

New York City Department of Transportation

Notice of Public Hearing and Opportunity to Comment on Proposed Rules

What are we proposing? The purpose of the proposed rule is to clarify the language in section 2-07 and to revise section 2-11 of the Highway Rules to clarify existing requirements and to establish new requirements relating to street openings and excavations.

When and where is the Hearing? The New York City Department of Transportation (DOT) will hold a public hearing on the proposed rule. The public hearing will take place at 1pm on December 4, 2018. The hearing will be in the DOT Bid Room at 55 Water Street, Concourse Level, New York, NY 10041. The entrance to the Bid Room is located on the southeast corner of 55 Water Street facing the NYC Vietnam Veterans Memorial Plaza.

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

- **Website.** You can submit comments to DOT through the NYC rules website at <http://rules.cityofnewyork.us>.
- **Email.** You can email comments to rules@dot.nyc.gov.
- **Mail.** You can mail comments to Joseph Yacca, Administrative Superintendent of Highway Operations, 55 Water Street, 7th Floor, NY, NY 10041.
- **Fax.** You can fax comments to Joseph Yacca, Administrative Superintendent of Highway Operations, 212 -839-8867.
- **By Speaking at the Hearing.** Anyone who wants to comment on the proposed rule at the public hearing must sign up to speak. You can sign up before the hearing by calling 212-839-6500. You can also sign up in the hearing room before the hearing begins on December 4, 2018. You can speak for up to three minutes.

Is there a deadline to submit written comments? The deadline for written comments is 1pm on December 4, 2018.

What if I need assistance to participate in the Hearing? You must tell the Office of the General Counsel 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 212-839-6500 or TTY 212-504-4115. Advance notice is requested to allow sufficient time to arrange the accommodation. Please tell us by November 27, 2018.

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

Can I review the comments made on the proposed rules? You can review the comments made online on the proposed rule by going to the website at <http://rules.cityofnewyork.us/>. A few days after the hearing, copies of all comments submitted online, copies of all written comments, and a summary of oral comments concerning the proposed rule will be available to the public at the DOT Office of the General Counsel, 55 Water Street, 9th Floor, New York, NY 10041.

What authorizes DOT to make this rule? Sections 1043(a) and 2903(b) of the New York City Charter (City Charter) authorizes DOT to make this proposed rule. This proposed rule was included in DOT's regulatory agenda for this Fiscal Year under several proposals.

Where can I find the Department of Transportation rules? DOT's rules are in Title 34 of the Rules of the City of New York.

What laws govern the rulemaking process? DOT 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 Commissioner of the New York City Department of Transportation (DOT) is authorized to promulgate rules regarding highway operations in the City pursuant to Section 2903(b) of the City Charter. The rules that DOT is seeking to amend are contained within Chapter 2 of Title 34 of the Rules of the City of New York, relating to its "Highway Rules."

The purpose of the proposed rule is to clarify the language in section 2-07 and to revise section 2-11 of the Highway Rules to clarify existing requirements and to establish new requirements relating to street openings and excavations. More specifically, the following changes are being proposed:

- Section 2-11(e)(10)(v) is amended by clarifying the height at which signs should be placed by permittees.
- Section 2-11(e)(10)(vi) is amended by clarifying requirements for skid-resistant plates.
- Section 2-11(e)(10)(vii) is amended by clarifying the requirement that all signs must be removed when work is completed.
- Section 2-11(e)(12)(iv) is amended by changing the requirement for roadway openings.
- Section 2-11(e)(12)(xiii) is amended by adding the requirement that the final completed wearing course surface must be without any defects.
- Section 2-11(f)(4)(ii) is amended by adding base installation as another phase of the work that may be inspected by DOT.

The proposed rule also includes plain language and other minor changes to section 2-07 identified during

the retrospective rules review conducted by the Mayor’s Office of Operations with the City’s rulemaking agencies, the Law Department, and the Office of Management and Budget.

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.

Section 1. Paragraph 3 of subdivision (a) of Section 2-07 of Chapter 2 of Title 34 of the Rules of the City of New York is amended to read as follows:

(3) Except when emergency work is being performed, if excessive traffic congestion occurs on a roadway where underground street access covers, transformer vault covers or gratings have been opened, any police officer or other person authorized to enforce these rules may direct that the cover or grating openings be closed and [the encumbered traffic lane opened until the congestion abates] the affected traffic lane opened until the traffic congestion eases. It shall be a violation of these rules to disobey such a direction.

§2. Paragraphs 1 and 4 of subdivision (b) of Section 2-07 of Chapter 2 of Title 34 of the Rules of the City of New York are amended to read as follows:

(1) The owners of covers or gratings on a street are responsible for monitoring the condition of the covers, [and] gratings and concrete pads installed around such covers or gratings and the area extending twelve inches outward from the [perimeter of the hardware] edge of the cover, grating, or concrete pad, if such pad is installed.

(4) Owners of underground facilities shall only use covers with their name or registered markings clearly displayed for identification purposes. [Owners shall have one year from the date of the adoption of this paragraph to be in full compliance with this paragraph.]

§3. Items 29 and 39 of clause (A) of subparagraph (i) of paragraph 5 of subdivision (c) of Section 2-07 of Chapter 2 of Title 34 of the Rules of the City of New York are amended to read as follows:

- 29. 50th Street – Beekman [Street] Place to Joe DiMaggio Highway
- 39. 59th Street – [Miller] West Side Highway to Columbus Avenue

§4. Items 120 through 128 of clause (B) of subparagraph (iv) of paragraph 5 of subdivision (c) of Section 2-07 of Chapter 2 of Title 34 of the Rules of the City of New York are amended to read as follows:

- [120. Union Turnpike – City Limits to Myrtle Avenue]
- [121.] 120. Union Turnpike – Myrtle Avenue to Langdale Street
- [122.] 121. Utopia Parkway – 14th Avenue to 82nd Road

- [123.] 122. Van Dam Street – Greenpoint Avenue to Skillman Avenue
- [124.] 123. Vernon Boulevard – 21st Street to 51st Avenue
- [125.] 124. West Alley Road – 230th Street to Douglaston Parkway
- [126.] 125. Willets Point Boulevard – Union Street to Utopia Parkway
- [127.] 126. Woodhaven Boulevard – Queens Boulevard to Liberty Avenue
- [128.] 127. Yellowstone Boulevard – Woodhaven Boulevard to Queens Boulevard

§5. Items 35 through 48 of clause (B) of subparagraph (v) of paragraph 5 of subdivision (c) of Section 2-07 of Chapter 2 of Title 34 of the Rules of the City of New York are amended to read as follows:

- 35. Richmond Avenue – [Arthur Kill Road to] Forest Avenue
- [36. Richmond Avenue –] to Hylan Boulevard [to Arthur Kill Road]
- [37.] 36. Richmond Hill Road – Richmond Road to Richmond Avenue
- [38.] 37. Richmond Terrace – South Avenue to Morningstar Road
- [39.] 38. Rockland Avenue – Richmond Road to Richmond Avenue
- [40.] 39. Schmidts Lane – Manor Road to Slosson Avenue
- [41.] 40. Seguine Avenue – Hylan Boulevard to Amboy Road
- [42.] 41. Slosson Avenue – Westwood Avenue to Martling Avenue
- [43.] 42. South Avenue – Chelsea Road to Richmond Terrace
- [44.] 43. South Gannon Avenue – Victory Boulevard to Manor Road
- [45.] 44. West Fingerboard Road – Hylan Boulevard to Richmond Road
- [46.] 45. Western Avenue – Gulf Avenue to Richmond Terrace
- [47.] 46. Willowbrook Road – Victory Boulevard to Forest Avenue
- [48.] 47. Windsor Road – Little Clove Road to Slosson Avenue

§6. Subparagraph (v) of paragraph 10 of subdivision (e) of Section 2-11 of Chapter 2 of Title 34 of the Rules of the City of New York is amended to read as follows:

(v) All permittees who install plating and decking during the winter moratorium, as determined by the Department, shall post signs at the site indicating "Steel Plates Ahead" or "Raise Plow" and countersink said plates flush to the level of the roadway. All signs shall be posted at least five feet high but not higher than eight feet and shall comply with all applicable requirements pursuant to § 2-02(h) of these rules. These signs shall be placed on the sidewalk, adjacent to the curb, facing vehicle traffic five feet prior to the plates. On two-way streets, signs shall be placed on both sides of the street five feet prior to the plates.

§7. Subparagraph (vi) of paragraph 10 of subdivision (e) of Section 2-11 of Chapter 2 of Title 34 of the Rules of the City of New York is amended to read as follows:

(vi) All plating and decking shall have a skid-resistant surface equal to or greater than the adjacent existing street or roadway surface. The whole surface area of all plating and decking must be skid-resistant.

§8. Subparagraph (vii) of paragraph 10 of subdivision (e) of Section 2-11 of Chapter 2 of Title 34 of the Rules of the City of New York is amended to read as follows:

(vii) All plating and decking, including the ramping material, and all construction signs and supports must be removed from the roadway and/or sidewalk after completion of the final restoration [or] and prior to the expiration of the permit.

§9. Subparagraph (iv) of paragraph 12 of subdivision (e) of Section 2-11 of Chapter 2 of Title 34 of the Rules of the City of New York is amended to read as follows:

(iv) When more than one roadway opening is made against a single permit and the openings are less than [three] ten feet apart [after] before the required cutbacks, the existing wearing course between such openings shall be restored integrally with the opening wearing course restoration, in accordance with the applicable Standard Detail Drawing # H-1042.

§10. Paragraph 12 of subdivision (e) of Section 2-11 of Chapter 2 of Title 34 of the Rules of the City of New York is amended by adding a new subparagraph (xiii) to read as follows:

(xiii) The final completed wearing course surface must be smooth and without any defects including, but not limited to, pitting, cracking, rutting and raveling throughout its guarantee period.

§11. Subparagraph (ii) of paragraph 4 of subdivision (f) of Section 2-11 of Chapter 2 of Title 34 of the Rules of the City of New York is amended to read as follows:

(ii) The Department may inspect any phase of the work, including but not limited to, initial excavation, backfill and compaction, base installation, performance of required cut backs, and final restoration.

**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: Amendment of Highway Rules

REFERENCE NUMBER: 2018 RG 106

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: October 18, 2018

**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 Highway Rules

REFERENCE NUMBER: DOT-49

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) A cure period (Corrective Action Request) is provided for subparagraph (vii) of paragraph 10, subparagraph (iv) and new subparagraph (xiii) of paragraph 12, of subdivision (e) of Section 2-11 of Chapter 2. No cure period is provided for other violations amended because those violations pose a threat to public safety.

/s/ Geraldine Sweeney
Mayor's Office of Operations

October 23rd, 2018
Date