

Notice of Promulgation of Rules

PURSUANT TO section 1043 of the New York City Charter and exercising the authority vested in the Business Integrity Commission by sections 1043(a) and 2101 of the New York City Charter, and by sections 16-504 and 16-519 of the Administrative Code, the Business Integrity Commission amends rules relating to maximum rates for removal of waste by a licensee.

Statement of Basis and Purpose of Final Rule

Under section §2101 of the New York City Charter, the Business Integrity Commission (BIC) 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 criminality. BIC has the authority pursuant to §§ 16-504(b) and (i) 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.

In accordance with § 16-519 of the Administrative Code, these rule amendments are designed to ensure that licensed trade waste haulers subject to rate-setting by BIC are able to collect a fair and reasonable return to licensees for waste removal services provided to commercial establishments in New York City, while protecting those using these services from excessive or unreasonable charges. Rates were last adjusted in 2008. The rate change reflects an increase of approximately 15% over current rates and is based on an analysis of costs and revenues, and of inflation in the regulated portion of the industry.

Specifically, the amendments will require trade waste businesses to set rates at or below the following values:

- \$18.27 per cubic yard
- \$11.98 per 100 lbs

In addition, these rule amendments establish an administrative procedure to provide greater transparency, standardization and regularity in the rate-setting process, which does not currently exist and is of benefit to the regulated industry, their customers and BIC. BIC will now conduct a formal review every odd year to ensure that rates are in line with changes and trends in the market. As rates are set also to preserve and protect the interests of commercial establishments,

the proposed amendments will place the burden on haulers to demonstrate why the current rates should be changed.

“Shall” and “must” denote mandatory requirement and may be used interchangeably in the text below, unless otherwise specified or unless the context clearly indicates otherwise.

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 shall not demand, charge, exact, or accept rates for the collection, removal, disposal, or recycling of trade waste greater than the following maximum rates:

(1) [~~\$15.89~~] \$18.27 per cubic yard.

(2) [~~\$10.42~~] \$11.98 per 100 pounds.

(3) Exempt Waste. This subdivision shall not apply to the removal of construction and demolition debris, infectious medical waste, covered electronic equipment as defined in § 421 of chapter 16 of the Code, waste from grease interceptors as defined in § 19-119(a) of title 15 of the Rules of the City of New York and paper that is collected for the purpose of shredding or destruction by the licensee.

§ 2. Section 5-02 of subchapter E of Chapter 1 of Title 17 of the Rules of the City of New York is amended by adding new subdivisions (f) and (g) to read as follows:

(f) No later than October 31 of every odd-numbered year, the Commission will hold a public hearing on the maximum rates charged by a licensee for the collection, removal, disposal, or recycling of trade waste. At least 30 days prior to the public hearing, the Commission will publish the date, time and location of the public hearing in the City Record and on the Commission website. At the hearing, proponents of a change in the maximum rates may submit oral or written testimony. The proponent of the rate change shall bear the burden of demonstrating, on an industry-wide basis, that existing rates are inconsistent with the standards for maximum rates set forth in § 16-519 of the Administrative Code.

(g) In determining whether the maximum rates charged by licensees for the collection, removal, disposal, or recycling of trade waste will be adjusted, the Commission shall not be limited to evidence provided by proponents of a rate change pursuant subdivision (f) of this section and may consider any relevant factor affecting the trade waste industry or its customers, including but not limited to:

(1) The Producer Price Index (PPI), as published by the United States Department of Labor Bureau of Labor Statistics;

(2) Available data on the trade waste industry, including but not limited to:

(a) Gross operating revenues (overall revenues);

- (b) Regulated service operating revenues (revenue generated from waste removal services associated with rate-regulated portion of business);
 - (c) Net operating revenues;
 - (d) Operating expenses;
 - (e) Net regulated operating revenues;
 - (f) Net regulated operating expenses;
 - (g) Total regulated waste tonnage disposed;
- (3) Any other factor that may be relevant to assessing a fair and reasonable return to licensees and the protection of those using the services of such licensees from excessive or unreasonable charges.