

New York City Department of Consumer Affairs

Notice of Public Hearing and Opportunity to Comment on Proposed Rules

What are we proposing? The New York City Department of Consumer Affairs (DCA) is proposing to amend 6 RCNY § 3-91 to require that all fuel oil vehicle delivery tickets contain the Vehicle Identification Number, the license plate number, and the seller's identification number for the vehicle making each delivery. This information will allow the consumer to more effectively track each purchase and, if necessary, file a complaint about the delivery with the company selling the fuel oil and DCA.

When and where is the Hearing? DCA will hold a public hearing on the proposed rules. The public hearing will take place at 10:00 AM on July 21, 2016. The hearing will be in the DCA hearing room at 42 Broadway 5th Floor, New York, NY 10004.

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

- **Website.** You can submit comments to DCA 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, Deputy Director of City Legislative Affairs, New York City Department of Consumer Affairs, 42 Broadway 8th Floor, New York, NY 10004.
- **Fax.** You can fax written comments to DCA, (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 July 21, 2016. 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 July 21, 2016.

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 July 18, 2016.

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 through the External Affairs division.

What authorizes the Department of Consumer Affairs to make this rule? Section 180(3) of the Agriculture and Markets Law, Section 2203(f) of the City Charter and Section 20-574 of Chapter 9 of Title 20 of the New York City Administrative Code authorize the Commissioner of the Department of

Consumer Affairs to make this proposed amendment to the rules. This proposed amendment was not included in regulatory agenda of DCA for this Fiscal Year because it was not contemplated when DCA published the agenda.

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

What rules govern the rulemaking process? DCA 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 Rules

Section 3-91 of Title 6 of the Rules of the City of New York currently requires a company selling fuel oil to provide a purchaser a delivery ticket with each delivery of fuel oil. Delivery tickets must be consecutively numbered and contain the date of delivery, the name and address of the seller and purchaser, and the grade, price per gallon, quantity, and, except in certain circumstances, the total price of oil delivered.

The Manhattan District Attorney's Office, together with other New York City agencies, including the Department of Consumer Affairs (DCA), recently uncovered various schemes by fuel oil companies and related individuals to defraud customers by shorting deliveries to residential, commercial, and municipal properties throughout New York City. To protect consumers from such fraudulent business practices, and to promote accountability of the fuel oil industry, the proposed rule would require fuel oil companies to include on each delivery ticket provided to a consumer the Vehicle Identification Number (VIN), the license plate number, and the seller's identification number for the vehicle that made the delivery. This information will facilitate the lodging of complaints by consumers with DCA and the agency's response to such complaints because DCA maintains records of fuel oil delivery vehicles by VIN, license plate number, and the seller's identification number for the vehicle.

"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 3-91 of subchapter E of chapter 3 of title 6 of the Rules of the City of New York is amended to read as follows:

§3-91 Delivery Tickets.

All deliveries of fuel oil to purchasers, in vehicle tanks used as measures, shall be recorded by the seller upon forms known as delivery tickets. At the time of delivery, one copy of the delivery ticket shall be left at the point of the delivery. Delivery tickets shall be consecutively numbered and contain the following: date of delivery, name and address of the seller and purchaser, Vehicle Identification Number, license plate number, and the seller's identification number for the delivery vehicle, and grade, price per gallon, quantity and total price of oil delivered; provided, however, that a delivery ticket need not set forth the total price if within five days after delivery the seller provides the purchaser with a written statement setting forth all the foregoing information including the total price.

**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 by Fuel Oil Dealers

REFERENCE NUMBER: DCA-49

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 it does not establish a violation, modification of a violation, or modification of the penalties associated with a violation.

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

June 8, 2016
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: Information Required to be Provided by Fuel Oil Dealers

REFERENCE NUMBER: 2016 RG 013

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: June 8, 2016