

APPENDIX H

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

**NOTICE OF ADOPTION OF FINAL RULES
GOVERNING THE DEPARTMENT OF SANITATION'S OPERATIONAL
REQUIREMENTS REGARDING 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 operational requirements of transfer stations. This rule amends Subchapters A and B of Chapter 4 of Title 16 of the Rules of the City of New York. The Department published a Notice of Opportunity to Comment on the proposed rule in the City Record on August 27, 2004. The Department held a public hearing on the proposed rule on October 26, 2004. Pursuant to section 16-131(e) of the Administrative Code of the City of New York the Department submitted the final rule to the City Council for an additional thirty-day statutory review period on January 18, 2005. Existing provisions to be deleted are shown below in brackets and new provisions are underlined.

Section 1. Section 4-01 of subchapter A of chapter 4 of title 16 of the rules of the city of New York is amended to read as follows:

§ 4-01 Definitions.

When used in this subchapter:

Air contaminant. "Air contaminant" shall mean any particulate matter or any gas or any combination thereof in the open air, other than uncombined water or air.

Commissioner. "Commissioner" shall mean Commissioner of Sanitation of the City of New York 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.

Construction and demolition debris transfer station. "Construction and demolition debris transfer station" shall mean any structure, building or other premises, whether improved or unimproved, at which non-putrescible solid waste, including any amount of construction and demolition debris, is received for the purpose of subsequent transfer to another location, regardless of whether such non-putrescible solid waste is subject to any processing or reduction in volume at such structure, building or premises, but shall not include transfer stations at which any amount of putrescible solid waste is received.

Designated recyclable materials. "Designated recyclable materials" shall have the same meaning as that used in §16-306 of the Administrative Code of the City of New York and rules promulgated pursuant thereto.

Diesel engine. "Diesel engine" shall mean an engine that operates on or is capable of operating on diesel fuel.

Equipment. "Equipment" shall mean all implements used in the operation of the construction and demolition debris or fill material transfer station, including but not limited to motor-driven machinery.

Fill material. "Fill material" shall mean only clean material consisting of earth, ashes, dirt, concrete, rock, gravel, stone or sand, provided that such material shall not contain organic matter having the tendency to decompose with the formation of malodorous by-products.

Fill material transfer station. "Fill material transfer station" shall mean any structure, building or other premises, whether improved or unimproved, at which non-putrescible solid waste consisting solely of fill material is received for the purpose of subsequent transfer to another location, regardless of whether such fill material is subject to any processing or reduction in volume at such structure, building or premises.

Gasoline engine. "Gasoline engine" shall mean an engine that operates on or is capable of operating on gasoline fuel.

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, and that is required to register with the Department of Sanitation pursuant to sections 16-130 and 16-131 of the Administrative Code of the City of New York and Subchapter D of this Chapter.

Non-putrescible solid waste. "Non-putrescible solid waste" shall mean solid waste, whether or not contained in receptacles, 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.

Non-putrescible solid waste transfer station. "Non-putrescible solid waste transfer station" shall mean any structure, building or other premises, whether improved or unimproved, at which only non-putrescible solid waste is received for the purpose of subsequent transfer to another location, regardless of whether such non-putrescible solid waste is subject to any processing or reduction in volume at such structure, building or premises. Such term shall include construction and demolition debris and fill material transfer stations but not intermodal solid waste container facilities.

Nonroad motor vehicle. "Nonroad motor vehicle" shall mean equipment that is propelled by a diesel engine or gasoline engine in or upon which a person or material may be transported on the ground and that is used or is located at a transfer station. A nonroad motor vehicle shall include, but not be limited to, front end loaders, backhoes and bulldozers and shall not include cars, trucks or locomotives.

Opacity. "Opacity" shall mean the degree to which emissions reduce the transmission of light and obscure the view of an object in the background.

Particulate matter. "Particulate matter" shall mean any liquid, other than water, or any solid that is or tends to be capable of becoming windblown or being suspended in air.

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

Putrescible solid waste. [The term "putrescible] "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 paragraph [(2)] (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 two of Title twenty] Chapter one of Title sixteen-A 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 sixteen 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 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 sixteen 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 which 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 fifteen of Article twenty-seven of the New York [state] State Environmental Conservation Law, in Title thirteen of Article thirteen 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 provision of law.

Standard smoke chart. “Standard smoke chart” shall mean the Ringelmann chart, as published by the United States bureau of mines, photographically reduced to 1/18th in size for use in the field.

Stationary equipment. “Stationary equipment” shall mean equipment powered by a diesel engine or gasoline engine that will remain stationary during use and that is used or is located at a transfer station. Stationary equipment shall include, but not be limited to, cranes, excavators, crushers, screeners, chippers and shredders.

Transport vehicle. “Transport vehicle” shall mean any motor vehicle, rail car, vessel, or other means of transportation used to deliver solid waste into, or remove solid waste from, a non-putrescible solid waste transfer station.

US EPA Method 9. “US EPA Method 9” shall mean the United States Environmental Protection Agency method, codified at Title 40 Code of Federal Regulations Part 60, Appendix A-4, for use by a certified observer to visually determine the opacity of air contaminant emissions from a stationary source.

US EPA Method 22. “US EPA Method 22” shall mean the United States Environmental Protection Agency method, codified at Title 40 Code of Federal Regulations Part 60, Appendix A-7, for use by a trained and knowledgeable observer to visually determine the presence of and amount of time that visible air contaminant emissions occur.

§2. Section 4-03 of subchapter A of chapter 4 of title 16 of the rules of the city of New York is amended to read as follows:

§ 4-03 Permit Required.

No person or public agency 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 a non-putrescible solid waste transfer station without having first obtained for each pier or part thereof, or for each piece or parcel of land or land under water, in addition to any other permit required by law, a permit from the Commissioner, as required by this subchapter. Any non-putrescible solid waste transfer station permit issued pursuant to this subchapter shall be conditioned upon compliance with any rules regarding the siting and hours of operation of non-putrescible solid waste transfer stations [required to be promulgated by the Department of Sanitation pursuant to §16-131(b) of the Administrative Code of the City of New York] set forth in subchapter C of this chapter.

§3. Sections 4-05, 4-06, 4-07 and 4-08 of subchapter A of chapter 4 of title 16 of the rules of the city of New York are amended to read as follows:

§ 4-05 Permits for Construction and Demolition Debris Transfer Stations.

(a) For the purposes of this section, "transfer station" shall mean a construction and demolition debris transfer station, unless otherwise specified, and each such transfer station shall obtain a permit pursuant to this section.

(b) An application for a permit or renewal thereof to operate a transfer station shall include:

(1) Copies of all materials submitted to the New York State Department of Environmental Conservation in connection with the transfer station's application for any permit required pursuant to Title six of NYCRR Part 360 or its successor, including but not limited to an application for an initial permit to construct and/or operate, or an application to modify or renew a permit, or if no such permit is required pursuant to Title six of NYCRR Part 360 or its successor, copies of all materials submitted to the New York State Department of Environmental Conservation in connection with a registration or an exemption pursuant to Title six of NYCRR Part 360. If the copy of the site plan submitted to the New York State Department of Environmental Conservation does not so indicate, or if no site plan was required to be submitted to the New York State Department of Environmental Conservation, a site plan shall be submitted indicating: the transfer station's tax block and lot number; property boundaries, including a metes and bounds description of the property consistent with the deed submitted pursuant to paragraph (10) of this subsection; zoning district; borough; the locations of fences, gates, entrances and exits, parking spaces and truck spaces where transport vehicles may wait prior to their deposit or removal of solid waste; and the location and dimensions of each area where non-putrescible solid waste shall be received, processed and stored;

(2) a written statement by a registered architect or licensed professional engineer certifying that:

(i) As designed, the transfer station is capable of complying with the applicable performance standards of the Zoning Resolution of the City of New York and the applicable provisions of the New York City Health Code, including but not limited to Articles 135 and 141;

(ii) A system for the sanitary disposal of sewage and waste water has been installed at the transfer station in accordance with the provisions of Articles 143 and 145 of the New York City Health Code and all applicable laws and rules governing the discharge of sewage and waste water;

(iii) The transfer station is capable of complying with all the requirements of §4-06 of this subchapter;

(iv) Any necessary ventilation equipment has been installed;

(v) Cross connection control has been provided to ensure that waste water does not mix with the drinking water supply;

(vi) There is sufficient space at the transfer station for the largest anticipated transport vehicle to safely enter and exit the transfer station;

(vii) Transport vehicles may enter and exit the transfer station via lawful truck routes;

(viii) There is adequate ingress and egress at the transfer station to accommodate emergency vehicles; and

(ix) There is adequate ingress and egress at the transfer station to facilitate the complete inspection of the transfer station.

(3) (i) A map describing not less than one square mile of the area surrounding the proposed transfer station, clearly marking the lawful truck routes where transport vehicles may transport solid waste into and out of the transfer station, and connecting roadways permitted to be used by transport vehicles, as certified by a registered architect or licensed professional engineer in subparagraph (vii) of paragraph (2) of this subsection; and

(ii) the estimated number and type of transport vehicles to be used, and the daily, weekly and monthly number of vehicle arrivals and departures at the transfer station.

(4) A certified copy of a Certificate of Occupancy or, where applicable, a temporary Certificate of Occupancy, from the Department of Buildings of the City of New York, indicating the appropriate Use Group pursuant to the Zoning Resolution of the City of New York and, if applicable, a copy of a written variance for the zoning lot from the Board of Standards and Appeals or any successor agency; and/or a copy of a certification or authorization of the Department of Small Business Services of the City of New York;

(5) A certification from a title insurance corporation, as such [coporation] 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 transfer station is sited or proposed to be sited;

(6) Documentary evidence demonstrating that all penalties, including those of the Environmental Control Board, imposed upon the applicant, the property owner, and any other person in control of or having an interest in the transfer station operation, for violations of Article 157 of the New York City Health Code, or Title sixteen, Title seventeen, [Subchapter eighteen or chapter two of Title twenty] Chapter one of Title sixteen-A, Chapter one of Title twenty-six and Title twenty-seven of the Administrative Code of the City of New York, or rules promulgated thereunder, that relate to the ownership or operation of a non-putrescible solid waste transfer station, putrescible solid waste transfer station, dump or fill material operation, have been paid or otherwise satisfied;

(7) Documentary evidence demonstrating that all fees due the Department of Sanitation for use of Department disposal facilities and/or for Department disposal services from the applicant, the property owner, and any other person in control of having or having an interest in the transfer station, have been paid or otherwise satisfied;

(8) Proof of workers' compensation coverage, or that the applicant is exempt from Workers' Compensation Law §57, and proof of disability benefits coverage, or that the applicant is exempt from Workers' Compensation Law §220, Subdivision 8 (Disability Benefits Law);

(9) A written and notarized acknowledgment by the applicant and, if different from the applicant, the fee owner of the real property, that the applicant and/or fee owner may be held primarily liable by the City of New York for the removal of all solid waste and any other material from the transfer station;

(10) A certified copy of the deed, as recorded in the office of the City Register or, in Richmond County, the County Clerk, setting forth a metes and bounds description of the property, and, if applicable, a copy of the lease or sublease or a certified copy of the lease or sublease if such lease or sublease is recorded, for the premises at which the transfer station is located or proposed to be located. The permittee shall notify the Commissioner within ten business days if the ownership of the property has changed or any other conveyance of title has taken place. Any new acknowledgments required pursuant to paragraph (9) of this subsection shall be provided simultaneously;

(11) A copy of all permits or other authorizations to construct or operate required under local and state laws and regulations, including the New York State Environmental Conservation Law and Title six of the NYCRR or its successor;

(12) A surety bond or an irrevocable letter of credit in a sum to be determined by the Commissioner of Sanitation. This sum shall not exceed the estimated cost to the Department of the removal of all solid waste and material defined in paragraph [(2)] (b) of the definition of "solid waste" set forth in §4-01 of this subchapter, from the transfer station, in the event that such removal becomes necessary and the permittee fails to remove such solid waste and material. A bond shall be executed by the applicant and a surety authorized to conduct business within the State of New York and approved by the Commissioner and, in the case of an irrevocable letter of credit, such letter of credit shall be issued by a financial institution authorized to conduct business within the State of New York. Such bond or letter of credit shall name the Department as obligee. The face amount of the bond or letter of credit shall be based on the size of the transfer station and the volume and nature of the material to be removed. The Commissioner of Sanitation may from time to time review the adequacy of such surety bond or letter of credit and thereafter require an applicant or permittee to obtain an increase in the amount of the bond or irrevocable letter of credit not to exceed the estimated cost of the removal of such solid waste and material. The Commissioner may authorize an applicant to provide other security, including cash, if the Commissioner finds that compliance with the bond or letter of credit requirement is not reasonably possible and the public interest would be served by such authorization. A surety bond issued pursuant to this subsection shall not expire until six months have elapsed after the revocation, surrender, expiration or other termination of the permit;

(13) The names, addresses, and dates of operation of any solid waste management facility or related businesses, currently or previously owned or operated by the applicant, or any principal of the applicant, such as private carting companies, other types of non-putrescible solid waste transfer stations, and putrescible solid waste transfer stations, whether or not located in New York City;

(14) The applicant's business address and telephone number. If the applicant is a corporation, the application must (1) state the names and home and business addresses of the principals of the corporation; (2) contain the signature of a corporate officer; (3) have the corporate seal impressed thereon; and (4) include a copy of the New York State corporation filing receipt. If the applicant is a partnership, the application must (1) state the names and home and business addresses of all partners; (2) include a copy of the partnership papers, certified by the County Clerk. If the applicant is required to file a certificate pursuant to §130 of the General Business Law, a certified copy of such certificate shall be submitted to the Department. The applicant shall also submit the names and addresses of all persons or entities, other than a financial institution licensed to do business in the state of New York, to which the applicant is indebted in an amount equal to or greater than three thousand dollars (\$3,000). The permittee shall have the continuing duty to inform the Department of Sanitation of any changes in the principals of the business entity owning or operating the transfer station. For purposes of this subparagraph, "principal" includes, but is not limited to, any director, officer (for example, president, vice-president, secretary, treasurer, board chairman, chief executive officer) or partner of a business entity, and shall include any shareholder (including another business entity) who owns ten percent or more of any class of issued company stock;

(15) The types of non-putrescible solid waste, in addition to construction and demolition debris, that will be received, processed and stored at the transfer station;

(16) The total volume of each type of non-putrescible solid waste, as well as the total aggregate volume of non-putrescible solid waste, to be present at the transfer station at one time; and

(17) At the request of the Commissioner, the applicant shall supply any additional information that is reasonably necessary to clarify that the transfer station is capable of complying with §4-06 of this subchapter.

(c) Any initial application for a transfer station permit shall include all documentation required pursuant to this section in one single package. This package shall constitute the transfer station permit application.

(d) A permit to operate a transfer station shall not be issued by the Commissioner unless the applicant has submitted a complete application.

(e) Review of any application submitted pursuant to this section may be suspended or terminated if the transfer station applicant is found to be operating any facility required to be permitted pursuant to §16-130 of the Administrative Code of the City of New York without a permit therefor or in violation of any such permit.

(f) A permit issued pursuant to this section shall be for a term not to exceed one year, and shall specify the volume of each type of non-putrescible solid waste permitted to be received, processed and stored by the transfer station.

(g) The annual fee for a permit issued pursuant to this section shall be three thousand five hundred dollars (\$3500).

§ 4-06 Operation and Maintenance of Construction and Demolition Debris Transfer Stations.

(a) For the purposes of this section, "transfer station" shall mean a construction and demolition debris transfer station, unless otherwise specified.

(b) No transfer station shall be operated unless it has obtained a permit pursuant to §4-05 of this subchapter, and is in compliance with the terms thereof, this section, and any other applicable law, rule or regulation.

(c) Equipment and personnel shall be provided for the safe and sanitary receipt, tipping, sorting, processing, compaction and storage of non-putrescible [solidwaste] solid waste at the transfer station. Sufficient standby equipment shall be provided to ensure that no storage problem or public nuisance or condition hazardous to public health or safety is created during scheduled or unscheduled equipment maintenance, or equipment breakdown. All indoor transfer station solid waste receipt, tipping, sorting, processing, compaction and storage areas shall include appropriate fire detection and protection equipment and all outdoor transfer station solid waste receipt, tipping, sorting, processing, compaction and storage areas shall include appropriate functioning fire protection equipment and aisle space.

(d) The transfer station shall comply with the applicable performance standards of the Zoning Resolution of the City of New York and the applicable provisions of the New York City Health Code, including but not limited to Articles 135 and 141.

(e) A system for the sanitary disposal of sewage and waste water shall be functioning at the transfer station in accordance with the provisions of Articles 143 and 145 of the New York City Health Code and all applicable laws and rules governing the discharge of sewage and waste water.

(f) Cross connection control shall be in place to ensure that waste water does not mix with the drinking water at the transfer station.

(g) There shall be sufficient space at the transfer station for transport vehicles to enter and exit safely.

(h) Transport vehicles shall enter and exit the transfer station via lawful truck routes.

(i) There shall be adequate ingress and egress at the transfer station to accommodate emergency vehicles. There shall be adequate space at the transfer station to accommodate emergency vehicles.

(j) There shall be adequate ingress and egress at the transfer station to facilitate the complete inspection of the transfer station. There shall be adequate access provided to all areas of the transfer station to facilitate the complete inspection of the transfer station.

(k) All non-putrescible solid waste transferred into and out of the transfer station shall be weighed or measured by volume. Records shall be maintained of such weights or measurements for a period of three years and included in the operational records required by subsection (p) of this section.

(l) Indoor and outdoor areas of the transfer station shall be illuminated during its hours of operation. Such illumination shall not create a nuisance.

(m) A transfer station shall be operated and maintained in a safe and sanitary manner so as to avoid any nuisance or condition hazardous to public health or safety.

(n) All equipment in use at the transfer station shall be maintained in proper working order. Equipment maintenance shall be scheduled and provided on a regular basis. Records of such maintenance shall be included in the operational records required by subsection (p) of this section.

(o) Transfer stations shall be kept free of vectors, including, but not limited to rodents, insects and other pests, and of any condition conducive to vectors. Written confirmation of at least weekly engagement of a certified exterminator shall be available at all times, and shall be included in the operational records required by subsection (p) of this section.

(p) Operational records for the transfer station including, but not limited to, all asset liability and capital and proprietary accounts, operating expenses, administrative expenses, tax returns and equipment expenses shall be maintained for a period of not less than three years. Such records shall also include a clear and legible daily log of the quantity of solid waste received and removed, specifying the point of origin and destination of the solid waste transported daily, as well as the quantity and type of material which has been brought to the transfer station for separation and/or processing. The daily log shall also include the names and addresses of the owner and/or operator of transport vehicles entering or exiting the transfer station. The daily log shall also include the weight or volume of each designated recyclable material separated by the transfer station. Such records shall be maintained on the premises and be readily available for inspection by representatives of the Department. The permittee shall submit to the Department a copy of any report required to be filed with the New York State Department of Environmental Conservation pursuant to 6 NYCRR Part 360. Any such report shall be submitted to the Department at the same time it is submitted to the New York State Department of Environmental Conservation. In addition, the permittee shall submit to the Department quarterly reports that contain the following information, calculated by weight or volume on a monthly basis[;] : the total amount of solid waste received; the origin of the solid waste received; the destination of the solid waste removed, including a listing, by type of material, of any material recovered for recycling, reuse or sale for reuse. Quarterly reports shall be submitted on forms prescribed by or acceptable to the Department. The report for the quarter ending on March 31 shall be due on April 30; the report for the quarter ending on June 30 shall be due on July 30; the report for the quarter ending September 30 shall be due on October 30; and the report for the quarter ending December 31 shall be due on January 30.

(q) Operators of transfer stations that receive materials that are required to be recycled, reused or sold for reuse pursuant to § 16-306 of the Administrative Code of the City of New York and rules promulgated pursuant thereto, shall recycle, reuse or sell for reuse or cause to be recycled, reused or sold for reuse such materials and shall comply with such provisions of the collection rules of the

Department, including, as of September 30, 1993, 16 RCNY §1-10(g), as are applicable to such transfer stations.

(r) The presence at a transfer station of any material other than non-putrescible solid waste is prohibited.

(s) The transfer station shall not emit odors, including odors of deodorizing materials, so as to violate the performance standards of the Zoning Resolution of the City of New York or the applicable provisions of the Air Pollution Control Code of the Administrative Code of the City of New York or to create a public nuisance.

(t) Non-putrescible solid waste shall be received, processed and stored only in the [area] areas specifically designated [for receipt of non-putrescible solid waste] in the site plan submitted pursuant to paragraph (1) of subsection (b) of §4-05 of this subchapter. Non-putrescible solid waste shall not be permitted to spill beyond areas in which it is permitted by this subchapter and by the site plan and engineering report submitted to the Department of Environmental Conservation pursuant to 6 NYCRR Part 360. Non-putrescible solid waste that spills beyond the areas in which it is permitted shall be removed immediately.

(u) The permittee shall be allowed to receive at the transfer station only the specific types of non-putrescible solid waste set forth within the permit.

(v) The permittee shall not be allowed to receive, process or store any type of non-putrescible solid waste in excess of the maximum allowable volume of each type of non-putrescible solid waste set forth within the permit.

(w) Transfer stations shall not be allowed to maintain non-putrescible solid waste above the following heights:

(1) if all receipt, processing and storage of non-putrescible solid waste is conducted within a completely enclosed structure at a transfer station, then the maximum pile height of non-putrescible solid waste shall be unlimited, except as otherwise provided by state and local law.

(2) if any receipt, processing or storage of non-putrescible solid waste is conducted at any unenclosed area of a transfer station located more than three hundred (300) feet from a residential zone, then the maximum pile height of non-putrescible solid waste shall be eight (8) feet, except that the maximum pile height of:

(i) non-putrescible solid waste consisting solely of separated concrete, rock, gravel, asphalt, brick, dirt or metal shall be forty (40) feet;

(ii) non-putrescible solid waste consisting solely of separated, chipped wood, shall be thirty (30) feet.

(3) if any receipt, processing or storage of non-putrescible solid waste is conducted in an unenclosed area of a transfer station located three hundred (300) feet or less from a residential zone, then the maximum pile height of all non-putrescible solid waste shall be eight (8) feet.

(x) The total volume of non-putrescible solid waste, including non-putrescible solid waste which has been processed, at a transfer station shall not exceed the allowable volume as stated in the permit issued pursuant to §4-05 of this subchapter. The allowable volume of any transfer station shall be calculated by the Department and shall be based on the storage capacity (estimated in total cubic yardage) of the transfer station. In no event shall such allowable volume exceed that granted by the New York State Department of Environmental Conservation.

(y) Opaque fencing shall surround the perimeter of the unenclosed areas of the transfer station. The fencing must be equal to or greater than the following minimum heights:

(1) if any receipt, processing or storage of non-putrescible solid waste is conducted in an unenclosed area of a transfer station located more than three hundred (300) feet from a residential zone, then the minimum fence height shall be ten (10) feet [.] ; and

(2) if any receipt, processing or storage of non-putrescible solid waste is conducted in an unenclosed area of a transfer station located three hundred (300) feet or less from a residential zone, then the minimum fence height shall be fifteen (15) feet.

(z) Equipment used in the operation of the transfer station shall be contained within the property line, and under no circumstances shall such equipment be stored on city streets, or public highways as defined in section 134 of the New York State Vehicle and Traffic Law.

(aa) All drainage systems shall be kept clean, unclogged and functioning[. Leachate or wash water shall not flow into the street] and shall be maintained to prevent leachate and wash water from accumulating or flowing onto city streets, or public highways as defined in section 134 of the New York State Vehicle and Traffic Law.

(bb)

(1) Noise levels generated by operation of and at the transfer station, including the sound of transport vehicles entering or exiting the facility, shall be controlled to prevent sound levels beyond the transfer station property line from exceeding the following Leq decibel (A) weighted energy equivalent ambient sound levels:

Impacted Zones	Time of Day	
	<u>7 a.m.-10 p.m.</u>	<u>10 p.m.-7 a.m.</u>
R1 - R3.....	62 decibels	52 decibels
All other residential, commercial, or manufacturing zones.....	67 decibels	57 decibels

(2) If the existing ambient sound level, excluding any contributions from the transfer station, exceeds these limits, the operation of the transfer station shall not cause the Leq sound level to be increased;

(3) Leq is the equivalent steady-state sound level which contains the same acoustic energy as the time varying sound level during any one-hour period;

(4) The (A) weighted sound level shall be measured with the slow metering response characteristic of a sound level meter which complies with standards established by the American National Standards Institute specifications for sound level measurement; and

(5) Mufflers are required on all internal combustion-powered equipment used at the transfer station, and sound levels for such equipment must not exceed 80dB(A) at a distance of fifty feet from the operating equipment; provided that the decibel level beyond the property line of the transfer station shall not exceed the decibel levels set forth above.

(6) Notwithstanding paragraphs (1) through (5) of this subsection, noise generated by back-up warning signals required by the United States Occupational Safety and Health Administration shall not be included in determining whether noise levels comply with this subsection.

(cc) A sign, no smaller than four feet by four feet, shall be posted at all entrances to the transfer station and shall conspicuously indicate the transfer station's hours of operation, the types of waste it accepts and does not accept, the expiration date of its permits to operate pursuant to §16-130 of the Administrative Code and 6 NYCRR Part 360, and the Department of Sanitation's complaint telephone number.

(dd) Doors and gates allowing vehicles to enter or leave the transfer station, including any structure at such station, shall be kept closed except when vehicles are entering or leaving;

(ee) No litter or solid waste shall be allowed to accumulate on the streets or other areas abutting the transfer station.

(ff) Where a transfer station is fully or partially enclosed, [within thirty days of the effective date of this Rule,] exhaust air shall be vented through air filters, dust collectors, and/or other equipment [which] that removes particulate matter and malodorous by-products.

(gg) Gasoline or diesel fuel shall not be used within a fully or partially enclosed transfer station to power any equipment unless means are provided to safely vent exhaust gases.

(hh) No transport vehicle required to be licensed or permitted pursuant to Title twenty of the Administrative Code of the City of New York shall deposit any material at or remove any material from a transfer station unless such transport vehicle is appropriately licensed or permitted.

(ii)

(1) Entrance into or exit from a transfer station by a transport vehicle shall be permitted only under the supervision of an attendant, and

(2) The loading or unloading of any transport vehicle shall be continuously supervised by an attendant. The attendant shall not permit the unlawful deposit or removal of any material.

(jj) There shall be no burning of materials at a transfer station.

(kk) Within one year of the effective date of the rule that added this sentence, the receipt, processing and storage areas of the transfer station, as set forth in the site plan, shall be constructed of concrete or asphalt paving material, and equipped with adequate drainage and retention structures. A concrete or asphalt pad is not required for the separate storage of processed or unprocessed uncontaminated clean fill material that has not been commingled with any other solid waste.

(ll) The transfer station shall employ effective dust control measures to ensure that dust generation is suppressed at all times.

(mm) No solid waste, construction and demolition debris, fill material, dust or other material shall be tracked from the transfer station site onto a city street, or public highway as defined in section 134 of the New York State Vehicle and Traffic Law.

(nn) Within one hundred eighty days of the effective date of the rule that added this sentence, a motor vehicle tire cleaning procedure shall be adopted that shall prevent the tracking of solid waste, dust or other material from the transfer station site onto a city street, or public highway as defined in section 134 of the New York State Vehicle and Traffic Law.

(oo) No stationary equipment at the transfer station that operates outdoors shall cause or permit the emission of an air contaminant of:

(1)(i) A density that appears as dark or darker than number two on the standard smoke chart, or 40% opacity, or of an opacity that obscures vision to a degree equal to or greater than smoke of number two density on the standard smoke chart, or 40% opacity; or

(ii) A density that appears as dark or darker than number one on the standard smoke chart, or 20% opacity, but less than number two on said chart, or 40% opacity, or of an opacity that obscures vision to a degree equal to or greater than smoke of number one density on the standard smoke chart, or 20% opacity, but less than number two on said chart, or 40% opacity, if such an emission continues for longer than two minutes in the aggregate in any sixty minute period.

(2) The density or opacity of an air contaminant emitted from stationary equipment that operates outdoors shall be measured at the point of its emission, except that when the point of emission cannot be readily observed, it may be measured at an observable point on the plume nearest the point of emission.

(pp) No stationary equipment or nonroad motor vehicle at the transfer station that operates outdoors shall cause or permit the emission of a visible air contaminant past the transfer station property boundary.

(qq) No nonroad motor vehicle at the transfer station that operates outdoors shall cause or permit the emission of a visible air contaminant while the vehicle is stationary for longer than ten consecutive seconds.

(rr) All stationary equipment and nonroad motor vehicles at the transfer station shall be maintained properly and shall be inspected annually. All stationary equipment and nonroad motor vehicles at the transfer station that operate outdoors shall be inspected annually while in operation by an observer certified in the US EPA Method 9 set forth in Title 40 Code of Federal Regulations Part 60, Appendix A-4 and trained in the US EPA Method 22 set forth in Title 40 Code of Federal Regulations Part 60, Appendix A-7, to ensure the equipment is operating properly to minimize air contaminant emissions, taking into account the model year and design capabilities of the engine. A written record of the inspection and any subsequent corrective measures performed to minimize air contaminant emissions shall be filed with the Department as part of the annual permit renewal application, and shall be included in the operational records required by subsection (p) of section 4-06 of this subchapter.

(ss) The transfer station, its equipment and nonroad motor vehicles shall be subject to inspection at all times during its hours of operation. Interference with Department personnel performing any function or duty is prohibited.

(tt) The Commissioner may grant exemptions from provisions of this section, other than subsections (ll) through (rr) of this section, if he or she determines, after completion of any applicable environmental review, that granting such exemptions would not have a significant adverse effect on the environment, provided that granting such exemptions is not otherwise inconsistent with law. The duration of any such exemption shall not exceed the applicable permit term.

§ 4-07 Permits for Fill Material Transfer Stations.

(a) For the purposes of this section, "transfer station" shall mean a fill material transfer station, unless otherwise specified, and each transfer station shall obtain a permit pursuant to this section.

(b) An application for a permit or renewal thereof to operate a transfer station shall include:

(1) Copies of all materials submitted to the New York State Department of Environmental Conservation in connection with a transfer station's application for any permit required pursuant to Title six of NYCRR Part 360 or its successor, including but not limited to an application for an initial permit to construct and/or operate, or an application to modify or renew a permit, or if no such permit is required pursuant to Title six of NYCRR Part 360 or its successor, copies of all materials submitted to the New York State Department of Environmental Conservation in connection with a registration or an exemption pursuant to Title six of NYCRR Part 360. If the copy of the site plan submitted to the New York State Department of Environmental Conservation does not so indicate, or if no site plan was required to be submitted to the New York State Department of Environmental Conservation, a site plan shall be submitted indicating: the transfer station's tax

block and lot number; property boundaries, including a metes and bounds description of the property consistent with the deed submitted pursuant to paragraph (10) of this subsection; zoning district; borough; the locations of fences, gates, entrances and exits, parking spaces and truck spaces where transport vehicles may wait prior to their deposit or removal of solid waste; and the location and dimensions of each area where non-putrescible solid waste shall be received, processed and stored;

(2) a written statement by a registered architect or licensed professional engineer certifying that:

(i) As designed, the transfer station is capable of complying with the applicable performance standards of the Zoning Resolution of the City of New York and the applicable provisions of the New York City Health Code, including but not limited to Articles 135 and 141;

(ii) A system for the sanitary disposal of sewage and waste water has been installed at the transfer station in accordance with the provisions of Articles 143 and 145 of the New York City Health Code and all applicable laws and rules governing the discharge of sewage and waste water;

(iii) The transfer station is capable of complying with all the requirements of §4-08 of this subchapter;

(iv) Any necessary ventilation equipment has been installed;

(v) Cross connection control has been provided to ensure that waste water does not mix with the drinking water supply;

(vi) There is sufficient space at the transfer station for the largest anticipated transport vehicle to safely enter and exit the transfer station;

(vii) Transport vehicles may enter and exit the transfer station via lawful truck routes;

(viii) There is adequate ingress and egress at the transfer station to accommodate emergency vehicles; and

(ix) There is adequate ingress and egress at the transfer station to facilitate the complete inspection of the transfer station.

(3)

(i) A map describing not less than one square mile of the area surrounding the proposed transfer station, clearly marking the lawful truck routes where transport vehicles may transport solid waste into and out of the transfer station, and connecting roadways permitted to be used by transport vehicles, as certified by a registered architect or licensed professional engineer in subparagraph (vii) of paragraph (2) of this subsection; and

(ii) the estimated number and type of transport vehicles to be used, and the daily, weekly and monthly number of vehicle arrivals and departures at the transfer station.

(4) A certified copy of a Certificate of Occupancy or, where applicable, a temporary Certificate of Occupancy, from the Department of Buildings of the City of New York, indicating the appropriate Use Group pursuant to the Zoning Resolution of the City of New York and, if applicable, a copy of a written variance for the zoning lot from the Board of Standards and Appeals or any successor agency; and/or a copy of a certification or authorization of the Department of Small Business Services of the city of New York;

(5) 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 transfer station is sited or proposed to be sited;

(6) Documentary evidence demonstrating that all penalties, including those of the Environmental Control Board, imposed upon the applicant, the property owner, and any other person in control of or having an interest in the transfer station operation, for violations of Article 157 of the New York City Health Code, or Title sixteen, Title seventeen, [Subchapter eighteen of Chapter two of Title twenty] Chapter one of Title sixteen-A, Chapter one of Title twenty-six and Title twenty-seven of the Administrative Code of the City of New York, or rules promulgated thereunder, that relate to the ownership or operation of a non-putrescible solid waste transfer station, putrescible solid waste transfer station, dump or fill material operation, have been paid or otherwise satisfied;

(7) Documentary evidence demonstrating that all fees due the Department of Sanitation for use of Department disposal facilities and/or for Department disposal services from the applicant, the property owner, and any other person in control of having or having an interest in the transfer station, have been paid or otherwise satisfied;

(8) Proof of workers' compensation coverage, or that the applicant is exempt from Workers' Compensation Law §57, and proof of disability benefits coverage, or that the applicant is exempt from Workers' Compensation Law §220, subdivision 8 (disability benefits law);

(9) A written and notarized acknowledgment by the applicant and, if different from the applicant, the fee owner of the real property, that the applicant and/or fee owner may be held primarily liable by the City of New York for the removal of all solid waste and any other material from the transfer station;

(10) A certified copy of the deed, as recorded in the office of the City Register or, in Richmond County, the County Clerk, setting forth a metes and bounds description of the property, and, if applicable, a copy of the lease or sublease or a certified copy of the lease or sublease if such lease or sublease is recorded, for the premises at which the transfer station is located or proposed to be located. The permittee shall notify the Commissioner within ten business days if the ownership of the property has changed or any other conveyance of title has taken place. Any new acknowledgments required pursuant to paragraph (9) of this subsection shall be provided simultaneously;

(11) A copy of all permits or other authorizations to construct or operate required under local and state laws and regulations, including the New York State Environmental Conservation Law and Title six of the NYCRR or its successor;

(12) A surety bond or an irrevocable letter of credit in a sum to be determined by the Commissioner of Sanitation. This sum shall not exceed the estimated cost to the Department of the removal of all solid waste and material defined in paragraph [(2)] (b) of the definition of "solid waste" set forth in §4-01 of this subchapter, from the transfer station, in the event that such removal becomes necessary and the permittee fails to remove such solid waste and material. A bond shall be executed by the applicant and a surety authorized to conduct business within the State of New York and approved by the Commissioner and, in the case of an irrevocable letter of credit, such letter of credit shall be issued by a financial institution authorized to conduct business within the State of New York. Such bond or letter of credit shall name the Department as obligee. The face amount of the bond or letter of credit shall be based on the size of the transfer station and the volume and nature of the material to be removed. The Commissioner of Sanitation may from time to time review the adequacy of such surety bond or letter of credit and thereafter require an applicant or permittee to obtain an increase in the amount of the bond or irrevocable letter of credit not to exceed the estimated cost of the removal of such solid waste and material. The Commissioner may authorize an applicant to provide other security, including cash, if the Commissioner finds that compliance with the bond or letter of credit requirement is not reasonably possible and the public interest would be served by such authorization. A surety bond issued pursuant to this subsection shall not expire until six months have elapsed after the revocation, surrender, expiration or other termination of the permit;

(13) The names, addresses, and dates of operation of any solid waste management facility or related businesses, currently or previously owned or operated by the applicant, or any principal of the applicant, such as private carting companies, other types of non-putrescible solid waste transfer stations and putrescible solid waste transfer stations, whether or not located in New York City;

(14) The applicant's business address and telephone number. If the applicant is a corporation, the application must (1) state the names and home and business addresses of the principals of the corporation; (2) contain the signature of a corporate officer; (3) have the corporate seal impressed thereon; and (4) include a copy of the New York State Corporation Filing Receipt. If the applicant is a partnership, the application must (1) state the names and home and business addresses of all partners; (2) include a copy of the partnership papers, certified by the county clerk. If the applicant is required to file a certificate pursuant to §130 of the General Business Law, a certified copy of such certificate shall be submitted to the Department. The applicant shall also submit the names and addresses of all persons or entities, other than a financial institution licensed to do business in the state of New York, to which the applicant is indebted in an amount equal to or greater than three thousand dollars (\$3,000). The permittee shall have the continuing duty to inform the Department of Sanitation of any changes in the principals of the business entity owning or operating the transfer station. For purposes of this [subdivision] subsection, "principal" includes, but is not limited to, any director, officer (for example, president, vice-president, secretary, treasurer, board chairman, chief executive officer) or partner of a business entity, and shall include any shareholder (including another business entity) who owns ten percent or more of any class of issued company stock;

(15) The types of fill material that will be received, processed and stored at the transfer station;

(16) The total volume of each type of fill material, as well as the total aggregate volume of fill material, to be present at the transfer station at one time; and

(17) At the request of the Commissioner, the applicant shall supply any additional information that is reasonably necessary to clarify that the transfer station is capable of complying with §4-08 of this subchapter.

(c) Any initial application for a transfer station permit shall include all documentation required pursuant to this section in one single package. This package shall constitute the transfer station permit application.

(d) A permit to operate a transfer station shall not be issued by the Commissioner unless the applicant has submitted a complete application.

(e) Review of any application submitted pursuant to this section may be suspended or terminated if the transfer station applicant is found to be operating any facility required to be permitted pursuant to §16-130 of the Administrative Code of the City of New York without a permit therefor or in violation of any such permit.

(f) A permit issued pursuant to this section shall be for a term not to exceed one year, and shall specify the volume of fill material permitted to be received, processed and stored by the transfer station.

(g) The annual fee for a permit issued pursuant to this section shall be three thousand five hundred dollars (\$3500).

§ 4-08 Operation and Maintenance of Fill Material Transfer Stations.

(a) For the purposes of this section, "transfer station" shall mean a fill material transfer station, unless otherwise specified.

(b) No transfer station shall be operated unless it has obtained a permit pursuant to §4-07 of this subchapter, and is in compliance with the terms thereof, this section, and any other applicable law, rule or regulation.

(c) Equipment and personnel shall be provided for the safe and sanitary receipt, tipping, sorting, processing, compaction and storage of fill material at the transfer station. Sufficient standby equipment shall be provided to ensure that no storage problem or public nuisance or condition hazardous to public health or safety is created during scheduled or unscheduled equipment maintenance, or equipment breakdown. All transfer station solid waste receipt, tipping, sorting, processing, compaction and storage areas shall include appropriate functioning fire protection equipment and aisle space.

(d) The transfer station shall comply with the applicable performance standards of the Zoning Resolution of the City of New York and the applicable provisions of the New York City Health Code, including but not limited to Articles 135 and 141.

(e) A system for the sanitary disposal of sewage and waste water shall be functioning at the transfer station in accordance with the provisions of Articles 143 and 145 of the New York City Health Code and all applicable laws and rules governing the discharge of sewage and waste water.

(f) Cross connection control shall be in place to ensure that waste water does not mix with the drinking water at the transfer station.

(g) There shall be sufficient space at the transfer station for transport vehicles to enter and exit safely.

(h) Transport vehicles shall enter and exit the transfer station via lawful truck routes.

(i) There shall be adequate ingress and egress at the transfer station to accommodate emergency vehicles. There shall be adequate space at the transfer station to accommodate emergency vehicles.

(j) There shall be adequate ingress and egress at the transfer station to facilitate the complete inspection of the transfer station. There shall be adequate access provided to all areas of the transfer station to facilitate the complete inspection of the transfer station.

(k) All fill material transferred into and out of the transfer station shall be weighed or measured by volume. Records shall be maintained of such weights or measurements for a period of three years and included in the operational records required by subsection (p) of this section.

(l) Indoor and outdoor areas of the transfer station shall be illuminated during its hours of operation. Such illumination shall not create a nuisance.

(m) A transfer station shall be operated and maintained in a safe and sanitary manner so as to avoid any nuisance or condition hazardous to public health or safety.

(n) All equipment in use at the transfer station shall be maintained in proper working order. Equipment maintenance shall be scheduled and provided on a regular basis. Records of such maintenance shall be included in the operational records required by subsection (p) of this section.

(o) Transfer stations shall be kept free of vectors, including, but not limited to rodents, insects and other pests, and of any condition conducive to vectors. Written confirmation of at least weekly engagement of a certified exterminator shall be available at all times, and shall be included in the operational records required by subsection (p) of this section.

(p) Operational records for the transfer station including, but not limited to, all asset liability and capital and proprietary accounts, operating expenses, administrative expenses, tax returns and equipment expenses shall be maintained for a period of not less than three years. Such records shall also include a clear and legible daily log of the quantity of solid waste received and removed,

specifying the point of origin and destination of the solid waste transported daily, as well as the quantity and type of material which has been brought to the transfer station for separation and/or processing. The daily log shall also include the names and addresses of the owner and/or operator of transport vehicles entering or exiting the transfer station. The daily log shall also include the weight or volume of each designated recyclable material separated by the transfer station. Such records shall be maintained on the premises and be readily available for inspection by representatives of the Department. The permittee shall submit to the Department a copy of any report required to be filed with the New York State Department of Environmental Conservation pursuant to 6 NYCRR Part 360. Any such report shall be submitted to the Department at the same time it is submitted to the New York State Department of Environmental Conservation. In addition, the permittee shall submit to the Department quarterly reports that contain the following information, calculated by weight or volume on a monthly basis: the total amount of solid waste received; the origin of the solid waste received; the destination of the solid waste removed, including a listing, by type of material, of any material recovered for recycling, reuse or sale for reuse. Quarterly reports shall be submitted on forms prescribed by or acceptable to the Department. The report for the quarter ending on March 31 shall be due on April 30; the report for the quarter ending on June 30 shall be due on July 30; the report for the quarter ending September 30 shall be due on October 30; and the report for the quarter ending December 31 shall be due on January 30.

(q) Operators of transfer stations that receive materials that are required to be recycled, reused or sold for reuse pursuant to §16-306 of the Administrative Code of the City of New York and rules promulgated pursuant thereto, shall recycle, reuse or sell for reuse or cause to be recycled, reused or sold for reuse such materials and shall comply with such provisions of the collection rules of the Department, including, as of September 30, 1993, 16 RCNY §1-10(g), as are applicable to such transfer stations.

(r) The presence at a transfer station of any material other than fill material is prohibited.

(s) The transfer station shall not emit odors, including odors of deodorizing materials, so as to violate the performance standards of the Zoning Resolution of the City of New York or the applicable provisions of the Air Pollution Control Code of the Administrative Code of the City of New York or to create a public nuisance.

(t) Fill material shall be received, processed and stored only in the [area] areas specifically designated [for receipt of fill material] in the site plan submitted pursuant to [paragarph] paragraph (1) of subsection (b) of §4-07 of this subchapter. Fill material shall not be permitted to spill beyond areas in which it is permitted by this subchapter and by the site plan and engineering report submitted to the Department of Environmental Conservation pursuant to 6 NYCRR Part 360. Fill material that spills beyond the areas in which it is permitted shall be removed immediately.

(u) The permittee shall be allowed to receive at the transfer station only the specific types of fill material set forth within the permit.

(v) The permittee shall not be allowed to receive, process or store fill material in excess of the maximum allowable volume of fill material set forth within the permit.

(w) Transfer stations shall not be allowed to maintain fill material above the following heights:

(1) if all receipt, processing and storage of fill material is conducted within a completely enclosed structure at a transfer station, then the maximum pile height of fill material shall be unlimited, except as otherwise provided by state and local law.

(2) if any receipt, processing or storage of fill material is conducted at an unenclosed area of a transfer station located more than three hundred (300) feet from a residential zone, then the maximum pile height of fill material shall be forty (40) feet.

(3) if any receipt, processing or storage of fill material is conducted in an unenclosed area of a transfer station located three hundred (300) feet or less from a residential zone, then the maximum pile height of fill material shall be eight (8) feet.

(x) The total volume of fill material shall not exceed the allowable volume as stated in the permit issued pursuant to §4-07 of this subchapter. The allowable volume of any transfer station shall be calculated by the Department and shall be based on the storage capacity (estimated in total cubic yardage) of the transfer station. In no event shall such allowable volume exceed that granted by the New York State Department of Environmental Conservation.

(y) Opaque fencing shall surround the perimeter of the unenclosed areas of the transfer station. The fencing must be equal to or greater than the following minimum heights:

(1) if any receipt, processing or storage of fill material is conducted in an unenclosed area of a transfer station located more than three hundred (300) feet from a residential zone, then the minimum fence height shall be ten (10) feet; and

(2) if any receipt, processing or storage of fill material is conducted in an unenclosed area of a transfer station located three hundred (300) feet or less from a residential zone, then the minimum fence height shall be fifteen (15) feet.

(z) Equipment used in the operation of the transfer station shall be contained within the property line, and under no circumstances shall such equipment be stored on city streets, or public highways as defined in section 134 of the New York State Vehicle and Traffic Law.

(aa) All drainage systems shall be kept clean, unclogged and functioning[. Leachate or wash water shall not flow onto the street] and shall be maintained to prevent leachate and wash water from accumulating or flowing onto city streets, or public highways as defined in section 134 of the New York State Vehicle and Traffic Law.

(bb)

(1) Noise levels generated by operation of and at the transfer station, including the sound of transport vehicles entering or exiting the facility shall be controlled to prevent sound levels beyond the transfer station property line from exceeding the following Leq decibel (A) weighted energy equivalent ambient sound levels:

Impacted Zones	Time of Day	
	7 a.m.-10 p.m.	10 p.m.-7 a.m.
R1 - R3.....	62 decibels	52 decibels
All other residential, commercial, or manufacturing zones.....	67 decibels	57 decibels

(2) If the existing ambient sound level, excluding any contributions from the transfer station, [exceed] exceeds these limits, the operation of the transfer station shall not cause the Leq sound level to be increased;

(3) Leq is the equivalent steady-state sound level which contains the same acoustic energy as the time varying sound level during any one-hour period;

(4) The (A) weighted sound level shall be measured with the slow metering response characteristic of a sound level meter which complies with standards established by the American National Standards Institute [specification] specifications for sound level measurement; and

(5) Mufflers are required on all internal combustion-powered equipment used at the transfer station, and sound levels for such equipment must not exceed 80dB(A) at a distance of fifty feet from the operating equipment; provided that the decibel level beyond the property line of the transfer station shall not exceed the decibel levels set forth above.

(6) Notwithstanding paragraphs (1) through (5) of this subsection, noise generated by back-up warning signals required by the United States Occupational Safety and Health Administration shall not be included in determining whether noise levels comply with this subsection.

(cc) A sign, no smaller than four feet by four feet, shall be posted at all entrances to the putrescible solid waste transfer station and shall conspicuously indicate the putrescible solid waste transfer station's hours of operation, the types of waste it accepts and does not accept, the expiration date of its permits to operate pursuant to §16-130 of the Administrative Code and 6 NYCRR Part 360, and the Department of Sanitation's complaint telephone number.

(dd) Doors and gates allowing vehicles to enter or leave the transfer station, including any structure at such station, shall be kept closed except when vehicles are entering or leaving;

(ee) No litter or solid waste shall be allowed to accumulate on the streets or other areas abutting the transfer station.

(ff) Where a transfer station is fully or partially enclosed, [within thirty days of the effective date of this Rule,] exhaust air shall be vented through air filters, dust collectors, and/or other equipment which removes particulate matter and malodorous by-products.

(gg) Gasoline or diesel fuel shall not be used within a fully or partially enclosed transfer station to power any equipment unless means are provided to safely vent exhaust gases.

(hh) No transport vehicle required to be licensed or permitted pursuant to Title twenty of the Administrative Code of the City of New York shall deposit any material at or remove any material from a transfer station unless such transport vehicle is appropriately licensed or permitted.

(ii)

(1) Entrance into or exit from a transfer station by a transport vehicle shall be permitted only under the supervision of an attendant, and

(2) The loading or unloading of any transport vehicle shall be continuously supervised by an attendant. The attendant shall not permit the unlawful deposit or removal of any material.

(jj) There shall be no burning of materials at a transfer station.

(kk) The transfer station shall employ effective dust control measures to ensure that dust generation is suppressed at all times.

(ll) No solid waste, construction and demolition debris, fill material, dust or other material shall be tracked from the transfer station site onto a city street, or public highway as defined in section 134 of the New York State Vehicle and Traffic Law.

(mm) Within one hundred eighty days of the effective date of the rule that added this sentence, all means of vehicular access into and out of the transfer station shall be surfaced with a material such as asphalt, concrete, ¾ inch or larger gravel or wood planking, that shall prevent dust generation and prevent the tracking of material from inside the transfer station site onto city streets, or public highways as defined in section 134 of the New York State Vehicle and Traffic Law. Such surfacing shall extend the width of the entrance and exit and at least 20 feet into the transfer station site so that all trucks exiting must drive over this surfaced area before driving onto city streets, or public highways as defined in section 134 of the New York State Vehicle and Traffic Law.

(nn) Within one hundred eighty days of the effective date of the rule that added this sentence, a motor vehicle tire cleaning procedure shall be adopted that shall prevent the tracking of solid waste, dust or other material from the transfer station site onto a city street, or public highway as defined in section 134 of the New York State Vehicle and Traffic Law.

(oo) No stationary equipment at the transfer station that operates outdoors shall cause or permit the emission of an air contaminant of:

(1)(i) A density that appears as dark or darker than number two on the standard smoke chart, or 40% opacity, or of an opacity that obscures vision to a degree equal to or greater than smoke of number two density on the standard smoke chart, or 40% opacity; or

(ii) A density that appears as dark or darker than number one on the standard smoke chart, or 20% opacity, but less than number two on said chart, or 40% opacity, or of an opacity that obscures vision to a degree equal to or greater than smoke of number one density on the standard smoke

chart, or 20% opacity, but less than number two on said chart, or 40% opacity, if such an emission continues for longer than two minutes in the aggregate in any sixty minute period.

(2) The density or opacity of an air contaminant emitted from stationary equipment that operates outdoors shall be measured at the point of its emission, except that when the point of emission cannot be readily observed, it may be measured at an observable point on the plume nearest the point of emission.

(pp) No stationary equipment or nonroad motor vehicle at the transfer station that operates outdoors shall cause or permit the emission of a visible air contaminant past the transfer station property boundary.

(qq) No nonroad motor vehicle at the transfer station that operates outdoors shall cause or permit the emission of a visible air contaminant while the vehicle is stationary for longer than ten consecutive seconds.

(rr) All stationary equipment and nonroad motor vehicles at the transfer station shall be maintained properly and shall be inspected annually. All stationary equipment and nonroad motor vehicles at the transfer station that operate outdoors shall be inspected annually while in operation by an observer certified in the US EPA Method 9 set forth in Title 40 Code of Federal Regulations Part 60, Appendix A-4 and trained in the US EPA Method 22 set forth in Title 40 Code of Federal Regulations Part 60, Appendix A-7, to ensure the equipment is operating properly to minimize air contaminant emissions, taking into account the model year and design capabilities of the engine. A written record of the inspection and any subsequent corrective measures performed to minimize air contaminant emissions shall be filed with the Department as part of the annual permit renewal application, and shall be included in the operational records required by subsection (p) of section 4-06 of this subchapter.

(ss) The transfer station, its equipment and nonroad motor vehicles shall be subject to inspection at all times during its hours of operation. Interference with Department personnel performing any function or duty is prohibited.

(tt) The Commissioner may grant exemptions from provisions of this section, other than subsections (kk) through (rr) of this section, if he or she determines, after completion of any applicable environmental review, that granting such exemptions would not have an adverse effect on the environment, provided that granting such exemptions is not otherwise inconsistent with law. The duration of any such exemptions shall not exceed the applicable permit term.

§4. Section 4-11 of subchapter B of chapter 4 of title 16 of the rules of the city of New York is amended to read as follows:

§ 4-11 Definitions.

When used in this subchapter:

Air contaminant.“Air contaminant” shall mean any particulate matter or any gas or any combination thereof in the open air, other than uncombined water or air.

Diesel engine.“Diesel engine” shall mean an engine that operates on or is capable of operating on diesel fuel.

Equipment."Equipment" shall mean all implements used in the operation of the putrescible solid waste transfer station, including but not limited to motor-driven machinery.

Gasoline engine.“Gasoline engine” shall mean an engine that operates on or is capable of operating on gasoline fuel.

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, and that is required to register with the Department of Sanitation pursuant to sections 16-130 and 16-131 of the Administrative Code of the City of New York and Subchapter D of this Chapter.

Non-putrescible solid waste.[The term "non-putrescible] “Non-putrescible solid waste" shall mean solid waste, whether or not contained in receptacles, 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[;] .

Nonroad motor vehicle.“Nonroad motor vehicle” shall mean equipment that is propelled by a diesel engine or gasoline engine in or upon which a person or material may be transported on the ground and that is used or is located at a transfer station. A nonroad motor vehicle shall include, but not be limited to, front end loaders, backhoes and bulldozers and shall not include cars, trucks or locomotives.

Opacity.“Opacity” shall mean the degree to which emissions reduce the transmission of light and obscure the view of an object in the background.

Particulate matter.“Particulate matter” shall mean any liquid, other than water, or any solid that is or tends to be capable of becoming windblown or being suspended in air.

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

Putrescible solid waste.[The term "putrescible] “Putrescible solid waste" shall mean solid waste containing organic matter having the tendency to decompose with the formation of malodorous by-products[;] .

Putrescible solid waste transfer station.[The term "putrescible] “Putrescible solid waste transfer station" shall mean any structure, building or other premises, whether improved or unimproved, at which any amount of putrescible solid waste is received for the purpose of subsequent transfer to another location, regardless of whether such putrescible solid waste is mixed with non-putrescible solid waste or is subject to any processing or reduction in volume at such structure, building or premises. Facilities permitted or exempt pursuant to 6 NYCRR Subparts 360-3 and 360-5 or their successors and intermodal solid waste container facilities are not putrescible solid waste transfer stations[;] .

Solid waste."Solid waste" shall mean all putrescible and non-putrescible materials or substances, other than those materials or substances described in paragraph (2) 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 two of Title twenty] Chapter one of Title sixteen-A 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 [subdivision] subsection (i) of §16-303 of Title sixteen of the Administrative Code of the City of New York.

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

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

(ii) disposed of;

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

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

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

(i) domestic sewage;

(ii) 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 Rule, Article 157 of the New York City Health Code, Title sixteen of the Administrative Code of the City of New York, or of state regulations promulgated to regulate solid waste management facilities;

(iii) 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;

(iv) irrigation return flows;

(v) 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.;

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

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

(viii) regulated medical waste as defined in Title fifteen of Article twenty-seven of the New York State Environmental Conservation Law, in Title thirteen of Article thirteen 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.

Standard smoke chart. “Standard smoke chart” shall mean the Ringelmann chart, as published by the United States bureau of mines, photographically reduced to 1/18th in size for use in the field.

Stationary equipment. “Stationary equipment” shall mean equipment powered by a diesel engine or gasoline engine that will remain stationary during use and that is used or is located at a transfer station. Stationary equipment shall include, but not be limited to, cranes, excavators, crushers, screeners, chippers and shredders.

Transport vehicle. “Transport vehicle” shall mean any motor vehicle, rail car, vessel, or other means of transportation used to deliver solid waste into, or remove solid waste from, a putrescible solid waste transfer station.

US EPA Method 9. “US EPA Method 9” shall mean the United States Environmental Protection Agency method, codified at Title 40 Code of Federal Regulations Part 60, Appendix A-4, for use by a certified observer to visually determine the opacity of air contaminant emissions from stationary sources.

US EPA Method 22. “US EPA Method 22” shall mean the United States Environmental Protection Agency method, codified at Title 40 Code of Federal Regulations Part 60, Appendix A-7, for use by a trained and knowledgeable observer to visually determine the presence of and amount of time that visible air contaminant emissions occur.

§5. Section 4-14 of subchapter B of chapter 4 of title 16 of the rules of the city of New York is amended to read as follows:

§ 4-14 Permits.

(a) No person shall operate a putrescible solid waste transfer station without a permit issued by the Commissioner of Sanitation. No permit is required, however, for a putrescible solid waste transfer station operated by the Department. Review of any application for a Department of Sanitation putrescible solid waste transfer station permit may be suspended or terminated if the putrescible solid waste transfer station applicant is found to be operating any facility required to be permitted pursuant to §16-130 of the Administrative Code of the City of New York without a permit therefor or in violation of any such permit. The term of a putrescible solid waste transfer station permit shall not exceed one year. The annual fee for such permit shall be six thousand five hundred dollars (\$6500).

(b) A permit to operate a putrescible solid waste transfer station shall not be issued by the Commissioner unless the applicant has submitted the materials required by §4-13 of this rule, has conformed to the design and equipment requirements contained in §4-16 of this subchapter and has submitted to the Department the following:

(1) A certified copy of a Certificate of Occupancy or, where applicable, a temporary Certificate of Occupancy, from the Department of Buildings of the City of New York, indicating the applicable

Use Group pursuant to the Zoning Resolution of the City of New York and, if applicable, a copy of a written variance for the zoning lot from the Board of Standards and Appeals or any successor agency; and/or a copy of a certification or authorization of the Department of [Ports and Trade] Small Business Services of the city of New York;

(2) 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 putrescible solid waste transfer station is sited or proposed to be sited;

(3) Documentary evidence as may be appropriate to show that all penalties, including those of the Environmental Control Board, imposed upon the applicant, the property owner, and any other person in control of or having an interest in the putrescible solid waste transfer station operation, for violations of Article 157 of the New York City Health Code, or Title sixteen, Title seventeen, [Subchapter eighteen of Chapter two of Title twenty] Chapter one of Title sixteen-A, Chapter One of Title twenty-six and Title twenty-seven of the Administrative Code of the City of New York, or rules promulgated thereunder, that relate to the ownership or operation of a putrescible solid waste transfer station, non-putrescible solid waste transfer station, dump or fill material operation, have been paid or otherwise satisfied;

(4) Proof of workers' compensation coverage, or that the applicant is exempt from Workers' Compensation Law §57, and proof of disability benefits coverage, or that the applicant is exempt from Workers' Compensation Law §220, Subdivision 8 (disability benefits law);

(5) A written and notarized acknowledgement by the applicant and, if different from the applicant, the fee owner of the real property, that the applicant and/or fee owner may be held primarily liable for the removal of all solid waste and any other material from the putrescible solid waste transfer station;

(6) A certified copy of the deed, as recorded in the office of the City Register or, in Richmond County, the County Clerk, setting forth a metes and bounds description of the property, and, if applicable, a copy of the lease or sublease or a certified copy of the lease or sublease if such lease or sublease is recorded, for the premises at which the putrescible solid waste transfer station is proposed to be located. The Permittee shall notify the Commissioner within ten business days if the ownership of the property has changed or any other conveyance of title has taken place. Any new acknowledgements required pursuant to paragraph (5) of this [subdivision] subsection shall be provided simultaneously;

(7) A copy of all permits or other authorizations to construct or operate required under local and state laws and regulations, including the New York State Environmental Conservation Law and Title six of the NYCRR or its successor, or currently applicable regulations relating to transfer stations;

(8) A surety bond or an irrevocable letter of credit in a sum to be determined by the Commissioner of Sanitation. This sum shall not exceed the estimated cost to the Department of the removal of all solid waste and material defined in paragraph (2) of the definition of "solid waste" in §4-11 of this subchapter from the putrescible solid waste transfer station in the event that such removal becomes

necessary and the permittee fails to remove such solid waste and material. A bond shall be executed by the applicant and a surety authorized to conduct business within the State of New York and approved by the Commissioner and, in the case of an irrevocable letter of credit, such letter of credit shall be issued by a financial institution authorized to conduct business within the state of New York. Such bond or letter of credit shall name the Department as obligee. The face amount of the bond or letter of credit shall be based on the size of the transfer station and the volume and nature of the material to be removed. The Commissioner of Sanitation may from time to time review the adequacy of such surety bond or letter of credit and thereafter require an applicant or permittee to obtain an increase in the amount of the bond or irrevocable letter of credit not to exceed the estimated cost of the removal of such solid waste and material. The Commissioner may authorize an applicant to provide other security, including cash, if the commissioner finds that compliance with the bond or letter of credit requirement is not reasonably possible and the public interest would be served by such authorization. A surety bond issued pursuant to this subparagraph shall not expire until six months have elapsed after the revocation, surrender, expiration or other termination of the permit;

(9) A written plan for the control of noise levels, as specified in §4-17 of this subchapter;

(10) A written plan for the control of vibrations, to ensure compliance with the applicable performance standards of the Zoning Resolution of the City of New York;

(11) A written plan by a professional engineer for the control of odors. The plan shall list all the [deodorants] odor-neutralizing agents that are used or will be used and the method of application;

(12) The names, addresses, and dates of operation of any solid waste management facility or related businesses, currently or previously owned or operated by the applicant, or any principal of the applicant, such as private carting companies and non-putrescible solid waste transfer stations, whether or not located in New York city;

(13) The applicant shall provide his/her/its business address and phone number. If the applicant is a corporation, the application must

(i) state the names and home and business addresses of the principals of the corporation;

(ii) contain the signature of a corporate officer;

(iii) have the corporate seal impressed thereon; and

(iv) include a copy of the New York State Corporation Filing Receipt.

If the applicant is a partnership, the application must

(i) state the names and home and business addresses of all partners;

(ii) include a copy of the partnership papers, certified by the County Clerk.

If the applicant is required to file a certificate pursuant to §130 of the General Business Law, a certified copy of such certificate shall be submitted to the Department. The applicant shall also submit the names and addresses of all persons or entities, other than a financial institution licensed to do business in the state of New York, to which the applicant is indebted in an amount equal to or greater than three thousand dollars (\$3,000). The Permittee shall have the continuing duty to inform the Department of Sanitation of any changes in the principals of the business entity owning or operating the putrescible solid waste transfer station. For purposes of this subparagraph, "principal" includes, but is not limited to, any, director, officer (for example, president, vice-president, secretary, treasurer, board chairman, chief executive officer) or partner of a business entity, and shall include any shareholder (including another business entity) who owns ten percent or more of any class of issued company stock;

(14) Written confirmation of accessibility to an alternative site holding a permit under this Rule or Article 157 of the Health Code and capable of receiving and processing putrescible solid waste as required by [subdivision] subsection (d) of §4-17 of this subchapter. Such confirmation shall be signed by the operator of the alternative site and shall be updated or reconfirmed as necessary.

(c) Any permit issued to a putrescible solid waste transfer station by the Commissioner of the New York City Department of Health pursuant to Article 157 of the New York City Health Code prior to the effective date of this rule shall remain in full force and effect on and after such date, unless suspended or revoked by the Commissioner of Health prior to such date, and shall, on and after the effective date of this subchapter, be deemed to constitute a permit issued by the Department of Sanitation, provided that the holder of such permit files an application for a new permit with the Sanitation Commissioner within thirty days after the effective date of this subchapter. On and after the effective date of this subchapter, the Sanitation Commissioner may suspend or revoke such permit pursuant to law, issue a new permit or deny the application for a new permit. If the holder of such permit fails to file an application for a new permit with the Sanitation Commissioner within thirty days after the effective date of this subchapter, such permit issued by the Health Commissioner shall be null and void and be of no further effect. The fee for any putrescible solid waste transfer station permit issued by the Sanitation Commissioner pursuant to §16-130 of the Administrative Code of the City of New York to a person who holds a permit issued by the Health Commissioner pursuant to Article 157 of the New York City Health Code shall be reduced by an amount which is equal to the permit fee paid to the Department of Health prorated to the unexpired portion of the license term.

(d) Any initial application for a putrescible solid waste transfer station permit or renewal thereof shall include all documentation required pursuant to this section in one single package, regardless of whether any required documentation has previously been submitted to the Department of Sanitation. This package shall constitute the putrescible solid waste transfer station permit application. If the application is incomplete, the application shall be returned to the applicant and the application shall be deemed withdrawn.

§6. Sections 4-16 and 4-17 of subchapter B of chapter 4 of title 16 of the rules of the city of New York are amended to read as follows:

§ 4-16 Design Requirements and Equipment.

(a) The area provided for the receipt of solid waste at the putrescible solid waste transfer station, pursuant to subparagraph (1) of [subdivision] subsection (b) of §4-13 of this subchapter, shall conform to the area specified in the initial permit or renewal application. The area for all activities relating to the receipt, tipping, sorting, processing, compaction and storage of solid waste shall be wholly within a fully enclosed structure. [Any applicant or permittee may apply in writing for an exemption from this requirement as provided by subparagraph (5) of subdivision (b) of §16-131 of the Administrative Code of the City of New York. Pending the Commissioner's decision regarding an exemption application, such an applicant shall not receive, tip, sort, process, compact or store solid waste.] In addition, [within thirty days of the effective date of this subchapter,] the entire floor area shall be constructed of concrete, asphalt or any impervious material and shall be equipped with adequate drainage structures as required pursuant to [subdivision] subsection (e) of this section. The portion of such floor used for unloading and loading purposes shall be clearly marked.

(b) Ventilation, Dust and Odor Control.

(1) Ventilation shall be provided in such structures in adequate capacity and proper location for ensuring compliance with §135.07 of the New York City Health Code, and all applicable laws and rules, including the Zoning Resolution of the City of New York. [Within thirty days of the effective date of this subchapter, exhaust] Exhaust air shall be vented through air filters and/or dust collectors and other equipment necessary to remove particulate matter and malodorous by-products. Gasoline or diesel fuel shall not be used within the enclosed structure to power any equipment unless means are provided to safely vent the exhaust gases. All filters and equipment shall be maintained in proper working order.

(2) Transfer station ventilation equipment shall be capable of maintaining negative air pressure, including during periods when the transfer station doors are open, that is sufficient to prevent the escape of malodorous air from the transfer station. Such ventilation equipment shall be capable of maintaining a minimum of six air changes per hour ("ach"). Transfer station ventilation equipment shall be capable of maintaining greater than six air changes per hour if necessary to maintain negative air pressure.

(3) Odor control equipment shall automatically neutralize odors in exhaust air as it is ventilated from the enclosed building. The odor control equipment shall include a permanent hard-piped high-pressure system, suspended above the facility's tipping floor with rings of mist nozzles strategically aimed at fans and exhaust vents. The odor-neutralizing agent shall be applied as a mist in the vicinity of exhaust points from the building. A scented masking agent is not an odor-neutralizing agent.

(4) Notwithstanding paragraphs (2) and (3) of this subsection, the commissioner may authorize the use of alternative ventilation, dust and odor control equipment upon a showing that such equipment is no less effective than the measures set forth in paragraphs (2) and (3) of this subsection in controlling odors from the transfer station to meet all applicable standards.

(5) Within one hundred eighty days of the effective date of the rule that added this sentence, an automatic water-misting system to suppress dust generation within the transfer station shall be installed and fully operational. At a minimum, such system shall be capable of pumping water through piping to high-pressure mist nozzles that will atomize the water and produce a fine mist that will automatically be dispersed at timed intervals sufficient to suppress dust generation.

(6) Within ninety days of the effective date of the rule that added this sentence, the transfer station shall submit to the Department detailed plans for implementation of the requirements of paragraphs (1) through (5) of this subsection, certified by a licensed architect or professional engineer. Within one hundred eighty days of the effective date of the rule that added this sentence, the transfer station shall have contracted with a company to purchase all necessary equipment and supplies and install the ventilation, dust and odor control equipment. Within one year of the effective date of the rule that added this sentence, the required ventilation, dust and odor control equipment shall be installed and fully operational.

(7) Documentation verifying compliance with paragraphs (1) through (5) of this subsection, including as-built drawings of the ventilation, dust and odor control equipment and the type of the odor-neutralizing agent to be used, and a letter of completion issued by the New York City Department of Buildings, shall be filed with the Department within ninety days of installation completion and as part of the annual transfer station permit renewal application.

(c) Sufficient equipment and personnel shall be provided for receipt, tipping, sorting, processing, compaction and storage of solid waste at the putrescible solid waste transfer station. Sufficient standby equipment shall be provided to ensure that no solid waste storage problem or public nuisance or condition hazardous to public health or safety is created during scheduled or unscheduled equipment maintenance, or equipment breakdown. All transfer station debris storage, processing, handling and tipping areas shall include appropriate fire detection and protection equipment.

(d) Sufficient equipment shall be provided to handle the solid waste in a safe and sanitary manner.

(e) A system for the sanitary disposal of sewage and waste water shall be installed in a putrescible solid waste transfer station in accordance with the provisions of Articles 143 and 145 of the New York City Health Code and all applicable laws and rules governing the discharge of waste and waste water, including those enforced by the New York City Department of Environmental Protection and the New York State Department of Environmental Conservation. Drinking water shall be provided in accordance with the provisions of Article 141 of the New York City Health Code. Putrescible solid waste transfer stations shall also be in compliance with applicable provisions of Article 135 of the New York City Health Code (pertaining to commercial premises). All putrescible solid waste transfer stations shall make provisions for cross connection control to ensure that waste water does not mix with the drinking water supply.

(f) Pest control measures shall be specified and shall be adopted in the design of a putrescible solid waste transfer station pursuant to §151 of the New York City Health Code.

(g) All solid waste transferred into and out of the putrescible solid waste transfer station shall be weighed, and measured by volume. Records shall be maintained of such weights and measurements for a period of three years and included in operational records required by [subdivision (g)] subsection (f) of §4-17.

(h) Indoor and outdoor areas of the transfer station shall be illuminated in order to provide for the safe operation of the transfer station. Such illumination shall not create a nuisance.

(i) Noise levels generated in the operation of a putrescible solid waste transfer station shall not exceed the standards in §4-17. The sound of vehicles entering or leaving the putrescible solid waste transfer station shall be included, except that back-up warning signals required by the United States Occupational Safety and Health Administration shall not be included.

(j) The Commissioner may grant a variance from one or more provisions of this section, other than subsection (a) of this section, if he or she determines, after completion of any applicable environmental review, that granting such variance would not have a significant adverse effect on the environment, provided that granting such variance is not otherwise inconsistent with law.

§ 4-17 Operation and Maintenance of Putrescible Solid Waste Transfer Stations.

(a) (1) No putrescible solid waste transfer station shall be operated unless it has obtained a permit pursuant to §4-14 of this subchapter, and is in compliance with the terms thereof, this section, and any other applicable law, rule or regulation.

(2) A putrescible solid waste transfer station shall be operated and maintained in a safe and sanitary manner so as to avoid any nuisance or condition hazardous to public health or safety [, and in a manner consistent with the approved site and operating plan].

(3) The putrescible solid waste transfer station shall be operated and maintained in a manner consistent with the site plan submitted to the Department.

(4) The putrescible solid waste transfer station shall be operated and maintained in a manner consistent with the engineer's report submitted to the Department.

(b) The Permittee shall prohibit any transport vehicle required to be licensed or permitted pursuant to Title twenty of the Administrative Code from depositing solid waste at or removing solid waste from the putrescible solid waste transfer station, unless such transport vehicle is appropriately licensed or permitted. Entrance into or exit from a putrescible solid waste transfer station by a transport vehicle shall be permitted only when an attendant is on duty. The loading or unloading of any transport vehicle shall be continuously supervised by an attendant to avoid unauthorized deposit or removal of solid waste and injury to persons in such station.

(c) The Permittee shall regularly schedule and provide maintenance of equipment. Records of such maintenance shall be included in operational records required by [subdivision] subsection (f) of this section.

(d) In the event that the putrescible solid waste transfer station is unable, for any reason, to receive solid waste or process solid waste previously received, an alternative site, designated pursuant to subparagraph (14) of [subdivision] subsection (b) of §4-14 of this subchapter, shall be used to receive and process such solid waste. The Permittee shall notify the Department immediately of its use of an alternative site.

(e) Putrescible solid waste transfer stations shall be kept free of vectors, including, but not limited to, rodents, insects and other pests and of any condition conducive to vectors. Written confirmation of at least weekly engagement of a certified exterminator shall be available at all times, and shall be included in operational records required by [subdivision] subsection (f) of this section.

(f) The Permittee shall maintain operational records including, but not limited to, all asset liability and capital and proprietary accounts, operating expenses, administrative expenses, tax returns and equipment expenses. Such records shall also include a clear and legible daily log of the quantity of solid waste received and removed, specifying the point of origin and destination of the solid waste transported daily, as well as the quantity and type of material which has been brought to the putrescible solid waste transfer station for separation and/or processing. The daily log shall also include the names and addresses of the owner and/or operator of transport vehicles entering or exiting the transfer station. Such records shall be maintained on the premises and be readily available for inspection by representatives of the Department. An annual report shall be provided to the Department with any application for renewal of any permit required under these rules. This report shall contain the daily weight and volume of solid waste received, according to type, daily point of origin of the solid waste, daily destination of the solid waste, daily weight and volume and type of material recovered, any changes in operation that have occurred during the previous year, and all other information specified to be included by this subchapter, including that required by [subdivisions] subsections (c) and (e) of this section. The Permittee shall submit to the Department a copy of any annual or quarterly report required to be filed with the New York State Department of Environmental Conservation pursuant to 6 NYCRR Part 360.

(g) The presence at a putrescible solid waste transfer station of solid waste containing asbestos or of material defined in paragraph (2) of the definition of "solid waste" set forth in §4-11 of this subchapter is prohibited.

(h) All putrescible solid waste received at a putrescible solid waste transfer station, including putrescible solid waste which has been baled or loaded into transport vehicles, shall be removed within forty-eight hours of its receipt. Only non-putrescible solid waste, and putrescible solid waste which has been baled or loaded into a transport vehicle, may be stored off the tipping area of a putrescible solid waste transfer station.

(i) The tipping area of all putrescible solid waste transfer stations shall be free of solid waste for a thirty-minute period each day during its hours of operation and shall have been thoroughly cleaned, swept, washed and deodorized immediately prior to such period. The Permittee may choose such period and such period shall be set forth in the permit as a permit condition.

(j) [Deodorizing materials shall be used at the putrescible solid waste transfer station to control odors.] Odors[, including odors of deodorizing materials,] shall not be emitted so as to violate the performance standards of the Zoning Resolution of the City of New York or the applicable provisions of the Air Pollution Control Code of the Administrative Code of the [city] City of New York or to create a public nuisance. Odor control measures required in subsection (b) of section 4-16 of this subchapter shall be fully operational and shall effectively neutralize odor.

(k) Solid waste shall be received, processed, compacted and stored only in the [area] areas specifically designated [for receipt of such waste] pursuant to subparagraph (1) of [subdivision] subsection (b) of §4-13 of this subchapter. Solid waste shall not be permitted to spill beyond areas in which it is permitted by this Rule and by the site plan and engineering report submitted to the Department of Environmental Conservation pursuant to 6 NYCRR Part 360. Any solid waste which spills beyond the areas in which it is permitted shall be removed immediately.

(l) Equipment used in the operation of the putrescible solid waste transfer station shall be contained within the property line, and under no circumstances shall such equipment be stored on city streets, or public highways as defined in section 134 of the New York State Vehicle and Traffic Law.

(m) All drainage systems, including but not limited to trench drains in the floor drain system, and grit and grease traps, shall be kept clean, unclogged and functioning. In no case shall any leachate or wash water be permitted to accumulate on the floor or flow [into the street] onto city streets, or public highways as defined in section 134 of the New York State Vehicle and Traffic Law.

(n) Noise levels generated by operation of and at the putrescible solid waste transfer station must be controlled to prevent sound levels beyond the putrescible solid waste transfer station property line from exceeding the following Leq decibel (A) weighted energy equivalent ambient sound levels:

Impacted Zones	Time of Day	
	<u>7 a.m.-10 p.m.</u>	<u>10 p.m.-7 a.m.</u>
R1 - R3.....	62 decibels	52 decibels
All other residential, commercial, or manufacturing zones.....	67 decibels	57 decibels

(1) If the existing ambient sound level, excluding any contributions from the putrescible solid waste transfer station, exceeds these limits, the operation of the putrescible solid waste transfer station must not cause the Leq sound level to be increased;

(2) Leq is the equivalent steady-state sound level which contains the same acoustic energy as the time varying sound level during any one-hour period exceeded no more than ten percent of the time;

(3) The (A) weighted sound level shall be measured with the slow metering response characteristic of a sound level meter which complies with standards established by the American National Standards Institute specifications for sound level measurement; and

(4) Mufflers are required on all internal combustion-powered equipment used at the putrescible solid waste transfer station, and sound levels for such equipment must not exceed 80dB(A) at a distance of fifty feet from the operating equipment; provided that the decibel level beyond the property line of the putrescible solid waste transfer station shall not exceed the decibel levels set forth above.

(o) A sign, no smaller than four feet by four feet, shall be posted at all entrances to the putrescible solid waste transfer station and shall conspicuously indicate the putrescible solid waste transfer station's hours of operation, the types of waste it accepts and does not accept, the expiration date of its permits to operate pursuant to §16-130 of the Administrative Code and 6 NYCRR Part 360, and the Department of Sanitation's complaint telephone number.

(p) Doors allowing vehicles to enter or leave the putrescible solid waste transfer station, including any structure at such station, shall be kept closed except when vehicles are entering or leaving;

(q) The Permittee shall prevent litter or solid waste from accumulating on the streets or other areas abutting the putrescible solid waste transfer station.

(r) The total volume of solid waste, including solid waste that has been processed, at a transfer station shall not exceed the allowable volume as stated in the permit issued pursuant to §4-14 of this subchapter. The allowable volume at any transfer station shall be calculated by the Department and shall be based on the storage capacity (estimated in total cubic yardage) of the transfer station. In no event shall such allowable volume exceed that granted by the New York State Department of Environmental Conservation.

(s) The transfer station shall employ effective dust control measures to ensure that dust generation is suppressed at all times.

(t) No solid waste, construction and demolition debris, fill material, dust or other material shall be tracked from the transfer station site onto a city street, or public highway as defined in section 134 of the New York State Vehicle and Traffic Law.

(u) Within one hundred eighty days of the effective date of the rule that added this sentence, a motor vehicle tire cleaning procedure shall be adopted that shall prevent the tracking of solid waste, dust or other material from the transfer station site onto a city street, or public highway as defined in section 134 of the New York State Vehicle and Traffic Law.

(v) No stationary equipment at the transfer station that operates outdoors shall cause or permit the emission of an air contaminant of:

(1)(i) A density that appears as dark or darker than number two on the standard smoke chart, or 40% opacity, or of an opacity that obscures vision to a degree equal to or greater than smoke of number two density on the standard smoke chart, or 40% opacity; or

(ii) A density that appears as dark or darker than number one on the standard smoke chart, or 20% opacity, but less than number two on said chart, or 40% opacity, or of an opacity that obscures vision to a degree equal to or greater than smoke of number one density on the standard smoke chart, or 20% opacity, but less than number two on said chart, or 40% opacity, if such an emission continues for longer than two minutes in the aggregate in any sixty minute period.

(2) The density or opacity of an air contaminant emitted from stationary equipment that operates outdoors shall be measured at the point of its emission, except that when the point of emission cannot be readily observed, it may be measured at an observable point on the plume nearest the point of emission.

(w) No stationary equipment or nonroad motor vehicle at the transfer station that operates outdoors shall cause or permit the emission of a visible air contaminant past the transfer station property boundary.

(x) No nonroad motor vehicle at the transfer station that operates outdoors shall cause or permit the emission of a visible air contaminant while the vehicle is stationary for longer than ten consecutive seconds.

(y) All stationary equipment and nonroad motor vehicles at the transfer station shall be maintained properly and shall be inspected annually. All stationary equipment and nonroad motor vehicles at the transfer station that operate outdoors shall be inspected annually while in operation by an observer certified in the US EPA Method 9 set forth in Title 40 Code of Federal Regulations Part 60, Appendix A-4 and trained in the US EPA Method 22 set forth in Title 40 Code of Federal Regulations Part 60, Appendix A-7, to ensure the equipment is operating properly to minimize air contaminant emissions, taking into account the model year and design capabilities of the engine. A written record of the inspection and any subsequent corrective measures performed to minimize air contaminant emissions shall be filed with the Department as part of the annual permit renewal application, and shall be included in the operational records required by subsection (f) of section 4-17 of this subchapter.

(z) The transfer station, its equipment and nonroad motor vehicles shall be subject to inspection at all times during its hours of operation. Interference with Department personnel performing any function or duty is prohibited.

(aa) Any putrescible solid waste transfer station permit issued pursuant to this subchapter shall be conditioned upon compliance with any rules regarding the siting and hours of operation of putrescible solid waste transfer stations [required to be promulgated by the Department of Sanitation pursuant to §16-131(b) of the Administrative Code of the City of New York] set forth in subchapter C of this chapter.

[(s) The provisions of these Rules shall be severable and if any phrase, clause, sentence, paragraph, subsection or section of these Rules, or the applicability thereof to any person or circumstance, shall be held invalid, the remainder of these Rules and the application thereof shall not be affected thereby.]

(bb) The Commissioner may grant a variance from one or more provisions of this section, other than subsections (m), (j) and (s) through (y) of this section, if he or she determines, after completion of any applicable environmental review, that granting such variance would not have a significant adverse effect on the environment, provided that granting such variance is not otherwise inconsistent with law.

§7. Subchapter B of chapter 4 of title 16 of the rules of the city of New York is amended by adding a new section 4-18 to read as follows:

§ 4-18 Severability.

The provisions of this subchapter shall be severable and if any phrase, clause, sentence, paragraph, subsection 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 Sanitation Commissioner is authorized to adopt rules relating to the operation and maintenance of private putrescible solid waste transfer stations and non-putrescible solid waste transfer stations (which include fill material and construction and demolition debris 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 amend the Department's existing rules governing the operation and maintenance of transfer stations, found in Subchapters A and B of Chapter 4 of Title 16 of the Rules of the City of New York.

To improve the regulation of private solid waste 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. Section 16-133 of the New York City Administrative Code sets forth the escalating penalty schedule, which is applicable to all transfer stations.

In 2000, Local Law 74 was enacted in conjunction with the Council's approval of a Modification of the Solid Waste Management Plan to address the closure of Fresh Kills and the concerns of communities with the highest number of existing solid waste transfer stations. Local Law 74 of 2000 required the Department to undertake a comprehensive Commercial Waste Management Study that examined how commercial waste in the City is managed, determined the amount of commercial waste generated and recycled, and where the waste originated.

The Commercial Waste Study furnished the Department with valuable information for advancing its goals to minimize environmental effects from in-City transfer and transport of solid waste. Key findings and recommendations of the Study relating to the design and operation and maintenance of transfer stations were:

- ▶ First, the majority of inhalable fine particulate matter generated from transfer stations is not produced from trucks entering and leaving the facilities but, instead, comes from the stationary equipment and nonroad motor vehicles operated outdoors at the transfer stations. As a result, regulations and enforcement measures ensuring that stationary equipment and nonroad motor vehicles are maintained to minimize air emissions should be promulgated;
- ▶ Second, more effective odor control equipment could be required, specifically, equipment that neutralizes odors emitted from putrescible solid waste transfer stations rather than simply masking the odors; and
- ▶ Third, more effective dust suppression measures could be required at non-putrescible solid waste transfer stations.

The Department considered these findings of the Final Commercial Waste Study and consulted with Henningson, Durham and Richardson Architecture and Engineering, PC (HDR), the firm that conducted the Study for the Department, while drafting the proposed amendments. The Department proposes the above rules to address air contaminant emissions produced by stationary equipment and nonroad motor vehicles operated outdoors at transfer stations, odors generated by solid waste transfer stations and dust generation within and surrounding transfer stations.

The Department consulted with the New York City Department of Environmental Protection regarding the proposed rules that govern air contaminant emissions from stationary equipment and nonroad motor vehicles at transfer stations that operate outdoors. The new rules place certain prohibitions on visible air emissions coming from stationary equipment and nonroad motor vehicles operated outdoors at transfer stations. Department enforcement personnel will enforce the new rules after receiving training in visual calibration of air emissions pursuant to established United States Environmental Protection Agency methods. This training will enable Department enforcement personnel to visually determine the density or opacity of plumes of smoke or other air contaminant emissions coming from stationary equipment and nonroad motor vehicles, as well as the length of time such emissions last. Additionally, the rules require private transfer station owners to further mitigate any effect on air quality that their facilities may have by certifying that all transfer station stationary equipment and nonroad motor vehicles utilized in their operations are in proper operating condition.

These amendments require private putrescible transfer stations to meet more stringent ventilation, dust and odor control requirements. In combination with one another, the new requirements will improve the air exchange rate at putrescible transfer stations and neutralize odors, rather than masking odors with another scent. The recommended equipment consists of a hard-piped high-pressure system, suspended above the facility's tipping floor, with rings of mist nozzles strategically aimed at fans and exhaust vents.

The amendments will also help decrease dust generation and minimize the tracking of transfer station material onto city streets and public highways. Fill material transfer stations will be required to pave the entry and exit areas of the transfer station. Construction and demolition debris transfer stations will be required to pave the receipt, processing and storage areas of the transfer

station and all transfer stations must employ an effective tire cleaning procedure. Transfer station owners will be afforded the opportunity to determine which tire cleaning procedure is most appropriate for their facility to prevent the tracking of solid waste from the transfer station onto a city street or public highway.

The amendments also clarify and enhance certain general operating and maintenance requirements for private solid waste transfer stations, including, but not limited to; (1) ensuring access for emergency vehicles and for Department officers during inspections; (2) ensuring the receipt, process and storage of non-putrescible solid waste in accordance with the transfer station site plan submitted by its permittee; and (3) improving the drainage systems currently in use at transfer stations to minimize odor-causing residue build up.

In sum, the rules set forth more stringent operation and maintenance requirements and provide additional enforcement measures that will serve to minimize the environmental impacts of transfer station operations.