

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

**NOTICE OF ADOPTION OF FINAL RULES  
RELATING TO THE DEPARTMENT OF SANITATION'S  
SITING OF TRANSFER STATIONS**

**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 siting of transfer stations. This rule adds sections 4-36, 4-37 and 4-38 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.

**§4-36 Interim Siting Restrictions for New or Expanded Construction and Demolition Debris Transfer Stations**

(a) Notwithstanding the provisions of section 4-05 of subchapter A of this chapter, no new permit or authorization to operate shall be issued by the Department during the period from March twenty-first, two thousand three through July thirty-first, two thousand four, for a construction and demolition debris transfer station, as defined in section 4-01 of subchapter A of this chapter, that was not lawfully operating on March twenty-first, two thousand three, nor may any construction and demolition debris transfer station be authorized during such period to increase its lawful permitted capacity.

(b) Notwithstanding subdivision (a) of this section, the Department may issue to a construction and demolition debris transfer station that was lawfully operating on March twenty-first, two thousand three a permit to convert some or all of its lawful permitted capacity to putrescible solid waste.

(c) Notwithstanding subdivision (a) of this section, the Department may authorize the operation of a new intermodal solid waste container facility that handles construction and demolition debris, provided that (1) such new facility is located at or adjacent to a rail yard, rail spur, industrial track or vessel facility, (2) the construction and demolition debris at such facility is in closed, leak-proof containers at all times, including during receipt, storage and removal, (3) the containers are acceptable to the Department and maintained in a safe, nuisance-free manner, and (4) the containers are removed by rail or vessel.

(d) This section shall expire on the thirty-first day of July, two thousand four.

#### **§4-37 Interim Siting Restrictions for New or Expanded Fill Material Transfer Stations**

(a) Notwithstanding the provisions of section 4-07 of subchapter A of this chapter, no new permit or authorization to operate shall be issued by the Department during the period from March twenty-first, two thousand three through July thirty-first, two thousand four, for a fill material transfer station, as defined in section 4-01 of subchapter A of this chapter, that was not lawfully operating on March twenty-first, two thousand three, nor may any fill material transfer station be authorized during such period to increase its lawful permitted capacity.

(b) This section shall expire on the thirty-first day of July, two thousand four.

#### **§4-38 Interim Siting Restrictions for New or Expanded Putrescible Solid Waste Transfer Stations**

(a) Notwithstanding the provisions of section 4-14 of subchapter B of this chapter, no new permit or authorization to operate shall be issued by the Department during the period from March twenty-first, two thousand three through July thirty-first, two thousand four, for a putrescible solid waste transfer station, as defined in section 4-11 of subchapter B of this chapter, that was not lawfully operating on March twenty-first, two thousand three.

(b)(1) During the period from March twenty-first, two thousand three through July thirty-first, two thousand four, the Department may authorize a putrescible solid waste transfer station that is not located in either Brooklyn Community District 1 or Bronx Community District 2 and that was lawfully operating on March twenty-first, two thousand three, to increase its lawful permitted capacity. (2) Notwithstanding the provisions of section 4-14 of subchapter B of this chapter, during the period from March twenty-first, two thousand three through July thirty-first, two thousand four, the Department shall not authorize the owner/operator of a putrescible solid waste transfer station that is located in either Brooklyn Community District 1 or Bronx Community District 2 to increase its lawful permitted capacity, provided that the Department may authorize the owner/operator of any such transfer station that was lawfully operating on March twenty-first, two thousand three to increase its lawful permitted capacity where such owner/operator reduces or obtains a reduction in the lawful permitted capacity at another putrescible or non-putrescible solid waste transfer station within the same community district by an equal or greater amount.

(c) Notwithstanding subdivisions (a) and (b) of this section, the Department may (1) authorize the operation of a new intermodal solid waste container facility that handles putrescible solid waste, provided that (i) such new facility is located at or adjacent to a rail yard, rail spur, industrial track or vessel facility, (ii) the putrescible solid waste at such facility is in closed, leak-proof containers at all times, including during receipt, storage and removal, (iii) the containers are acceptable to the Department and maintained in a safe, nuisance-free manner, and (iv) the containers are removed by rail or vessel; or (2) issue a new permit to a putrescible solid waste transfer station that receives putrescible solid waste, provided that (i) such new transfer station is located at or adjacent to a rail yard, rail spur, industrial track or vessel facility, and (ii) the

putrescible solid waste received is subsequently transported from the transfer station by rail or vessel.

(d) During the period from March twenty-first, two thousand three through July thirty-first, two thousand four, each putrescible solid waste transfer station that is located in either Brooklyn Community District 1 or Bronx Community District 2 that is permitted to operate under subdivision (c)(2) of this section, shall be required to reduce or obtain a reduction in the lawful permitted capacity at another putrescible or non-putrescible solid waste transfer station within the same community district by an equal or greater amount.

(e) This section shall expire on the thirty-first day of July, two thousand four.

**Statement of Basis and Purpose:** In order to improve the regulation of private solid waste transfer stations, including putrescible solid waste transfer stations, and non-putrescible solid waste transfer stations (which include fill material and construction and demolition debris transfer stations), the Council enacted Local Law 40 of 1990 to provide the City with comprehensive enforcement authority against private solid waste transfer stations that operate in violation of City laws and rules. In 1998, the Department promulgated transfer station siting rules, which then faced legal challenge. In connection with this litigation, the Department has committed to promulgate new siting rules.

In 2000, along with the passage of the City's Comprehensive Solid Waste Management Plan, the New York City Council enacted Local Law 74 requiring the Department to conduct a comprehensive study of the City's existing system for managing commercial putrescible and non-putrescible solid waste. In compliance with Local Law 74, the Department released a Preliminary Report in June 2002. In September 2002, the Department entered into a contract with a consulting firm to assist the Department in undertaking a comprehensive Commercial Waste Study that will incorporate the specified analyses outlined under Local Law 74, including:

- the effectiveness of the criteria applied by the Department to the siting of putrescible and non-putrescible solid waste transfer stations, including the aggregate effect of the geographic proximity of solid waste transfer stations to each other;
- the means and potential effects of limiting the number and capacity of transfer stations in the City; and
- the potential environmental, economic and public health impacts on communities in which large numbers of privately-owned transfer stations are located.

The Sanitation Commissioner is authorized to adopt rules relating to the permitting and siting of transfer stations pursuant to §§753 and 1043 of the New York City Charter, and §§16-130, 16-131, 16-131.1 and 16-131.2 of the New York City Administrative Code. These amendments place restrictions on the permitting and siting of new putrescible and non-putrescible solid waste transfer stations until the results of the Commercial Waste Study can be examined.

Specifically, these amendments, which apply from March 21, 2003 to July 31, 2004, would, except as indicated below: (1) prohibit new construction and demolition debris transfer stations; (2) prohibit expansion of existing construction and demolition debris transfer stations; (3) prohibit new fill material transfer stations; (4) prohibit expansion of existing fill material transfer stations; and (5) prohibit new putrescible solid waste transfer stations.

Existing putrescible solid waste transfer stations could expand their capacity, provided that in Brooklyn Community District 1 and Bronx Community District 2, no expansions of such capacity would be allowed unless the owner/operator of the transfer station reduced or obtained a reduction in capacity at another transfer station within the same community district by an equal or greater amount. Existing construction and demolition debris transfer stations could convert some or all of their capacity to putrescible solid waste. Any such expansion or conversion would be subject to all applicable permitting requirements.

The Department could also authorize the operation of intermodal solid waste container facilities that receive either construction and demolition debris or putrescible solid waste where the waste at such facilities is at all times in closed, leak-proof containers and is removed by rail or vessel. Finally, the Department would be allowed to issue new permits for putrescible solid waste transfer stations that receive solid waste, provided that the transfer station is located at or adjacent to a rail yard, rail spur, industrial track or vessel facility, and the transport of such solid waste from the transfer station is by rail or vessel, and provided, further, that any such transfer station located in Brooklyn Community District 1 or Bronx Community District 2 would be required to reduce or obtain a reduction in the lawful permitted capacity at another putrescible or non-putrescible solid waste transfer station located within the same community district by an equal or greater amount. These changes will encourage the export of solid waste by rail or vessel and thus play a part in reducing truck traffic around the city.

These interim rules will be in effect until approximately 120 days after the release of the Commercial Waste Study, scheduled for March of 2004. This period will give the Department an opportunity to review and take into account the findings and analyses of the Commercial Waste Study prior to the promulgation of permanent siting rules.