate such wholesale or seafood delivery business beyond fifteen days following the effective date of this subchapter unless and until (aa) such wholesaler or seafood deliverer has failed, within the time period prescribed by the Commissioner, to submit to fingerprinting or to submit the required information or (bb) the Commissioner has denied the application for registration of such business. For the purposes of this subdivision, the terms "wholesaler" and "seafood deliverer" shall mean the wholesale seafood or seafood delivery business entity, as the case may be, and all the principals thereof.

**§1-32 Issuance and Revocation of Registration Numbers and Stand Permits.**

(a) A person wishing to operate a wholesale seafood business or a seafood delivery business shall register such business and receive a registration number from the market manager. A wholesaler wishing to place seafood on the street in the market area shall indicate how much space on the street is required, at the time that such wholesaler registers with the Commissioner, and the Commissioner shall grant a stand permit or permits to such wholesaler on the basis of the physical availability of street space and upon the payment of a fee as provided in subdivision (c) of this section. Where the street space to be occupied by a wholesaler under a stand permit is described under the terms of a lease for adjacent premises and a payment is provided for under the terms of such agreement, the Commissioner shall issue a stand permit consistent therewith without requiring payment of an additional fee.

(b) A person wishing to register a wholesale business or a seafood delivery business shall provide the information required by Part I of the form constituting Appendix B of this subchapter, which form shall be signed by all the principals of such business and certified under penalty of perjury.

(c) The fee for registration of a wholesale business or a seafood delivery business shall be three hundred dollars (\$300) and the fee for renewal of such registration shall be two hundred and fifty dollars (\$250). The charge for a stand permit shall be based on the square footage of the area encompassed by the stand permit.

(d) A wholesaler and a seafood deliverer shall notify the Commissioner within ten calendar days of any changes in the information indicated to be material information supplied on the registration form submitted pursuant to subdivision (b) of this section and shall be responsible for notifying the Commissioner of any such change throughout the term of the registration.

(e) Notwithstanding any provision of this subchapter: (1) the Commissioner may, when the Commissioner determines that there is reasonable cause to believe that a wholesaler or a seafood deliverer in the market area or an employee or an agent of such wholesaler or seafood deliverer lacks good character, honesty and integrity, require that such wholesaler or seafood deliverer:

(i) be fingerprinted;

(ii) provide to the Commissioner the information set forth in subdivision (a) of §22-216 of the Administrative Code as required in the Part II of the form attached as Appendix B of this subchapter; and

(iii) pay the fees set forth in §1-25 of this subchapter for such fingerprinting and background investigation.

(2) The Commissioner may refuse to register such wholesaler or seafood deliverer for the reasons set forth in subdivision (c) of §22-216 of the Administrative Code or may defer a decision whether to register such wholesaler or seafood deliverer when there is an indictment or a criminal or civil action as provided in paragraph (ii) of such subdivision. A wholesaler or seafood deliverer denied registration for lack of good character, honesty and integrity, or whose registration has been deferred, shall be given notice of the reasons for such denial or deferral and may respond in writing to the Commissioner within five days of receipt of such notice. The Commissioner shall review such response and make a final determination whether to issue registration.

(f) (1) The Commissioner may, after notice and the opportunity for a hearing, revoke the registration of a wholesaler or seafood deliverer for any of the actions set forth in subdivision (b) of §22-217 of the Administrative Code or for the reasons set forth in §22-218 of such Code or any rule promulgated thereunder. Notwithstanding the foregoing provisions, the market manager may, if he or she determines that the operation of a wholesale seafood business or a seafood delivery business creates an imminent danger to life or property, immediately suspend the registration of such business without a prior hearing, provided that, the registrant may appeal such suspension to a Deputy Commissioner of the Department, and if the Deputy Commissioner upholds the suspension imposed by the market manager, an opportunity for a hearing shall be provided on an expedited basis within a period not to exceed four business days and the Commissioner shall issue a final determination no later than four days following the conclusion of such hearing; and provided further that the Commissioner may, upon application by a wholesaler or seafood deliverer whose registration has been suspended without a prior hearing, permit such wholesaler or seafood deliverer to remain in the market area for such time as is necessary to allow for the expeditious

sale, consignment or removal of a perishable product if, in the Commissioner's best judgment, such permission is consistent with the safety of the public and the market area.

(2) In addition to the reasons set forth in paragraph (i) of this subdivision, if at any time subsequent to the registration of a wholesaler or seafood deliverer the Commissioner has reasonable cause to believe that such wholesaler or seafood deliverer is not of good character, honesty and integrity, the Commissioner may require such wholesaler or seafood deliverer to be fingerprinted, provide the background information set forth in §22-216 of the Administrative Code as set required by the Part II of the form attached as Appendix B of this subchapter and pay the fees therefor set forth in subdivisions (e) and (f) of §1-25 of this subchapter. Upon a determination, after consideration of the factors set forth in subdivision (b) of §22-216 of the Administrative Code, that a wholesaler or seafood deliverer lacks good character, honesty and integrity, the Commissioner may, after notice and the opportunity for a hearing, revoke the registration of such wholesaler or seafood deliverer.

(g) Suspension or revocation of a registration shall require the immediate surrender of all photo identification cards issued to the principals, employees and/or agents of the registrant. Violation of the provisions of this subdivision may result in revocation of a suspended registration or the imposition of penalties as provided in §22-215 of the Administrative Code.

(h) For the purposes of this section, wholesaler or seafood deliverer shall mean the wholesale seafood or seafood delivery business entity, as the case may be, and all the principals thereof.

### **§1-33 Wholesale Operations.**

#### **(a) *Restrictions on use of registration number and stand permit.***

(1) A wholesaler shall not transfer his or her registration number or stand permit as part of the sale of such wholesale business.

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

(3) A wholesaler shall not allow any other person to place seafood in the space for which a stand permit has been issued to such wholesaler, except that a wholesaler may, as provided in subdivision (d) of §22-209 of the Administrative Code, permit the use of such space by another registered wholesaler who has received a shipment of seafood that cannot be accommodated in the space from which such registered wholesaler operates. No fee may be charged for such temporary use and any such use must be reported, with details specifying the dates, times and extent of such use, as soon as practicable. A wholesaler may also, as set forth in subdivision (e) of §22-209 of the Administrative Code and pursuant to the provisions regarding approval of the commissioner and limitations upon the charging of fees set forth in such subdivision, allow the use by no more than

one other registered wholesaler on other than a temporary basis of no more than forty-nine percent of the space for which a stand permit has been issued.

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

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

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

(c) ***List of registrants.*** The market manager shall maintain and publish a list of all wholesalers who possess wholesaler registration numbers and stand permits. The market manager shall make such list available to suppliers, shippers and truckers and shall, upon request, verify to suppliers, shippers and truckers whether a person or entity possesses a wholesaler registration number and stand permit.

(d) ***Record keeping.*** Wholesalers shall retain copies of all bills from and records of payments to unloaders, suppliers and shippers of seafood and payment from retailers. Such bills and records shall accurately reflect the amount of seafood involved in each transaction and shall, along with all other records produced in the normal course of business, be retained for a minimum of thirty-six months, and shall be made available for immediate inspection and/or copying upon request by the market manager or a designee of the market manager.

(e) ***Workers' compensation insurance.*** A wholesaler shall submit proof that he, she or it has obtained the required workers' compensation and disability benefits coverage, or that he or she is exempt from the Worker's Compensation Law, §57, and the Disability Benefits Law, §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.

(f) ***Liability insurance.*** A wholesaler shall procure and shall maintain throughout the term of the permit, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the wholesale business pursuant to a permit. The wholesaler may purchase such policies in conjunction with one or more other wholesalers, provided that the coverages described in this subdivision are maintained with respect to each wholesaler.

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(1) Commercial General Liability Insurance with liability limits of no less than one million dollars (\$1,000,000.00) combined single limit per occurrence for bodily injury, personal and property damage. The maximum deductible for such insurance shall be no more than twenty-five thousand dollars (\$25,000.00).

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

(3) Employers' Liability Insurance with limits of one million dollars per accident. The policy or policies of insurance required by these rules shall name the City of New York and the Department of Business Services and any other agency or entity of the City as may be required as parties insured thereunder, 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 Commissioner. Failure to maintain continuous, insurance coverage meeting the requirements of these rules will result in automatic cancellation of the permit. 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 Commissioner prior to the effective date of the registration.

(g) **Payment bond.** A wholesaler shall, in the discretion of the Commissioner, procure and maintain a payment bond or other security ensuring payment to suppliers of such wholesaler in an amount, if any, to be determined by the Commissioner taking into account such factors as the wholesaler's volume of business and credit worthiness.

(h) **Liability for violations.** A wholesaler shall be jointly and severally liable for any violation of Chapter 1-A of Title 22 of the Administrative Code or of this subchapter by any of his or her employees or agents.

(i) **Prohibited acts.**

(1) A wholesaler and its employees and agents shall not solicit an unloader to unload a truck out of order.

(2) A wholesaler and its employees and agents shall not interfere with the market manager in the discharge of his or her functions or interfere with or otherwise obstruct the orderly functioning of the market.

(3) A wholesaler and its employees and agents shall not authorize another person to use the name of the business to which a registration number has been issued for such wholesale seafood business.

(4) A wholesaler and its employees and agents shall not authorize another person to conduct a wholesale seafood business with the registration number that has been issued to such wholesaler.

(5) A wholesaler and its employees and agents shall not sublease or otherwise allow the use of his or her premises by a person who does not possess a registration number issued by the Commissioner pursuant to this subchapter.

(6) A wholesaler and its employees and agents shall not authorize another person to use his or her stand permit to place seafood upon the street, except as provided in paragraph (3) of subdivision (a) of this section.

(7) A wholesaler and its employees and agents shall not conduct a wholesale seafood business under any name other than the name under which such business has been registered with the market manager.

(8) A wholesaler and its employees and agents shall not discard seafood unless such seafood has been rendered unfit for human consumption by chemical treatment, sealed in a tamper-proof container, or otherwise treated in a manner approved by the market manager and shall comply with other sanitary procedures specified by the market manager.

(9) A wholesaler and its employees and agents shall not violate applicable federal, state and city regulations regarding the proper handling of seafood.

(10) A wholesaler and its employees and agents shall not fail to notify the market manager of any change in the information provided pursuant to §1-32 of this subchapter with respect to the composition or ownership of the wholesale business, or of any change in the employment status of its employees.

**§1-34 Seafood Delivery Operations.** A seafood deliverer shall be subject to the requirements for conducting a seafood delivery business that are contained in this section.

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

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

(2) All vehicles employed in a seafood delivery business shall possess: proper vehicle registration as required by §401 of the Vehicle and Traffic Law; a valid inspection sticker obtained pursuant to the provisions of Article 5 of the Vehicle and Traffic Law; and insurance coverage as required by Article 6 of the Vehicle and Traffic Law.

(3) All vehicles employed in a seafood delivery business shall display a sticker or decal issued by the market manager in a location to be designated by the market manager.

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

(d) Seafood deliverers shall comply at all times with all applicable Federal, State and City regulations regarding the proper handling of seafood.

**§1-35 Regulation for Safety, Order and Health in the Market Area.**

In order to ensure safe, orderly and healthful conditions in the market area, the market manager may take measures, including but not limited to the following: designate areas in which activities not otherwise regulated by the provisions of this subchapter and related to the distribution of seafood in the market area may be conducted; prohibit any activity that may present a threat of (i) intimidation or disruption of businesses in the market area, (ii) traffic congestion or (iii) unsafe, unlawful or unsanitary conditions, and exclude from the market area any person or business conducting such activity; regulate the movement of traffic throughout the market area; and prescribe methods for the sanitary disposal of waste in the market area. Where any provision of this subchapter is inconsistent with a provision of Chapter 1 of this title, the provisions of this subchapter shall apply.

**§1-36 Fines and Penalties.**

(a) The market manager may issue a notice of violation to an unloader, a loader, wholesaler, seafood deliverer or any other person engaged in an activity related to the distribution of seafood in the market area for the violation of any provision of Chapter 1-A of Title 22 of the Administrative Code or of this subchapter. Except as otherwise provided in subdivision (b) of this section, any person who violates any provision of this chapter shall be liable for a civil penalty not to exceed ten thousand dollars for each such violation which may be recovered in a civil action or in a proceeding before the Environmental Control Board.

(b) (1) Any person who operates without a license in violation of subdivision (a) of §22-204, subdivision (a) of §22-206, subdivision (c) of §22-208 or §22-219 of the Administrative Code shall be guilty of a misdemeanor and, upon conviction thereof, be punished for each violation by a criminal fine of not more than ten thousand dollars or imprisonment not to exceed six months, or both and; and any such person shall also be subject to a civil penalty of not more than five thousand dollars for each such violation to be recovered in a civil action or administrative proceeding before the environmental control board. The corporation counsel is authorized to commence a civil action on behalf of the city for injunctive relief to restrain or enjoin any violation of such subdivisions and for civil penalties.

(2) Any person who interferes or attempts to interfere with the conduct of, or who intentionally or without the permission of the owner or other person lawfully in possession of such property destroys or damages property or equipment associated with, loading or unloading authorized pursuant to Chapter 1-A of Title 22 of the Administrative Code and this subchapter, shall be guilty of a misdemeanor and, upon conviction thereof, be punished for each violation by a criminal fine of not more than ten thousand dollars or by imprisonment not exceeding six months, or both; and any such person shall also be subject to a civil penalty of not more than five thousand dollars to be recovered in a civil action or administrative proceeding before the Environmental Control Board for each day that the violation continues.

(3) An unloading business, a loading business, a wholesale seafood business and a seafood delivery business shall be liable for any violation of Chapter 1-A of Title 22 of the Administrative Code and of this subchapter committed by an employee or agent of such business entity.

**§1-37 Seizure and Forfeiture.**

Any police officer or authorized officer or employee of the department may, upon service of a notice of violation upon the owner or operator of a vehicle or other property or equipment, seize such vehicle or other property or equipment which such police officer or authorized officer or employee has reasonable cause to believe is being used in connection with an act constituting a violation of subdivision (a) of §22-204, subdivision (a) of §22-206, subdivision (c) of §22-208 or §22-219 of the Administrative Code. In addition to any other fines and penalties, a vehicle or other property or equipment which has been seized pursuant to this section and all rights, title and interest therein shall be subject to forfeiture upon notice and judicial determination thereof if the owner of such vehicle or other property or equipment has been found liable by a court or in a proceeding before the Environmental Control Board on one or more prior occasions for using such vehicle or such other property or equipment in connection with an act constituting a violation of subdivision (a) of §22-204, subdivision (a) of §22-206, subdivision (c) of §22-208 or §22-219 of the Administrative Code. Seizure and forfeiture pursuant to this section shall be conducted in accordance with the requirements and procedures governing such seizure and forfeiture pursuant to §22-220 of the Administrative Code.

**§1-38 Hearings.**

(a) Where a hearing is conducted in relation to the suspension or revocation of a photo identification card, license or registration pursuant to the provisions of §§1-23, 1-28 or 1-32 of this subchapter, the hearing officer shall set a time and place for such hearing and the Department shall provide the respondent with notice of such time and place no less than ten days prior to the date of the hearing, except that in the case of an immediate suspension requiring an expedited hearing pursuant to subdivision (c) of § 1-28 or subdivision (f) of § 1-32 of this subchapter, such notice shall be provided no later than one business day following such suspension.

(b) All parties shall be afforded due process of law, including the opportunity to be represented by counsel, to issue subpoenas or request that a subpoena be issued, to call witnesses, to cross-examine opposing witnesses and to present arguments on the law and facts. Relevant material and reliable evidence shall be admitted without regard to technical or formal rules or laws of evidence.

(c) All persons giving testimony as witnesses shall be placed under oath.

(d) The hearing officer shall preside over the hearing and shall have all powers necessary to conduct fair and impartial hearings, to avoid delay in the disposition of proceedings, and to maintain order, including but not limited to the following: to compel the attendance of witnesses and the production of documents; to issue orders for discovery upon motion for good cause shown; to rule upon offers of proof and receive evidence; to regulate the course of the hearing and the conduct of the parties and their counsel therein; to hold conferences for the purposes of settlement or any other proper purpose; to interrogate witnesses; to make recommended findings of fact and recommended decisions.

(e) The market manager shall have the burden of proof in establishing that the respondent has committed or caused the violation charged in the notice, but the proponent of any factual position shall be required to sustain the burden of proof with respect thereto. The notice of violation shall constitute prima facie evidence of the facts stated therein.

(f) The hearing officer shall provide or arrange for either a stenographically reported or mechanically recorded verbatim transcript of the hearing. Such transcript and all exhibits received in evidence shall constitute the hearing record.

(g) As soon as possible after the hearing, the hearing officer shall present recommended findings of fact and a recommended decision to the Commissioner. The Commissioner shall make a final determination and notify the respondent, by first class mail addressed to the business address of such respondent, of such determination. Where the respondent is an employee of a business required to be licensed or registered pursuant to Chapter 1-A of the Administrative Code and this subchapter, notice of the final determination shall be by first class mail to the address provided for such employee pursuant to §§1-25 and 1-32 of this subchapter.

(h) Failure of a respondent to make a timely written response, appear or proceed as required by the hearing officer shall constitute a default. Upon default, the hearing officer shall make such recommended findings and recommended decision as is appropriate under the pleadings and such evidence as he or she shall have received. The Commissioner shall make a final determination and shall notify the respondent, by first class mail addressed to the place of business of such respondent, of such determination. Where the respondent is an employee of a business required to be licensed or registered pursuant to Chapter 1-A of the Administrative Code and this subchapter, notice of the final determination shall be by first class mail to the address provided for such employee pursuant to §§1-25 and 1-32 of this subchapter.

**§1-39 Notice.**

Notice required pursuant to this chapter may be served by first class mail addressed to the business address of an unloader, a loader, a wholesaler or a seafood deliverer as provided by such business pursuant to §§1-25 and 1-32 of this subchapter, and all notice served upon an employee or an agent of such business may be served by first class mail to the address listed for such employee or agent in the information provided pursuant to such sections or §1-12 of this chapter. Notice may also be served by personal service or in any other manner reasonable calculated to achieve actual notice, including but not limited to any method authorized in the Civil Practice Law and Rules.

**§1-40 Applicability When Department Performs Unloading or Loading Services.**

Sections 1-24 through 1-28 of this subchapter, relating to licensing requirements and conditions for unloading and loading businesses shall not apply where the Commissioner determines, pursuant to paragraph (ii) of subdivision (g) of §22-204, paragraph (ii) of subdivision (g) of §22-206 or §22-208 of the Administrative Code, that the Department, a designee of the Department, an entity under

contract to the Department, or a combination thereof shall provide unloading services or loading services in the market area.

**§ 1-41 Separability.**

If any provision of this subchapter shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the provision thereof directly involved.