

New York City Department of Consumer and Worker Protection

Notice of Public Hearing and Opportunity to Comment on Proposed Rules

What are we proposing? The Department of Consumer and Worker Protection (“DCWP” or “Department”) is proposing to amend Subchapter EE of Chapter 2 of Title 6 of the Rules of the City of New York to improve the Department’s regulation of the tow industry in response to consumer complaints and to eliminate unnecessary requirements imposed on applicants and licensees.

When and where is the hearing? DCWP will hold a public hearing on the proposed rule. The public hearing will take place at 11:00am on Monday, October 31. The public hearing will be accessible by phone and videoconference.

- To participate in the public hearing via phone, please dial 646 558 8656
 - Meeting ID: 828 3542 0929
 - Passcode: 030647
- To participate in the public hearing via videoconference, please follow the online link:
<https://us02web.zoom.us/j/82835420929?pwd=Q3ZyRG1NR21CaUdIY3E2Q2k1SmVMZz09>
 - Meeting ID: 828 3542 0929
 - Passcode: 030647

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

- **Website.** You can submit comments to DCWP through the NYC rules website at <http://rules.cityofnewyork.us>.
- **Email.** You can email comments to Rulecomments@dca.nyc.gov.
- **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) 436-0345. You can also sign up on the phone or videoconference before the hearing begins at 11:00am on Monday, October 31. You can speak for up to three minutes.

Is there a deadline to submit comments? Yes. You must submit any comments to the proposed rule on or before 11:59pm on Monday, October 31.

What if I need assistance to participate in the hearing? You must tell DCWP’s 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 may tell us by telephone at (212) 436-0345 or by email at Rulecomments@dca.nyc.gov. Please give us advance notice to allow sufficient time to arrange the accommodation. Please tell us by noon on Monday, October 24.

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 website at <http://rules.cityofnewyork.us/>. A few days after the hearing, all comments received by DCWP on the proposed rule will be made available to the public online at <http://www1.nyc.gov/site/dca/about/public-hearings-comments.page>.

What authorizes DCWP to make this rule? Sections 1043 and 2203(f) of the New York City Charter, and Sections 20-104(e) and 20-525 of the New York City Administrative Code authorize the Department to make this proposed rule. This proposed rule was not included in the Department’s regulatory agenda for this Fiscal Year because it was not contemplated when the Department published the agenda.

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

What laws govern the rulemaking process? DCWP 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 of the City Charter.

Statement of Basis and Purpose of Proposed Rule

The Department of Consumer and Worker Protection is proposing to amend Subchapter EE of Chapter 2 of Title 6 of the Rules of the City of New York to improve the Department's regulation of the tow industry in response to consumer complaints and to eliminate unnecessary requirements imposed on applicants and licensees. Specifically, these proposed rules would make changes including:

- Amending the definition of "towing" in § 2-361 to match the definition of "commercial towing" in New York State Vehicle and Traffic Law § 107-b. This change comports with the court decision in *Auto. Club of N.Y., Inc. v. Dykstra*, 423 F. Supp. 2d 279 (S.D.N.Y. 2006), which held that the current definition of towing is invalid and that New York State law on the definition of towing governs. See Section 1.
- Clarifying the type of proof of insurance that towing license applicants must submit. (§ 2-362(d)). See Section 2.
- Repealing the requirement that a towing company license applicant that repairs vehicles must present a New York State Department of Motor Vehicles registration to operate a repair shop. (§ 2-362(l)). Previously, a participant in the directed assistance response program ("DARP") had to be a registered repair shop. This is no longer required, so the provision should be repealed. See Section 3.
- Repealing the requirement that certain applicants submit proof of payment of the NYC commercial motor vehicle tax. (§ 2-362(o)). The Department cannot verify when this tax must be paid by an applicant, so this provision cannot be adequately enforced. See Section 3.
- Repealing the requirement that tow licensees must notify the Department of any change in ownership, partnership or management. (§ 2-363(b)). Section 20-110 of the Administrative Code imposes a similar requirement that will continue to apply to tow licensees. See Section 4.
- Requiring a licensee to return its license and plates issued by the Department if the licensee's license expires or is revoked. See Section 5.
- Repealing the requirement to submit 2 photographs with a tow truck operator license application. (§ 2-364(c)). The Department no longer needs photographs as part of the license application. See Section 6.
- Repealing the requirement that an applicant for renewal of an operator's license be fingerprinted, to comport with the Department's practice of fingerprinting only non-renewal applicants. (§ 2-364(f)). See Section 6.
- Capping at \$100 the maximum fees that may be charged if a consumer agrees to have a towed vehicle returned from the tow yard to the location from which it was towed. (§ 2-368(c)). Section 20-509 of the Administrative Code regulates the price of nonconsensual tows. Towing companies have circumvented this provision by charging vehicle owners exorbitant fees for towing a vehicle back to the location from which it was towed, sometimes without the vehicle owner having agreed to pay any additional fee. This amendment would cap the fee for a return tow at \$100, which is the same monetary cap imposed by § 20-509 for original tows. See Section 7.
- Prohibiting a licensee from charging a fee for paying with a credit card, unless the total fees charged for a tow, including any such credit card fees, do not exceed the maximum allowable tow fee. (§ 2-368). See Section 8.
- Fixing a grammatical typo and clarify the hours during which tow companies participating in DARP must be open. (§ 2-371(c)). See Section 9.
- Requiring that all participants in DARP must also participate in the Rotation Tow (ROTOW) program. This is necessary to ensure sufficient participation in the ROTOW program. (§ 2-371(h)). See Section 9.

- Decreasing the storage space square footage requirements for tow companies participating in DARP, to comply with enforcement practice and to ease the burden on towing companies. (§ 2-371(m)). See Section 9.
- Clarifying the requirement that DARP participants must be open to the public and open for redemption during normal business hours. (§ 2-371(v)). The Department has received complaints from customers unable to redeem vehicles because locations are closed during business hours. See Section 9.
- Eliminating the requirement that companies participating in the ROTOW program must have at least 1,600 square feet of space to store towed cars, in addition to any storage requirements for participation in DARP. (§ 2-372(i)). This requirement is unnecessary and overly burdens tow companies. See Section 10.
- Clarifying that a tow company that ends its participation in ROTOW also automatically ends its participation in DARP. (§ 2-372(y)). See Section 10.
- Expanding the criteria for when the Department may access the trust fund on behalf of consumers. (§ 2-375(c)). This will allow more consumers to recover money if aggrieved by a tow company. See Section 11.
- Requiring a tow company to submit to the Department an updated list of lots with which it contracts, both when applying for license renewal and within fourteen days of entering into or terminating a contract with a lot, and to submit to the Department a copy of each such contract. (§ 2-377(a)(1)). See Section 12.
- Updating a reference to the New York City Police Department form required to be kept as a record of certain ROTOW program tows. The current rule lists form PD571-147. The NYPD now uses form PD571-154. (§ 2-378(c)(1)). See Section 13.
- Requiring that a tow company include in each electronic folder for a tow from private property a digital picture of the vehicle at the tow company's tow yard after the tow was completed. (§ 2-378(e)). To charge impermissible fees, predatory tow companies have placed a vehicle on a tow truck hook and demanded full payment to drop and release the vehicle, without towing the vehicle. Requiring licensees to take and keep a picture of a vehicle at the tow yard would ensure that licensees do not charge tow fees for vehicles that are not towed. See Section 14.
- Amending the penalty schedule for towing vehicles in § 6-36 of the Rules of the City of New York, including by adding an entry for violations of § 2-368.1, which requires the display of major credit card decals on certain tow trucks. Sections 20-522 and 20-504.1(b) of the Administrative Code set the penalties for these violations. See Section 15.

Sections 1043 and 2203(f) of the New York City Charter, and Sections 20-104(e) and 20-525 of the New York City Administrative Code authorize the Department to make these proposed rules.

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 Amendments

Section 1. The definition of “Towing” in Section 2-361 of Subchapter EE of Chapter 2 of Title 6 of the Rules of the City of New York is amended to read as follows:

Towing. "Towing" shall [mean the driving or other operation of a tow truck, or the offering to transport a vehicle by means of a tow truck. An employee of a repair shop registered pursuant to article twelve-A of the vehicle and traffic law that is not subject to the licensing requirements of this subchapter shall not be deemed to be engaged in "towing" when such employee test-drives a tow truck that has been repaired or is to be repaired by such repair shop if (1) such tow truck is not owned or operated by such repair shop, (2) such tow truck is not transporting another vehicle, and (3) such test-drive takes place within a one mile radius of such repair shop's premises] have the same meaning as "Commercial towing" as that term is defined in Section 107-b of the Vehicle and Traffic Law.

§ 2. Subdivisions (a) and (d) of Section 2-362 of Subchapter EE of Chapter 2 of Title 6 of the Rules of the City of New York is amended to read as follows:

(a) Every applicant for any license required under this subchapter [or for any renewal thereof] shall appear at the Department and have [his or her] their fingerprints taken, recorded, filed with and made part of such application. This requirement applies to: the individual owner if the applicant is a sole proprietorship; the general partners, if the applicant is a partnership; and the officers, directors and stockholders owning more than ten percent of the outstanding stock of the corporation if the applicant is a corporation. This requirement shall not apply to any individual whose fingerprints are or have been taken in connection with any other license application or renewal thereof under this subchapter. A processing fee, as required by the New York State Division of Criminal Justice Services or New York City Police Department shall be paid at time of application.

(d) Every such applicant shall furnish [a copy of a Certificate of Insurance as] both:

(1) [proof] Proof that every tow truck to be used by such applicant under this license is insured under a liability insurance policy as follows:

(i) [Not] not less than two hundred thousand dollars for injury or death of any one person resulting from any one accident[;], not less than five hundred thousand dollars for injury or death from any one accident[;], and not less than fifty thousand dollars for injury to or destruction of property of one or more persons resulting from any one accident[.]; or

(ii) an automobile liability insurance policy providing coverage of a combined single limit of one million dollars or more.

(2) Proof of insurance coverage for damage to a vehicle in the care, custody and control of the applicant, as required by the New York State Vehicle and Traffic law.

(3) Proof of insurance required by this subdivision must be provided in the following form:

(i) a copy of the certificate of insurance issued by the insurance company within the last 30 days;

(ii) a policy declarations page issued by the insurance company within the last 60 days;

(iii) a certificate of liability insurance issued by the insurance broker within the last 30 days, and a notarized certification of the certificate from the insurance broker or agent; or

(iv) any other proof the Commissioner deems sufficient.

The licensee shall notify the Commissioner of any modification, amendment, cancellation or substitution of any such insurance policy within 10 days of receipt by the licensee of notice to the licensee of any such modification, amendment, cancellation or substitution[s]. Notice to the Commissioner shall be made by regular or electronic mail as designated by the [License Issuance Division of the] Department.

§ 3. Subdivisions (a), (l) and (o) of Section 2-362 of Subchapter EE of Chapter 2 of Title 6 of the Rules of the City of New York are amended to read as follows:

(a) Every applicant for any license required under this subchapter [or for any renewal thereof] shall [appear at the Department and have his or her fingerprints taken, recorded, filed with and made part of such application] submit their fingerprints in accordance with the Department's procedures. This requirement applies to: the individual owner if the applicant is a sole proprietorship; the general partners, if the applicant is a partnership; and the officers, directors and stockholders owning more than ten percent of the outstanding stock of the corporation if the applicant is a corporation. This requirement shall not apply to any individual whose fingerprints are or have been taken in connection with any other license application or renewal thereof under this subchapter. [A processing fee, as required by the New York State Division of Criminal Justice Services or New York City Police Department shall be paid at time of application.]

(l) [Any applicant who repairs vehicles shall submit proof of a valid New York State Department of Motor Vehicles registration to operate a repair shop] Reserved.

(o) [Where such applicant is required to pay the New York City commercial motor vehicle tax for one or more tow trucks pursuant to Chapter 8 of Title 11 of the Administrative Code, the applicant shall furnish proof of payment of such tax for each tow truck for which a license is sought. Such proof shall consist of a validated New York City Department of finance Motor Vehicle Tax Receipt issued pursuant to such chapter] Reserved.

§ 4. Subdivision (b) of Section 2-363 of Subchapter EE of Chapter 2 of Title 6 of the Rules of the City of New York is amended to read as follows:

(b) [Each licensee shall notify the Department of any change in its ownership if it is a sole proprietorship, of any change in its general partners if it is a partnership, and of any change in its directors, officers or holders of more than ten percent of its stock if it is a corporation. The license to engage in the business of towing shall become immediately void unless prior written approval of the Department has been obtained

(1) with respect to a corporation, where any person or organization becomes the beneficial owner of more than ten percent of the stock of a corporate licensee, if such person or organization was not previously one whose fingerprints were required to be taken under §2-362(a) above;

(2) with respect to a partnership, where there is any change in the general partners; and

(3) with respect to a sole proprietorship, where there is any change in ownership] Reserved.

§ 5. Subdivision (c) of Section 2-363 of Subchapter EE of Chapter 2 of Title 6 of the Rules of the City of New York is amended to read as follows:

(c) Upon the dissolution, suspension, discontinuance, whether voluntary or involuntary, or sale as a going concern of the business of a licensee, [it shall be the duty of] or expiration or revocation of the licensee's license, such licensee or former licensee [to] must (1) surrender to the Department its license together with all Department license plates issued thereunder, (2) remove all lettering on its tow truck indicating that the business is licensed by the Department pursuant to this subchapter, and (3) cease to use any business cards, letterhead or any other item indicating or implying that the business is licensed by the Department pursuant to this subchapter.

§ 6. Subdivisions (c) and (f) of Section 2-364 of Subchapter EE of Chapter 2 of Title 6 of the Rules of the City of New York are amended to read as follows:

(c) [Every such applicant must submit with his or her application two (2) recent, clear photographs of himself or herself which shall be 1 1/2 inches square or oval. The name of the applicant shall be legibly printed on the back of each photograph.] Reserved

(f) Every applicant for an operator's license [or for any renewal thereof] shall [appear at the Department and have his or her] submit their fingerprints [taken, recorded, filed with and made part of such application] in accordance with the Department's procedures. This requirement shall not apply to any individual whose fingerprints are or have been taken in connection with any other license application or renewal thereof under this subchapter. [A processing fee, as required by the New York State Division of Criminal Justice Services or the New York City Police Department shall be paid at the time of application.]

§ 7. Subdivision (c) of Section 2-368 of Subchapter EE of Chapter 2 of Title 6 of the Rules of the City of New York is amended to read as follows:

(c) Charges for the towing of vehicles shall not exceed \$100 plus all tolls required to be paid while towing the vehicle; provided, however, that where a motor vehicle has been booted by a person licensed pursuant to subchapter 32 of chapter 2 of title 20 of the New York City Administrative Code in a private lot as defined in paragraph 3 of subdivision b of section 20-531 of such subchapter and such vehicle is subsequently towed, no additional charge may be imposed for the towing of such vehicle. If the consumer agrees to have a vehicle returned from the licensee's storage premises to the location from which it was towed, the charges for such return tow shall not exceed \$100. The rates in this subdivision shall not apply to the towing of motor vehicles pursuant to a contract which was in existence prior to the need for the towing of such vehicles, provided that such motor vehicles are either owned or leased by the person who entered into such contract.

§ 8. Section 2-368 of Subchapter EE of Chapter 2 of Title 6 of the Rules of the City of New York is amended by adding a new subdivision (g) to read as follows:

(g) A licensed tow company may not charge a fee for use of a credit card to pay for a service provided pursuant to this subchapter, unless the total amount paid to the tow company for such service, including such credit card fee, does not exceed the maximum fee allowed by law or rule for such service.

§ 9. Subdivisions (a), (c), (h), (m) and (v) of Section 2-371 of Subchapter EE of Chapter 2 of Title 6 of the Rules of the City of New York are amended to read as follows:

(a) Applicants must be licensed to engage in the business of towing by the New York City Department of Consumer [Affairs] and Worker Protection. Applicants who apply to be in the DARP program must be licensed to engage in the business of towing for a period of not less than one year immediately prior to the date of their application. The applicant's business premises, which include the applicant's storage facilities and auxiliary storage facilities, must be located within the geographic boundaries of New York City. In addition, all of the tow truck operators employed by the licensee must be licensed as such by the Department and comply with all applicable laws and rules.

(c) Applicants who apply to be in the DARP program must make an application to participate only in the zone in which their business premises is located. Such premises shall be under the exclusive control of the applicant, shall not be used by any other towing company and shall consist of a location that is open to the public during the hours of 9 am to 4 pm, Monday through Friday, and 9 am to 4 pm on either Saturday or Sunday, where towing company personnel are employed, calls requesting towing service are received and towers are dispatched and where all records required by subchapter 31 of chapter 2 of title 20 of the New York City Administrative Code are maintained. An applicant's approval to participate in DARP is valid only for such applicant's business premises as identified in its application that has been inspected and has qualified for participation in DARP. Such approval to participate in DARP is revoked when the business premises of such

applicant is moved from the location that was identified in the application unless such move has been approved [as provided in subdivision (aa) of this section] by the Department.

(h) [Reserved.] To be eligible to participate in DARP, a licensed tow truck business must also participate in the ROTOW program. The Department will accept an application for the DARP program only from an applicant that is approved to, or simultaneously applies to participate in, the ROTOW program. The Department will not approve a DARP application if the applicant does not have or receive approval to participate in the ROTOW program. Any DARP participant that does not participate in the ROTOW program on the effective date of this subdivision must, in order to remain in the DARP program, apply to participate in the ROTOW program within six months of the effective date of this subdivision. If the Department denies such application, the Department will, after notifying the applicant, void the applicant's participation in the DARP program.

(m) Applicants must own, lease, or sublease business premises, which include either indoor, or lighted and fenced outdoor, storage facilities. The storage facilities must have a locked gate and be suitable for the storage of vehicles. The minimum footage requirements for storage of DARP vehicles [is] are 1,200 square feet for a licensee with one tow truck and 2,400 square feet for a licensee with two or more tow trucks, [per licensed tow truck] over and above any storage requirements for the [Rotation Tow] ROTOW Program. Applicants who apply to be in the DARP program [on or after December 6, 1994] must demonstrate that the towing company owns, leases or subleases its business premises by providing the Department with a deed if the applicant owns such premises or by providing the Department with the actual lease or sublease agreement if the applicant leases or subleases such premises. [Common or shared business premises, including storage facilities and auxiliary storage facilities, with another towing company is not permitted.] A licensed towing company may not share the same business premises, including storage facilities and auxiliary storage facilities, with another towing company. If a towing company maintains a business premises that is adjacent to one or more towing company's business premises, such space must be separated by a physical separation, such as a fence.

(v) Participants must be open for redemption of vehicles towed in the DARP program and open to the public, in addition to being open for redemption, during the hours of 9 am to 4 pm, Monday through Friday. In addition, they must be opened to the public and open for redemption from 9 a[.]m[.] to 4 p[.]m[.] on either Saturday or Sunday, as such participant has informed the Department in writing, provided, however, that if such participant fails to so notify the Department, the participant shall be deemed to have elected to be open for redemption from 9 am to 4 pm on both Saturday and Sunday. In all instances, participants shall make vehicles immediately available for redemption to the owner of the disabled vehicle, his or her agent, or an authorized insurance company representative. The participant may be closed for redemption on New York City public holidays.

§ 10. Subdivisions (i), (k), (p) and (s) of Section 2-372 of Subchapter EE of Chapter 2 of Title 6 of the Rules of the City of New York, and paragraph (1) of subdivision (t) of such section, are amended to read as follows:

(i) Applicants must own, lease or sublease premises, which provide either indoor, or lighted and fenced outdoor, storage facilities. The storage facilities must have a locked gate and be suitable for the storage of vehicles. Applicants who apply to be in the ROTOW program [on or after December 6, 1994] must demonstrate that the towing company owns, leases or subleases its business premises by providing the Department with a deed if the applicant owns such premises or by providing the Department with the actual lease or sublease agreement if the applicant leases or subleases such premises. [The minimum footage requirements for storage of ROTOW vehicles is 1,600 square feet over and above any storage requirements for the Directed Accident Response Program.] All vehicles towed pursuant to the ROTOW program must, at all times, be secured at the premises address of the responding company, or at its auxiliary storage facilities if such facilities have been approved by the Commissioner for storage of DARP vehicles pursuant to 6 RCNY § 2-371(n). At the request of the owner of a disabled vehicle, his or her agent or an authorized insurance company representative, a vehicle being stored at the applicant's auxiliary storage facilities shall be immediately produced at the applicant's premises address and no fee other than a fee authorized by 6 RCNY § 2-368 may be imposed for such production of such vehicle at the applicant's premises address. [Common or shared business premises with another towing company, including storage facilities and auxiliary storage facilities they share with another

company other than a towing company by a physical separation, such as a fence.] A licensed towing company may not share the same business premises, including storage facilities and auxiliary storage facilities, with another towing company. If a towing company maintains a business premises that is adjacent to one or more towing company's business premises, such space must be separated by a physical separation, such as a fence. No participant shall release a vehicle to another towing company unless that towing company is licensed or otherwise exempt from the licensing provisions of subchapter 31 of chapter 2 of title 20 of the New York City Administrative Code, or that towing company is based outside of New York City and thereby is not required to be licensed pursuant to such provisions of the New York City Administrative Code.

(k) [Reserved.] If a tow truck company ceases participating in the ROTOW program because the company has withdrawn from the program, or the company's status in the ROTOW program is suspended or otherwise inactive, the company's participation in DARP will immediately become inactive. If such company's participation in the ROTOW program is reinstated, the company must also seek reinstatement in DARP by contacting the Department.

(p) Participants must be open to the public and open for redemption of vehicles towed in the ROTOW program during the hours of 9 am to 4 pm, Monday through Friday. In addition, they must be open to the public and open for redemption from 9 am to 4 pm on either Saturday or Sunday, as such participant has informed the Department in writing, provided, however, that if such participant fails to so notify the Department, the participant shall be deemed to have elected to be open for redemption from 9 am to 4 pm on both Saturday and Sunday. In all instances, participants shall make vehicles immediately available for redemption to the owner of the disabled vehicle, his or her agent, or an authorized insurance company representative. The participant may be closed for redemption on New York City public holidays.

(s) During the period commencing on the eighth day after the vehicle is removed to such storage facilities and ending on the thirtieth day after such removal, vehicles that have not been claimed must be transferred by the ROTOW participants into the custody of the Police Department Property Clerk. A ROTOW participant may continue to store at such [ROTOW] participant's storage facilities a vehicle that has been claimed by an owner or other person, and shall be entitled to charge for such continued storage [and] at the storage rates that ROTOW participants [are entitled to] may charge owners or other persons claiming such vehicles pursuant to section 20-519(c)(1) of the New York City Administrative Code, [where]if such owner or [such] other person has claimed such vehicle before the end of the thirtieth day after such vehicle was towed and has entered into an agreement with such ROTOW participant for such continued storage [of such vehicle]. An agreement for continued storage of a vehicle by a ROTOW participant may include provision for storage of such vehicle beyond the end of the thirtieth day after such vehicle was towed by such ROTOW participant.

(t) The following schedule of rates shall apply for vehicles towed under the Rotation Towing Program:

(1) Rates paid to towing company by owners or other persons claiming a vehicle:

- (i) \$125.00 flat rate towing fee for the towing of a vehicle registered at a weight of ten thousand pounds or less; \$140.00 for the towing of a vehicle registered at a weight of more than ten thousand pounds.
- (ii) \$25.00 per/day storage for first three days.
- (iii) \$27.00 per/day storage thereafter up to the maximum of thirty days.

§ 11. Subparagraph (iv) of paragraph (1) of subdivision (c) of Section 2-375 of Subchapter EE of Chapter 2 of Title 6 of the Rules of the City of New York is amended to read as follows:

(iv) The Department has revoked the company's license, suspended the company's license or denied the company's renewal application; [or] the company has surrendered or failed to renew [said] its license after the Department's order; or the company's license is not currently valid for any other reason.

§ 12. Subdivision (a) of Section 2-377 of Subchapter EE of Chapter 2 of Title 6 of the Rules of the City of New York is amended to read as follows:

(a) Every applicant for a renewal of a license issued pursuant to §496 of Chapter 2 of Title 20 of the New York City Administrative Code [shall] must file with the application:

(1) A list of all properties from which the licensee has contracted to tow vehicles, and a copy of each of the licensee's contracts with a property owner. Such list [shall] and copies must then be updated and refiled with the Department within fourteen days of the licensee entering into or terminating any contract with a property owner. Such list must include the address(es) from which the licensee has contracted to tow vehicles, the address to which such vehicles are towed, and the name, address and telephone number of the person(s) who contracted for the towing from each listed address; or,

(2) An affidavit stating that the applicant does not tow vehicles from private parking lots.

§ 13. Paragraph (1) of subdivision (c) of Section 2-378 of Subchapter EE of Chapter 2 of Title 6 of the Rules of the City of New York is amended to read as follows:

(1) For towing service performed under the ROTOW program, the licensee must maintain an electronic copy of the completed New York City Police Department form [PD 571-147] required for such tow, which will constitute the authorization required by paragraph 2 of subdivision a of this section.

§ 14. Paragraph (2) of subdivision (e) of Section 2-378 of Subchapter EE of Chapter 2 of Title 6 of the Rules of the City of New York is amended, and such subdivision is amended by adding a new paragraph (4), to read as follows:

(2) In addition to the records required by paragraph 2 of subdivision a, the licensee must include in each electronic folder:

(i) for a tow from private property to the licensee's tow yard:

(A) an electronic copy of the trip record required by section 19-169.1(f) of the administrative code; [and]

(B) the signed receipt of the person paying removal and storage charges issued pursuant to section 19-169.1(h) of [the administrative] such code[.]; and

(C) a digital picture of the vehicle clearly showing that vehicle at the licensee's tow yard after the tow is completed.

(ii) for a tow for which the licensee must charge not more than one-half of the fee set forth in section 19-169.1(a) of the administrative code, because the person in control of the vehicle arrives when the vehicle is attached to the tow truck but has not yet been removed from the private property:

(A) an electronic copy of the trip record required by section 19-169.1(f) of such code;

(B) the signed receipt of the person paying removal and storage charges issued pursuant to section 19-169.1(g) of such code; and

(C) a digital picture of the vehicle clearly showing that vehicle attached to the tow truck at such private property.

(4) If the licensee does not maintain all of the records required by this subdivision for a tow from private property, there shall be a rebuttable presumption that the purportedly towed vehicle was never towed.

§ 15. The penalty schedule in Section 6-36 of Subchapter B of Chapter 6 of Title 6 of the Rules of the City of New York is amended by amending the column headings and the line beginning Admin. Code § 20-496, and by adding in numerical order a new line beginning 6 RCNY § 2-368.1, to read as follows:

Citation	Violation Description	First Violation	First Default	Second Violation	Second Default	Third and Subsequent Violation	Third and Subsequent Default
Admin. Code § 20-496	Unlicensed Activity	\$2,250, plus \$100 per day	\$3,000, plus \$100 per day	\$2,700, plus \$100 per day	\$3,000, plus \$100 per day	\$10,000, plus \$100 per day	\$10,000, plus \$100 per day
6 RCNY § 2-368.1	Failure to display major credit card decals on certain tow trucks	\$1,875	\$2,500	\$2,375	\$3,000	\$2,875 (plus revocation)**	\$3,500 (plus revocation)

**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 Rules Governing Towing Vehicles

REFERENCE NUMBER: 2021 RG 097

RULEMAKING AGENCY: Department of Consumer and Worker Protection

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: September 14, 2022

**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 Rules Governing Towing Vehicles

REFERENCE NUMBER: DCWP-11

RULEMAKING AGENCY: Department of Consumer and Worker Protection

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) No cure period/mechanism is provided because the authorizing statute for the rule does not provide a cure period. However, respondents are afforded notice and an opportunity to be heard with respect to all notices of violation.

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

September 15, 2022
Date