

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

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

NOTICE IS HEREBY GIVEN in accordance with the requirements of section 1043 of the New York City Charter and pursuant to the authority vested in the Commissioner of Sanitation by section 753(a) and (b) of the New York City Charter and by section 16-131 of the Administrative Code of the City of New York that the Department adopts the following rule governing the siting of transfer stations. This rule amends sections 4-36, 4-37 and 4-38 of Chapter 4 of Title 16 of the Rules of the City of New York. Existing provisions to be deleted are shown below in brackets and new provisions are underlined.

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

- (a) Notwithstanding the provisions of section 4-05 of subchapter A of this chapter, no new permit or authorization to operate shall be issued by the Department during the period from March twenty-first, two thousand three through [July thirty-first] October twentieth, two thousand four, for a construction and demolition debris transfer station, as defined in section 4-01 of subchapter A of this chapter, that was not lawfully operating on March twenty-first, two thousand three, nor may any construction and demolition debris transfer station be authorized during such period to increase its lawful permitted capacity.
- (b) Notwithstanding subdivision (a) of this section, the Department may issue to a construction and demolition debris transfer station that was lawfully operating on March twenty-first, two thousand three a permit to convert some or all of its lawful permitted capacity to putrescible solid waste.
- (c) Notwithstanding subdivision (a) of this section, the Department may authorize the operation of a new intermodal solid waste container facility that handles construction and demolition debris, provided that (1) such new facility is located at or adjacent to a rail yard, rail spur, industrial track or vessel facility, (2) the construction and demolition debris at such facility is in closed, leak-proof containers at all times, including during receipt, storage and removal, (3) the containers are acceptable to the Department and maintained in a safe, nuisance-free manner, and (4) the containers are removed by rail or vessel.
- (d) This section shall expire on the [thirty-first day of July] twentieth day of October, two thousand four, provided that if permanent siting rules promulgated pursuant to subdivision (b) of section 16-131 of the administrative code of the city of New York take effect before such date, then this section shall expire on the date such permanent siting rules take effect.

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

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

(b) This section shall expire on the [thirty-first day of July] twentieth day of October, two thousand four, provided that if permanent siting rules promulgated pursuant to subdivision (b) of section 16-131 of the administrative code of the city of New York take effect before such date, then this section shall expire on the date such permanent siting rules take effect.

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

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

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

(c) Notwithstanding subdivisions (a) and (b) of this section, the Department may (1) authorize the operation of a new intermodal solid waste container facility that handles putrescible solid

waste, provided that (i) such new facility is located at or adjacent to a rail yard, rail spur, industrial track or vessel facility, (ii) the putrescible solid waste at such facility is in closed, leak-proof containers at all times, including during receipt, storage and removal, (iii) the containers are acceptable to the Department and maintained in a safe, nuisance-free manner, and (iv) the containers are removed by rail or vessel; or (2) issue a new permit to a putrescible solid waste transfer station that receives putrescible solid waste, provided that (i) such new transfer station is located at or adjacent to a rail yard, rail spur, industrial track or vessel facility, and (ii) the putrescible solid waste received is subsequently transported from the transfer station by rail or vessel.

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

(e) This section shall expire on the [thirty-first day of July] twentieth day of October, two thousand four, provided that if permanent siting rules promulgated pursuant to subdivision (b) of section 16-131 of the administrative code of the city of New York take effect before such date, then this section shall expire on the date such permanent siting rules take effect.

Statement of Basis and Purpose: The Sanitation Commissioner is authorized to adopt rules relating to the permitting and siting of transfer stations pursuant to §§753 and 1043 of the New York City Charter, and §§16-130, 16-131, 16-131.1 and 16-131.2 of the New York City Administrative Code. These amendments are necessary in order for the Department to promulgate permanent siting rules before the expiration of the interim rules and comply with the rule-making process established by the Citywide Administrative Procedure Act and the provisions of §16-131(e) of the Administrative Code.

Specifically, these amendments extend the expiration date of the interim siting rules from July 31, 2004 until either October 20, 2004, or the effective date of permanent rules regarding the siting of 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, whichever is earlier.