

## **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 August 4, 2022. On September 7, 2022, BIC held a public hearing on the proposed rule.

#### **Statement of Basis and Purpose of Final 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, which followed a period without rate adjustment 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 is increasing the current maximum rates that trade waste haulers can charge by 7%. The increase results 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.