

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 Microsoft Teams at 11:00 a.m. on September 7, 2022, using the following link and meeting information:

Microsoft Teams meeting

Join on your computer or mobile app

[Click here to join the meeting](#)

https://teams.microsoft.com/l/meetup-join/19%3ameeting_YzJkNDViMTAtMzAxYS00YTdlLWI3NmUtMDkxMzIzNGZINDJh%40thread.v2/0?context=%7b%22Tid%22%3a%2232f56fc7-5f81-4e22-a95b-15da66513bef%22%2c%22Oid%22%3a%22174443ef-91ea-48bf-9471-18a8de9e66f2%22%7d

Or join by entering a meeting ID

Meeting ID: 244 009 550 247

Passcode: kSEd3R

Or call in (audio only)

[+1 646-893-7101,,754968905#](tel:+16468937101754968905) United States, New York City

Phone Conference ID: 754 968 905#

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 September 6, 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 September 7, 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 September 5, 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), 16-504(h), and 16-519 of the Administrative Code 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 to combat organized crime and corruption, to provide for more efficient and lawful conduct in the carting industry, and to protect the public interest. 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 June 2022. Prior to the June 2022 adjustment, rates had not been adjusted since August 2018. BIC is proposing a further rate adjustment to account for the continued rising operating costs faced by licensees who provide trade waste removal services to commercial establishments in New York City.

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. Pursuant to Title 17, Chapter 1, § 5-02(f) of the Rules of the City of New York (“RCNY”), BIC held a hearing in October 2019 regarding the maximum rates allowed to be charged by a licensee for the collection, removal, disposal, or recycling of trade waste. In March 2020, the global pandemic caused by COVID-19 began a period of serious economic difficulty for trade waste haulers and their customers alike, and BIC made no adjustment to the maximum rates at that time. On September 23, 2021, pursuant to RCNY Title 17, Chapter 1, § 5-02(f), BIC held a hearing relating to the maximum rates charged by a licensee for the collection, removal, disposal, or recycling of trade waste. On April 28, 2022, BIC held a public hearing regarding a proposed rule amendment to increase the maximum rates trade waste haulers can charge by 9%, to \$22.63 per cubic yard or \$14.85 per 100 pounds. Those adjusted rates became effective on June 24, 2022. As BIC continues to carefully monitor the economic trends that impact the trade waste industry, it has determined that an additional rate increase is necessary to account for the continued increase in operating costs faced by licensees who provide trade waste removal services.

The annual inflation rate continued to accelerate at historic levels during and after the most recent rate adjustment process. Increased operating costs due to labor shortages and equipment costs, as well as new regulatory requirements, make it difficult for trade waste haulers to operate at current rates. The Producer Price Index for Solid Waste Collection has risen significantly since 2018 and continued to rise during and after the most recent rate adjustment process. The escalating effects of the increase in the Producer Price Index for Solid Waste Collection were not fully captured by the June 2022 adjustment, where a rate adjustment did not occur from September 2018 through May 2022. BIC has considered a wide range of factors, including the testimony provided at the September 23, 2021, and April 28, 2022, hearings, along with written testimony provided prior to and after those hearings, data contained in financial statements that licensees are required to file with BIC, and data regarding increases in operating and capital costs provided to BIC by members of the trade waste industry. Based on this additional analysis and monitoring,

BIC proposes to increase the current maximum rates that trade waste haulers can charge by 7%. The increase would result in maximum rates of:

- \$ 24.21 per cubic yard
- \$ 15.89 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) [~~\$ 22.63~~] \$ 24.21 per cubic yard.

(2) [~~\$ 14.85~~] \$ 15.89 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 Allowable Maximum Rates Charged by Trade Waste Haulers

REFERENCE NUMBER: 2022 RG 056

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: July 27, 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 Allowable Maximum Rates Charged by Trade Waste Haulers

REFERENCE NUMBER: BIC-21

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

July 28, 2022
Date