

NEW YORK CITY BUSINESS INTEGRITY COMMISSION

**NOTICE OF ADOPTION OF FINAL RULES GOVERNING HEAVY DUTY
TRADE WASTE HAULING VEHICLES**

NOTICE IS HEREBY GIVEN in accordance with the requirements of section 1043 of the New York City Charter and exercising the authority vested in the Commission by sections 1043(a) and 2101(b) of the New York City Charter that the New York City Business Integrity Commission (“BIC” or the “Commission”) adopts the following rules governing heavy duty trade waste hauling vehicles. BIC published a Notice of Opportunity to Comment on the final rule in the *City Record* on December 20, 2019. On January 27, 2020, BIC held a public hearing on the final rule.

Statement of Basis and Purpose of Final Rule

Under section 2101 of the New York City Charter, the Business Integrity Commission (BIC) is authorized to regulate the trade waste industry and, among other things, ensure that businesses are able to operate in an honest and competitive environment, free from the influences of organized crime and criminality. Among other things, Local Law 145 of 2013 gave the Commission the authority to promulgate rules necessary to enforce the provisions of § 24-163.11 of the Administrative Code.

Local Law 145 of 2013, which added § 24-163.11 to the Administrative Code, requires that every heavy duty trade waste hauling vehicle that is owned or operated by an entity required to be licensed or registered by the Commission and operating in New York City be equipped with either (1) an EPA certified 2007 (or later) engine or (2) utilize “Best Available Retrofit Technology,” as defined by the New York City Department of Environmental Protection before January 1, 2020. Under § 24-163.11(d)(5) of the Administrative Code, the Commission may set by rule the criteria for establishing procedures for owners and operators of heavy duty trade waste hauling vehicles to demonstrate compliance with the engine requirement.

The final rules require an owner or operator of a heavy trade waste hauling vehicle that has a pre-2007 engine and utilizes “best available retrofit technology” as defined in § 24-163.11(b) of the Administrative Code to obtain from the New York City Department of Environmental Protection a decal labeling the vehicle as compliant with Local Law 145 of 2013, and to place the decal on the driver’s or passenger’s door of the vehicle cab. Additionally, the Commission implements changes to the penalty section of its rules.

The other final rule change clarifies that BIC will not issue license plates to vehicles that do not comply with the requirements set forth in § 24-163.11 of the Administrative Code.

BIC’s authority for these rules is found in sections 1043(a) and 2101(b) of the New York City Charter and section 24-163.11(d)(5) of the New York City Administrative Code.

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

§ 1. Subdivisions (d) and (e) of Section 1-04 of Subchapter A of Chapter 1 of Title 17 of the Rules of the City of New York are relettered subdivisions (e) and (f) and a new Subdivision (d) is added to read as follows:

§ 1-04 Penalties

(d) Specific Penalties. If there are specific penalties for violating a Rule, such penalties are shown at the end of the Rule and must be applied.

§ 2. Subdivision (a) of Section 5-10 of Subchapter E of Chapter 1 of Title 17 of the Rules of the City of New York is amended to read as follows:

§ 5-10. License Plates and Vehicle Markings

(a) Upon issuance of a license, the Commission shall issue to the licensee two (2) license plates for each vehicle that will transport trade waste pursuant to such license and for which a fee has been paid, pursuant to 17 RCNY § 2-07. [Such] Beginning on January 1, 2020, the Commission will not issue license plates for any vehicle that does not comply with the requirements set forth in § 24-163.11(b) of the Administrative Code. License plates issued by the Commission must at all times be affixed as prescribed by the Commission to a visible and conspicuous part of each such vehicle. A licensee must not permit a vehicle to be used in the course of collecting, removing, or disposing of waste that has not been identified and covered by the license and for which a fee has not been paid. A license plate issued by the Commission for such a covered and identified vehicle must not be transferred to any other vehicle. Upon the sale or dissolution of the business of a licensee, or upon the suspension, revocation, or expiration of a Commission-issued license, such plates must be immediately surrendered to the Commission. All license plates issued by the Commission are the property of the Commission, and the Commission reserves the right to reclaim such plates at any time.

§ 3. Subdivision (a) of Section 7-03 of Subchapter G of Chapter 1 of Title 17 of the Rules of the City of New York is amended to read as follows:

§ 7-03. License Plates

(a) Upon issuance of a registration, the Commission shall issue to a registrant who removes trade waste generated in the course of operation of his or her business and to a registrant exempt from the licensing requirements of this chapter two (2) license plates for each vehicle that will transport trade waste pursuant to such registration and for which a fee has been paid, pursuant to 17 RCNY § 2-07. Beginning on January 1, 2020, the Commission will not issue license plates for any vehicle that does not comply with the requirements set forth in § 24-163.11(b) of the Administrative Code. A registrant shall not permit a vehicle to be used in the course of collecting, removing, or disposing of waste that has not been identified and covered by the license and for which a fee has not been paid. A license plate issued by the Commission for such a covered and identified vehicle must not be transferred to any other vehicle. Upon the sale or dissolution of the business of a registrant, or upon the suspension, revocation, or expiration of a Commission-issued license, such plates must be immediately surrendered to the Commission. All license plates issued by the Commission are the property of the Commission, and the Commission reserves the right to reclaim such plates at any time. Notwithstanding any other provision of this chapter, the penalty for violation for this section shall not exceed five thousand dollars (\$5,000) for each such violation.

§ 4. Subchapter E of Chapter 1 of Title 17 of the Rules of the City of New York is amended by adding Section 5-13 as follows:

§ 5-13. Heavy Duty Trade Waste Vehicle Decal Requirement For Licensees.

(a) Every licensee that owns or operates a heavy duty trade waste hauling vehicle that has a pre-2007 engine and utilizes “best available retrofit technology” or “BART” as defined in § 24-163.11(a) of the Administrative Code shall notify the New York City Department of Environmental Protection (DEP) of the best available retrofit technology installation by completing a Trade Waste Compliance Reporting form. If DEP approves the best available retrofit technology, DEP will issue a decal to the licensee for each vehicle that has a pre-2007 engine and utilizes BART.

(b) A valid DEP decal must at all times be affixed to a visible part of the driver’s or passenger’s side door of the vehicle cab.

<u>Code/Rule Section</u>	<u>Description</u>	<u>Penalty</u>
<u>§ 5-13</u>	<u>Failure to have proper decal displayed.</u>	<u>Maximum penalty of \$200.</u> <u>Licensees must obtain a decal from the Department of Environmental Protection (DEP) and affix it to the vehicle within two weeks of receiving the summons in order to mitigate the penalty to zero.</u>

§ 5. Subchapter G of Chapter 1 of Title 17 of the Rules of the City of New York is amended by adding Section 7-07 as follows:

§ 7-07. Heavy Duty Trade Waste Vehicle Decal Requirement For Registrants.

(a) Every registrant that owns or operates a heavy duty trade waste hauling vehicle that has a pre-2007 engine and utilizes “best available retrofit technology” or “BART” as defined in § 24-163.11(a) of the Administrative Code shall notify the New York City Department of Environmental Protection (DEP) of the best available retrofit technology installation by completing a Trade Waste Compliance Reporting form. If DEP approves the best available retrofit technology, DEP will issue a decal to the registrant for each vehicle that has a pre-2007 engine and utilizes BART.

(b) A valid DEP decal must at all times be affixed to a visible part of the driver’s or passenger’s side door of the vehicle cab.

<u>Code/Rule Section</u>	<u>Description</u>	<u>Penalty</u>
<u>§ 7-07</u>	<u>Failure to have proper decal displayed.</u>	<u>Maximum penalty of \$200.</u> <u>Registrants must obtain a decal from the Department of Environmental Protection (DEP) and affix it to the vehicle within two weeks of receiving the summons to comply with the Rule in order to mitigate the penalty to zero.</u>