

New York City Department of Consumer Affairs

Notice of Public Hearing and Opportunity to Comment on Proposed Rules

What are we proposing? The Department of Consumer Affairs (DCA) is proposing to amend 6 RCNY § 4-63 to conform it to Section 20-672 of the New York City Administrative Code (the “Code”), as recently amended. As a result of Local Laws No. 79 and No. 80 of 2015 (“Local Laws 79 and 80”), Section 20-672 of the Code now requires gasoline stations to post only the price for the lowest grade of gasoline offered for sale, and if the cash price is less than the price for other forms of payment, the price for each type of accepted payment. The proposed rule also deletes or amends various provisions relating to gasoline station sign requirements that were previously added to 6 RCNY § 4-63 but not enforced by DCA.

When and where is the Hearing? DCA will hold a public hearing on the proposed rules. The public hearing will take place at 10 AM on Friday, March 31, 2017. The hearing will be in the Department of Consumer Affairs hearing room at 42 Broadway, 5th Floor, New York, NY 10004.

This location has the following accessibility option(s) available: Wheelchair accessibility.

How do I comment on the proposed rules? Anyone can comment on the proposed rules by:

- **Website.** You can submit comments to the Department of Consumer Affairs through the New York City rules Web site at <http://rules.cityofnewyork.us>.
- **Email.** You can email comments to Rulecomments@dca.nyc.gov.
- **Mail.** You can mail comments to Casey Adams, New York City Department of Consumer Affairs, 42 Broadway, New York, NY 10004.
- **Fax.** You can fax written comments to the Department of Consumer Affairs at (646) 500-5962.
- **By Speaking at the Hearing.** Anyone who wants to comment on the proposed rules at the public hearing must sign up to speak. You can sign up before the hearing by calling (212) 436-0095. You can also sign up in the hearing room before the hearing begins on March 31, 2017. You can speak for up to three minutes.

Is there a deadline to submit comments? Yes. You must submit any comments to the proposed rules on or before 5 PM on March 31, 2017.

Do you need assistance to participate in the Hearing? You must tell the External Affairs Division if you need a reasonable accommodation of a disability at the Hearing. You must tell us if you need a sign language interpreter. You can tell us by mail at the address given above. You may also tell us by telephone at (212) 436-0095. You must tell us by 5 PM on Wednesday, March 29, 2017.

Can I review the comments made on the proposed rules? You can review the comments made online on the proposed rules by going to the Web site at <http://rules.cityofnewyork.us/>. A few days after the

hearing, a transcript of the hearing and copies of the written comments will be available to the public at the Office of Legal Affairs.

What authorizes the Department of Consumer Affairs to make this rule? Section 2203(f) of the New York City Charter and Sections 20-672 and 20-675 of Subchapter 5 of Chapter 4 of Title 20 of the New York City Administrative Code authorizes the Commissioner of Consumer Affairs to make this proposed amendment to the rules. This proposed amendment was not included in the regulatory agenda of the Department of Consumer Affairs for this fiscal year because it was not contemplated when the Department published the agenda.

Where can I find the rules of the Department of Consumer Affairs? The Department of Consumer Affairs' rules are in Title 6 of the Rules of the City of New York.

What rules govern the rulemaking process? The Department of Consumer Affairs must meet the requirements of Section 1043 of the City Charter when creating or changing rules. This notice is made according to the requirements of Section 1043(b) of the City Charter.

Statement of Basis and Purpose of Proposed Rule

The City Council enacted Local Laws 79 and 80 amending Section 20-672 of the New York City Administrative Code to require, among other things, that all gasoline stations that post road signs include on their signs the price of the lowest grade of gasoline offered for sale, and if the cash price is less than the price charged for other forms of payment, the price for each type of accepted payment. This proposed rule amends 6 RCNY § 4-63(b) to implement the changes made to Section 20-672 of the Administrative Code.

The proposed rule also removes certain requirements that were added to 6 RCNY 4-63(b) in 2013, but have not been enforced by the Department of Consumer Affairs because of difficulties faced by the industry in complying with them. For example, the proposed rule eliminates the requirement that every sign have type size of at least 430 points and the requirement that gasoline stations must have a sign that can be seen from the road and is of a certain size. Removing these requirements will provide regulatory relief and make it easier to own and operate a gasoline station.

The proposed rule was not included in the Department of Consumer Affairs regulatory agenda because the rule was not anticipated at the time the regulatory agenda was created.

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

New material is underlined.

[Material inside brackets indicates deleted material.]

Proposed Rule

Subdivision (b) of section 4-63 of subchapter E of chapter 4 of title 6 of the Rules of the City of New York is amended to read as follows:

§4-63 Signs.

(b) [Required curb sign and other] Petroleum product signs related to price not located on dispensing equipment.

[(1) Every location at which gasoline or diesel motor fuel is sold or offered for sale must maintain a sign, poster or placard clearly visible to drivers of approaching motor vehicles with dimensions not less than 60 inches in width by 36 inches in height.]

[(2)1] [e]Every sign, poster or placard used to display, advertise, or refer to the price [per gallon or used to advertise] of any petroleum product[s], including gasoline and diesel motor fuel, other than that used on a dispensing device, must clearly display:

(i) On the upper portion of the sign, the name, trade name, brand, mark or symbol, and grade or quality classification, if any, and method of processing, of [such] any displayed,

advertised, or referred to products, or, if such products are sold without identification, such sign, placard or other display [shall] must refer clearly to such products as unbranded;

(ii) the [total selling] price, including all applicable taxes, per unit of measure at which such product is customarily sold at retail, which for gasoline or diesel motor fuel [shall] must be by gallon; [and]

(iii) [in close proximity to] near the [total selling] price, the legend “Includes All Taxes;”

(iv) if gasoline is offered for sale, the price of the lowest grade of gasoline offered for sale; and

([iv]v) [when] if the [total selling] price charged for a petroleum product displayed, advertised or referred to on the sign, poster or placard varies based on the form of payment, each price charged for that product along with language identifying the product and form or forms of payment associated with each price.

[of purchases made with cash is less than the total selling price for purchases made with credit card, debit card or other form of non-cash payment, the following words referring to method of payment listed in the following order from left to right: “Cash”, “Debit,” “Credit,” “Other.” Each grade of the petroleum product must be listed on a separate line. Following the grade name, from left to right, each line must list the applicable price per method of payment beneath the corresponding method of payment listed, “Cash,” “Debit,” “Credit” or “Other.”

For Example:

	Cash		Debit		Credit		Other
Grade 1	\$...	\$...	\$...	\$...	\$...		
Grade 2	\$...	\$...	\$...	\$...	\$...		
Grade 3	\$...	\$...	\$...	\$...	\$...		

([3]2) The total number of signs, posters, and placards used to display, advertise [“savings,” “discounts,”] or [“selling prices of gasoline or diesel motor fuel] refer to the price of petroleum products shall not exceed the number of vehicular traffic streets upon which the service station faces. For the purpose of this section, signs used on dispensing devices shall not be included in the number of signs permitted to be displayed and a sandwich or “A” sign, placard, or poster shall be considered one sign.

([4]3) Any sign, poster or placard shall be located within the building line of the service station.

([5]4) Size requirements for [Letters] letters and numbers on [such] signs [shall conform to the following]:

(i) All numbers referring to price [shall] must be the same height, width and thickness except [that where] when a tenth of a cent number is used, that number must be at least one half the size of the number to which it relates.

(ii) [Type size cannot be less than 430 points.] All letters must be of a height, width, and thickness that is no greater than the size of the largest number on the sign, poster, or placard referring to price.

(iii) Identification of the petroleum product [gasoline or diesel motor fuel] offered for sale and any non-numerical language distinguishing the prices charged for different forms of payment [total cash selling price from the total credit card, debit card or other form of non-cash payment selling price shall] must be in letters and numbers not less than one-half of the height, width and thickness of the numbers referring to price.

(iv) All letters and numbers shall be black on a white background or displayed on an illuminated light-emitting diode sign.

**NEW YORK CITY LAW DEPARTMENT
DIVISION OF LEGAL COUNSEL
100 CHURCH STREET
NEW YORK, NY 10007
212-356-4028**

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

RULE TITLE: Information Required to be Provided on Petroleum Product Signs

REFERENCE NUMBER: 2016 RG 014

RULEMAKING AGENCY: Department of Consumer Affairs

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: February 21, 2017

**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: Information Required to be Provided on Petroleum Product Signs

REFERENCE NUMBER: DCA-48

RULEMAKING AGENCY: Department of Consumer Affairs

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 the information required in the signage provides critical information to consumers that is necessary at the time of purchase and therefore makes a cure period impracticable under the circumstances.

/s/ Francisco X. Navarro
Mayor's Office of Operations

February 21, 2017
Date