

NEW YORK CITY BUSINESS INTEGRITY COMMISSION

**NOTICE OF OPPORTUNITY TO COMMENT ON PROPOSED
RULEMAKING RELATING TO TRADE WASTE REMOVAL
BUSINESSES, PUBLIC WHOLESALE MARKETS, SEAFOOD
DISTRIBUTION AREAS, SEAFOOD DISTRIBUTION OUTSIDE
SEAFOOD DISTRIBUTION AREAS, AND MARKET BUSINESSES,
LABOR UNIONS AND LABOR ORGANIZATIONS OPERATING IN
SEAFOOD DISTRIBUTION AREAS**

PURSUANT TO section 1043(h)(1) of the New York City Charter and exercising the authority vested in the Business Integrity Commission by sections 1043(a) and 2101(b)(6) of the New York City Charter, notice is hereby given that the Business Integrity Commission intends to adopt rules relating to trade waste removal businesses, public wholesale markets, seafood distribution areas, seafood distribution outside seafood distribution areas, and market businesses, labor unions and labor organizations operating in seafood distribution areas. **The Notice of Opportunity to Comment on Proposed Rulemaking Relating to Trade Waste Removal Businesses, Public Wholesale Markets, Seafood Distribution Areas, Seafood Distribution Outside Seafood Distribution Areas, and Market Businesses, Labor Unions and Labor Organizations Operating in Seafood Distribution Areas published on May 24, 2010 in the City Record is hereby superseded by this notice and these proposed rules.**

Additions to the rules are underlined and deletions are [bracketed].

Written comments regarding these proposed rules may be sent to Eric Dorsch, General Counsel, New York City Business Integrity Commission, on or before June 23, 2010. Comments may be submitted by mail to Mr. Dorsch at the New York City Business Integrity Commission, 100 Church Street, 20th Floor, New York, New York 10007 or electronically to edorsch@bic.nyc.gov.

A hearing for public comment will be held on June 28, 2010 in Spector Hall at 20 Reade Street, New York, New York 10007, at 10:00 A.M. Persons seeking to testify are requested to notify Mr. Dorsch at (212) 676-6202 no fewer than five (5) business days prior to the hearing. Persons who request that a sign language interpreter or other form of reasonable accommodation for a disability be provided at the hearing are asked to notify Mr. Dorsch at the above address no later than two weeks prior to the hearing.

Written comments and a summary of oral comments received at the hearing will be available for public inspection, within a reasonable time after receipt on week days between the hours of 9:30 A.M. and 4:30 P.M. at the New York City Business Integrity Commission, 100 Church Street, 20th Floor, New York, New York 10007.

This rule was included in the 2010 regulatory agenda of the Business Integrity Commission.

Section 1. Subdivision (a) of section 1-03 of chapter 1 of title 17 of the Rules of the City of New York is amended to read as follows:

(a) A hearing conducted pursuant to [subdivision b of section 2-08, subdivision (c) of section 3-01 or subdivision (b) or (c) of section 3-02 of] 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 [shall] 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.

§ 2. Section 5-01 of chapter 1 of title 17 of the Rules of the City of New York is amended by adding a new subdivision (d) to read as follows:

(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.

§ 3. Section 7-01 of chapter 1 of title 17 of the Rules of the City of New York is amended to read as follows:

§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.

§ 4. The section heading of section 6-03 of chapter 1 of title 17 of the Rules of the City of New York is amended and a new subdivision (c) of such section is added to read as follows:

§6-03 Collection of Fees Prohibited; Contract Duration.

(c) A contract for the provision of brokering services to a commercial establishment shall not exceed two years in duration.

§ 5. Title 17 of the rules of the city of New York is amended by adding a new chapter 2 to read as follows:

CHAPTER 2
MARKETS

Subchapter A Public Wholesale Markets

B Seafood Distribution Areas

C Seafood Distribution Outside Seafood Distribution Areas

D Market Businesses, Labor Unions and Labor Organizations Operating in Seafood Distribution Areas

SUBCHAPTER A
PUBLIC WHOLESale MARKETS

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§11-01 Scope and construction.

(a) This subchapter shall be applicable to each public wholesale market.

(b) Any act prohibited by this subchapter shall extend to and include the permitting, allowing, causing, procuring, aiding or abetting of such act.

(c) No provision in this subchapter shall make unlawful the act of any employee of the Commission or other government official in the performance of his or her official duties.

(d) Any act prohibited by this subchapter not otherwise prohibited by law or any other government rule or regulation shall be lawful if performed pursuant to and in strict compliance with written authorization by the Chairperson.

(e) This subchapter is in addition to and supplements all laws, rules and regulations of the City and State of New York and federal government and all terms and conditions set forth in any lease, license, registration or permit.

§11-02 Definitions.

For the purposes of this subchapter, the following terms shall have the following meanings:

Applicant. “Applicant” shall mean, if a business entity submitting a registration application, the entity itself and all the principals thereof; if a person submitting an application for a photo identification card, such person.

Code. “Code” shall mean the Administrative Code of the City of New York.

Chairperson. “Chairperson” shall mean the Chairperson of the New York City Business Integrity Commission.

Commission. “Commission shall mean the New York City Business Integrity Commission. The term “Commission” also shall refer to an action of the Chairperson of the Commission, taken under delegation from the Commission.

Cooperative association. “Cooperative association” shall mean the cooperative association established, with the approval of the Commission, by wholesalers in a market area to assist with the management of the market area.

Employee. “Employee” shall mean a person who works or has been hired to work in a market on a full-time, part-time or seasonal basis for a wholesaler, market business, or a wholesale trade association, but shall not include persons hired to work on an occasional basis. A person hired to work on an occasional basis is any person who works or has been hired to work for a wholesaler or market business and works no more than five (5) days in any given month for the same employer. Any person who works for a wholesaler or a market business is presumed to be an employee unless the presumption is overcome by credible evidence produced by the person and/or the employer.

Hearing officer. “Hearing officer” shall mean a person appointed or designated to conduct hearings pursuant to the procedures set forth in subdivision 11-21(b) of this subchapter relating to the suspension or revocation of a license, registration, or photo identification card. “Hearing officer” shall not include a person assigned to preside over a case that has been referred to the Office of Administrative Trials and Hearings.

Labor union or labor organization. “Labor union” or “labor organization” shall mean a union or organization that represents or seeks to represent, for purposes of collective bargaining, employees directly involved in the movement, handling or sale of goods in the markets. Notwithstanding the foregoing, such terms shall not include: (i) a labor union that represents or seeks to represent fewer than two hundred (200) employees in any public wholesale market or combination of public wholesale markets in the City of New York; (ii) a labor union representing or seeking to represent clerical or other office workers, construction or electrical workers, or any other workers temporarily or permanently employed in a public wholesale market for a purpose not directly related to the movement, handling or sale of goods in such market; or (iii) an affiliated national or international labor union of local labor unions required to register pursuant to section 11-10 of this subchapter.

Market business. “Market business” shall mean any business located or operating within a market that is engaged in providing goods or services to wholesalers or retail purchasers in such market that are related to the conduct of a wholesale business or the purchase of food or related agricultural products or horticultural products by retailers or others, or that receives such goods within a market for delivery, forwarding, transfer or further distribution outside such market. “Market business” shall include, but not be limited to, the provision of security services within a market, the provision of services related to the collection of fees for entrance into a market and parking, the supply of ice, and the unloading, loading, transfer or distribution of food or related agricultural products or horticultural products. The term “market business” shall not include a business located or operating within a market the main offices of which are located outside a market and which (i) supplies the food or related agricultural products or products sold by wholesalers or is engaged in the trucking or shipping thereof to the market or (ii) supplies electrical, plumbing, construction, renovation or other similar services to wholesalers in the market and does not earn fifty (50) percent or more of its income from such wholesalers.

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

Officer. “Officer” shall mean any person holding an elected position or any other position involving participation in the management or control of a wholesale trade association required to register pursuant to section 11-12 of this subchapter or of a labor union or labor organization required to register pursuant to section 11-10 of this subchapter.

Person. “Person” shall include entities as well as natural persons unless the context indicates otherwise.

Principal. “Principal” shall mean, of a sole proprietorship, the proprietor; of a corporation, every officer, director and stockholder holding ten (10) 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 having an ownership interest of ten (10) 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 (10) 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 (10) percent or more of the outstanding shares of such corporation, as is appropriate. For the purposes of this subchapter (1) an person shall be considered to hold stock in a corporation where such stock is owned directly or indirectly by or for (i) such person, (ii) the spouse of such person (other than a spouse who is legally separated from such person pursuant to a judicial decree or an agreement cognizable under the laws of the state in which such person is domiciled), (iii) the children, grandchildren and parents of such person, (iv) a partnership in

which such person is a partner, in proportion to the partnership interest of such person, and (v) a corporation in which any of such person, the spouse, children, grandchildren and parents of such person own fifty (50) percent or more in value of the stock; (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 where such corporation holds fifty (50) percent or more in value of the stock of a third corporation that holds stock in the applicant corporation.

Public wholesale market or market. "Public wholesale market" or "market" shall mean any building, structure or place owned by the City or located on property owned by the City or under lease to or in the possession of the City or any part of a street, avenue, parkway, plaza, square or other public place that has been designated as a public market by resolution of the former Board of Estimate of the City or a local law enacted by the City Council to be used or intended to be used for the wholesale buying, selling or keeping of food, flowers or ornamental plants; except that the term "public wholesale market" shall not, unless otherwise set forth in this subchapter, include any building, structure or place within the market area as defined in section 12-02 of subchapter B of this chapter. For purposes of this subchapter, the term "public wholesale market" shall also include the area adjacent to the New York City Terminal Cooperative Produce Market beginning at the point where the westerly street line of Garrison Avenue intersects the northerly street line of Lafayette Avenue; thence easterly along the northerly street line of Lafayette Avenue to the easterly street line of Halleck Street; thence southerly along the easterly street line of Halleck Street to the southerly street line of Ryawa Avenue; thence westerly along the southerly street line of Ryawa Avenue to the westerly street line of Manida Street; thence northerly along the westerly street line of Manida Street to the southerly street line of Viele Avenue; thence westerly along the southerly street line of Viele Avenue to the westerly street line of Tiffany Street; thence northerly along the westerly street line of Tiffany Street to the southerly street line of Oak Point Avenue; thence westerly along the southerly street line of Oak Point Avenue to the westerly street line of Barry Street; thence northerly along the westerly street line of Barry Street to the southerly street line of Leggett Avenue; thence westerly along the southerly street line of Leggett Avenue to the westerly street line of Garrison Avenue; thence northerly along the westerly street line of Garrison Avenue to the point of beginning, and the premises known as 240 Food Center Drive.

Registration. "Registration" shall mean: (a) wholesaler registration or market business registration as required pursuant to section 22-253 of the Code and section 11-04 of this subchapter; (b) labor union or labor organization registration as required pursuant to section 22-264 of the Code and section 11-10 of this subchapter; or (c) wholesale trade association registration as required pursuant to section 22-265 of the Code and section 11-12 of this subchapter.

Wholesale trade association. "Wholesale trade association" shall mean an entity, the majority of whose members are wholesale businesses and/or market businesses, having as a primary purpose the promotion, management or self-regulation of a market or such wholesale businesses or market businesses within such market or the facilities utilized by such businesses, including, but not limited to a corporation, cooperative, unincorporated association, partnership, trust or limited liability partnership or company, whether or not such entity is organized for profit, not-for-profit, business or non-business purposes. The term "wholesale trade association" shall include a cooperative association. The term "wholesale trade association" shall not include

any entity the majority of whose members are primarily engaged in retail sales outside a public wholesale market.

Wholesaler or wholesale business. "Wholesaler" or "wholesale business" shall mean any business engaged in selling food or related agricultural products or horticultural products at wholesale prices for resale by a wholesaler or retailer or for use by an institution or other similar establishment, whether or not such business also sells directly to the public, except that such terms as used in this subchapter shall not include a "wholesaler" or "wholesale seafood business" as defined in section 12-02 of this chapter; provided, however, that a wholesale business to which customers do not regularly come to pick up purchases and that does not deal from such location primarily in perishable products shall not be subject, unless otherwise provided by rule of the Commission, to the provisions of sections 22-252, 22-254 and 22-255 of chapter 1-B of title 22 of the Code and the rules promulgated pursuant to such sections.

§11-03 Terms and Fees.

(a) A registration shall be valid for three (3) years and may be renewed for three (3) -year periods thereafter.

(b) The fee for registration shall be four thousand dollars (\$4000), and the fee for renewal of such registration shall be four thousand dollars (\$4000).

(c) The fee for a permanent photo identification card shall be one hundred dollars (\$100), and the fee for the replacement of a photo identification card that has been lost or stolen shall be one hundred dollars (\$100).

(d) The fee for fingerprinting pursuant to sections 22-259 (pertaining to wholesale businesses, market businesses and photo identification cards), 22-264 (pertaining to labor unions and labor organizations and officers), and 22-265 (pertaining to trade associations and officers) of the Code shall be as determined by the New York State Division of Criminal Justice Services.

(e) Investigative fee. The fee for a background investigation pursuant to subdivision d or e of section 22-252 shall be two hundred dollars (\$200) and the fee for a background investigation pursuant to subdivision b of section 22-253, subdivision b of section 22-264, or subdivision b of section 22-265 of the Code shall be six hundred dollars (\$600).

(f) A wholesale business or a market business shall be responsible for the payment of any fee imposed by this section with respect to an employee of such business or any person seeking to become an employee of such business.

(g) The fees provided for in this section shall be payable to the Commission.

§11-04 Wholesale Business and Market Business Registration Required. No person shall operate a wholesale business or market business in a public wholesale market without first receiving a registration or registration number from the Commission.

§11-05 Application for a Wholesale Business or Market Business Registration.

(a) An application for registration or renewal thereof shall be made on a form prescribed by the Commission. The application form shall be certified under penalty of perjury and signed by all principals of the applicant business. The registration application shall include, without limitation, the following information: (1) the name, address and telephone number(s) of the business submitting such application; (2) the names, addresses, telephone number(s) and social security numbers of all current and past principals of the applicant and a description of the positions occupied or ownership interest held by each such principal; (3) the names, job titles,

social security numbers and addresses of all other employees or agents of the applicant; (4) a list of vehicles used in the course of the applicant's business; (5) employment and business background information on the principals such as the principal's employment history, wholesale or market business interests, and any related business interests; (6) 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; (7) if the applicant business is a sole proprietorship, a notarized copy of the business certificate certified by the County Clerk; (8) if the applicant is a corporation, a copy of the certificate of incorporation; (9) if the applicant is a partnership, a copy of partnership papers, certified by the County Clerk; (10) a listing of the names and addresses of any person having a beneficial interest in the applicant, and the amount and nature of such interest; (11) a listing of any determination by a federal, state or city regulatory agency of a violation by such applicant of laws or regulations relating to the conduct of the applicant's business where such violation has resulted in the suspension or revocation of a permit, license or other permission required in connection with the operation of such business or in a civil fine, penalty, settlement or injunctive relief; (12) a listing of all criminal convictions, in any jurisdiction, of the applicant; (13) a federal or state tax identification number; and (14) such other information that the Commission deems appropriate.

(b) Notwithstanding any provision of this subchapter:

(1) the Commission may, when there is reasonable cause to believe that an applicant for a registration 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, 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. The Commission also may require such additional information, in lieu of or in addition to such fingerprinting and/or disclosure, including without limitation documents and/or an in-person interview, as the Commission determines is appropriate and reasonable to render a determination. After providing notice and an opportunity to be heard, the Commission may refuse to register such applicant for the reasons set forth in section 22-259 of the Code, or defer a decision whether to register such applicant when there is a pending indictment or criminal action or pending civil or administrative action as provided in paragraph (ii) of subdivision b of section 22-259 of the Code.

(2) If at any time subsequent to the registration of a wholesale business or a market business 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 any or all of the principals be fingerprinted by a person designated for such purpose by the Commission, 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. The Commission also may require additional information in lieu of or in addition to such fingerprinting and/or disclosure, including without limitation documents and an in-person interview, as the Commission determines is appropriate and reasonable to render a determination.

(c) If an application for the renewal of a registration is not submitted to the Commission within the time period required by the Commission, the Commission may reject the renewal application and require the applicant to file a new application for a registration. If a new

application is required by the Commission, the provisions pertaining to the application process as set forth in Chapter 1-B of Title 22 of the Code and of this subchapter shall apply.

§11-06 Photo Identification Cards Required.

(a) No person who is an principal or employee of any wholesale business or market business operating in a public wholesale market, or any other business operating in a public wholesale market located on City property, shall perform any function in such market without having been issued a photo identification card by the Commission pursuant to the provisions of this subchapter and section 22-252 of the Code.

(b) Notwithstanding the foregoing, any person required to have a photo identification card who has filed an application therefor and obtained a temporary photo identification card, may continue to perform such functions unless and until (1) the application of such person for a photo identification card has been denied, or (2) the temporary photo identification card of such person has been revoked, or (3) in cases where the Commission has required such person to be fingerprinted, submit background information and/or appear for an interview pursuant to sections 22-252 and 22-259 of the Code and section 11-08.1 of this subchapter, such person has failed, within the time period prescribed by the Commission, to be fingerprinted, submit the required information, or appear for an interview.

(c) Photo identification cards shall be in the possession of principals and employees of wholesale businesses, market businesses or other businesses at all times when such persons are in the market, and shall be produced upon demand to an authorized employee or agent of the Commission.

(d) Where a photo identification holder changes employment in the market, the photo identification holder shall notify the market manager of the change of employment and submit the transfer form provided by the market manager. The photo identification holder shall also be required to apply for a new photo identification card and pay the requisite fee in accordance with the provisions of this subchapter. A wholesale or market business shall immediately notify the market manager of the addition of or other change of status of a photo identification holder.

(e) A person who discontinues his or her employment in the market or who ceases to be a principal of a wholesale or market business shall immediately surrender his or her photo identification card to the market manager. A business that terminates any employee or principal possessing a photo identification card shall obtain that employee's or principal's photo identification card and surrender it to the market manager.

(f) No wholesale or market business shall continue to employ a person who is required to but does not possess a valid photo identification card issued in accordance with the provisions of this subchapter.

(g) The photo identification card of a person who is a principal or employee of more than one wholesale business or market business operating in a public wholesale market shall reflect the multiple affiliations of such person.

§11-07 Temporary Photo Identification Cards and Visitors Passes.

(a) The Commission may designate the cooperative association of any public wholesale market to issue temporary photo identification cards to persons required to have a photo identification card within such market. The duties of such designated cooperative association are to be performed pursuant to the provisions of the Code and this subchapter relating to such

temporary photo identification cards and such terms and conditions as the Commission may impose.

(b) Such temporary photo identification cards shall be valid for a period of one year but shall cease to be valid upon the issuance by the Commission of a permanent photo identification card or the occurrence of any of the events set forth in paragraphs (1), (2) or (3) of subdivision (b) of section 11-06 of this subchapter.

(c) The Commission may designate the cooperative association of any public wholesale market to issue visitor passes at the public wholesale market in which it operates. The duties of such designated cooperative association are to be performed pursuant to the provisions of the Code and this subchapter relating to such visitors passes and such terms and conditions as the Commission may impose.

(d) Any cooperative association designated by the Commission to issue temporary identification cards may impose fees and set amounts for such fees for the performance of the functions set forth in this section with the prior written permission of the Commission. No change in a fee or amount of such fee imposed pursuant to this section shall be made without prior written permission of the Commission.

(e) Temporary photo identification cards and visitors passes shall be in the possession of all persons required to have them at all times when such persons are in the market, and shall be produced upon demand to an authorized employee or agent of the Commission.

§11-08 Application for a Photo Identification Card. An application for a photo identification card shall include the information requested in the application form provided by the Commission. The application shall be signed and certified under penalty of perjury by the applicant. The application shall include, but not be limited to, the following information: name, address and telephone number(s) of the applicant, the applicant's employment history, the applicant's business interests, and any other such information required by the Commission.

§11-08.1 Photo Identification Card; Investigation by the Commission. Notwithstanding any provision of this subchapter, the Commission may, when there is reasonable cause to believe that an applicant for or holder of a photo identification card who is a principal or employee of a wholesale or market business does not possess good character, honesty and integrity, require that such person be fingerprinted by a person designated for such purpose by the Commission, 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. The Commission also may require such additional information in lieu of or in addition to such fingerprinting and/or disclosure, including without limitation documents and/or an in-person interview, as the Commission determines is appropriate and reasonable to render a determination.

§11-09 Wholesale Business and Market Business Operations.

(a) Registration or registration number not transferable. Wholesale businesses and market businesses shall not transfer their registration or registration numbers as part of the sale of such businesses.

(b) Furnishing and display of registration or registration numbers. A wholesale business or market business shall conspicuously and prominently display its registration certificate issued by the Commission at its place of business.

(c) Recordkeeping. Wholesale businesses or market businesses shall retain copies of all invoices and other documents reflecting deliveries or payments from or to suppliers and customers. Such books and records shall accurately reflect the amount of goods or services involved in each transaction, and shall, along with all other records produced or received in the normal course of business, be retained for a minimum of thirty-six (36) months, and shall be made available for immediate inspection and/or copying upon request by the market manager, a designee of the market manager or an employee of the Commission.

(d) Worker's compensation insurance. Wholesale businesses or market businesses shall submit proof that they have obtained the required worker's compensation and disability benefits coverage, or that they are exempt from section 57 of the Worker's Compensation Law and subdivision eight of section 220 of the Disability Benefits Law. Proof of coverage can be established by submitting the following Worker's Compensation Board forms:

C-105.2 Application for Certificate of Worker's 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 Worker's Compensation or Disability Benefits Coverage.

(e) Liability insurance. Wholesale businesses or market businesses shall procure and shall maintain throughout the term of the registration the following types of insurance against claims for injuries to persons or damage to property that may arise from or in connection with the business:

(1) Commercial general liability insurance with liability limits of no less than one million dollars (\$1,000,000) 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).

(2) Business automobile liability insurance covering every vehicle operated by the wholesale business or market business, whether or not owned by the business, 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 (\$1,000,000) per accident.

(f) 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 (60) days prior written notice to the Commission. Failure to maintain continuous insurance coverage meeting the requirements of these rules will result in revocation of the registration. 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 Commission to accept a company with a lower rating. Two (2) certificates of insurance effecting the required coverage and signed by a person authorized by the insurer to bind coverage on its behalf must be delivered to the Commission prior to the effective date of the license. A registrant shall demonstrate that the registrant has secured the insurance

coverage required pursuant to this section and shall maintain such required insurance coverage throughout the term of the registration.

(g) Wholesale businesses and market businesses shall be jointly and severally liable for any violation of Chapter 1-B of Title 22 of the Code or of this subchapter by any of their employees or agents.

(h) Each wholesale businesses and market businesses shall permit the Commission, or any person designated by the Commission, to enter its premises whenever in the discretion of the Commission such entry is necessary.

§11-10 Labor Union and Labor Organization Registration Required. Labor unions and labor organizations representing or seeking to represent employees directly involved in the movement, handling or sale of goods sold in any public wholesale market shall register with the Commission, unless such labor union or labor organization is exempt from registration pursuant to subdivision 22-264(a) of the Code.

§11-11 Application for a Labor Union and Labor Organization Registration.

(a) An application for a labor union or labor organization registration pursuant to section 22-264 of the Code, or for a renewal of such registration, shall be made on a form prescribed by the Commission. The application shall be certified under penalty of perjury and signed by an officer of the applicant. The application shall include, but not be limited to, the following information: (1) the names of all officers and agents; (2) all criminal convictions, in any jurisdiction, of such labor union or labor organization; (3) any criminal or civil investigation of such labor union or labor organization by a federal, state or local prosecutorial, investigative or regulatory agency; (4) all civil or administrative proceedings to which such labor union or labor organization has been a party involving allegations of racketeering, including but not limited to offenses listed in subdivision nineteen hundred sixty-one of the Racketeer Influenced and Corrupt Organization 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; (5) judicial or administrative consent decrees entered into by such labor union or labor organization in the five (5) year period preceding the date of the application; and (6) the appointment of an independent auditor, monitor, receiver, administrator or trustee to oversee any activities of such labor union or labor organization in the five (5) year period preceding the date of the application. Notwithstanding the foregoing, no labor union or labor organization shall be required to furnish information pursuant to this subdivision which is already included in a report filed by the labor union or labor organization with the Secretary of Labor pursuant to 29 U.S.C. § 431 et seq. or 29 U.S.C. § 1001 et seq. if a copy of such report, or of the portion thereof containing such information, is furnished to the Commission.

(b) An officer of a labor union or labor organization required to be registered with the Commission pursuant to subdivision 22-264(a) of the Code shall submit the information required by subdivision 22-264(b) of the Code on a form prescribed by the Commission.

(c) Notwithstanding any provision of this subchapter, where there is reasonable cause to believe that an officer of a labor union or labor organization does not possess good character, honesty and integrity, the Commission may require that such officer be fingerprinted by a person designated for such purpose by the Commission, 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. The

Commission also may require such additional information, in lieu of or in addition to, such fingerprinting and/or disclosure, including without limitation documents and an in-person interview, as the Commission determines is appropriate and reasonable to render a determination.

(d) Any material change in the information submitted pursuant to subdivision (a) or (b) of this section shall be reported to the Commission by such union or organization or officer, in a signed and notarized writing, within thirty (30) calendar days thereof.

(e) After providing notice and opportunity to be heard, the Commission may disqualify an officer of a labor union or labor organization from holding office based on the grounds set forth in subdivision c of section 22-264 of the Code and in accordance with the procedure for such disqualification set forth in such subdivision.

(f) If an application for the renewal of a registration is not submitted to the Commission with the time period required by the Commission, the Commission may reject the renewal application and require the applicant to file a new application for a labor union and labor organization registration. If a new application is required by the Commission, the provisions pertaining to the application process as set forth in Chapter 1-B of Title 22 of the Code and of this subchapter shall govern.

§11-12 Wholesale Trade Association Registration Required. Wholesale trade associations shall register with the Commission before operating in a public wholesale market.

§11-13 Application for a Wholesale Trade Association Registration.

(a) An application for a wholesale trade association registration pursuant to section 22-265 of the Code, or for a renewal of such registration, shall be made on a form prescribed by the Commission. The application shall be certified under penalty of perjury and signed by an officer of the applicant. The application shall include, but be not limited to, the following information: (1) the names of all members of such association; (2) the names of all persons holding office in such association; and (3) any criminal or civil investigation by a federal, state, or local prosecutorial, investigative or regulatory agency.

(b) An officer of a wholesale trade association required to be registered with the Commission pursuant to section 22-265 of the Code shall submit the information required by subdivision 22-265(b) of the Code on a form provided by the Commission.

(c) Notwithstanding any provision of this subchapter, when there is reasonable cause to believe that an officer of the trade association does not possess good character, honesty and integrity, the Commission may require that such officer be fingerprinted by a person designated for such purpose by the Commission, 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. The Commission also may require such additional information, in lieu of or in addition to such fingerprinting and/or disclosure, including without limitation documents and an in-person interview, as the Commission determines is appropriate and reasonable to render a determination.

(d) After providing notice and opportunity to be heard, the Commission may disqualify an officer from holding office in a wholesale trade association based on the grounds set forth in subdivision c of section 22-265 of the Code and in accordance with the procedure for such disqualification set forth in such subdivision.

(e) If an application for the renewal of a registration is not submitted to the Commission within the time period required by the Commission, the Commission may reject the renewal application and require the applicant to file a new application for a wholesale trade association registration. If a new application is required by the Commission, the provisions pertaining to the application process as set forth in Chapter 1-B of Title 22 of the Code and of this subchapter shall govern.

§ 11-14 Record Keeping Requirements for Wholesale Trade Associations.

(a) Wholesale trade associations shall retain copies of all invoices and other documents reflecting payment to and from wholesalers and market businesses, leases, sub-leases, union contracts, and all other records produced or maintained in the normal course of business for a minimum of thirty-six (36) months.

(b) Such books and records shall be made available for immediate inspection and/or copying upon request by the market manager, a designee of the market manager or an employee of the Commission.

§ 11-15 Notification of Material Change in Information, Addition of Principal and Change in Composition of Business.

(a) An applicant for a registration or a photo identification card shall notify the Commission within ten (10) calendar days of any material change in the information submitted in an application or disclosure form submitted pursuant to this subchapter. Subsequent to the issuance of the registration or photo identification card, the registrant or photo identification card holder shall notify the Commission within thirty (30) calendar days of any material change in the information submitted in an application or disclosure form.

(b) A registrant shall provide the Commission with notice of at least ten (10) business days of the proposed addition of a new principal (other than a person 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). 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 subchapter, the registrant may add such new principal pending the completion of review by the Commission. The registrant 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 subchapter. If upon the completion of such review, the Commission determines that such principal lacks good character, honesty and integrity, the registration shall cease to be valid unless such principal divests his or her interest, or discontinues his or her involvement in the business of such registrant, as the case may be, within the time period prescribed by the Commission.

(c) The registrant shall also notify the Commission within thirty (30) days calendar days, of the ownership composition of the business.

(d) Any notification pursuant to this section shall be in writing, sworn and notarized.

(e) For the purposes of this section “material change” shall mean a change in any information provided in response to an item identified as such on an application or disclosure form submitted to the Commission or by any other directive issued by the Commission.

“Material change” also includes the occurrence of any event after the submission of an application or disclosure that would have been required to be disclosed on such form had it occurred prior to such submission.

§ 11-16 Acquisitions and Subleases.

(a) A person who intends to acquire a registered wholesale business or market business shall submit an application for a wholesale business or market business registration pursuant to the provisions of Chapter 1-B of Title 22 of the Code and the rules set forth in this subchapter for a preliminary review of such application by the Commission. Upon the submission of purchase and sale agreement for review by the Commission no later than thirty (30) days before such acquisition or sale is to take effect, the Commission will conduct an expedited application review.

(b) A registrant shall notify the Commission within ten (10) calendar days of contract closing of any change in the capital stock or ownership in the business of the registrant, 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 registrant business who will have any beneficial interest in the current business and a copy of the contract or agreement.

(c) Sublessee required to apply for registration. Wholesale businesses and market businesses 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 wholesale business or market business seeks to sublease or otherwise allow the use of its premises, or any portion thereof, for the operation of a wholesale business or market business by another person, where such sublease is permitted under the terms of the lease, the Commission may, upon application and payment of the required fee by the prospective sublessee pursuant to the provisions of chapter 1-B of Title 22 of the Code and the rules set forth in this subchapter, issue a registration number to such sublessee. Absent such registration number no wholesale business or market business may permit a sublessee to operate a wholesale business or market business on such premises.

§ 11-17 Refusal to Issue Registration or Photo Identification Card; Revocation and Suspension of Registration or Photo Identification Card.

(a) Where the staff of the Commission recommends that the Commission refuse, pursuant to section 22-259 of the Code, to issue a registration to a wholesale business or market business applicant or a photo identification card applicant, the applicant shall be notified in writing of the reasons for the proposed refusal of such registration or photo identification card 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 registration or photo identification card. In the exercise of its discretion, the Commission, considering the reasons for the proposed refusal to issue the registration or photo identification card, 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 registration or photo identification card or afford the applicant such further opportunity to be

heard in such proceeding as is deemed appropriate. A final determination and the reasons therefor shall be communicated to the applicant in writing.

(b) The Commission may revoke a temporary photo identification card, and after notice and hearing, revoke or suspend the registration of a wholesale business or market business or a photo identification card for any of the reasons set forth in section 22-260 of the Code, or for violation of any rule promulgated pursuant to section 22-266 of the Code, including without limitation section 11-19 of this subchapter. Notice shall be provided in accordance with the provisions of section 11-20 of this subchapter. Hearings shall be afforded in accordance with the provisions of section 11-21 of this subchapter.

(c) Revocation or suspension of a registration, discontinuance of business operations in the market area by a registrant, or denial of an application for registration shall require the immediate surrender to the market manager 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 immediate revocation of a suspended registration and/or the imposition of sanctions and penalties as provided in section 22-258 of the Code.

(d) Revocation or suspension of photo identification cards or denial of an application for a photo identification card (including temporary photo identification cards) shall require the immediate surrender of such cards to the market manager .

§ 11-18 Emergency Suspension of Registration or Photo Identification Card. Notwithstanding the foregoing provisions, the Chairperson may, if he or she has reasonable cause to believe that the operation of a wholesale business or market business or the presence of any person in the public wholesale market creates an imminent danger to life or property or to the orderly and lawful operation of the market, or that there has likely been false or fraudulent information submitted to the Commission, immediately suspend the registration of such business or the photo identification card of such person without a prior hearing, provided that such suspension may be appealed to the Deputy Commissioner for Legal Affairs of the Commission who shall determine such appeal forthwith. If the Deputy Commissioner for Legal Affairs upholds the suspension, an opportunity for a hearing pursuant to the provisions of subdivision (b) of section 11-21 of this subchapter shall be provided on an expedited basis. The Commission shall issue a final determination no later than four (4) business days following the conclusion of such hearing. The Chairperson may, upon application by a wholesale business or market business whose registration has been suspended without a prior hearing, permit such business to remain in the market for such time as is necessary to allow for the expeditious sale, consignment or removal of a perishable product if, in the Commission's judgment, such permission is consistent with the safety of the market.

§ 11-19 Prohibited Acts Generally.

(a) No person shall (1) interfere, or attempt to interfere, with the market manager, his or her staff or the employees of the Commission in the discharge of their functions or interfere with or otherwise obstruct the orderly functioning of the market; (2) interfere, or attempt to interfere with, or otherwise obstruct any operations or property of any person in the market; (3) take into, carry through, leave in, throw, or discharge into or on any market any rubbish, litter or refuse, except that rubbish, litter or refuse generated within any market may be discarded in receptacles that are specifically designed for such purpose or as otherwise provided for by this subchapter; (4) urinate or defecate in any market, or in or upon any market building or structure, except in a

facility which is specifically designed for such purpose; (5) damage, remove or destroy any property or equipment without authority; (6) engage in, instigate or encourage a fight or other disturbance; (7) commit any act injurious to any person, animal or property; (8) bring into any market or have in his possession any firearms, illegal knives, hatchets, machetes, slingshots, fireworks or other dangerous instruments or explosives; (9) play any game of chance, participate in the conduct of an illegal lottery, or use any slot machine, gaming table or instrument or have in his or her possession any implements or devices commonly used, or intended to be used, for gambling purposes; (10) make a misrepresentation of any kind with respect to merchandise offered for sale or the take any unfair advantage of a purchaser or any attempt to take such unfair advantage; (11) sell in any market any merchandise that the Commission has prohibited to be sold therein; (12) discharge into or leave in tidal water, sewage or drainage that may result in the pollution of water; (13) perform any act that may tend to damage or clog drains or sewers; or (14) disobey any lawful order of any employee of the Commission or other employee of the City or disobey or violate any lawful notice, prohibition, instruction or direction of the Commission or any other City agency.

(b) In addition to the foregoing, the following rules also apply to principals, employees and agents of wholesalers or market businesses, officers of labor unions and labor organizations, and officers of wholesale trade associations. Such persons shall not:

(1) authorize another person to use the name of the wholesale business, labor union or organization, wholesale trade association or market business to which a registration number has been issued for such business;

(2) authorize another person to conduct a wholesale business or market business with the registration number that has been issued to such business;

(3) conduct a wholesale business or market business under any name other than the name under which such business has been registered;

(4) violate applicable federal, state or city laws or regulations;

(5) in the case of a wholesale business or market business, fail to notify the Commission of any change in the information pursuant to section 11-15 of this subchapter;

(6) 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);

(7) make, file or submit a false or misleading statement to the Commission or to any other government agency or employee;

(8) threaten or attempt to intimidate a customer or prospective customer;

(9) retaliate against a customer or prospective customer of any business in the market or against any person who has made, or who is associated with any person who has made, a complaint concerning conduct involving the market to the Commission or any other governmental entity;

(10) falsify any business record;

(11) in the case of a wholesale, market or other business, continue to employ within any market a person who is required to have but has not received a valid photo identification card in accordance with the provisions of this subchapter, or whose photo identification card has been revoked or suspended;

(12) utilize any motor vehicle in connection with a business operating in the market that is not properly registered with the New York State Department of Motor Vehicles and insured in accordance with section 11-09 of this subchapter;

(13) engage in any unfair labor practice under federal or state labor law;

(14) refuse to respond to an inquiry from the Commission;

(15) violate or fail to comply with any order or directive of the Commission; or

(16) fail to pay any fines or civil penalties imposed by the Commission or any court or administrative tribunal of competent jurisdiction for violations of Chapter 1-B of Title 22 of the Code or this subchapter.

§ 11-20 Notice. Unless otherwise provided, all notices pursuant to Chapter 1-B of Title 22 of the Code or this subchapter, including but not limited to notice related to hearings, violations and subpoenas, may be served by first class mail addressed to the business address provided to the Commission by the applicant, registrant or photo identification card holder or on the registration issued to the business. All such notices 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. Such notice also may 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.

§ 11-21 Administrative Hearings. (a) Hearings on the violation of any provision of Chapter 1-B of Title 22 of the Code or any provision of the rules promulgated pursuant to such chapter may be conducted by the Environmental Control Board or by other administrative tribunal of competent jurisdiction, and shall be held pursuant to the procedures for adjudication set forth in the rules of such Board or tribunal.

(b) Where a hearing is conducted in relation to the suspension or revocation of a photo identification card or registration, such hearing shall, at the discretion of the Commission, be conducted by the Commission, a hearing officer or by the Office of Administrative Trials and Hearings.

(1) Where such hearing is conducted by the Commission or a hearing officer, such hearing shall be conducted as follows:

(i) The hearing officer or the Commission shall set a time and place for such hearing and the respondent shall be provided with notice of such time and place no less than ten (10) days prior to the date of the hearing, except that in the case of an immediate suspension requiring an expedited hearing pursuant to section 22-261 of the Code, such notice shall be provided no later than one (1) business day following such suspension.

(ii) 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 and examine witnesses and to present arguments on the law and facts. Relevant material and reliable evidence may be admitted without regard to technical or formal rules or laws of evidence.

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

(iv) The Chairperson, or his or her designee, or the hearing officer, as the case may be, shall preside over the hearing and shall have all powers necessary to conduct a fair and impartial hearing, 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 purpose; and to examine witnesses.

(v) The hearing officer or the Commission, as the case may be, shall arrange for the hearing to be either stenographically transcribed or mechanically recorded. The transcript or recording and all exhibits received in evidence shall constitute the hearing record.

(vi) When the hearing is conducted by a hearing officer, as soon as possible after the hearing, the hearing officer shall present recommended findings of fact and a recommended decision to the Commission. The Commission shall then make its final determination and notify the respondent of such determination. When the hearing is conducted by the Commission, the Commission shall make a final determination and notify the respondent of such determination.

(vii) Failure of a respondent to make a timely written response, appear or proceed as required by the hearing officer or the Commission, as the case may be, shall constitute a default. When the hearing is conducted by a hearing officer, upon default the hearing officer shall make recommended findings and a recommended decision as is appropriate under the pleadings and such evidence as he or she shall have received. The Commission shall then make a final determination and notify the respondent of such determination. Where the hearing is before the Commission, upon default the Commission shall make a final determination and shall notify the respondent thereof.

(2) Where such hearing is conducted by the Office of Administrative Trials and Hearings, such hearing shall be governed by the rules of procedure utilized by that tribunal. After the conclusion of the hearing, the Office of Administrative Trials and Hearings shall issue proposed findings and a report and recommendation to the Commission. The Commission shall review such findings and report and recommendation and shall issue a final determination. The Commission shall notify the respondent in writing of its determination.

§ 11-22 Fines and Penalties.

(a) The Commission may issue a notice of violation to any person, including a wholesale business, market business, or wholesale trade association, or any of their principals, employees, agents or officers, for the violation of any provision of Chapter 1-B of Title 22 of the Code or this subchapter. Any person who violates any such provision shall be subject to the civil and criminal fines and penalties and injunctive relief as provided in section 22-258 of the Code.

(b) A wholesale business, market business, or wholesale trade association shall be jointly and severally liable for any violation of Chapter 1-B of Title 22 of the Code or of this subchapter committed by any of its officers, employees and/or agents acting within the scope of their employment.

§ 11-23 Commission Delegations to the Chairperson. The Commission may by resolution delegate to the Chairperson any authority of the Commission set forth in this subchapter or Chapter 1-A of Title 22 of the Code that is lawful and appropriate to delegate. Such resolution shall state the authority delegated and the extent of such delegation, including any limitations on the authority delegated.

§ 11-24 Additional Powers of the Commission. In addition to the other powers of the Commission, the Commission shall have the following powers:

(a) Hours of operation of any market may be regulated by the Commission.

(b) Entry into any market may be regulated by the Commission. No fee shall be charged for entry into a market or for parking therein, nor shall any existing fee be increased, unless the Commission shall have first approved the amount of such fee. The Commission may establish or authorize the establishment of an identification card and pass system as a prerequisite for entry of any persons into any market.

§ 11-25 Traffic Regulation and Parking Within the Market.

(a) All persons operating a vehicle within the market shall obey and comply with any traffic direction of any police officer or employee of the Commission indicated by gesture or otherwise and with any parking or traffic sign posted by the Commission or other City agency.

(b) No person shall obstruct the movement of traffic or stop, stand or park a vehicle, freight car or other conveyance except in designated places.

(c) All disabled vehicles must be promptly removed from paved roadways and removed from the market within three (3) hours. If not removed, such vehicles will be removed by City personnel or licensed tow operators at the expense of the vehicle owner.

(d) No person shall grease, lubricate or make repairs, except of a minor and emergency nature, to any vehicle within the market.

(e) All persons operating a vehicle within the market shall operate such vehicles at all times in full compliance with all New York State and New York City traffic laws, rules and regulations and all laws, rules and regulations and procedures of any other government agency having jurisdiction over motor vehicles.

§11-26 Administration.

(a) No lease for any property located within any market and described in any lease with the City shall be assigned or transferred without notifying the Commission at least five (5) days prior to such assignment or transfer.

(b) All market premises described in any lease with the City and all equipment used on such market premises shall be kept and maintained in good repair and condition in accordance with the terms of any applicable license or registration issued by the Commission and the terms of any lease with the City (including any sublease thereunder), and otherwise in a manner consistent with the orderly functioning of the market.

(c) All market premises described in any lease with the City shall be surrendered in good order and condition at the expiration or sooner termination of such lease. The Commission shall be notified of any surrender of such premises no later than five (5) days after such surrender.

SUBCHAPTER B
SEAFOOD DISTRIBUTION AREAS

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§12-01 Scope and construction.

(a) This subchapter shall govern licensing, registration and other requirements relating to seafood distribution in seafood distribution areas, including the market area.

(b) Any act prohibited by this subchapter shall extend to and include the permitting, allowing, causing, procuring, aiding or abetting of such act.

(c) No provision in this subchapter shall make unlawful the act of any employee of the Commission or other government official in the performance of his or her official duties.

(d) Any act prohibited by this subchapter not otherwise prohibited by law or any other government rule or regulation shall be lawful if performed pursuant to and in strict compliance with written authorization by the Chairperson.

(e) This subchapter is in addition to and supplements all laws, rules and regulations of the City and State of New York and federal government and all terms and conditions set forth in any lease, license, registration or permit.

§12-02 Definitions.

For the purposes of this subchapter, the following terms shall have the following meanings:

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.

Code. “Code” shall mean the Administrative Code of the City of New York.

Chairperson. “Chairperson” shall mean the Chairperson of the New York City Business Integrity Commission.

Commission. “Commission” shall mean the New York City Business Integrity Commission. The term “Commission” also shall refer to an action of the Chairperson of the Commission, taken under delegation from the Commission.

Cooperative association. “Cooperative association” shall mean the cooperative association established, with the approval of the Commission, by wholesale seafood businesses in a market area to assist with the management of the market area.

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.

Designee of the commission. “Designee of the commission” shall mean the Department of Citywide Administrative Services and, with respect to loading services or the direction of traffic within the market area, the Department of Transportation.

Employee. “Employee” shall mean a person who works or who expects to work in a market area on a full-time, part-time or seasonal basis for a wholesaler, seafood delivery business, loading business, unloading business or market business, but shall not include persons hired to work on an occasional basis. A person hired to work on an occasional basis is any person who works or has been hired to work for a wholesaler, seafood delivery business, loading business, unloading business or market business and works no more than five (5) days in any given month for the same employer. Any person who works for a wholesaler, seafood delivery business, loading business, unloading business or market business is presumed to be an employee unless the presumption is overcome by credible evidence produced by the person and/or the employer.

Hearing officer. “Hearing officer” shall mean a person appointed or designated to conduct hearings pursuant to the procedures set forth in subdivision 12-26(b) of this subchapter relating to the suspension or revocation of a license, registration, or photo identification card. “Hearing officer” shall not include a person assigned to preside over a case that has been referred to the Office of Administrative Trials and Hearings.

Loader. “Loader” shall mean any person who performs loading services.

Loading area. “Loading area” shall mean a location, approved or designated by the market manager, in which designated loading business shall provide loading services. Notice of such designations and of any changes thereto shall be posted in appropriate locations.

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 Commission authorizing the conduct of such business in the market area.

Market area. “Market area” shall mean:

(1) The area in Hunts Point in the Borough of the Bronx that includes (i) the structure known as the New Fulton Fish Market at Hunts Point and all parking and other areas adjacent thereto, beginning at the intersection of the bulkhead line in the East River and the easterly street line of Halleck Street extended, thence northwesterly to the intersection of the easterly street line of Halleck Street extended and the southerly street line of Food Center Drive, thence easterly along the southerly street line of Food Center Drive to the intersection of the southerly street line of Food Center Drive and the southerly street line of Farragut Street, thence easterly along the southerly street line of Farragut Street continuing to its easterly terminus, thence easterly to the intersection of Farragut Street extended and the bulkhead line in the East River, thence westerly along said bulkhead line to the place of beginning, but excluding (A) the southern portion of the above-described area that is under the jurisdiction of the Department of Correction and includes a prison barge and adjacent parking lot and other facilities and areas controlled by the Department of Correction, and (B) the eastern portion of the above-described area that is under the jurisdiction of the Department of Sanitation and includes a marine transfer station and other facilities and areas controlled by the Department of Sanitation; and(ii) the parking lot for use by persons employed at the New Fulton Fish Market at Hunts Point, including the pathway connecting such parking lot with Food Center Drive and the driveway connecting such parking lot with Halleck Street, that lies northwest of the area described in paragraph (i) of this subdivision, northeast of Halleck Street, southeast of the northerly street line of Viele Street extended, and southwest of the Hunts Point Meat Market.

The aerial photograph constituting Appendix A of this subchapter illustrates the market area described above. Such appendix is for illustration purposes only, and the area indicated therein is not necessarily to scale. If there is a conflict between the description set forth above and the area illustrated by such photograph, the description set forth above shall prevail.

(2) Any other area declared to be a seafood distribution area pursuant to section 22-222 of the Code.

Market hours. “Market hours” shall mean the hours of operation of the market area as designated by the market manager. Such hours shall be posted in appropriate locations throughout the market area.

Market manager. “Market manager” shall mean a person designated by the Commission 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 Code or the rules promulgated pursuant to such chapter; supervision of

Commission 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 subchapter; 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 Commission may assign consistent with the provisions of Chapter 1-A of Title 22 of the Code or the rules promulgated pursuant to such chapter.

Non-seafood business. “Non-seafood business” shall mean any business that operates within a market area on City property that is not a loading, unloading, wholesale seafood or seafood delivery business or a market business, as that term is defined in section 14-02 of this chapter.

Person. “Person” shall include entities as well as natural persons unless the context indicates otherwise.

Principal. “Principal” shall mean, of a sole proprietorship, the proprietor; of a corporation, every officer, director and stockholder holding ten (10) 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 having an ownership interest of ten (10) 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 (10) 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 (10) percent or more of the outstanding shares of such corporation, as is appropriate. For the purposes of this subchapter (1) a person shall be considered to hold stock in a corporation where such stock is owned directly or indirectly by or for (i) such person, (ii) the spouse of such person (other than a spouse who is legally separated from such person pursuant to a judicial decree or an agreement cognizable under the laws of the state in which such person is domiciled), (iii) the children, grandchildren and parents of such person, (iv) a partnership in which such person is a partner, in proportion to the partnership interest of such person, and (v) a corporation in which any of such person, the spouse, children, grandchildren and parents of such person own fifty (50) percent or more in value of the stock; (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 where such corporation holds fifty (50) percent or more in value of the stock of a third corporation that holds stock in the applicant corporation.

Registration. “Registration” shall mean wholesale seafood registration as required by section 22-209 of the Code or a seafood deliverer registration as required by section 22-211 of the Code.

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 or seafood deliverer. “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 Commission subject to such conditions as the Commission 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 any person 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 or wholesale seafood business. “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.

§12-03 Terms and Fees.

(a) Licenses.

(1) License term. An unloading or loading license issued pursuant to this subchapter shall be valid for two (2) years and may be extended for an additional (1) year at the discretion of the Commission. A temporary license issued pursuant to subdivision 22-204(g) or 22-206(g) shall be valid for a period not to exceed one (1) year, provided that such license shall not extend beyond the remainder of the term of the original license.

(2) License fee. The fee for an unloading or loading license shall be seven thousand five hundred dollars (\$7500) and the fee for extension of such license for an additional year shall be three thousand seven hundred and fifty dollars (\$3750). The fee for a temporary license shall be prorated to the term of an original license.

(3) Disclosure fee for principals of license applicants. The fee for each principal disclosure in connection with an unloading or loading license shall be six hundred dollars (\$600).

(b) Registrations.

(1) Registration term. A wholesale seafood business or a seafood delivery business registration issued pursuant to this subchapter shall be valid for two (2) years, and may be renewed for two (2)-year periods thereafter.

(2) Registration fee. The fee for registration of a wholesale seafood business or a seafood delivery business shall be four thousand dollars (\$4000) and the fee for renewal of such registration shall be four thousand dollars (\$4000).

(c) Stand permits.

(1) Stand permit term. A stand permit issued pursuant to this subchapter shall be valid for two years, and may be renewed for two year periods thereafter.

(2) Stand permit fee. The fee for a stand permit shall be based on the square footage of the area encompassed by the stand permit.

(d) Photo identification fee. The fee for a Class B photo identification card issued by the market manager shall be one hundred dollars (\$100), and the fee for the replacement of a Class B photo identification card that has been lost or stolen shall be one hundred dollars (\$100). The fee for Class A photo identification card issued by the market manager shall be one hundred and fifty dollars (\$150), and the fee for the replacement of a Class A photo identification card that has been lost or stolen shall be one hundred dollars (\$100).

(e) Investigative fee. The fee for a background investigation pursuant to subdivision b of section 22-209 and subdivision b of section 22-211 shall be six hundred dollars (\$600) and the fee for a background investigation pursuant to subdivision b of section 22-203 of the Code shall be two hundred dollars (\$200).

(f) Fingerprint fee. The fee for fingerprinting shall be as determined by the New York State Division of Criminal Justice Services.

(g) A wholesale seafood business, a seafood delivery business, a loading business or an unloading business shall be responsible for the payment of any fee imposed by this section with respect to an employee, principal or agent of such business or any person seeking to become an employee, principal or agent of such business.

(h) The fees provided for in this section shall be payable to the Commission.

§12-04 Photo Identification Cards and Visitors Passes.

(a) Class A and Class B Photo Identification Cards. No person who is a principal or employee of any unloading, loading, wholesale, seafood delivery or non-seafood business who performs any function in the market area, or any agent of such a business who performs any function in the market area directly related to the handling or transportation of seafood, shall perform such function without a Class A or Class B photo identification card issued by the market manager pursuant to this subchapter and section 22-203 of the Code. A person who performs any function in the market area who is a principal or employee of an unloading or loading business subject to the licensing requirement in sections 22-204 and 22-206 of the Code, or an agent of such business who performs any function in the market area directly related to the handling or transportation of seafood, must first obtain a Class A photo identification card issued by the market manager. A person who performs any function in the market area who is a principal or employee of a wholesale or seafood delivery business subject to the registration requirement in sections 22-209 and 22-211 of the Code or a non-seafood business, or an agent of such business who performs any function in the market area directly related to the handling or transportation of seafood, must first obtain a Class B photo identification card from the market manager.

(b) Notwithstanding the foregoing, any person required to have a photo identification card who has filed an application therefor and obtained a temporary photo identification card, may continue to perform such functions unless and until (1) the application of such person for a photo identification card has been denied, or (2) the temporary photo identification card of such person has been revoked, or (3) in cases where the Commission has required such person to be fingerprinted, submit background information and/or appear for an interview pursuant to sections

22-203 and 22-216 of the Code and section 12-05 of this subchapter, such person has failed, within the time period prescribed by the Commission, to be fingerprinted, submit the required information, or appear for an interview.

(c) Temporary Photo Identification Cards and Visitors Passes. (1) The Commission may designate the cooperative association of any market to issue temporary photo identification cards to persons required to have a photo identification card within such market. The duties of such designated cooperative association are to be performed pursuant to the provisions of the Code and this subchapter relating to such temporary photo identification cards and such terms and conditions as the Commission may impose.

(2) Such temporary photo identification cards shall be valid for a period of one year but shall cease to be valid upon the issuance by the Commission of a permanent photo identification card or the occurrence of any of the events set forth in paragraphs (1), (2) or (3) of subdivision (b) of this section.

(3) The Commission may designate the cooperative association of any market to issue visitor passes at the market in which it operates. The duties of such designated cooperative association are to be performed pursuant to the provisions of the Code and this subchapter relating to such visitors passes and such terms and conditions as the Commission may impose.

(4) Any cooperative association designated by the Commission to issue temporary identification cards may impose fees and set amounts for such fees for the performance of the functions set forth in this section with the prior written permission of the Commission. No change in a fee or amount of such fee imposed pursuant to this section shall be made without prior written permission of the Commission

(d) Where a photo identification holder changes employment in the market, the photo identification holder shall notify the market manager of the change of employment and submit the transfer form provided by the market manager. The photo identification holder shall also be required to apply for a new photo identification card and pay the requisite fee in accordance with the provisions of this subchapter. A loading, unloading, wholesale seafood, seafood delivery or non-seafood business shall immediately notify the market manager of the addition or other change of status of a photo identification holder.

(e) A person who discontinues his or her employment in the market or who ceases to be a principal of an unloading, loading, wholesale, seafood delivery or non-seafood business shall immediately surrender his or her photo identification card to the market manager. A business that terminates an employee possessing a photo identification card shall obtain that employee's photo identification card and surrender it to the market manager.

(f) Photo identification cards and visitors passes shall be displayed at all times within the market area so as to be readily visible to others.

(g) No loading, unloading, wholesale seafood, seafood delivery or non-seafood business shall continue to employ a person who is required to but does not possess a valid photo identification card issued in accordance with the provisions of this subchapter.

§12-05 Application for Class A and Class B Photo Identification Cards.

(a) An applicant for a Class A photo identification card shall be fingerprinted by a person designated for such purpose by the Commission and pay the prescribed fee for the purpose of obtaining criminal history records, provide in full the background information required pursuant to subdivision a of section 22-216 of the Code in the application form as prescribed by the Commission. The application form shall be signed and certified under penalty of perjury by the

applicant. The application shall include the following information: names, address and telephone number(s) of the applicant, the applicant's employment history, the applicant's business interests, and other such information deemed appropriate by the Commission.

(b) An applicant for a Class B photo identification card shall submit the information requested in the application form as prescribed by the Commission. The application form shall be signed and certified under penalty of perjury by the applicant. The application shall include the following information: names, address and telephone number(s) of the applicant, the applicant's employment history, the applicant's business interests, and other such information deemed appropriate by the Commission.

(c) Notwithstanding any provision of this subchapter:

(1) the Commission may, when there is reasonable cause to believe that an applicant for, or holder of, a Class B photo identification card (other than a principal, employee or agent of a non-seafood business) does not possess good character, honesty and integrity, require that such applicant or Class B holder be fingerprinted by a person designated for such purpose by the Commission and pay the prescribed fee for the purpose of obtaining criminal history records and provide to the Commission the disclosure required by the form provided by the Commission pursuant to sections 22-203 and 22-216 of the Code. The Commission also may require such additional information, in lieu of or in addition to such fingerprinting and/or disclosure, including without limitation, documents and an in-person interview, as the Commission determines is appropriate and reasonable to render a determination.

(d) The Class B 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.

§12-06 Unloading and Loading Licenses Required.

(a) Unloading licenses. No person shall operate an unloading business in the market area without having first obtained a license to conduct such business issued by the Commission.

(b) Loading licenses. No person shall operate a loading business in the market area without having first obtained a license to conduct such business issued by the Commission.

§12-07 Application for License.

(a) Procedure. (1) An applicant business required by section 22-204 or section 22-206 of the Code, where applicable, to obtain a license 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 Commission pursuant to section 22-204 or section 22-206 of the Code no later than the dates specified in such request for licensing 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 Commission may determine are appropriate.

(3) An applicant for an unloading or loading license shall submit the information contained in the license application form and the required disclosure form provided by the Commission. In addition, each principal of the applicant business shall be fingerprinted by a person designated for such purpose by the Commission. The Commission may compel

attendance, examine witnesses, take testimony and require the production of evidence as the Commission deems necessary to investigate the truth and accuracy of the information submitted.

(b) If a renewal application is not submitted to the Commission within the time period required by the Commission, the Commission may reject the renewal application and instead require the applicant to file a new application in accordance with the provisions pertaining to the application process as set forth in Chapter 1-A of Title 22 of the Code and in this subchapter.

§12-08 Information Required on a License Application.

(a) The application for a loading or unloading license accompanying the response to the request for licensing proposals shall be signed by all principals of the applicant and certified under penalty of perjury.

(b) The application 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.

(2) (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.

(iii) If such applicant is a limited liability company, a copy of the articles of organization and the names and addresses of all members.

(iv) If the applicant is doing business under an assumed name, a Certificate of Assumed Name, certified by the County Clerk.

(3) Complete responses by the applicant business and by all of the principals of the business to the applicable disclosure form required by the Commission pursuant to subdivision a of section 22-216 of the Code.

(4) 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; driver's license numbers, with the class and expiration date, or other required operator's licenses, of all employees and/or agents who will operate vehicles within the market area; and completed disclosure forms, as required pursuant to section 22-216 of the Code for each current or identified employee and/or agent who will be required to possess a Class A photo identification card.

(5) 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.

(6) A tax identification number.

(7) A statement of financial responsibility in the form prescribed by the Commission 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.

(8) Proof of insurance required.

(i) Before a license is issued, an applicant shall submit proof that the following insurance policies have been secured:

(A) The required worker's compensation and disability benefits coverage, or that the applicant is exempt from section 57 of the Worker's Compensation Law and subdivision eight of section 220 of the Disability Benefits Law. Proof of coverage can be established by submitting the following Worker's Compensation Board forms:

C-105.2 Application for Certificate of Worker's 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 Worker's Compensation or Disability Benefits Coverage.

(B) Liability insurance against claims for injuries to persons or damage to property which may arise from or in connection with the applicant's business pursuant to the license. The applicant may purchase such policies in conjunction with one or more other licensees, provided that the following coverages are maintained:

(I) Commercial general liability insurance with liability limits of for unloading businesses no less than one million dollars (\$1,000,000) 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).

(II) Business automobile liability insurance covering every vehicle operated by the applicant in its business, whether or not owned by the applicant, 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.

(III) Employer's liability insurance with limits of one million dollars (\$1,000,000) per accident.

(ii) The policy or policies of insurance required by this paragraph 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 (60) days prior written notice to the Commission.

(iii) The licensee shall maintain all required insurance coverage throughout the term of the license. Failure to maintain continuous insurance coverage meeting the requirements of these rules will result in revocation of the license.

(iv) All required 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 Commission to accept a company with a lower rating.

(v) Two (2) certificates of insurance effecting the required coverage and signed by a person authorized by the insurer to bind coverage on its behalf must be delivered to the Commission prior to the effective date of the license.

(9) Proof of a performance bond, or other security that the Commission in its discretion so requires, in an amount, if any, determined by the Commission 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 section 22-204 or section 22-206 of the Code. The requirement of a

performance bond, or other security that the Commission in its discretion so requires, may be imposed by the Commission at any time, including after a license has been issued.

(c) Requirements for proposals. Responses to requests for proposals shall be in the form prescribed by the Commission and shall contain the proposal information concerning the services to be performed and the conduct of the business described in subdivision b of section 22-204 of the Code with respect to unloading licenses and in subdivision b of section 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.

(d) Examination of records. The Commission may require an applicant to produce for inspection such business records as the Commission deems necessary to verify the truth and accuracy of information submitted pursuant to an application for a license.

§12-09 License Issuance.

(a) Following review of proposals submitted in response to a request for licensing proposals issued pursuant to section 22-204 or section 22-206 of the Code, as the case may be, the Commission may, at its 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 Commission has determined are most qualified to provide such services in a safe, orderly and cost-efficient manner.

(b) The Commission may refuse to consider a proposal, refuse to issue a license or defer a decision on whether to consider such proposal or issue such license pursuant to the provisions set forth in subdivision b of section 22-216 of the Code.

(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 ten (10) days of receipt of such notice. The Commission 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 Commission may, for the reasons set forth in section 22-208 of the Code, determine not to issue a license or licenses to conduct unloading or loading businesses, as the case may be, in the market area and instead arrange for the Commission, a designee of the Commission or an entity under contract to the Commission, or any combination thereof, to provide such services.

§12-10 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 section 22-204 of the 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 section 22-206 of the 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 section 12-8 of this subchapter, and shall maintain such required insurance coverage throughout the term of the license.

(b) A license issued by the Commission pursuant to this subchapter shall not be transferable. A licensee shall not permit the use by any other person of the license or license number issued pursuant to this subchapter.

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

§12-11 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 section 22-204 and subdivision b of section 22-222 of the Code. In addition, an unloading business shall be subject to such provisions of this section as the market manager may direct.

(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 (4) 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 (3) 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 (3) 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 unloading area unless the market manager has approved the use of such area by such unloading business or has assigned such unloading business to such unloading area. The market manager may rotate such assignments.

(2) (i) Except as provided in subdivision (b) of this section, 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 Commission, 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 Commission, 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 its 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 section 22-204 of the 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 delivered 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 (36) 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 Commission, a designee of the Commission or an entity under contract to the Commission performs unloading services pursuant to paragraph (ii) of subdivision g of section 22-204 or 22-208 of the Code.

(d) Prohibited acts for unloaders.

(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 or the employees of the Commission in the discharge of their 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 Commission, 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.

(5) In addition to the foregoing, the following rules also apply to principals, employees and agents of an unloading business or an unloader. Such persons shall not:

- (i) authorize another person to use the name of the unloading business or unloader to which a license has been issued;
- (ii) authorize another person to conduct an unloading business or act as an unloader with the license that has been issued to such unloading business or unloader;
- (iii) conduct an unloading business under any name other than the name under which such business has been licensed with Commission;
- (iv) 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);
- (v) make, file or submit a false or misleading statement to the Commission or to a government agency or employee;
- (vi) falsify any business record;
- (vii) continue to employ a person who has not received a valid photo identification card in accordance with the provisions of this subchapter, or whose photo identification card has been revoked, or whose photo identification card has been suspended during the period of suspension;
- (viii) utilize any motor vehicle in connection with the operation of such business which is not properly registered with the New York State Department of Motor Vehicles and insured in accordance with section 12-8 of this subchapter;
- (ix) engage in any unfair labor practice under federal and state labor laws as applicable.
- (x) refuse to answer an inquiry from the Commission or provide false or misleading information to the Commission;
- (xi) violate or fail to comply with any order or directive of the Commission;
- (xii) fail to pay federal, state and local taxes;
- (xiii) fail to pay any fines or civil penalties imposed by the Commission, a court, or the Environmental Control Board for violations of Chapter 1-A of Title 22 of the Code and of this subchapter.

§12-12 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 section 22-206 and subdivision b of section 22-222 of the Code. In addition, a loading business shall be conducted subject to the provisions of this section as the market manager may direct.

(a) Loading charges and vouchers. (1) A loading business shall post copies of the schedule of the rates set forth in the conditions of 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 or the designee of 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 or the designee of 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 or his or her designee.

(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 or his or her designee 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 or his or her designee 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 not conduct loading in a loading area unless the market manager has approved the use of such area by such loading business or has assigned such loading business to such loading area. The market manager may rotate such assignments.

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

(c) Prohibited acts for loaders.

(1) A loading business or a loader shall not engage in any other business or perform any other service in the market area that would interfere with the ability of the loading business to perform loading activities adequately and effectively under this subchapter.

(2) A loading business or a loader shall not interfere with the market manager or his or her staff or the employees of the Commission in the discharge of their functions or interfere with or obstruct the orderly functioning of the market area.

(3) Where the market manager or the designee of 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.

(4) 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.

(5) 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.

(6) 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.

(7) 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.

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

(9) In addition to the foregoing, the following rules also apply to principals, employees and agents of a loading business or a loader. Such persons shall not:

(i) authorize another person to use the name of the loading business or loader to which a license has been issued;

(ii) authorize another person to conduct a loading business or act as a loader with the license that has been issued to such loading business or loader;

(iii) conduct an loading business under any name other than the name under which such business has been licensed with Commission;

(iv) 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);

(v) make, file or submit a false or misleading statement to the Commission or to a government agency or employee;

(vi) falsify any business record;

(vii) continue to employ a person who has not received a valid photo identification card in accordance with the provisions of this subchapter, or whose photo identification card has been revoked, or whose photo identification card has been suspended during the period of suspension;

(viii) utilize any motor vehicle in connection with the operation of such business which is not properly registered with the New York State Department of Motor Vehicles and insured in accordance with section 12-8 of this subchapter;

(ix) engage in any unfair labor practice under federal and state labor laws as applicable.

(x) refuse to answer an inquiry from the Commission or provide false or misleading information to the Commission;

(xi) violate or fail to comply with any order or directive of the Commission;

(xii) fail to pay federal, state and local taxes;

(xiii) fail to pay any fines or civil penalties imposed by the Commission, a court, or the Environmental Control Board for violations of Chapter 1-A of Title 22 of the Code and of this subchapter.

§12-13 Wholesale Seafood Business and Seafood Deliverer Registration Required.

(a) No person shall operate a wholesale seafood business in the market area without having first registered with the Commission and received a registration or registration number from the Commission.

(b) No person shall operate a seafood delivery business in the market area without having first registered with the Commission and having received a registration or registration number from the Commission.

§12-14 Application for a Wholesale Seafood Business and Seafood Delivery Business Registration.

(a) An application or renewal thereof for a wholesale seafood business or a seafood delivery business, pursuant to sections 22-209 and 22-211 of the Code, shall be made on a form prescribed by the Commission. The application shall be certified under penalty of perjury and signed by all principals of the applicant business. The registration application shall include, but not be limited to, the following information: (1) the name, address and telephone number(s) of the business submitting such application; (2) the names, addresses, telephone number(s) and social security numbers of all current and past principals of the applicant and a description of the positions occupied or ownership interest held by each such principal; (3) the names, job titles, social security numbers and addresses of all other employees or agents of the applicant; (4) a list of vehicles used in the course of the applicant's business; (5) employment and business background information on the principals such as the principal's employment history, wholesale or market business interests, and any related business interests; (6) 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; (7) if the

applicant business is a sole proprietorship, a notarized copy of the business certificate certified by the County Clerk; (8) if the applicant is a corporation, a copy of the certificate of incorporation; (9) if the applicant is a partnership, a copy of partnership papers, certified by the County Clerk; (10) a listing of the names and addresses of any person having a beneficial interest in the applicant, and the amount and nature of such interest; (11) a listing of any determination by a federal, state or city regulatory agency of a violation by such applicant of laws or regulations relating to the conduct of the applicant's business where such violation has resulted in the suspension or revocation of a permit, license or other permission required in connection with the operation of such business or in a civil fine, penalty, settlement or injunctive relief; (12) a listing of all criminal convictions, in any jurisdiction, of the applicant; (13) a federal or state tax identification number; and (14) such other information that the Commission deems appropriate.

(b) Notwithstanding any provision of this subchapter:

(1) the Commission may, when there is reasonable cause to believe that an applicant for registration as a wholesale seafood business or seafood delivery business or any or all of the principals of such applicant business does not possess good character, honesty and integrity, require that any or all such principals be fingerprinted by a person designated for such purpose by the Commission and pay the prescribed fee for the purpose of obtaining criminal history records and provide to the Commission the disclosure required by the form provided by the Commission. The Commission also may require such additional information, in lieu of or in addition to such fingerprinting and/or disclosure, including without limitation documents and an in-person interview, as the Commission determines is appropriate and reasonable to render a determination.

(2) If at any time subsequent to the registration of a wholesale seafood business or a seafood delivery business, the Commission has reasonable cause to believe that any or all of the principals, employees or agents of such business do not possess good character, honesty and integrity, the Commission may require that any or all of such principals 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. The Commission also may require additional information, in lieu of or in addition to such fingerprinting and/or disclosure, including without limitation documents and an in-person interview, as the Commission determines is appropriate and reasonable to render a determination.

(c) If a renewal application is not submitted to the Commission within the time period required by the Commission, the Commission may reject the renewal application and instead require the applicant to file a new application in accordance with the provisions pertaining to the application process as set forth in Chapter 1-A of Title 22 of the Code and in this subchapter.

§12-15 Wholesale Seafood Business Operations.

(a) Registration not transferable.

(1) A wholesale seafood business shall not transfer its registration or registration number as part of the sale of such business.

(2) A wholesaler shall not allow the use by any other person of the registration or registration number or the name of the business to which such registration has been issued.

(3) A wholesaler shall not allow any other person to place seafood in the space which the wholesaler has subleased from a cooperative association, except that a wholesaler may, as

provided in subdivision d of section 22-209 of the 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 to the Commission as soon as practicable, with details specifying the dates, times and extent of such use. A wholesaler may also, as set forth in subdivision e of section 22-209 of the Code and pursuant to the provisions regarding approval of the Commission 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 (49) percent of the space which the wholesaler has subleased from a cooperative association.

(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) Record keeping. (1) 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 (36) 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 or an employee of the Commission.

(2) Wholesalers or a designee of the wholesaler shall sign each bill of lading acknowledging delivery and receipt of the seafood indicated thereon, noting any discrepancies.

(d) Worker's compensation insurance. A wholesaler shall submit proof that it has obtained the required worker's compensation and disability benefits coverage, or that it is exempt from section 57 of the Worker's Compensation Law, and subdivision eight of section 220 of the Disability Benefits Law. Proof of coverage can be established by submitting the following Worker's Compensation Board forms:

C-105.2 Application for Certificate of Worker's 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 Worker's Compensation or Disability Benefits Coverage.

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

(1) Commercial general liability insurance with liability limits of no less than one million dollars (\$1,000,000) 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).

(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 wholesaler 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) Employer's liability insurance with limits of one million dollars (\$1,000,000) per accident.

(f) (1) The policy or policies of insurance required by this section 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 (60) days prior written notice to the Commission.

(2) A wholesaler shall demonstrate that it has secured the insurance coverage required pursuant to this subdivision and shall maintain such required insurance coverage throughout the term of the registration. Failure to maintain continuous insurance coverage meeting the requirements of these rules will result in revocation of the registration.

(3) All required 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 Commission to accept a company with a lower rating.

(4) Two (2) certificates of insurance effecting the required coverage and signed by a person authorized by the insurer to bind coverage on its behalf, must be delivered to the Commission prior to the effective date of the license.

(g) Payment bond. A wholesaler shall, in the discretion of the Commission, procure and maintain a payment bond or other security ensuring payment to suppliers of such wholesaler or to unloading businesses in an amount, if any, to be determined by the Commission taking into account such factors as the wholesaler's volume of business and credit worthiness. The requirement of a payment bond, or other security that the Commission in its discretion so requires, may be imposed by the Commission at any time, including after a registration has been issued.

§12-16 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 section 501 of the Vehicle and Traffic Law.

(2) All vehicles employed in a seafood delivery business shall possess: proper vehicle registration as required by section 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.

(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.

(e) Worker's compensation insurance. A seafood deliverer shall submit proof that it has obtained the required worker's compensation and disability benefits coverage, or that it is exempt from section 57 of the Worker's Compensation Law, and subdivision eight of section 220 of the Disability Benefits Law. Proof of coverage can be established by submitting the following Worker's Compensation Board forms:

C-105.2 Application for Certificate of Worker's 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 Worker's Compensation or Disability Benefits Coverage.

(f) Liability insurance. A seafood deliverer shall procure and shall maintain throughout the term of the registration the following types of insurance against claims for injuries to persons or damages to property which may arise from or in connection with the seafood deliverer's business. The seafood deliverer may purchase such policies in conjunction with one or more other seafood deliverers, provided that the following coverages described in this subdivision are maintained with respect to each seafood deliverer:

(1) Commercial general liability insurance with liability limits of no less than one million dollars (\$1,000,000) 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).

(2) Business automobile liability insurance covering every vehicle operated by the seafood deliverer, whether or not owned by the seafood deliverer, and every vehicle hired by the seafood deliverer 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) Employer's liability insurance with limits of one million dollars (\$1,000,000) per accident.

(g) (1) The policy or policies of insurance required by this section 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 (60) days prior written notice to the Commission.

(2) A seafood deliverer shall demonstrate that it has secured the insurance coverage required pursuant to this subdivision and shall maintain such required insurance coverage throughout the term of the registration. Failure to maintain continuous insurance coverage meeting the requirements of these rules will result in revocation of the registration.

(3) All required 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 Commission to accept a company with a lower rating.

(4) Two (2) certificates of insurance effecting the required coverage and signed by a person authorized by the insurer to bind coverage on its behalf, must be delivered to the Commission prior to the effective date of the license.

§12-17 Regulation for Safety, Order and Health in the Market Area.

(a) 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: (1) 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;

(2) 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;

(3) regulate the movement of traffic throughout the market area; and

(4) prescribe methods for the sanitary disposal of waste in the market area.

(b) With respect to the conduct of business and activities related to the distribution of seafood in the market area, where any provision of this subchapter is inconsistent with any other provision of this chapter, the provisions of this subchapter shall apply.

§12-18 Prohibited Acts Generally.

(a) No person shall (1) interfere, or attempt to interfere, with the market manager, his or her staff or the employees of the Commission in the discharge of their functions or interfere with or otherwise obstruct the orderly functioning of the market; (2) interfere, or attempt to interfere with, or otherwise obstruct any operations or property of any other person within the market; (3) take into, carry through, leave in, throw, or discharge into or on any market any rubbish, litter or refuse, except that rubbish, litter or refuse generated within any market may be discarded in receptacles that are specifically designed for such purpose or as otherwise provided for by this subchapter; (4) urinate or defecate in any market, or in or upon any market building or structure, except in a facility that is specifically designed for such purpose; (5) violate any measure imposed by the market manager pursuant to section 12-17 of this subchapter; (6) violate any other order of the market manager issued in accordance with Chapter 1-A of Title 22 of the Code or this subchapter; (7) violate any applicable federal, state or local law or regulation regarding the handling of seafood; (8) make a misrepresentation of any kind with respect to merchandise offered for sale or the take any unfair advantage of a purchaser or any attempt to take such unfair advantage; (9) sell in any market any merchandise that the Commission has prohibited to be sold therein; (10) discharge into or leave in tidal water, sewage or drainage that may result in the pollution of water; (11) perform any act that may tend to damage or clog drains or sewers; or (12) provide false or misleading information to the Commission.

(b) Where any provision of Chapter 1-A of Title 22 of the Code or this subchapter prohibits or otherwise restricts any activity or conduct of licensees or registrants, the principals, employees and agents of such licensees and registrants, or holders of photo identification cards, such provision also is applicable to applicants for such licenses and registrations, and principals, employees and agents thereof, and applicants for photo identification cards, as the case may be.

§12-19 Prohibited Acts for Wholesalers and Seafood Deliverers.

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

(b) A wholesaler and its employees and agents and a seafood delivery business and its employees and agents shall not interfere with the market manager or his or her staff or the

employees of the Commission in the discharge of their functions or interfere with or otherwise obstruct the orderly functioning of the market.

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

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

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

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

(g) A wholesaler and its employees and agents and a seafood delivery business and its employees and agents shall discard seafood in accordance with applicable federal, state, and local law governing the disposal of seafood and seafood products.

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

(i) A wholesaler and its employees and agents and a seafood delivery business and its employees and agents shall not fail to notify the Commission of any change in the information provided pursuant to section 12-21 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.

(j) A wholesaler and its employees and agents and a seafood delivery business and its employees and agents shall not 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.

(k) A wholesaler and its employees and agents and a seafood delivery business and its employees and agents shall not make, file or submit a false or misleading statement to the Commission or to a government agency or employee.

(l) A wholesaler and its employees and agents and a seafood delivery business and its employees and agents shall not falsify any business record.

(m) A wholesaler and its employees and agents and a seafood delivery business and its employees and agents shall not engage in any unfair labor practice under federal and state labor laws as applicable.

(n) A wholesaler and its employees and agents and a seafood delivery business and its employees and agents shall not refuse to answer an inquiry from the Commission.

(o) A wholesaler and its employees and agents and a seafood delivery business and its employees and agents shall not violate or fail to comply with any order or directive of the Commission.

(p) A wholesaler and its employees and agents and a seafood delivery business and its employees and agents shall not fail to pay federal, state and local taxes.

(q) A wholesaler and its employees and agents and a seafood delivery business and its employees and agents shall not fail to pay any fines or civil penalties imposed pursuant to Chapter 1-A of Title 22 of the Code or this subchapter.

§12-20 Applicability When Commission Performs Unloading or Loading Services.

a. The sections of this subchapter relating to licensing requirements shall not apply where the Commission determines, pursuant to paragraph (ii) of subdivision g of section 22-204, paragraph (ii) of subdivision g of section 22-206 or section 22-208 of the Code, that the Commission, a designee of the Commission, an entity under contract to the Commission, or a combination thereof shall provide unloading services or loading services in the market area.

b. Where the Commission makes such a determination, such loading or unloading services shall be provided in accordance with all rules governing the conduct of such services prescribed under sections 22-205 and 22-207 of the Code, other than insurance and bonding requirements.

§12-21 Notification of Material Change in Information, Addition of Principal and Change in Composition of Business.

(a) An applicant for a license, registration or a photo identification card shall notify the Commission within ten (10) calendar days of any material change in the information submitted in an application or disclosure form.

(b) Subsequent to the issuance of a license, registration or photo identification card, the licensee, registrant or card holder shall notify the Commission within thirty (30) calendar days of any material change in the information submitted in an application or disclosure form.

(c) A licensee or registrant shall provide the Commission with notice of at least ten (10) business days of the proposed addition of a new principal (other than a person who 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 registrant. 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 subchapter, the licensee or registrant may add such new principal pending the completion of review by the Commission. The licensee or registrant 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 subchapter. If upon the completion of such review, the Commission determines that such principal lacks good character, honesty and integrity, the license or registration 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 or registrant, as the case may be, within the time period prescribed by the Commission.

(d) Any notification pursuant to this section shall be in writing, sworn and notarized.

(e) For the purposes of this section “material change” shall mean a change in any information provided in response to an item identified as such on an application or disclosure form submitted to the Commission or by any other directive issued by the Commission. “Material change” also includes the occurrence of any event after the submission of an

application or disclosure that would have been required to be disclosed on such form had it occurred prior to such submission.

§12-22 Acquisitions and Subleases.

(a) A person who intends to acquire a registered wholesale seafood business or a seafood delivery business shall submit an application for a wholesale seafood business or seafood delivery business registration pursuant to the provisions of Chapter 1-A of Title 22 of the Code and this subchapter and a purchase and sale agreement for review by the Commission no later than thirty (30) days before such acquisition is to take effect. The Commission will conduct an expedited review of such application and agreement. If the person seeking to acquire the wholesale seafood business or seafood delivery business currently holds a registration for another such business in a market, the Commission at its discretion may waive the requirement of a new application or require that only certain portions of the application be submitted for review.

(b) A loading or unloading licensee or a wholesale seafood business or seafood delivery business registrant shall notify the Commission within ten (10) calendar days of contract closing of any change in the capital stock or ownership in the business of the licensee or registrant, 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 registrant business who will have any beneficial interest in the current business and a copy of the contract or agreement.

(c) Sublessee required to apply for registration. Wholesale seafood businesses and seafood delivery businesses shall not allow the use by any other person of the registration or registration number or the name of the business to which such registration has been issued. In the event that a wholesale seafood business seeks to sublease or otherwise allow the use of its premises, or any portion thereof, for the operation of a wholesale seafood business by another person, where such sublease is permitted under the terms of the lease, the Commission may, upon application and payment of the required fee by the prospective sublessee pursuant to the provisions of Chapter 1-A of Title 22 of the Code and this subchapter, issue a registration to such sublessee. Absent such registration, no wholesale seafood business may permit a sublessee to operate a wholesale seafood business on such premises.

§12-23 Refusal to Issue License, Registration or Photo Identification Card; Revocation and Suspension of License, Registration or Photo Identification Card.

(a) Where the staff of the Commission recommends that the Commission refuse, pursuant to section 22-216 of the Code, to issue a license, registration or photo identification card, the applicant shall be notified in writing of the reasons for the proposed refusal and 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, registration or photo identification card. In the exercise of its discretion, the Commission, considering the reasons for the proposed refusal to issue the license, registration or photo identification card, 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, registration or photo identification card or afford the applicant such further opportunity to be heard in such proceeding as is deemed appropriate. A final determination and the reasons therefor shall be communicated to the applicant in writing.

(b) For any of the reasons set forth in sections 22-216 and 22-217 of the Code, including the violation of any rule promulgated pursuant to section 22-223 of the Code, the Commission may suspend or revoke a provisional photo identification card, and after notice and hearing, revoke or suspend (1) the license of a loader or unloader, (2) the registration of a wholesale seafood business or seafood delivery business or (3) a Class A or Class B photo identification card. Notice shall be provided in accordance with the provisions of section 12-25 of this subchapter. Hearings shall be afforded in accordance with the provisions of section 12-26 of this subchapter.

(c) Revocation or suspension of a license or registration, the discontinuance of business operations in the market area by a licensee or registrant, or denial of an application for a license or registration shall require the immediate surrender to the market manager of all photo identification cards issued to the principals, employees and/or agents of the licensee or registrant. Violation of the provisions of this subdivision may result in the imposition of the sanctions and penalties provided in sections 22-215 and 22-219 of the Code.

(d) Revocation or suspension of a photo identification card or denial of an application for a photo identification card (including provisional photo identification cards) shall require the immediate surrender of such card to the market manager.

§12-24 Emergency Suspension of License, Registration or Photo Identification Card. Notwithstanding the foregoing provisions, the Chairperson may, if he or she has reasonable cause to believe that the operation of a loading or unloading business, a wholesale seafood business or seafood delivery business or the presence of any person in the market area creates an imminent danger to life or property or to the orderly and lawful operation of the market, or that there has likely been false or fraudulent information submitted to the Commission, may immediately suspend the license or registration of such business or the photo identification card of such person without a prior hearing, provided that such suspension may be appealed to the Deputy Commissioner for Legal Affairs of the Commission, who shall determine such appeal forthwith. If the Deputy Commissioner for Legal Affairs upholds the suspension, an opportunity for a hearing pursuant to the provisions of subdivision 12-26(b) of this subchapter shall be provided on an expedited basis. The Commission shall issue a final determination no later than four (4) business days following the conclusion of such hearing. The Chairperson may, upon application by the business whose license or registration has been suspended, permit such business to remain in the market area for such time as is deemed necessary by the Chairperson to allow for the expeditious sale, consignment or removal of a perishable product if, in the Chairperson's judgment, such permission is consistent with the safety of the market area.

§12-25 Notice. Unless otherwise provided, all notices pursuant to Chapter 1-A of Title 22 of the Code or this subchapter, including but not limited to notice related to hearings, violations and subpoenas, may be served by first class mail addressed to the business address provided to the Commission by the applicant, licensee, registrant or photo identification card holder or on the license or registration issued to the business. All such notices 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. Such notice also may 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.

§12-26 Administrative Hearings. (a) Hearings on the violation of any provision of Chapter 1-A of Title 22 of the Code or any provision of the rules promulgated pursuant to such chapter may be conducted by the Environmental Control Board or any other administrative tribunal of competent jurisdiction, and shall be held pursuant to the procedures for adjudication set forth in the rules of such Board or tribunal.

(b) Where a hearing is conducted in relation to the suspension or revocation of a photo identification card, license or registration, such hearing shall, at the discretion of the Commission, be conducted by a hearing officer or by the Office of Administrative Trials and Hearings.

(1) Where such hearing is conducted by the Commission or a hearing officer, such hearing shall be conducted as follows:

(i) The hearing officer or the Commission shall set a time and place for such hearing and the respondent shall be provided the respondent with notice of such time and place no less than ten (10) days prior to the date of the hearing, except that in the case of an immediate suspension requiring an expedited hearing pursuant to section 22-218 of the Code, such notice shall be provided no later than one (1) business day following such suspension.

(ii) 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 and examine witnesses and to present arguments on the law and facts. Relevant material and reliable evidence may be admitted without regard to technical or formal rules or laws of evidence.

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

(iv) The Chairperson, or his or her designee, or the hearing officer, as the case may be, 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 purpose; and to examine witnesses.

(v) The hearing officer or the Commission, as the case may be, shall arrange for the hearing to be either stenographically transcribed or mechanically recorded. The transcript or recording and all exhibits received in evidence shall constitute the hearing record.

(vi) When the hearing is conducted by a hearing officer, as soon as possible after the hearing, the hearing officer shall present recommended findings of fact and a recommended decision to the Commission. The Commission shall then make its final determination and notify the respondent of such determination. When the hearing is conducted by the Commission, the Commission shall make a final determination and notify the respondent of such determination.

(vii) Failure of a respondent to make a timely written response, appear or proceed as required by the hearing officer or the Commission, as the case may be, shall constitute a default. When the hearing is conducted by a hearing officer, upon default, the hearing officer shall make recommended findings and recommended decision as is appropriate under the pleadings and such evidence as he or she shall have received. The Commission shall then make a final determination and shall notify the respondent of such determination. Where the hearing is before

the Commission, upon default the Commission shall make a final determination and shall notify the respondent thereof.

(2) Where such hearing is conducted by the Office of Administrative Trials and Hearings, such hearing shall be governed by the rules of procedure utilized by that tribunal. After the conclusion of the hearing, the Office of Administrative Trials and Hearings shall issue proposed findings and a report and recommendation to the Commission. The Commission shall review such findings and report and recommendation and shall issue a final determination. The Commission shall notify the respondent in writing of its determination.

§12-27 Fines and Penalties.

(a) The Commission may issue a notice of violation to any person, including a loading or unloading business, wholesale seafood business, seafood delivery business, or any of their principals, employees, agents or officers, for the violation of any provision of Chapter 1-A of Title 22 of the Code or of this subchapter. Any person who violates any such provision shall be subject to the civil and criminal fines and penalties and injunctive relief as provided in section 22-215 of the Code.

(b) A loading or unloading business, wholesale seafood business or seafood delivery business shall be jointly and severally liable for any violation of Chapter 1-A of Title 22 of the Code or of this subchapter committed by any of its officers, employees and/or agents acting within the scope of their employment.

§12-28 Commission Delegations to the Chairperson. The Commission may by resolution delegate to the Chairperson any authority of the Commission set forth in this subchapter or Chapter 1-B of Title 22 of the Code that is lawful and appropriate to delegate. Such resolution shall state the authority delegated and the extent of such delegation, including any limitations on the authority delegated.

§ 12-29 Additional Powers of the Commission. In addition to the other powers of the Commission, the Commission shall have the following powers:

(a) Hours of operation of any market may be regulated by the Commissioner.

(b) Entry into any market may be regulated by the Commissioner. No fee shall be charged for entry into a market or for parking therein, nor shall any existing fee be increased, unless the Commissioner shall have first approved the amount of such fee. The Commissioner may establish or authorize the establishment of an identification card and pass system as a prerequisite for entry of any persons into any market.

§12-30 Traffic Regulation and Parking Within the Market.

(a) All persons operating a vehicle within the market shall obey and comply with any traffic direction of any police officer or employee of the Commission indicated by gesture or otherwise and any parking or traffic sign posted by the Commission or other City agency.

(b) No person shall obstruct the movement of traffic or stop, stand or park a vehicle, freight car or other conveyance except in designated places.

(c) All disabled vehicles must be promptly removed from paved roadways and removed from the market within three (3) hours. If not removed, such vehicles will be removed by City personnel or licensed tow operators at the expense of the vehicle owners.

(d) No person shall grease, lubricate or make repairs, except of a minor and emergency nature, to any vehicle within the market.

(e) All persons operating a vehicle within the market shall operate such vehicles at all times in full compliance with all New York State and New York City traffic laws, rules and regulations and all laws, rules and regulations of any other government agency having jurisdiction over motor vehicles.

(i) When the Commissioner finds that there is reasonable cause to believe that a seafood wholesale business or a seafood delivery business has regularly failed to make timely payment for services rendered and/or products provided by an unloading business or a seafood wholesale business, the Commission may require such business to post a payment bond.

§12-31 Administration.

(a) No lease for any property located within any market and described in any lease with the City shall be assigned or transferred without notifying the Commission at least five (5) days prior to such assignment or transfer.

(b) All market premises described in any lease with the City and all equipment used on such market premises shall be kept and maintained in good repair and condition in accordance with the terms of any applicable license or registration issued by the Commission and the terms of any lease with the City (including any sublease thereunder), and otherwise in a manner consistent with the orderly functioning of the market.

(c) All market premises described in any lease with the City shall be surrendered in good order and condition at the expiration or sooner termination of such lease. The Commission shall be notified of any surrender of such premises no later than five (5) days after such surrender.

SUBCHAPTER C

SEAFOOD DISTRIBUTION OUTSIDE SEAFOOD DISTRIBUTION AREAS AND THE DECLARATION AND ESTABLISHMENT OF SEAFOOD DISTRIBUTION AREAS

§13-01 Scope and construction.

§13-02 Definitions.

§13-03 Terms and Fees.

§13-04 Wholesaler Registration Required.

§13-05 Wholesaler Registration Requirements in a Seafood Distribution Area.

§13-06 Licensing and Seafood Delivery Business Registration Requirements in a Seafood Distribution Area.

§13-07 Commission Delegations to the Chairperson.

§13-01 Scope and construction. (a) This subchapter shall govern: (1) the registration of wholesale seafood businesses outside of seafood distribution areas, and the requirements applicable to such businesses; and (2) the declaration and establishment of seafood distribution areas pursuant to subdivision b of section 22-222 of the Code, and the licensing, registration and other requirements relating to seafood distribution in such areas.

(b) Any act prohibited by this subchapter shall extend to and include the permitting, allowing, causing, procuring, aiding or abetting of such act.

(c) No provision in this subchapter shall make unlawful the act of any employee of the Commission or other government official in the performance of his or her official duties.

(d) Any act prohibited by this subchapter not otherwise prohibited by law or any other government rule or regulation shall be lawful if performed pursuant to and in strict compliance with written authorization by the Chairperson.

(e) This subchapter is in addition to and supplements all laws, rules and regulations of the City and State of New York and federal government and all terms and conditions set forth in any lease, license, registration or permit.

§13-02 Definitions. Unless otherwise provided in this subchapter, the terms used herein shall have the meanings provided for such terms in section 22-202 of the Code and section 12-02 of subchapter B of this chapter.

§13-03 Terms and Fees.

(a) Registration term. A wholesale seafood business registration issued pursuant to this subchapter shall be valid for two years, and may be renewed for two-year periods thereafter.

(b) Registration fee. The fee for registration of a wholesale seafood business shall be four thousand dollars (\$4000) and the fee for renewal of such registration shall be four thousand dollars (\$4000).

§13-04 Wholesaler Registration Required.

(a) No person shall operate a wholesale seafood business in the City of New York, outside the market area, without having first registered with the Commission and having received a registration or registration number from the Commission.

(b) An application for a registration or renewal thereof shall be made on a form prescribed by the Commission. The application form shall be certified under penalty of perjury and signed by all the principals of the applicant business. If a renewal application is not submitted to the Commission with the time period as required by the Commission, the Commission may reject the renewal application and instead require the applicant to file a new application in accordance with the provisions pertaining to the application process as set forth in Chapter 1-A of Title 22 of the Code and this subchapter.

§13-05 Wholesaler Registration Requirements in a Seafood Distribution Area. Notwithstanding any provisions of this subchapter, where the Commission, pursuant to subdivision b of section 22-222 of the Code, declares and establishes an area where one or more wholesale seafood business have been established to be a seafood distribution area, all wholesale seafood businesses which operate within such area, and the principals, employees and/or agents of such businesses, shall be subject to all the provisions governing wholesaler registration set forth in Chapter 1-A of Title 22 of the Code and subchapter B of this chapter. When such provisions are applied to a seafood distribution area, the term "market area" as contained therein shall be deemed to include such seafood distribution area.

§13-06 Licensing and Seafood Delivery Business Registration Requirements in a Seafood Distribution Area. Where the Commission, pursuant to subdivision b of section 22-222 of the Code, declares and establishes an area where one or more wholesale seafood businesses have been established to be a seafood distribution area, all unloading businesses, loading businesses, and seafood delivery businesses which operate within such area, and the principals, employees and/or agents of such businesses, shall be subject to all the provisions governing such businesses

and their principals, employees and/or agents, set forth in Chapter 1-A of Title 22 of the Code and subchapter B of this chapter, except as may be otherwise determined by the Commission pursuant to section 22-222(c) of the Code. When such provisions are applied to a seafood distribution area, the term “market area” as contained therein shall be deemed to include such seafood distribution area.

§13-7 Commission Delegations to the Chairperson. The Commission may by resolution delegate to the Chairperson any authority of the Commission set forth in this subchapter and any related provision of Chapter 1-A of Title 22 of the Code that is lawful and appropriate to delegate. Such resolution shall state the authority delegated and the extent of such delegation, including any limitations on the authority delegated.

SUBCHAPTER D
MARKET BUSINESSES, LABOR UNIONS AND
LABOR ORGANIZATIONS OPERATING IN SEAFOOD
DISTRIBUTION AREAS

§14-01 Scope and construction.

§14-02 Definitions.

§14-03 Market Business Registration Required.

§14-04 Issuance of Registration.

§14-05 Photo Identification Cards Required.

§14-06 Temporary Photo Identification Cards.

§14-07 Issuance of Photo Identification Cards.

§14-08 Terms and Fees.

§14-09 Market Business Operations.

§14-10 Revocation or Suspension of Registration or Photo Identification Cards.

§14-11 Emergency Suspension of Registration or Photo Identification Cards.

§14-12 Labor Union and Labor Organization Registration Required.

§14-13 Registration Procedure.

§14-14 Prohibited Acts.

§14-15 Fines and Penalties.

§14-16 Commission Delegations to the Chairperson.

§14-01 Scope and construction. (a) This subchapter shall govern the registration of and other requirements relating to: (1) market businesses located and operating within any market area; and (2) labor unions and labor organizations representing or seeking to represent employees directly involved in the movement, handling or sale of goods sold in any market area.

(b) Any act prohibited by this subchapter shall extend to and include the permitting, allowing, causing, procuring, aiding or abetting of such act.

(c) No provision in this subchapter shall make unlawful the act of any employee of the Commission or other government official in the performance of his or her official duties.

(d) Any act prohibited by this subchapter not otherwise prohibited by law or any other government rule or regulation shall be lawful if performed pursuant to and in strict compliance with written authorization by the Chairperson.

(e) This subchapter is in addition to and supplements all laws, rules and regulations of the City and State of New York and federal government and all terms and conditions set forth in any lease, license, registration or permit.

§14-02 Definitions. For the purposes of this subchapter, the following terms shall have the following meanings:

Market business. “Market business” shall mean any business located or operating within any market area that is engaged in providing goods or services to wholesalers or retail purchasers in market area that are related to the conduct of a wholesale seafood business or the purchase of seafood products by retailers or others, or that receives such goods within such market area for delivery, forwarding, transfer or further distribution outside such market area. “Market business” shall include, but not be limited to, the supply of ice or refrigeration services, security, and transfer or distribution of seafood, and shall exclude suppliers of seafood.

Labor union and labor organization. “Labor union” and “labor organization” shall mean a union or other organization that represents or seeks to represent, employees directly involved in the movement, handling or sale of goods in the market area. Notwithstanding the foregoing, such terms shall not include: (i) a labor union that represents or seeks to represent fewer than two hundred employees in any market area; (ii) a labor union representing or seeking to represent clerical or other office workers, construction or electrical workers, or any other workers temporarily or permanently employed in the market area for a purpose not directly related to the movement, handling or sale of goods in such market; (iii) affiliated national or international labor unions of local labor unions required to register pursuant to this subchapter.

Material change. “Material change” shall mean a change in any information provided in response to an item identified as such on an application or disclosure form submitted to the Commission or by any other directive issued by the Commission. “Material change” also includes the occurrence of any event after the submission of an application or disclosure that would have been required to be disclosed on such form had it occurred prior to such submission.

Officer. “Officer” shall mean any person holding an elected position or any other position involving participation in the management or control of a market business, labor union or labor organization required to register pursuant to this subchapter.

Registration. “Registration” shall mean a market business registration, as required by section 22-253 of the Code, or a labor union or labor organization registration, as required by section 22-212.1 of the Code.

Unless otherwise provided in this subchapter, all other terms used herein shall have the meanings provided for such terms in section 12-02 of subchapter B of this chapter.

§14-03 Market Business Registration Required. No person shall operate a market business in the market area without first receiving a registration or registration number from the Commission.

§14-04 Issuance of Registration.

(a) A person wishing to register a market business shall provide the information requested in the registration application form provided by the Commission, which form shall be signed by all principals of such business, and accompanied by the certification form provided by the Commission, fully executed by all principals of such business.

(b) A market business is required to notify the Commission of any change in the ownership composition of the business, any changes regarding persons employed by the business, the arrest or criminal conviction of any principal of the business, or any other material change in the information submitted pursuant to subdivision (a) of this section during the term of its registration, and shall notify the Commission, in writing, of any such change within ten (10) calendar days thereof.

(c) In the event that a registrant notifies the Commission 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) as required by subdivision (b) of this section, the registrant shall simultaneously submit the registration application form provided by the Commission completed, signed and certified by such prospective principal. Except where the Commission determines within fifteen (15) days, based upon information available to him or her, that the addition of such new principal may have a result inimical to the purposes of Chapter 1-B of Title 22 of the Code, the registrant may add such new principal pending the completion of review by the Commission. The Commission may waive or shorten such fifteen (15) day period upon a showing that there exists a bona fide business requirement therefor. The registrant 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 Chapter 1-B of Title 22 of the Code. If upon the completion of such review, the Commission determines that such principal lacks good character, honesty and integrity, the registration shall cease to be valid unless such principal divests his or her interest, or discontinues his or her involvement in the business of such registrant, as the case may be, within the time period prescribed by the Commission.

(d) Notification pursuant to this section shall be signed and sworn to before a notary public.

(e) Notwithstanding any provision of this subchapter: (1) the Commission may, when it determines that there is reasonable cause to believe that any or all of the principals of an applicant or a registrant lack(s) good character, honesty or integrity, require that such principal(s) (i) be fingerprinted in accordance with paragraph 22-259(a)(i) of the Code; (ii) provide to the Commission the information requested in the background investigation form provided by the Commission; (iii) appear to be interviewed by the Commission; and/or (iv) pay the fee for a background investigation and provide to the Commission the disclosure required by the form provided by the Commission.

(2) The Commission may refuse to register a market business for the reasons set forth in subdivisions b, c, d and e of section 22-259 of the Code, or may defer a decision whether to register such market business when an indictment or a criminal or civil action is pending as provided in paragraph (b)(ii) of such section.

(f) A market business denied registration for lack of good character, honesty or integrity pursuant to section 22-259(b) of the Code shall be given notice of the reasons for such denial, and may respond in writing to the Commission within ten days of the mailing of such notice. The Commission shall review such response and make a final determination.

§14-05 Photo Identification Cards Required.

(a) No person who is a principal or employee of any market business operating in any market area who performs any function directly related to the provision of goods or services to

wholesalers or retail purchasers in such area shall perform such function without having been issued a photo identification card issued by the Commission pursuant to the provisions of this subchapter and section 22-252 of the Code. Notwithstanding the foregoing, principals and employees of any market business required to have photo identification cards who have filed applications therefor and obtained temporary photo identification cards, may continue to perform such functions unless and until (1) the application of such person for a photo identification card has been denied, or (2) the temporary photo identification card of such person has been revoked, or (3) in cases where the Commission has required such person to be fingerprinted, submit background information and/or appear for an interview pursuant to sections 22-252 and 22-259 of the Code, such person has failed, within the time period prescribed by the Commission, to be fingerprinted, submit the required information, or appear for an interview.

(b) Photo identification cards shall be displayed at all times within the market area so as to be readily visible to others.

(d) Where a photo identification holder changes employment in the market, the photo identification holder shall notify the market manager of the change of employment and submit the transfer form provided by the market manager. The photo identification holder shall also be required to apply for a new photo identification card and pay the requisite fee in accordance with the provisions of this subchapter. A market business shall immediately notify the market manager of the addition of or other change of status of a photo identification holder.

(e) A person who discontinues his or her employment with a market business or who ceases to be a principal thereof shall immediately surrender his or her photo identification card to the market manager. A business that terminates any employee or principal possessing a photo identification card shall obtain that employee's photo identification card and surrender it to the market manager.

(f) No market business shall continue to employ a person who is required to but does not possess a valid photo identification card issued in accordance with the provisions of this subchapter.

§14-06 Temporary Photo Identification Cards. The Commission may designate the cooperative association of any market area to issue temporary photo identification cards to principals and employees (including seasonal employees) of market businesses at the market area in which such cooperative association operates. The duties of such designated cooperative association are to be performed pursuant to the provisions of the Code and this subchapter relating to such temporary photo identification cards and such terms and conditions as the Commission may impose. Such temporary photo identification cards shall be valid for a period of one year but shall cease to be valid upon the issuance by the Commission of a permanent photo identification card or the occurrence of any of the events set forth in paragraph (1), (2) or (3) of subdivision (a) of section 14-05 of this chapter. Any cooperative association designated by the Commission to issue temporary identification cards may impose fees and set amounts for such fees for the performance of the functions set forth in this section with the prior written permission of the Commission. No change in a fee or amount of such fee imposed pursuant to this section shall be made without prior written permission of the Commission.

§14-07 Issuance of Photo Identification Cards.

(a) A person wishing to apply for a photo identification card shall provide the information required in the application form provided by the Commission, which form shall be

signed and certified under penalty of perjury by the applicant. The application shall include, but not be limited to, the following information: name, address and telephone number(s) of the applicant, the applicant's employment history, the applicant's business interests, and any other such information required by the Commission.

(b) Persons required to have photo identification cards shall notify the Commission of any material change in the information submitted pursuant to subdivision (a) of this section, including without limitation, any change in employment, as well as any arrests or criminal convictions, and shall notify the Commission, in a signed and notarized writing, of any such change within ten (10) calendar days thereof.

(c) Notwithstanding any provision of this subchapter, the Commission may, when there is reasonable cause to believe that an applicant for or holder of a photo identification card does not possess good character, honesty and integrity, require that such person be fingerprinted by a person designated for such purpose by the Commission, 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. The Commission also may require such additional information in lieu of or in addition to such fingerprinting and/or disclosure, including without limitation documents and/or an in-person interview, as the Commission determines is appropriate and reasonable to render a determination.

(2) The Commission may refuse to issue a photo identification card for the reasons set forth in subdivisions b, d and e of section 22-259 of the Code, or may defer a decision whether to issue such card when there is an indictment or a criminal or civil action pending against or involving the applicant as provided in paragraph (b)(ii) of such section.

(d) Where the staff of the Commission recommends that the Commission refuse, pursuant to section 22-259 of the Code, to issue a photo identification card, the applicant shall be notified in writing of the reasons for the proposed refusal of such photo identification card 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 photo identification card. In the exercise of its discretion, the Commission, considering the reasons for the proposed refusal to issue the photo identification card, 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 photo identification card or afford the applicant such further opportunity to be heard in such proceeding as is deemed appropriate. A final determination and the reasons therefor shall be communicated to the applicant in writing.

§14-08 Terms and Fees.

(a) A registration issued pursuant to this subchapter shall be valid for three (3) years, and may be renewed for three (3)-year periods thereafter.

(b) The fee for registration of a market business shall be four thousand dollars (\$4000), and the fee for renewal of such registration shall be four thousand dollars (\$4000).

(c) The fee for photo identification cards and temporary photo identification cards shall be one hundred dollars (\$100).

(d) The fee for the replacement of any photo identification card that has been lost or stolen shall be one hundred dollars (\$100).

(e) A market business shall be responsible for the payment of any fee imposed by this section with respect to an employee of such business or any person seeking to become an employee of such business.

(f) Investigative fee. The fee for a background investigation pursuant to subdivision d or e of section 22-252 shall be two hundred dollars (\$200) and the fee for a background investigation pursuant to subdivision b of section 22-253 or subdivision b of section 22-264 of the Code shall be six hundred dollars (\$600).

§14-09 Market Business Operations.

(a) (1) A market business shall not transfer its registration number as part of the sale of such market business.

(2) A market business 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 market business seeks to sublease or otherwise allow the use of its premises, or any portion thereof, for the operation of a market 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 registration number to such sublessee. Absent the issuance of such registration number, no market business may permit a sublessee to operate a market business on such premises.

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

(c) Market businesses shall retain copies of all invoices and other documents reflecting deliveries or payments from or to suppliers and customers. Such books and records shall accurately reflect the amount of goods or services involved in each transaction, and shall, along with all other records produced or received in the normal course of business, be retained for a minimum of thirty-six (36) 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.

(d) A market business shall submit proof that it has obtained the required workers' compensation and disability benefits coverage, or that it is exempt from section 57 of the Worker's Compensation Law, and section 220(8) of the Disability Benefits Law. 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.

(e) Liability Insurance. A market business shall procure and shall maintain throughout the term of the registration the following types of insurance against claims for injuries to persons or damage to property which may arise from or in connection with the market business:

(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 market business, whether or not owned by the market business, 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 (\$1,000,000) per accident.

(f) The policy or policies of insurance required by this rule shall name the City of New York and the Commission 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 (60) days prior written notice to the Commission. Failure to maintain continuous insurance coverage meeting the requirements of these rules may result in revocation or suspension of registration. 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 Commission to accept a company with a lower rating. Two (2) certificates of Insurance effecting the required coverage and signed by a person authorized by the insurer to bind coverage on its behalf, must be delivered to the Commissioner prior to the effective date of the registration. A registrant shall demonstrate that the registrant has secured the insurance coverage required pursuant to this section and shall maintain such required insurance coverage throughout the term of the registration.

(g) A market business shall be jointly and severally liable for any violation of Chapter 1-B of Title 22 of the Code or of this subchapter by any of its employees or agents.

(h) Each market business shall permit the Commission, or any person designated by the Commission, to enter its premises whenever in the discretion of the Commission such entry is necessary.

§14-10 Revocation or Suspension of Registration or Photo Identification Cards.

(a) The Commission may revoke a temporary photo identification card, and after notice and hearing, revoke or suspend (1) the registration of a market business or (2) a photo identification card for any of the reasons set forth in section 22-260 of the Code, or for violation of any rule promulgated pursuant to section 22-266 of the Code, including without limitation sections 14-09 and 14-17 of this subchapter. Notice shall be provided in accordance with the provisions of section 11-20 of subchapter A of this chapter. Hearings shall be afforded in accordance with the provisions of section 11-21 of subchapter A of this chapter.

(b) Revocation or suspension of registration shall require the immediate surrender to the market manager of all photo identification cards issued to the principals and employees of the registrant. If a registration has been suspended, violation of the provisions of this subdivision may result in immediate revocation of a registration and/or the imposition of penalties as provided in section 22-258 of the Code.

(c) Revocation or suspension of photo identification cards (including temporary photo identification cards) shall require the immediate surrender of such cards to the market manager.

§14-11 Emergency Suspension of Registration or Photo Identification Cards. Notwithstanding the foregoing provisions, the Chairperson may, if he or she has reasonable

cause to believe that the operation of a market business or the presence of any person in the market area creates an imminent danger to life or property or to the orderly and lawful operation of the market, or that there has likely been false or fraudulent information submitted to the Commission, immediately suspend the registration of such business or the photo identification card of such person, as applicable, without a prior hearing, provided that, such suspension may be appealed to the Deputy Commissioner of Legal Affairs. If such Deputy Commissioner upholds the suspension imposed by the market manager, an opportunity for a hearing pursuant to the provisions of section 11-21 of subchapter A of this chapter shall be provided on an expedited basis within a period not to exceed four (4) business days, and the Commission shall issue a final determination no later than four (4) business days following the conclusion of such hearing. The Commission may, upon application by a market business whose registration has been suspended without a prior hearing, permit such market business 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 Commission's judgment, such permission is consistent with the safety of the public and the market area.

§14-12 Labor Union and Labor Organization Registration Required.

(a) Labor unions and labor organizations shall register with the Commission.

(b) A registration issued pursuant to this chapter shall be valid for three (3) years, and may be renewed for three (3)-year periods thereafter.

(c) The fee for registration of a labor union or labor organization shall be four thousand dollars (\$4000) and the fee for renewal of such registration shall be four thousand dollars (\$4000).

§14-13 Registration Procedure.

(a) A labor union or labor organization shall provide the information requested in the registration application form provided by the Commission, which form shall be signed by an officer and certified under penalty of perjury, including (i) the information required by section 22-264(a) of the Code, (ii) all criminal convictions, in any jurisdiction, of such labor union or labor organization, (iii) any criminal or civil investigation of such labor union or labor organization by a federal, state or local prosecutorial agency, investigative agency or regulatory agency, in the five (5)-year period preceding the date of registration, (iv) all civil or administrative proceedings to which such labor union or labor organization has been a party involving allegations of racketeering, including but not limited to offenses listed in subdivision nineteen hundred sixty-one of the Racketeer Influenced and Corrupt Organization 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, (v) all judicial or administrative consent decrees entered into by such labor union or labor organization in the five (5)-year period preceding the date of registration, and (vi) the appointment of an independent auditor or monitor or receiver or administrator or trustee over such labor union or labor organization in the five (5)-year period preceding the date of registration. Notwithstanding the foregoing, no labor union or labor organization shall be required to furnish information pursuant to this subdivision which is already included in a report filed by the labor union or labor organization with the Secretary of Labor pursuant to 29 U.S.C. § 431 et seq. or §1001 et seq. if a copy of such report, or of the portion thereof containing such information, is furnished to the Commission.

(b) An officer of a labor union or labor organization required to be registered with the Commission pursuant to section 22-264 of the Code shall provide the information requested in the registration application form provided by the Commission, which form shall be signed by such officer under penalty of perjury.

(c) Any material change in the information submitted pursuant to subdivision (a) or (b) of this section shall be reported to the Commission by such union or organization or officer, in a signed and notarized writing, within ten (10) calendar days thereof.

(d) Notwithstanding any provision of this subchapter, the Commission may, if it has reasonable cause to believe that an officer of a labor union or labor organization lack good character, honesty or integrity, require that such officer be fingerprinted in accordance with section 22-264 of the Code, and pay the requisite fees and provide to the Commission the disclosure required by the form provided by the Commission. The Commission also may require such additional information, in lieu of or in addition to, such fingerprinting and/or disclosure, including without limitation documents and an in-person interview, as the Commission determines is appropriate and reasonable to render a determination.

(e) After providing notice and opportunity to be heard, the Commission may disqualify an officer of a labor union or labor organization from holding office based on the grounds set forth in subdivision c of section 22-264 of the Code and in accordance with the procedure for such disqualification set forth in such subdivision.

(f) If an application for the renewal of a registration is not submitted to the Commission with the time period required by the Commission, the Commission may reject the renewal application and require the applicant to file a new application for a labor union and labor organization registration. If a new application is required by the Commission, the provisions pertaining to the application process as set forth in Chapter 1-B of Title 22 of the Code and of this subchapter shall govern.

§14-14 Prohibited Acts.

(a) No person shall (1) interfere, or attempt to interfere, with the market manager, his or her staff or the employees of the Commission in the discharge of their functions, or interfere with or otherwise obstruct the orderly functioning of the market; (2) interfere, or attempt to interfere with, or otherwise obstruct any operations or property of any person in the market; (3) take into, carry through, leave in, throw, or discharge into or on any market any rubbish, litter or refuse, except that rubbish, litter or refuse generated within any market may be discarded in receptacles that are specifically designed for such purpose or as otherwise provided for by this subchapter; (4) urinate or defecate in any market, or in or upon any market building or structure, except in a facility which is specifically designed for such purpose; (5) damage, remove or destroy any property or equipment without authority; (6) engage in, instigate or encourage a fight or other disturbance; (7) commit any act injurious to any person, animal or property; (8) bring into any market or have in his possession any firearms, illegal knives, hatchets, machetes, slingshots, fireworks or other dangerous instruments or explosives; (9) play any game of chance, participate in the conduct of an illegal lottery, or use any slot machine, gaming table or instrument or have in his or her possession any implements or devices commonly used, or intended to be used, for gambling purposes; (10) make a misrepresentation of any kind with respect to merchandise offered for sale or the take any unfair advantage of a purchaser or any attempt to take such unfair advantage; or (11) disobey any lawful order of any employee of the Commission or other

employee of the City or disobey or violate any lawful notice, prohibition, instruction or direction of the Commission or any other City agency.

(b) In addition to the foregoing, the following rules also apply to principals, employees and agents of market businesses and officers of labor unions and labor organizations. Such persons shall not:

(1) authorize another person to use the name of the market business or labor union or organization to which a registration number has been issued for such market business;

(2) authorize another person to conduct a market business with the registration number that has been issued to such market business;

(3) conduct a market business under any name other than the name under which such business has been registered;

(4) violate applicable federal, state or city laws and regulations;

(5) in the case of a market business, fail to notify the Commission of any change in the information provided pursuant to section 14-04 of this subchapter;

(6) 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);

(7) make, file or submit a false or misleading statement to the Commission or any other government agency or employee;

(8) threaten or attempt to intimidate a customer or prospective customer;

(9) retaliate against a customer or prospective customer of any business in the market or against any person who has made, or who is associated with any person who has made, a complaint concerning conduct involving the market to the Commission or any other governmental entity;

(10) falsify any business record;

(11) in the case of a market business, continue to employ a person who has not received a valid photo identification card in accordance with the provisions of this subchapter, or whose photo identification card has been revoked or suspended;

(12) utilize any motor vehicle in connection with a business operating in the market that is not properly registered with the New York State Department of Motor Vehicles and insured in accordance with section 14-09 of this subchapter;

(13) engage in any unfair labor practice under federal or state labor law;

(14) refuse to respond to an inquiry from the Commission;

(15) violate or fail to comply with any order or directive of the Commission; or

(16) fail to pay any fines or civil penalties imposed by the Commission or any court or administrative tribunal of competent jurisdiction for violations of Chapter 1-B of Title 22 of the Code or this subchapter.

§14-15 Fines and Penalties.

(a) The Commission may issue a notice of violation to a market business, labor union or labor organization, or any of their principals, employees, agents or officers, for the violation of any provision of Chapter 1-A or 1-B of Title 22 of the Code or subchapter A or B of this chapter (as such provision of such Chapter or subchapter relates to market businesses located and operating within any market area and labor unions and labor organizations representing or seeking to represent employees directly involved in the movement, handling or sale of goods

sold in any market area) or this subchapter. Any person who violates any such provision shall be subject to the civil and criminal fines and penalties and injunctive relief as provided in section 22-258 of the Code.

(b) A market business, labor union or labor organization shall be jointly and severally liable for the violation of any such provision committed by any of its officers, employees and/or agents acting within the scope of their employment.

§14-16 Commission Delegations to the Chairperson. The Commission may by resolution delegate to the Chairperson any authority of the Commission set forth in this subchapter and Chapter 1-B of Title 22 of the Code, as such chapter relates to market businesses located and operating within any market area and labor unions and labor organizations representing or seeking to represent employees directly involved in the movement, handling or sale of goods sold in any market area, that is lawful and appropriate to delegate. Such resolution shall state the authority delegated and the extent of such delegation, including any limitations on the authority delegated.

§ 6. Appendix A of subchapter C of Title 66 of the rules of the city of New York is redesignated Appendix A of subchapter B of chapter 2 of Title 17 of the rules of the city of New York.

§ 7. Section 1-58 of Title 66 of the rules of the city of New York, which declared the new fulton fish market at hunts point as a new seafood distribution area pursuant to section 22-222 of the administrative code of the city of New York made provision for licenses, registrations, photo identification cards, stand permits and enforcement within such area, is REPEALED.

§ 8. This rule shall take effect immediately.

Statement of Basis and Purpose of Proposed Rule

The NYC Business Integrity Commission is amending its trade waste regulations and adopting regulations relating to the public wholesale markets.

In order to ensure that the Commission provide hearings in an expeditious manner, the Commission proposes to amend its trade waste rules so that all hearings 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, and that the Commission have the discretion to conduct hearings related to the violation of the provisions of section 16-505 of the Administrative Code and the rules of conduct set forth in the trade waste rules. In addition, in order to facilitate the Commission's enforcement of its licensing and registration requirements, the amended rules would require that licensees and registrants put their Commission-issued license or registration number on their letterhead and advertisements, and include that number on all written communications with customers or potential customers.

The remainder of the proposed rules relate to the Commission's authority pursuant to the chapter 63 of the City Charter to adopt rules with respect to its regulation of the public wholesale markets and wholesale seafood distribution within the City. At the general election held on November 6, 2001, the City Charter was amended to, among other things, transfer the jurisdiction over these activities from the Department of Business Services (now, the Department of Small Business Services) ("DSBS") to the Commission. Since that time, the Commission has used DSBS's rules in chapter 66 of the Rules of the City of New York to regulate these markets. The proposed rules, in conjunction with DSBS's repeal of its rules relating to the public wholesale markets and wholesale seafood distribution, will create a comprehensive and transparent regulatory scheme that combines the Commission's rules in a single title.