

**THE CITY OF NEW YORK
DEPARTMENT OF SANITATION**

**NOTICE OF ADOPTION OF FINAL RULES RELATING TO REGISTRATION
REQUIREMENTS FOR INTERMODAL SOLID WASTE CONTAINER FACILITIES**

NOTICE IS HEREBY GIVEN in accordance with the requirements of section 1043 of the New York City Charter and pursuant to the authority vested in the Commissioner of Sanitation by section 753(a) and (b) of the New York City Charter and by section 16-131 of the Administrative Code of the City of New York that the Department adopts the following rule governing the registration requirements for intermodal solid waste container facilities that handle solid waste. This rule adds Subdivision D to Chapter 4 of Title 16 of the Rules of the City of New York. Existing provisions to be deleted are shown below in brackets and new provisions are underlined.

Subchapter D

INTERMODAL SOLID WASTE CONTAINER FACILITIES

§4-39 Definitions

When used in this subchapter:

Commissioner. “Commissioner” shall mean Commissioner of Sanitation or his or her representative.

Construction and demolition debris. “Construction and demolition debris” shall mean non-putrescible solid waste resulting from any excavation, or any construction, demolition, alteration, repair, or renovation of any structure, building or premises.

Equipment. “Equipment” shall mean all implements used in the operation of the intermodal solid waste container facility, including but not limited to motor-driven machinery.

Intermodal container. “Intermodal container” shall mean a container meeting the specification requirements of section 4-43 of this subchapter that is used for the transport of solid waste to or from an intermodal solid waste container facility.

Intermodal solid waste container facility. “Intermodal solid waste container facility” shall mean a facility or premises served by rail or vessel at which intermodal containers are transferred from transport vehicle to transport vehicle for the purpose of consolidating intermodal containers for shipment by rail or vessel to an authorized disposal or treatment facility, where the contents of each container remain in their closed containers during the transfer between transport vehicles, and storage remains incidental to transport at the location where the containers are consolidated.

Non-putrescible solid waste. “Non-putrescible solid waste” shall mean solid waste that does not contain organic matter having the tendency to decompose with the formation of malodorous by-products, including but not limited to dirt, earth, plaster, concrete, rock, rubble, slag, ashes, waste timber, lumber, plexiglass, fiberglass, ceramic tiles, asphalt, sheetrock, tar paper, tree stumps, wood, window frames, metal, steel, glass, plastic pipes and tubes, rubber hoses and tubes, electric wires and cables, paper and cardboard.

Person. "Person" shall mean any individual, corporation, partnership, association, firm, trust, estate or any other legal entity whatsoever.

Putrescible solid waste. “Putrescible solid waste” shall mean solid waste containing organic matter having the tendency to decompose with the formation of malodorous by-products.

Solid waste. "Solid waste" shall mean all putrescible and non-putrescible materials or substances, other than those materials or substances described in subdivision (b) of this definition, that are discarded or rejected, including but not limited to, garbage, refuse, waste collected by any person required to be licensed or permitted pursuant to subchapter eighteen of chapter 2 of Title 20 of the Administrative Code of the City of New York, rubbish, tires, ashes, contained gaseous material, incinerator residue, construction and demolition debris, discarded automobiles and offal. Such term shall include recyclable materials, as defined in §16-303 of Title 16 of the Administrative Code of the City of New York.

(a) A material is discarded or rejected if it is:

(1) spent, useless, worthless or in excess to the owners at the time of such discard or rejection;

(2) disposed of;

(3) burned or incinerated, including material burned as a fuel for the purpose of recovering usable energy; or

(4) accumulated, stored or physically, chemically or biologically treated (other than burned or incinerated) instead of or before being disposed of.

(b) The following are not solid waste for the purpose of this section:

(1) domestic sewage;

(2) any mixture of domestic sewage and other wastes that passes through a sewer system to a publicly owned treatment works for treatment, except any material that is introduced into such system in order to avoid the provisions of this subchapter, Article 157 of the New York City Health Code, Title 16 of the Administrative Code of the City of New York, or of State regulations promulgated to regulate solid waste management facilities;

(3) industrial wastewater discharges that are actual point source discharges subject to permits under article seventeen of the environmental conservation law; provided that industrial

wastewaters while they are being collected, stored or treated before discharge and sludges that are generated by industrial wastewater treatment are solid wastes;

(4) irrigation return flows;

(5) radioactive materials that are source, special nuclear, or by-product material under the federal Atomic Energy Act of 1954, as amended, 42 U.S.C. S 2011 et seq.;

(6) materials subject to in-situ mining techniques that are not removed from the ground as part of the extraction process;

(7) hazardous waste as defined in §27-0901 of the Environmental Conservation Law, including material containing hazardous waste; and

(8) regulated medical waste as defined in Title 15 of Article 27 of the New York State Environmental Conservation Law, in Title 13 of Article 13 of the New York State Public Health Law or in §16-120.1 of the Administrative Code of the City of New York or any rules promulgated pursuant to such provisions of law.

Transport vehicle. "Transport vehicle" shall mean any motor vehicle, rail car, vessel, or other means of transportation used to deliver intermodal containers into, or to remove intermodal containers from, an intermodal solid waste container facility.

Vessel. "Vessel" shall mean any barge, ship, boat, or other floating craft used for transportation in or on a waterway.

§4-40 Compliance with Federal, State and Local Laws. Every person who owns, operates, maintains or otherwise controls an intermodal solid waste container facility regulated by this subchapter shall comply fully with all applicable federal, state and local laws, rules and regulations.

§4-41 Registration Required. (a) No person other than the Department of Sanitation may conduct, operate or use any pier or part thereof, or any piece or parcel of land or land under water within the City of New York as an intermodal solid waste container facility, unless, in addition to any other permit or authorization required by law, such person obtains a registration from the Commissioner as required by this subchapter.

(b) Registration of an intermodal solid waste container facility is a ministerial action for purposes of the State Environmental Quality Review Act, Article 8 of the Environmental Conservation Law and 6 NYCRR Part 617, and the City Environmental Quality Review procedures.

§4-42 Registration for Intermodal Solid Waste Container Facilities.

An application for the registration of an intermodal solid waste container facility shall include:

(1) A site plan, including the name of the facility, with block and lot numbers, street address, zoning district, borough, property boundaries, including a metes and bounds description of the property, proof of ownership or other authorization to use the property, location of fences, gates, entrances and exits, parking spaces and area where transport vehicles may wait prior to delivery or removal of intermodal containers; and the location and dimensions of each area where intermodal containers shall be received and stored prior to transfer to a transport vehicle;

(2) A copy of all permits or other authorizations to construct or operate required under federal, state or local laws, rules or regulations;

(3) A description of proposed intermodal solid waste container facility operations, including descriptions of storage area, transfer operations, site improvements, type of solid waste accepted, type of containers accepted, and period of time intermodal containers would be stored on site;

(4) A map describing not less than one square mile of the area surrounding the proposed facility, clearly marking the lawful truck routes where transport vehicles may transport intermodal containers to and from the facility, and connecting roadways permitted to be used by transport vehicles, as certified by a registered architect or licensed professional engineer;

(5) The estimated number and type of transport vehicles to be used to deliver intermodal containers into, or to remove intermodal containers from, the facility, including an estimate of the daily, weekly and monthly arrivals and departures;

(6) A certification from a title insurance corporation, as such corporation is defined in §6401 of the Insurance Law, or from a duly authorized agent thereof, establishing the ownership of the property upon which the intermodal solid waste container facility is sited or proposed to be sited;

(7) The registrant's business address and telephone number;

(8) An estimate of both the average and the maximum number and volume of intermodal containers to be located at the facility at one time; and

(9) A signed and notarized affidavit acknowledging the registrant's liability to the City for the removal, if necessary for public health and safety reasons, of intermodal containers from the intermodal solid waste container facility.

(10) The annual fee to cover the cost of inspection for a registration issued pursuant to this subchapter shall be six thousand five hundred dollars (\$6500).

§4-43 Intermodal Container Specification Requirements.

(a) For purposes of this section, "container" shall mean an intermodal container.

(b) All transportation of solid waste to and from intermodal solid waste container facilities shall be in containers meeting the specification requirements set forth in subdivision (c) of this

section.

(c) Each container shall meet the following specification requirements: (1) each container shall be designed, constructed, loaded, secured and maintained so as (i) to prevent the escape of wastes or liquids; and (ii) to prevent the loss or spillage of wastes or liquids in the event of an accident; (2) each container shall be completely enclosed, rigid, and constructed of nonpermeable material, provided that rigid top-loaded intermodal containers containing construction and demolition debris and no putrescible waste may be enclosed with a non-rigid cover acceptable to the Commissioner; and (3) each container shall meet all applicable U.S. Department of Transportation specifications and generally accepted industry standards.

§4-44 Operation and Maintenance.

(a) For purposes of this section, “facility” shall mean an intermodal solid waste container facility.

(b) The facility shall be located at or adjacent to a rail yard, rail spur, industrial track or vessel facility.

(c) The handling of intermodal containers shall be conducted in a safe and sanitary manner so as to avoid any nuisance or other condition that could pose a danger to public health or safety.

(d) The facility shall handle intermodal containers in a manner consistent with the site plan and operating information submitted with the registration.

(e) There shall be sufficient space at the facility for transport vehicles to enter and exit safely.

(f) Trucks shall enter and exit the facility via lawful truck routes.

(g) All solid waste received at the facility for transport must be in intermodal containers at all times, including during receipt, storage and removal.

(h) All intermodal containers must meet the specification requirements set forth in section 4-43 of this subchapter.

(i) (1) The facility, to the extent practicable, shall keep the following records for each intermodal container received and transported out of the facility: (i) description of the solid waste in the intermodal container; (ii) volume of the solid waste contained in the intermodal container; (iii) the name of the solid waste management facility where the solid waste was loaded into the intermodal container; and (iv) the destination of the intermodal container after it leaves the facility. (2) Such records shall be maintained for a period of not less than three years and be readily available for inspection by a representative from the Department of Sanitation.

(j) All intermodal containers containing putrescible solid waste shall be removed within

seventy-two hours of receipt.

(k) All intermodal containers must be removed from the facility by rail or vessel.

(l) Equipment used in the handling of intermodal containers shall be contained within the property line, and under no circumstances shall such equipment be stored on city streets.

(m) No transport vehicle required to be licensed or permitted pursuant to title twenty of the Administrative Code of the City of New York shall deliver an intermodal container to a facility unless such transport vehicle is appropriately licensed or permitted.

(n) The Commissioner may waive one or more requirements of this section if he or she reasonably determines that such waiver would not be inconsistent with the purposes of this subchapter, and provided that such waiver is not otherwise contrary to law.

§4-45 Suspension and Revocation.

The Department of Sanitation specifically reserves the right, to the extent that it is not inconsistent with applicable federal, state or local laws, rules or regulations, to suspend such registration temporarily or to revoke it permanently after adequate notice, when the Commissioner or his/her designee has found that the holder of such registration has violated the terms of this subchapter.

§4-46 Severability. The provisions of this subchapter shall be severable and if any phrase, clause, sentence, paragraph, subdivision or section of this subchapter, or the applicability thereof to any person or circumstance, shall be held invalid, the remainder of this subchapter and the application thereof shall not be affected thereby.

Statement of Basis and Purpose: The Commissioner of the New York City Department of Sanitation is authorized to adopt rules relating to the registration of intermodal solid waste container facilities pursuant to §§753 and 1043 of the New York City Charter, and §§16-130, 16-131, 16-131.1, 16-131.2 of the New York City Administrative Code. These amendments set forth the registration and operational requirements for intermodal solid waste container facilities. An intermodal solid waste container facility is a facility or premises that is served by rail or vessel at which intermodal containers of solid waste are transferred from transport vehicle to transport vehicle for shipment by rail or vessel to an authorized disposal or treatment facility, where the contents of each container remain in their closed containers during the transfer between transport vehicles, and storage remains incidental to transport at the location where the containers are consolidated.

Specifically, these amendments require intermodal solid waste container facilities to register with the Department of Sanitation. The registration requirements include: (1) the submission of site plans; (2) copies of all federal, state and local permits or authorizations necessary for the facility's operation; (3) a description of the facility's operations including a

description of storage area, transfer operations, type of solid waste accepted, type of containers accepted, and period of time intermodal containers that contain solid waste would be stored on site; (4) a map marking lawful truck routes to and from the facility; and (5) the estimated number of transport vehicles containing intermodal containers of solid waste entering and exiting the intermodal solid waste container facility on a daily, weekly and monthly basis. An annual fee of six thousand five hundred (\$6500) would also be required to cover the Department's inspection costs.

The rules also set forth specification requirements for the intermodal containers used at the intermodal solid waste container facility. These requirements include that (1) each container shall be designed, constructed, loaded, secured and maintained so as to prevent the escape of wastes or liquids, and to prevent the loss or spillage of wastes or liquids in the event of an accident; (2) each container shall be completely enclosed, rigid, and constructed of nonpermeable material, provided that rigid top-loaded intermodal containers containing construction and demolition debris and no putrescible waste may be enclosed with a non-rigid cover acceptable to the Commissioner; and (3) each container shall meet all applicable U.S. Department of Transportation specifications and generally accepted industry standards.

Lastly, the rules set forth operation and maintenance requirements for the intermodal solid waste container facility, including, but not limited to, the following: (1) the intermodal solid waste container facility must be maintained in a safe and sanitary manner; (2) all trucks entering or exiting the facility must do so via lawful truck routes; (3) all solid waste received at the facility must be in intermodal containers at all times, including during receipt, storage and removal; (4) the intermodal solid waste container facility must keep detailed records regarding the type and volume of solid waste received at the facility, the name of the solid waste management facility where the solid waste was loaded into the intermodal containers, and the destination of the solid waste.

These rules can help promote the transport of solid waste by rail or vessel and thus play an important part in reducing truck traffic in and around the City.