

NOTICE OF PUBLIC HEARING

Subject: Opportunity to comment on proposed amendment by the Department of Transportation of rules relating to snow and garbage removal.

Date / Time: February 5, 2013 / 11:00am

Location: DOT
55 Water Street
9th Floor, Room 931A
New York, NY 10041

Contact: Margaret Forgione
DOT Manhattan Borough Commissioner
59 Maiden Lane, 37th Floor
New York, NY 10038
212-839-6210

Proposed Rule Amendment

Pursuant to the authority vested in the Commissioner of the Department of Transportation by subdivision (a) of Section 2903 of the New York City Charter, and Title 19 of the New York City Administrative Code, and in accordance with the requirements of Section 1043 of the New York City Charter, notice is hereby given that the Department of Transportation proposes to amend subparagraphs (iii) and (iv) of paragraph (1) of subdivision (d) of Section 4-02 of Chapter 4 of Title 34 of the Official Compilation of the Rules of the City of New York, the Traffic Rules.

The amendment of sections 4-02(d)(1)(iii) and (iv) were not included in the Agency's regulatory agenda, as they were not anticipated at the time that the agenda was published.

Instructions

- Prior to the hearing, individuals may submit written comments about the proposed rules to NYC DOT Manhattan Borough Commissioner Margaret Forgione, 59 Maiden Lane, 37th Floor, New York, NY 10038, by mail or electronically to rules@dot.nyc.gov or to the NYCRULES web site at www.nyc.gov/nycrules by February 5, 2013.
- Individuals seeking to testify are requested to notify DOT Manhattan Borough Commissioner Margaret Forgione at the address stated above.
- Individuals who need a sign language interpreter or other reasonable accommodation for a disability at the hearing are asked to notify DOT Manhattan Borough Commissioner Margaret Forgione at the foregoing address by February 5, 2013.
- Individuals interested in receiving comments may request them by writing to: New York City Department of Transportation, Record Access Office, 55 Water Street, 6th Floor, New York, NY 10041.

STATEMENT OF BASIS AND PURPOSE

The Commissioner of the New York City Department of Transportation (DOT) is authorized to promulgate rules regarding parking and traffic operations in the City pursuant to Section 2903(a) of the New York City Charter.

The proposed rule repeals subparagraph (iii)(A) of paragraph (1) and eliminates a redundancy such that operators of DOT and New York City Department of Sanitation snow plows, sand/salt spreaders and sweepers will now be subject to the general exemption set forth in subparagraph (iv) of that same subsection. Subparagraph (iv) exempts all operators working on behalf of the city, state or federal government from the provisions of the traffic rules set forth in Chapter 4 of Title 34 of the Rules of the City of New York while they are engaged in work on a roadway. This exemption is intended to allow these operators to effectively perform their work on the roadway.

Additionally, subparagraph (iii)(B) of paragraph (1) is being amended to include a specific exemption allowing refuse collection vehicles working on behalf of the City of New York to drive in a bicycle lane. They may only drive in the bicycle lane while collecting refuse and recyclable material.

Finally, subparagraph (iv) is being amended to clarify that the intent of the subparagraph is to apply the exemption from the traffic rules to workers and vehicles working on behalf of the City of New York, the State of New York or the federal government.

New text is underlined, and deleted material is in [brackets].

“Shall” and “must” denote mandatory requirements and may be used interchangeably in the rules of this office, unless otherwise specified or unless the context clearly indicates otherwise.

§1. It is proposed that subparagraphs (iii) and (iv) of paragraph (1) of subdivision (d) of Section 4-02 of Title 34 of the Rules of the City of New York be amended, as follows:

(iii) [Snow plows, sand spreaders, sweepers and] [r]Refuse [trucks] collection vehicles.

[(A) The operator of a New York City Department of Sanitation snow plow, sand spreader, or sweeper, and the operator of a Department of Transportation vehicle when performing the same function, while in the performance of his/her duty and acting under the orders of his/her superior may make such turns as are necessary and proceed in the direction required to complete his/her cleaning, snow removal, or sand spreading operations subject to § 1102 of the Vehicle and Traffic Law. The provisions of this subparagraph shall not apply while traveling to or from such work locations.

(B)] The operator of a [New York City Department of Sanitation] refuse [truck] collection vehicle working on behalf of the City of New York may:

(A) temporarily stand on the roadway side of a vehicle parked at the curb, provided that no curb space is available within fifteen feet, while [expeditiously] loading refuse, subject to § 1102 of the Vehicle and Traffic Law; and

(B) drive on or across a designated bicycle lane while loading refuse, subject to § 1102 of the Vehicle and Traffic Law.

(iv) Highway workers and vehicles. Unless specifically made applicable, the provisions of these rules shall not apply to persons, teams, motor vehicles, and other equipment working on behalf of the City of New York, the State of New York or the federal government while actually engaged in work [authorized by the City of New York, the State of New York or the federal

government] while on a highway. Section 1103 of the Vehicle and Traffic Law is applicable to any person or team or any operator of a motor vehicle or other equipment while actually engaged in work on a highway. As section 1103 of the Vehicle and Traffic Law provides, such persons are not relieved from the duty to proceed at all times during all phases of such work with due regard for the safety of all persons nor shall the foregoing provisions of this subparagraph protect such persons or teams or such operators of motor vehicles or other equipment from the consequences of their reckless disregard for the safety of others.

**NEW YORK CITY LAW DEPARTMENT
100 CHURCH STREET
NEW YORK, NY 10007
212-788-1087**

**CERTIFICATION PURSUANT TO
CHARTER §1043(d)**

RULE TITLE: Amendment of Snow Removal Rules

REFERENCE NUMBER: 2011 RG 119

RULEMAKING AGENCY: Department of Transportation

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: December 21, 2012

**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 Snow Removal Rules

REFERENCE NUMBER: DOT-8

RULEMAKING AGENCY: DOT

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 Navarro
Mayor's Office of Operations

December 21, 2012
Date