

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 via Webex at 10:30 a.m. on April 28, 2022, using the following link and meeting information:

<https://nycbic.webex.com/nycbic/j.php?MTID=mc4b7faad71c544fe56ef23b04e022c57>

Meeting number (access code): 2345 792 6765

Meeting password: 100church

Join by Phone

+1-646-992-2010 United States Toll (New York City)

+1-408-418-9388 United States Toll

Access code: 2345 792 6765

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 email written comments to nmathias@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 emailing nmathias@bic.nyc.gov by April 27, 2022, at 5:00 p.m. While you will be given the opportunity during the hearing to indicate that you would like to provide comments, we prefer that you sign up in advance. You can speak for up to three minutes.

Is there a deadline to submit written comments? Yes, you must submit written comments by April 28, 2022.

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 email at nmathias@bic.nyc.gov. Advance notice is requested to allow sufficient time to arrange the accommodation. Please tell us by April 21, 2022.

This location has the following accessibility option(s) available: Audio only access.

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 on BIC's website.

What authorizes BIC to make this rule? Sections 1043(a) and 2101(b) of the City Charter and section 16-504(b) of the Administrative Code authorize BIC to make these proposed rules. This proposed rule was not included in BIC's regulatory agenda for this fiscal year because it was not anticipated when the Commission published the agenda.

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 other criminality. BIC is also authorized under sections 16-504(b) and (h) 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, except with respect to commercial waste required to be collected by a designated carter pursuant to Chapter 1 of Title 16-B of the Administrative Code. Rates were last adjusted in August 2018.

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 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 September 23, 2021, 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 relevant to the maximum rates charged, including, but not limited to, the testimony provided orally at the September 23, 2021, hearing and the written testimony provided prior to and after the hearing. In accordance with the process outlined in RCNY Title 17, Chapter 1, § 5-02(g), BIC has also 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. BIC also considered the fact that, between the previous rate adjustment and the proposed rule, the global pandemic caused by COVID-19 resulted in a period of serious economic difficulty, presenting ongoing challenges for trade waste haulers and their customers alike. Based on its analysis, BIC proposes to increase the current maximum rates that trade waste haulers can charge by 9%. This increase recognizes the fact that operating costs have risen significantly for trade waste haulers since the last rate cap increase, while also recognizing the difficult economic situation for many businesses in New York City, particularly small businesses. The increase would result in maximum rates of:

- \$22.63 per cubic yard
- \$14.85 per 100 pounds

BIC's authority for these rules is found in sections 1043(a) and 2101(b) of the New York City Charter, and in sections 16-504(b), 16-504(h), and 16-519 of the Administrative Code.

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 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) [~~\$20.76~~] \$22.63 per cubic yard.

(2) [~~\$13.62~~] \$14.85 per 100 pounds.

(3) *Exempt Waste*. This subdivision does not apply to the removal of construction and demolition debris, infectious medical waste, covered electronic equipment as defined in §16-421 of the Code, waste from grease interceptors as defined in 15 RCNY § 19-11(a) 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 Charged by Trade Waste Haulers

REFERENCE NUMBER: 22 RG 022

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: March 10, 2022

**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 Charged by Trade Waste Haulers

REFERENCE NUMBER: BIC-20

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 it does not establish a violation, modification of a violation, or modification of the penalties associated with a violation.

/s/ Francisco X. Navarro
Mayor's Office of Operations

March 11, 2022
Date