

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 relating to the maximum rates permitted to be charged by a licensee for the collection, removal, disposal, or recycling of trade waste.

When and where is the hearing? BIC will hold a public hearing on the proposed rule. The public hearing will take place from 2:00 p.m. to 3:00 p.m. on April 9, 2018. The hearing will be in the 2nd Floor, conference room number 2-160A at 100 Church Street, New York, New York, 10007. This location has the following accessibility option(s) 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 April 9, 2018. You can speak for up to three minutes.

Is there a deadline to submit written comments? Yes, you must submit written comments by April 9, 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 April 2, 2018.

This location has the following accessibility option(s) 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 Commission is authorized to regulate the trade waste industry and ensure businesses are able to operate in an honest and competitive environment free from the influences of organized crime and criminality. BIC is also authorized under sections 16-504(b) and (i) and 16-519 of the Administrative Code to set by rule the maximum rates by weight and by volume that trade waste haulers can charge for the removal of putrescible and recyclable commercial waste. Rates were last adjusted in 2016.

In accordance with section 16-519 of the Administrative Code, any change that BIC proposes to the maximum rates must be based on a fair and reasonable return to the licensees who provide waste removal services to commercial establishments in New York City while also protecting those using these services from excessive or unreasonable charges. To achieve this balance, BIC established an administrative procedure that provides greater transparency, standardization and regularity in the rate-setting process. Pursuant to Title 17, Chapter 1, § 5-02(f) of the Rules of the City of New York (“RCNY”), BIC held a hearing on October 18, 2017, relating to the maximum rates charged by a licensee for the collection, removal, disposal, or recycling of trade waste. The hearing was attended by representatives of the trade waste industry and other interested parties, some of whom testified at the hearing and submitted written testimony.

The Commission has carefully evaluated the evidence provided throughout the process, including the oral statements made at the October 18, 2017 hearing and the written statements provided both prior to and after the hearing. In accordance with the process outlined in RCNY Title 17, Chapter 1, § 5-02(g), BIC has reviewed the Producer Price Index, as published by the United States Department of Labor Bureau of Labor Statistics, and other relevant factors affecting the trade waste industry and its customers, including but not limited to data contained in financial statements that licensees are required to file with BIC, as well as certain data regarding increases in operating and capital costs provided to BIC by members of the trade waste industry. As a result of its analysis, BIC proposes to increase by 5.6% the current maximum rates that trade waste haulers can charge. This increase would result in maximum rates of:

- \$19.93 per cubic yard
- \$13.07 per 100 pounds

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

New text is underlined; deleted text is in [] brackets.

Section 1. Subdivision (a) of section 5-02 of subchapter E of Chapter 1 of Title 17 of the Rules of the City of New York is amended to read as follows:

(a) A trade waste removal business [shall] must not demand, charge, exact, or accept rates for the collection, removal, disposal, or recycling of trade waste greater than the following maximum rates:

(1) [~~\$18.87~~] \$19.93 per cubic yard.

(2) [~~\$12.38~~] \$13.07 per 100 pounds.

(3) Exempt Waste. This subdivision [shall] does not apply to the removal of construction and demolition debris, infectious medical waste, covered electronic equipment as defined in § 421 of chapter 16 of the Code, waste from grease interceptors as defined in § 19-119(a) of title 15 of the Rules of the City of New York, and paper that is collected for the purpose of shredding or destruction by the licensee.

**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: Amendment of Maximum Rates Allowed for Handling of Trade Waste

REFERENCE NUMBER: 2018 RG 014

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: February 13, 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: Amendment of Maximum Rates Allowed for Handling of Trade Waste

REFERENCE NUMBER: BIC-8

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/ Francisco X. Navarro
Mayor's Office of Operations

February 13, 2018
Date