

NEW YORK CITY BUSINESS INTEGRITY COMMISSION

NOTICE OF ADOPTION OF FINAL RULE ON AMENDMENT OF MAXIMUM RATES ALLOWED FOR HANDLING OF TRADE WASTE

NOTICE IS HEREBY GIVEN in accordance with the requirements of section 1043 of the New York City Charter and exercising the authority vested in the New York City Business Integrity Commission (“BIC” or the “Commission”) by sections 1043(a) and 2101(b) of the New York City Charter and section 16-504 (b) and (h) and 16-519 of the Administrative Code that the Commission adopts the following amendment of maximum rates allowed for handling of trade waste. BIC published a Notice of Public Hearing and Opportunity to Comment on the proposed rule in the *City Record* on March 23, 2022. On April 28, 2022, BIC held a public hearing on the proposed rule.

Statement of Basis and Purpose of 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 adoption of this 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 is increasing 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.