

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 (“BIC”) is proposing to amend Title 17 of the Rules of the City of New York to facilitate the registration of labor unions or labor organizations representing or seeking to represent employees directly involved in the collection, removal, transportation or disposal of trade waste and for suspending or disqualifying officers of such unions or organizations; and to facilitate the dissemination of information about the rights of private sanitation employees. BIC will vote on the final rules before they are promulgated.

When and where is the hearing? BIC will hold a public hearing on the proposed rule. The public hearing will take place from 10:00 a.m. to 11:00 a.m. on July 8, 2019. The hearing will be held on the 20th Floor, 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 July 8, 2019. You can speak for up to three minutes.

Is there a deadline to submit written comments? Yes, you must submit written comments by July 8, 2019.

What if I need assistance to participate in the hearing? You must contact BIC 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 July 1, 2019.

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 and section 16-504(i) of the Administrative Code authorize BIC to make these proposed rules. These proposed rules were 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, BIC is authorized to regulate the trade waste industry. Administrative Code Sections 16-503¹ and 16-504(j)² give BIC the authority to regulate labor unions and labor organizations representing or seeking to represent employees directly involved in the collection, removal, transportation or disposal of trade waste, to establish standards for the registration of such labor unions and organizations, and to establish standards for suspending or disqualifying officers of such unions or organizations. Under Section 16-504(i), BIC is authorized to promulgate rules it deems necessary and appropriate to effectively regulate labor unions or labor organizations representing or seeking to represent employees directly involved in the collection, removal, transportation or disposal of trade waste.

These rule amendments are designed to facilitate the registration of labor unions or labor organizations and for suspending or disqualifying officers of such unions or organizations. Specifically, the new amendments provide for application requirements, general prohibitions, requirements regarding the disclosure of material changes to the application and other pertinent information, and terms and fees.

Pursuant to Local Law 56 for the year 2019, these rule amendments also provide for requirements for trade waste licensees and registrants to disseminate workers' rights information to employees who operate vehicles or handle waste.

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

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

¹ As amended by Local Law 55 for the year 2019.

² As added by Local Law 55 for the year 2019.

Section 1. The definition of REGISTRANT contained in Section 1-01 of Subchapter A of Chapter 1 of Title 17 of the Rules of the City of New York is amended and new definitions of and LABOR UNION OR LABOR ORGANIZATION and OFFICER are added to read as follows:

Labor union or labor organization. “Labor union” or “labor organization” shall mean a union or organization that represents or seeks to represent for purposes of collective bargaining employees directly involved in the collection, removal, transportation or disposal of trade waste.

Officer. “Officer” shall mean any person holding an elected position or any other position involving participation in the management or control of a labor union or labor organization required to register pursuant to § 16-505 of the Code.

Registrant. The term "registrant" means a business, labor union, or labor organization required to be registered with the commission or issued a registration from the commission. "Class 1 Registrant" means a business required to register pursuant to subdivision b of section 16-505 of the Code in order to remove, collect or dispose of trade waste that is generated in the course of operation of such business. "Class 2 Registrant" means a trade waste broker required to register with the commission and an exempt business issued a registration by the commission pursuant to such subdivision. “Class 3 Registrant” means a labor union or labor organization required to register pursuant to subdivision c of section 16-505 of the Code.

§ 2. Section 2-04 of Subchapter B of Chapter 1 of Title 17 of the Rules of the City of New York is amended by adding a new subdivision (d), to read as follows:

(d) Class 3 Labor Union and Labor Organization Registration Application. (1) An application for a labor union or labor organization registration pursuant to section 16-505 of the Code, or for a renewal of such registration, shall be made on a form prescribed by the Commission. The application shall be certified under penalty of perjury and signed by all officers of the applicant. The application shall include, but not be limited to, the following information:

(i) the names of all officers and agents and the names of all individuals who were officers and agents within the previous five years;

(ii) a business telephone number and a business address within the City of New York where notices may be delivered and legal process may be served;

(iii) a listing of any collective bargaining agreement to which the applicant and a trade waste licensee or registrant are signatories;

(iv) a Federal or State tax identification number;

(v) a listing of any civil or criminal actions pending against such union or labor organization in any jurisdiction, except where such disclosure is protected by Subdivision 16 of Section 296 of Article 15 of the New York State Executive Law;

(vi) all criminal convictions, in any jurisdiction, of such labor union or labor organization, except where such disclosure is protected by Subdivision 16 of Section 296 of Article 15 of the New York State Executive Law;

(vii) any criminal or civil investigation of such labor union or labor organization by a federal, state or local prosecutorial, investigative or regulatory agency;

(viii) all civil or administrative proceedings to which such labor union or labor organization has been a party involving allegations of racketeering, including but not limited to offenses listed in subdivision nineteen hundred sixty-one of the Racketeer Influenced and Corrupt Organization statute (18 U.S.C. §§ 1961 et seq.) or of an offense listed in subdivision one of section 460.10 of the penal law, as such statutes may be amended from time to time;

(ix) any judicial or administrative consent decrees entered into by such labor union or labor organization in the five-year period preceding the date of the application; and

(x) the appointment of any independent auditor, monitor, receiver, administrator or trustee to oversee any activities of such labor union or labor organization in the five-year period preceding the date of the application. Notwithstanding the foregoing, no labor union or labor organization shall be required to furnish information pursuant to this subdivision which is already included in a report filed by the labor union or labor organization with the Secretary of Labor pursuant to 29 U.S.C. §§ 431 et seq. or 29 U.S.C. §§ 1001 et seq. if a copy of such report, or of the portion thereof containing such information, is furnished to the Commission.

(2) In addition to and concurrent with the application required by section 2-05(d)(1), each officer of the applicant must pay the fee of six hundred (\$600) dollars for a background investigation and must inform the Commission, on a form prescribed by the Commission and certified under penalty of perjury by the officer, of:

(i) all criminal convictions, in any jurisdiction, of the officer;

(ii) any pending civil or criminal actions to which the officer is a party; and

(iii) any criminal or civil investigation by a federal, state, or local prosecutorial agency, investigative agency or regulatory agency, in the five-year period preceding the date of the application pursuant to subdivision (1) of this section and at any time subsequent to such registration, wherein any officer has (A) been the subject of such investigation, or (B) received a subpoena requiring the production of documents or information in connection with such investigation.

(3) Any labor union or organization that represents employees directly involved in the collection, removal, transportation or disposal of trade waste as of July 16, 2019 must register with the Commission by October 14, 2019. Any labor union or organization that does not represent employees directly involved in the collection removal, transportation or disposal of trade waste as of July 16, 2019 and that seeks to represent such employees subsequent to such date must first register with the Commission.

(4) Notwithstanding any provision of this subchapter, where there is reasonable cause for the Commission to believe that an officer of a labor union or labor organization does not possess good character, honesty and integrity, the Commission may require that such officer be fingerprinted by a person designated for such purpose by the Commission, pay the fee prescribed by the Division of Criminal Justice Services and/or the Federal Bureau of Investigation for the purpose of obtaining criminal history records, and provide to the Commission any additional information the Commission may require.

(5) After providing notice and opportunity to be heard, the Commission may disqualify an officer of a labor union or labor organization from holding office based on the grounds set forth in section 16-509(g) of the Code.

(6) Nothing in this subdivision shall be construed to require registration with the Commission of a:

(i) labor union or labor organization representing or seeking to represent clerical or other office workers; or

(ii) an affiliated national or international labor union of local labor unions required to register pursuant to section 16-505 of the Code.

§ 3. Subdivision (c) of Section 2-05 of Subchapter B of Chapter 1 of Title 17 of the Rules of the City of New York is relettered subdivision (d) and a new subdivision (c) is added to read as follows:

(c) Any material change in the information submitted pursuant to 17 RCNY § 2-04(d)(1) or 17 RCNY § 2-04(d)(2) shall be reported to the Commission by such labor union or labor organization or officer, in a signed and notarized writing, within ten (10) business days thereof.

§ 4. Section 2-07 of Subchapter B of Chapter 1 of Title 17 of the Rules of the City of New York is amended to read as follows:

§ 2-07 Terms and Fees. The term of a license or Class 1 or Class 2 registration shall be two (2) years. The fee for investigation of a license applicant shall be five thousand dollars (\$5,000), and the fee for each vehicle in excess of one (1) operated, pursuant to a license shall be five hundred dollars (\$500). The fee for investigation of a Class 2 registration applicant, pursuant to 17 RCNY § 2-03 shall be three thousand and five hundred dollars (\$3,500), and the fee for each vehicle operated, pursuant to a Class 2 registration shall be five hundred dollars (\$500). The fee for investigation of a Class 1 registration applicant shall be one thousand dollars (\$1,000), and the fee for each vehicle operated, pursuant to a Class 1 registration shall be four hundred dollars (\$400). There shall be no fee for a Class 1 registrant that is a Not-For-Profit Corporation. The fee for investigation of a trade waste broker registration application shall be five thousand dollars (\$5,000). The term of a Class 3 registration shall be five (5) years. The fee for investigation of a Class 3 registration applicant shall be four thousand dollars (\$4,000).

§ 5. Chapter 1 of Title 17 of the Rules of the City of New York is amended by adding a new Subchapter H and Section 8-01 as follows:

Subchapter H: Workers' Rights Information

§ 8-01 Display and Distribution of Workers' Rights Information

(a) Each licensee or registrant shall post and keep posted a notice, to be provided by the Commission, informing employees engaged in operating vehicles or handling trade waste information regarding the maximum number of hours such employees are permitted to work in a twenty-four hour period; the minimum wage such employees must be paid; any required worker safety trainings for such employees; information regarding what safety equipment must be provided by licensees or registrants; a description of how to contact the Commission to log a complaint; and a list of additional government agencies that accept complaints about violations of workers' rights, including, but not limited to the New York state attorney general, the New York state department of labor, and the United States department of labor, and contact information for such agencies.

(b) Licensees and registrants shall post such notice to employees in each office, garage or lot in a conspicuous place, or in a conspicuous place where notices to employees are customarily posted. Each licensee or registrant shall take steps to ensure that such notices are not altered, defaced, or covered by other material.

(c) Licensees and registrants shall distribute such notice to their employees by mail and email and shall provide such notice to all new employees within 30 days of hire.

§ 6. This rule takes effect immediately, except that section 5 of this rule takes effect December 13, 2019.

**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: Registration of Labor Organizations Representing Trade Waste Workers and Display and Distribution of Workers' Rights Information

REFERENCE NUMBER: BIC-14

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: June 3, 2019

**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: Registration of Labor Organizations Representing Trade Waste Workers and Display and Distribution of Workers' Rights Information

REFERENCE NUMBER: BIC-14

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) A cure period is not applicable to these rules

/s/ Doug Giuliano
Mayor's Office of Operations

6/4/19
Date