

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

**NOTICE OF PUBLIC HEARING AND OPPORTUNITY TO COMMENT ON
PROPOSED AMENDMENTS TO RULES GOVERNING 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.

Written comments regarding the proposed amendments may be sent to the Deputy Commissioner for Legal Affairs, New York City Department of Sanitation, 125 Worth Street, Room 710, New York, New York, 10013 on or before April 23, 2003. In addition, a public hearing regarding the proposed amendments will be held on April 23, 2003 at 125 Worth Street, 2nd Floor Auditorium from 9:00 to 11:00 a.m. Written comments and a summary of oral comments received at the hearing will be available for public inspection, within a reasonable time after receipt, between the hours of 9:00 a.m. and 5:00 p.m. at the Office of the Deputy Commissioner for Legal Affairs at 125 Worth Street, Room 710, New York, New York. Dated: March 21, 2003, John J. Doherty, Commissioner.

**§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 until 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 issue a permit for a new construction and demolition debris transfer station, provided that (1) such new transfer station is located at or adjacent to a rail yard or barge facility, (2) the solid waste at such transfer

station 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 barge.

(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 until 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 until 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 until 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 until July thirty-first, two thousand four, the Department shall not authorize the owner/operator of a putrescible solid waste transfer station located in 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 the lawful permitted capacity at another of its putrescible or non-putrescible solid waste transfer stations within the same community district by an equal or greater amount.

(c) Notwithstanding subdivisions (a) and (b) of this section, the Department may issue a permit to increase the lawful permitted capacity of an existing putrescible solid waste station that was lawfully operating on March twenty-first, two thousand three or for a new putrescible solid waste transfer station, provided that (1) such existing or new transfer station is located at or

adjacent to a rail yard or barge facility, (2) the solid waste at such transfer station 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 barge.

(d) 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 capacity at another of its transfer stations 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. Finally, the Department could issue permits for inter-modal facilities, where the solid waste at such facilities is at all times in closed, leak-proof containers and is removed by rail or barge. Any such expansion or conversion, or permitting of inter-modal facilities would be subject to all applicable permitting requirements.

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.