NEW YORK CITY BUSINESS INTEGRITY COMMISSION

NOTICE OF OPPORTUNITY TO COMMENT ON PROPOSED RULEMAKING RELATING TO PUBLIC WHOLESALE MARKETS, SEAFOOD DISTRIBUTION AREAS, AND MARKET BUSINESSES, LABOR UNIONS AND LABOR ORGANIZATIONS OPERATING IN SEAFOOD DISTRIBUTION AREAS

PURSUANT TO section 1043(h)(1) of the New York City Charter and exercising the authority vested in the Business Integrity Commission by sections 1043(a) and 2101(b)(6) of the New York City Charter, notice is hereby given that the Business Integrity Commission intends to amend rules relating to public wholesale markets, seafood distribution areas, and market businesses, labor unions and labor organizations operating in seafood distribution areas. Additions to the rules are underlined and deletions are [bracketed].

Written comments regarding these proposed rules may be sent to Eric Dorsch, General Counsel, New York City Business Integrity Commission, on or before November 22, 2010. Comments may be submitted by mail to Mr. Dorsch at the New York City Business Integrity Commission, 100 Church Street, 20th Floor, New York, New York 10007 or electronically to edorsch@bic.nyc.gov. Comments may also be submitted on the NYC Rules website at http://www.nyc.gov/html/nycrules.

A hearing for public comment will be held on November 22, 2010 in Spector Hall at 22 Reade Street, New York, New York 10007, at 10:00 A.M. Persons seeking to testify are requested to notify Mr. Dorsch at (212) 676-6202 no fewer than five (5) business days prior to the hearing. Persons who request that a sign language interpreter or other form of reasonable accommodation for a disability be provided at the hearing are asked to notify Mr. Dorsch at the above address no later than two weeks prior to the hearing.

Written comments and a summary of oral comments received at the hearing will be available for public inspection, within a reasonable time after receipt on week days between the hours of 9:30 A.M. and 4:30 P.M. at the New York City Business Integrity Commission, 100 Church Street, 20th Floor, New York, New York 10007.

This rule was included in the 2010 regulatory agenda of the Business Integrity Commission.

Section 1. Subdivision (c) of section 11-03 of chapter 2 of title 17 of the Rules of the City of New York is amended to read as follows:

(c) The fee for a permanent photo identification card shall be one hundred dollars ($100), and the fee for the replacement of a photo identification card that has been lost or stolen shall be [one hundred] twenty dollars ($[100] 20). The Chairperson may waive the fee for a permanent photo identification card if the applicant has applied for and paid the fee for a photo identification within the last six (6) months.

§ 2. Subdivisions (c) and (e) (3) of section 11-09 of chapter 2 of title 17 of the Rules of the City of New York are amended to read as follows:

(c) Recordkeeping. Wholesale businesses or market businesses shall retain copies of all invoices and other documents reflecting deliveries or payments from or to suppliers and customers. Electronic copies of such books and records shall be acceptable. Such books and records shall accurately reflect the amount of goods or services involved in each transaction, and shall, along with all other records produced or received in the normal course of business, be retained for a minimum of thirty-six (36) months, and shall be made available for immediate inspection and/or copying upon request by the market manager, a designee of the market manager or an employee of the Commission.

(e)[(3) Employers' liability insurance with limits of one million dollars ($1,000,000) per accident].

§ 3. Subdivision (a) of section 11-14 of chapter 2 of title 17 of the Rules of the City of New York is amended to read as follows:

(a) Wholesale trade associations shall retain copies of all invoices and other documents reflecting payment to and from wholesalers and market businesses, leases, sub-leases, union contracts, and all other records produced or maintained in the normal course of business for a minimum of thirty-six (36) months. Electronic copies of such books and records shall be acceptable.

§ 4. Subdivisions (a) and (b) of section 11-24 of chapter 2 of title 17 of the Rules of the City of New York are amended to read as follows:

[(a) Hours of operation of any market may be regulated by the Commission.]

([b] a) Entry into any market may be regulated by the Commission. No fee shall be charged for entry into a market or for parking therein, nor shall any existing fee be increased, unless the Commission shall have first approved the amount of such fee. The Chairperson may delegate the authority to approve the amount of such fee to the Department of Small Business Services or the Economic Development Corporation. The Commission may establish or authorize the establishment of an identification card and pass system as a prerequisite for entry of any persons into any market.

§ 5. Subdivision (d) of section 11-25 of chapter 2 of title 17 of the Rules of the City of New York is amended to read as follows:

(d) No person shall grease, lubricate or make repairs, except of a minor and emergency nature, to any vehicle within the market without prior notification to the Commission.

§ 6. Section 11-26 of chapter 2 of title 17 of the Rules of the City of New York is repealed as follows:

[§11-26 Administration.

(a) No lease for any property located within any market and described in any lease with the City shall be assigned or transferred without notifying the Commission at least five (5) days prior to such assignment or transfer.

(b) All market premises described in any lease with the City and all equipment used on such market premises shall be kept and maintained in good repair and condition in accordance with the terms of any applicable license or registration issued by the Commission and the terms of any lease with the City (including any sublease thereunder), and otherwise in a manner consistent with the orderly functioning of the market.

(c) All market premises described in any lease with the City shall be surrendered in good order and condition at the expiration or sooner termination of such lease. The Commission shall be notified of any surrender of such premises no later than five (5) days after such surrender.]

§ 7. Section 12-02 of chapter 2 of title 17 of the Rules of the City of New York is amended to read as follows:

[Market hours. "Market hours" shall mean the hours of operation of the market area as designated by the market manager. Such hours shall be posted in appropriate locations throughout the market area.]

§ 8. Subdivision (d) of section 12-03 of chapter 2 of title 17 of the Rules of the City of New York is amended to read as follows:

(d) Photo identification fee. The fee for a Class B photo identification card issued by the market manager shall be one hundred dollars ($100), and the fee for the replacement of a Class B photo identification card that has been lost or stolen shall be [one hundred] <u>twenty</u> dollars ($[100] <u>20</u>). The fee for Class A photo identification card issued by the market manager shall be one hundred and fifty dollars ($150), and the fee for the replacement of a Class A photo identification card that has been lost or stolen shall be [one hundred] <u>twenty</u> dollars ($[100] <u>20</u>). <u>The Chairperson may waive the fee for a permanent photo identification card if the applicant has applied for and paid the fee for a photo identification within the last six (6) months</u>.

§ 9. Subdivision (b)(8)(B)(III) of section 12-08 of chapter 2 of title 17 of the Rules of the City of New York is amended to read as follows:

(b)(8)(B) [(III) Employer's liability insurance with limits of one million dollars ($1,000,000) per accident.]

§ 10. Subdivision (c)(3) of section 12-11 of chapter 2 of title 17 of the Rules of the City of New York is amended to read as follows:

(c)(3) Except as otherwise authorized in writing by the market manager, an unloading business shall provide for the weekly billing of wholesalers for seafood delivered, shall retain copies of all such bills and of all other records produced in the normal course of business for thirty-six (36) months and shall make all such records available for immediate inspection and/or copying upon request by the market manager or a designee of the market manager. Electronic copies of such books and records shall be acceptable. Each bill shall specify for each delivery the shipper, the date and time of delivery to the wholesaler, the quantity and type of seafood delivered and amount charged for the delivery.

§11. Subdivisions (c)(1) and (e)(3) of section 12-15 of chapter 2 of title 17 of the Rules of the City of New York are amended to read as follows:

(c) Record keeping. (1) Wholesalers shall retain copies of all bills from and records of payments to unloaders, suppliers and shippers of seafood and payment from retailers. Such bills and records shall accurately reflect the amount of seafood involved in each transaction and shall, along with all other records produced in the normal course of business, be retained for a minimum of thirty-six (36) months, and shall be made available for immediate inspection and/or copying upon request by the market manager or a designee of the market manager or an employee of the Commission. Electronic copies of such books and records shall be acceptable.

(e) [(3) Employer's liability insurance with limits of one million dollars ($1,000,000) per accident.]

§ 12. Subdivision (f)(3) of section 12-16 of chapter 2 of title 17 of the Rules of the City of New York is amended to read as follows:

(f) [(3) Employer's liability insurance with limits of one million dollars ($1,000,000) per accident.]

§ 13. Subdivisions (a) and (b) of section 12-29 of chapter 2 of title 17 of the Rules of the City of New York are amended to read as follows:

[(a) Hours of operation of any market may be regulated by the Commissioner.]

([b] a) Entry into any market may be regulated by the Commissioner. No fee shall be charged for entry into a market or for parking therein, nor shall any existing fee be increased, unless the Commissioner shall have first approved the amount of such fee. The Chairperson may delegate the authority to approve the amount of such fee to the Department of Small Business Services or the Economic Development Corporation. The Commissioner may establish or authorize the establishment of an identification card and pass system as a prerequisite for entry of any persons into any market.

§ 14. Subdivision (d) of section 12-30 of chapter 2 of title 17 of the Rules of the City of New York are amended to read as follows:

(d) No person shall grease, lubricate or make repairs, except of a minor and emergency nature, to any vehicle within the market without prior notification to the Commission.

§ 15. Section 12-31 of chapter 2 of title 17 of the Rules of the City of New York is repealed as follows:

[§12-31 Administration.

(a) No lease for any property located within any market and described in any lease with the City shall be assigned or transferred without notifying the Commission at least five (5) days prior to such assignment or transfer.

(b) All market premises described in any lease with the City and all equipment used on such market premises shall be kept and maintained in good repair and condition in accordance with the terms of any applicable license or registration issued by the Commission and the terms of any lease with the City (including any sublease thereunder), and otherwise in a manner consistent with the orderly functioning of the market.

(c) All market premises described in any lease with the City shall be surrendered in good order and condition at the expiration or sooner termination of such lease. The Commission shall be notified of any surrender of such premises no later than five (5) days after such surrender.]

§ 16. Subdivision (d) of section 14-08 of chapter 2 of title 17 of the Rules of the City of New York is amended to read as follows:

(d) The fee for the replacement of any photo identification card that has been lost or stolen shall be [one hundred] twenty dollars ($[100] 20). The Chairperson may waive the fee for a permanent photo identification card if the applicant has applied for and paid the fee for a photo identification within the last six (6) months.

§ 17. Subdivisions (c) and (e)(3) of section 14-09 of chapter 2 of title 17 of the Rules of the City of New York are amended to read as follows:

(c) Market businesses shall retain copies of all invoices and other documents reflecting deliveries or payments from or to suppliers and customers. Such books and records shall accurately reflect the amount of goods or services involved in each transaction, and shall, along with all other records produced or received in the normal course of business, be retained for a minimum of thirty-six (36) months, and shall be made available for immediate inspection and/or copying upon request by the market manager or a designee of the market manager. Electronic copies of such books and records shall be acceptable.

(e) [(3) Employers' Liability Insurance with limits of one million dollars ($1,000,000) per accident.]

Statement of Basis and Purpose of Proposed Rule

These proposed rule amendments are part of a process undertaken by the Business Integrity Commission (BIC) to revise existing public wholesale market rules. The first phase of this process consisted of moving the then-existing Department of Small Business Services rules relating to the public wholesale markets to Title 17 of the Rules of the City of New York, BIC's title, without significant substantive change. This phase was completed when the new rules became effective on September 26, 2010. The second phase of this process involves an on-going assessment of the rules to eliminate duplicative and superfluous rules. BIC will make a determination about which rules require substantive changes and/or additions. These proposed rules changes are part of that process and are designed to eliminate and/or amend a number of duplicative and superfluous rules.

Specifically, BIC proposes to reduce the cost of a replacement photo identification. The proposed rule changes relating to electronic records and employer's liability insurance eliminate out-dated requirements. The remainder of the proposed amendments remove rules which are duplicative to other rules in Title 17.