

New York City Department of Transportation

Notice of Public Hearing and Opportunity to Comment on Proposed Rule

What are we proposing? The New York City Department of Transportation (“DOT” or “the Department”) is proposing to reauthorize and amend its permitting system for overdimensional and/or overweight combinations of vehicles utilized by haulers of bulk milk. The current rule will expire on July 17, 2015. The amendment, among other provisions, will extend the term of the rule through July 17, 2021.

When and where is the Hearing? DOT will hold a public hearing on the proposed rule. The Hearing will take place at 1:00 pm on **June 23, 2015**. The Hearing will be at: DOT Bid Room, 55 Water Street, Ground Floor, New York, New York 10041

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

- **Website.** You can submit comments to DOT through the NYC rules website at <http://rules.cityofnewyork.us>.
- **Email.** You can email written comments to rules@dot.nyc.gov.
- **Mail.** You can mail written comments to David Fenichel, New York City Department of Transportation, Division of Legal Affairs, 55 Water Street, 9th Floor, New York, NY 10041.
- **Fax.** You can fax written comments to David Fenichel, (212) 839 9685.
- **By Speaking at the Hearing.** Anyone who wants to comment on the proposed rule at the Hearing must sign up to speak. You can sign up before the Hearing by calling (212) 839 6519. You can also sign up in the Hearing room before the Hearing begins on June 23, 2015. You can speak for up to three minutes.

Is there a deadline to submit written comments? Written comments by e-mail or regular mail must be received by June 23, 2015 to be considered.

Do you need assistance to participate in the Hearing? You must tell the Office of Legal Affairs 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) 839 6519. You must tell us by June 16, 2015.

Can I review the comments made on the proposed rules? You can review the comments submitted online by visiting: <http://rules.cityofnewyork.us/>. A few days after the Hearing, a transcript of the Hearing and copies of the written comments will be available at the DOT Freedom of Information Law (FOIL) Office, 55 Water Street, 4th Floor, New York, NY 10041.

What authorizes DOT to make this rule? Section 2903 of the New York City Charter (“Charter”) authorizes DOT to make this proposed rule. This proposed rule was included in DOT’s regulatory agenda for this fiscal year.

Where can I find DOT’s rules? DOT’s rules are located in Title 34 of the Rules of the City of New York.

What rules govern the rulemaking process? DOT must meet the requirements of Charter § 1043 when creating or changing rules. This notice is made according to the requirements of Charter § 1043.

Statement of Basis and Purpose of Proposed Rule

The Commissioner of the New York City Department of Transportation (“DOT” or “the Department”) is authorized pursuant to Section 2903(a)(1) of the New York City Charter (“Charter”) to promulgate rules and regulations for the conduct of vehicular and pedestrian traffic in the streets, squares, avenues, highways and parkways of the City of New York (“the City”). This proposed rule amends subdivision (i) of section 4-15 of Chapter 4 of Title 34 of the Rules of the City of New York (“RCNY”) in order to reauthorize and amend the permitting system for overdimensional and/or overweight combinations of vehicles utilized by haulers of bulk milk.

On a daily basis, over one hundred vehicles hauling bulk milk enter the City to transport bulk milk to processing facilities and exit the City empty or carrying bulk cream. The vast majority of these vehicles currently exceed the length and weight limitations set forth in Section 4-15 for vehicles operating or moving on highways or bridges in the City. These overdimensional and overweight trucks damage City streets and highways.

In 2009, the City adopted subdivision (i) of section 4-15 of Chapter 4 of Title 34 of the RCNY to give the haulers of bulk milk six years to convert their fleets to smaller trucks that do not require the issuance of overweight/overdimensional permits. To date, this conversion has not been accomplished. The existing rule is set to expire on July 17, 2015.

In order to encourage milk haulers to convert their fleets to trucks that comply with the City’s length and weight requirements and facilitate the continued transport of bulk milk to the City, the Commissioner proposes a rule that extends the permitted transport of bulk milk in overweight/overdimensional trucks for an additional six-year period. This proposed rule also encourages a reduction in the number of overweight/overdimensional trucks used by the haulers by increasing the permit fees should the targeted permit reduction schedule not be attained.

Section 385(15) (d) of the Vehicle and Traffic Law recognizes that milk haulers may be offered permits not available to other truck haulers. The proposed rule authorizes the issuance of quarterly overdimensional and overweight permits over a period of six years in addition to the six-year period established in the original rule and imposes a schedule of fees that increase if the applicant does not decrease the number of permits required.

New material is underlined.

[Deleted material is in brackets.]

“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.

Proposed Rule

Section 1. Subparagraph (3) of subdivision (i) of Section 4-15 of Chapter 4 of Title 34 of the Rules of the City of New York is amended to read as follows:

(3) *Permit Fees.* (i) The following fees shall be charged and collected by the Commissioner for obtaining a permit or modified permit, issued on a quarterly basis, pursuant to this subdivision. Fees shall be paid by money order, certified check, bank check, check drawn on a New York State bank, or a negotiable instrument acceptable to and made payable to the “New York City Department of Transportation.” Fees shall accompany each permit application. The fee for a permit issued pursuant to this subdivision shall be \$650 per combination of vehicles, except as otherwise provided in this subparagraph (3).

[(ii) At the beginning of the third year following the effective date of this Rule:

(a) If the total number of permits pursuant to this subdivision issued to the applicant in the second year following the effective date of this Rule is at least 25% less than the total number of permits issued to the applicant in the first year following the effective date of this Rule (“the base-line year amount”), then the fee for a permit shall be \$650 per combination of vehicles.

(b) Otherwise, the fee for a permit shall be \$715 per combination of vehicles.

(iii) At the beginning of the fourth year following the effective date of this Rule:

(a) If the total number of permits pursuant to this subdivision issued to the applicant in the third year following the effective date of this Rule is at least 50% less than the base-line year amount, then the fee for a permit shall be \$650 per combination of vehicles.

(b) Otherwise, the fee for a permit shall be \$780 per combination of vehicles.

(iv) At the beginning of the fifth year following the effective date of this Rule:

(a) If the total number of permits pursuant to this subdivision issued to the applicant in the fourth year following the effective date of this Rule is at least 75% less than the base-line year amount, then the fee for a permit shall be \$650 per combination of vehicles.

(b) Otherwise, the fee for a permit shall be \$812.50 per combination of vehicles.

(v) At the beginning of the sixth year following the effective date of this Rule:

(a) If the total number of permits pursuant to this subdivision issued to the applicant in the fifth year following the effective date of this Rule is 100% less than the base-line year amount, the fee for a permit shall be \$650 per combination of vehicles.

(b) Otherwise, the fee for a permit shall be \$845 per combination of vehicles.]

(ii) For all permits issued from July 18, 2015 through July 17, 2016:

(a) If the total number of permits pursuant to this subdivision issued to the applicant from July 18, 2014 through July 17, 2015 was at least 25 percent less than the total number of permits issued to the applicant from July 17, 2009 through July 16, 2010 (the “baseline year amount”), the fee for a permit shall be \$650 per combination of vehicles.

(b) Otherwise, the fee for a permit shall be \$877.50 per combination of vehicles.

(iii) For all permits issued from July 18, 2016 through July 17, 2017:

(a) If the total number of permits pursuant to this subdivision issued to the applicant from July 18, 2015 through July 17, 2016 was at least 50 percent less than the baseline year amount, the fee for a permit shall be \$650 per combination of vehicles.

(b) Otherwise, the fee for a permit shall be \$910 per combination of vehicles.

(iv) For all permits issued from July 18, 2017 through July 17, 2018

(a) If the total number of permits pursuant to this subdivision issued to the applicant from July 18, 2016 through July 17, 2017 was at least 50 percent less than the baseline year amount, the fee for a permit shall be \$650 per combination of vehicles.

(b) Otherwise, the fee for a permit shall be \$942.50 per combination of vehicles.

(v) For all permits issued from July 18, 2018 through July 17, 2019:

(a) If the total number of permits pursuant to this subdivision issued to the applicant from July 18, 2017 through July 17, 2018 was at least 75 percent less than the baseline year amount, the fee for a permit shall be \$650 per combination of vehicles.

(b) Otherwise, the fee for a permit shall be \$975 per combination of vehicles.

(vi) For all permits issued from July 18, 2019 through July 17, 2020:

(a) If the total number of permits pursuant to this subdivision issued to the applicant from July 18, 2018 through July 17, 2009 was 100 percent less than the baseline year amount, the fee for a permit shall be \$650 per combination of vehicles.

(b) Otherwise, the fee for a permit shall be \$975 per combination of vehicles.

(vii) For all permits issued from July 18, 2020 through July 17, 2021:

(a) If the total number of permits pursuant to this subdivision issued to the applicant from July 18, 2019 through July 17, 2020 was 100 percent less than the baseline year amount, the fee for a permit shall be \$650 per combination of vehicles.

(b) Otherwise, the fee for a permit shall be \$1,007.50 per combination of vehicles.

§ 2. Subparagraph (4) of subdivision (i) of Section 4-15 of Chapter 4 of Title 34 of the Rules of the City of New York is amended to read as follows:

(4) *Expiration of Permit Program.* [After the sixth year following the effective date of this Rule, no] No permit shall be issued on or after July 18, 2021.

**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: Extension of Rule Governing the Transportation of Bulk Milk

REFERENCE NUMBER: DOT-27

RULEMAKING AGENCY: Department of Transportation

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 rule violations arise from completed events, the consequences of which are immediate, so there is not a need for a cure.

/s/ [Stephen Narloch]
Mayor's Office of Operations

[5/11/2015]
Date

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: Extension of Rule Governing the Transportation of Bulk Milk

REFERENCE NUMBER: 2015 RG 057

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: May 11, 2015