

NEW YORK CITY BUSINESS INTEGRITY COMMISSION

Notice of Public Hearing and Opportunity to Comment on Proposed Rules

What are we proposing? The New York City Business Integrity Commission (the “Commission” or “BIC”) is proposing to amend Title 17 of the Rules of the City of New York in order to allow trade waste licensees and registrants to apply to the Commission for a financial hardship waiver as described in § 24-163.11 of the Administrative Code.

When and where is the hearing? BIC will hold a public hearing on the proposed rule. The public hearing will take place from 10:00a.m. to 11:00 a.m. on June 20, 2018. The hearing will be on the 20th Floor, in conference room number 1 at 100 Church Street, New York, New York, 10007. This location has the following accessibility option available: Wheelchair Accessible.

How do I comment on the proposed rules? Anyone can comment on the proposed rules by:

- **Website.** You can submit comments to BIC through the NYC rules website at <http://rules.cityofnewyork.us>.
- **E-mail.** You can e-mail written comments to sarrona@bic.nyc.gov.
- **Mail.** You can mail written comments to Business Integrity Commission, 100 Church Street, 20th Floor, New York, NY 10007.
- **Fax.** You can fax written comments to BIC at (646) 500-7113.
- **By speaking at the hearing.** Anyone who wants to comment on the proposed rule at the public hearing must sign up to speak. You can sign up before the hearing by calling (212) 437-0523. You can also sign up in the hearing room before the hearing begins on June 20, 2018. You can speak for up to three minutes.

Is there a deadline to submit written comments? Yes, you must submit written comments by June 20, 2018.

What if I need assistance to participate in the hearing? You must contact the Business Integrity Commission if you need a reasonable accommodation of a disability at the hearing. You must tell us if you need a sign language interpreter. You can tell us by mail at 100 Church Street, 20th Floor, New York, NY 10007. You may also tell us by telephone at 212-437-0523 or e-mail at sarrona@bic.nyc.gov. Advance notice is requested to allow sufficient time to arrange the accommodation. Please tell us by June 13, 2018.

This location has the following accessibility option available: Wheelchair Accessible.

Can I review the comments made on the proposed rules? You can review the comments made online on the proposed rules by going to the website at <http://rules.cityofnewyork.us>. A few days after the hearing, a transcript of the hearing and copies of the written comments will be available to the public at BIC's offices.

What authorizes BIC to make this rule? Sections 1043(a) and 2101(b) of the City Charter authorize BIC to make these proposed rules. This proposed rule was included in BIC's regulatory agenda for this Fiscal Year.

Where can I find BIC's rules? BIC's rules are in Title 17 of the Rules of the City of New York.

What laws govern the rulemaking process? BIC must meet the requirements of section 1043 of the City Charter when creating or changing rules. This notice is made according to the requirements of section 1043 of the City Charter.

Statement of Basis and Purpose of Proposed Rule

Under section 2101 of the New York City Charter, the Business Integrity Commission is authorized to regulate the trade waste industry and, among other things, ensure that businesses are able to operate in an honest and competitive environment, free from the influences of organized crime and criminality. Among other things, Local Law 145 of 2013 gave the Commission the authority to refuse to issue a license or registration to an applicant that has failed to demonstrate that it will meet requirements designed to reduce the emission of pollutants from trade waste vehicles.

Local Law 145 of 2013, which added § 24-163.11 of the Administrative Code, requires that every heavy duty trade waste hauling vehicle that is owned or operated by an entity required to be licensed or registered by the Commission and operating in New York City be equipped with either (1) an EPA certified 2007 (or later) engine or (2) utilize “Best Available Retrofit Technology,” as defined by the New York City Department of Environmental Protection before January 1, 2020. Under § 24-163.11(c) of the Administrative Code, the chairperson of the Commission may issue a waiver of this requirement if the chairperson of the Commission finds that the applicant for such waiver has demonstrated that compliance with such requirements would cause undue financial hardship on the applicant. Under § 24-163.11(d)(5) of the Administrative Code, the Commission may set by rule the criteria for the issuance of financial hardship waivers in connection with this engine requirement.

The proposed rule change provides the process for licensees and registrants to apply to the Commission’s chairperson for a temporary waiver of the above engine requirements based on an undue financial hardship.

BIC’s authority for these rules is found in sections 1043(a) and 2101(b) of the New York City Charter.

New material is underlined.

Section 1. Title 17 of the Rules of the City of New York is amended by adding Section 2-09 as follows:

§ 2-09. Financial Hardship Waiver from Vehicle Emissions Compliance.

- (a) Pursuant to § 24-163.11(c) of the Administrative Code, the chairperson of the Commission may issue a waiver from the requirements of Administrative Code § 24-163.11(b)(1) to a licensee, registrant or applicant for a license or registration if compliance with the requirements of Administrative Code § 24-163.11(b)(1) would create an undue financial hardship on that licensee, registrant or applicant for a license or registration.

- (b) To qualify for a waiver from the requirements of Administrative Code § 24-163.11(b)(1), the applicant for the waiver must demonstrate to the Commission that complying with Administrative Code § 24-163.11(b)(1) would create an undue financial hardship. The waiver applicant must submit an application to the Commission by filling out the undue financial hardship waiver form provided by the Commission with the following information:
1. Information demonstrating that bringing the waiver applicant's truck fleet into compliance with § 24-163.11(b)(1) of the Administrative Code would cost more than 15 percent of the company's average gross revenue from the previous three years;
 2. Information demonstrating that the waiver applicant has made a good faith effort to secure financing to cover the costs of bringing its truck fleet into compliance with § 24-163.11(b)(1) of the Administrative Code but has been unable to secure the financing; and
 3. A written plan demonstrating when the waiver applicant will be in compliance with the requirements of § 24-163.11(b)(1) of the Administrative Code and how it plans to come into compliance.
- (c) Financial hardship waivers granted pursuant to § 24-163.11(c) of the Administrative Code will specify the length of the waiver and will be valid for a period of no more than 2 years. Any entity granted a financial hardship waiver may apply to the chairperson of the Commission to renew the waiver no later than 180 days before the expiration of the waiver. All financial hardship waivers will expire no later than January 1, 2025.

**NEW YORK CITY LAW DEPARTMENT
DIVISION OF LEGAL COUNSEL
100 CHURCH STREET
NEW YORK, NY 10007
212-356-4028**

**CERTIFICATION PURSUANT TO
CHARTER §1043(d)**

RULE TITLE: Financial Hardship Waivers for Trade Waste Licensees and Registrants

REFERENCE NUMBER: 2018 RG 040

RULEMAKING AGENCY: Business Integrity Commission

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

- (i) is drafted so as to accomplish the purpose of the authorizing provisions of law;
- (ii) is not in conflict with other applicable rules;
- (iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and
- (iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN
Acting Corporation Counsel

Date: May 10, 2018

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS
253 BROADWAY, 10th FLOOR
NEW YORK, NY 10007
212-788-1400**

**CERTIFICATION / ANALYSIS
PURSUANT TO CHARTER SECTION 1043(d)**

RULE TITLE: Financial Hardship Waivers for Trade Waste Licensees and Registrants

REFERENCE NUMBER: BIC-9

RULEMAKING AGENCY: Business Integrity Commission

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

- (i) Is understandable and written in plain language for the discrete regulated community or communities;
- (ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and
- (iii) Does not provide a cure period because a cure period is not practicable under the circumstances..

/s/ Shevani Patel
Mayor's Office of Operations

May 11, 2018
Date