

New York City Department of Finance

NOTICE OF ADOPTION

Pursuant to the authority vested in the Commissioner of the New York City Department of Finance (DOF) by sections 1043 and 1504 of the New York City Charter (Charter), section 19-203 of the Administrative Code of the City of New York, and section 237 of the Vehicle and Traffic Law (VTL), DOF promulgates and adopts amendments to Chapter 39 of Title 19 of the Rules of the City of New York (RCNY) relating to the adjudication of parking summonses issued in New York City.

A proposed version of these rules was published on July 3, 2023. A hearing for public comment was held on August 3, 2023. DOF received oral and written comments.

These rules will go into effect upon the earliest effective date authorized by section 1043(f) of the Charter, except as provided in section thirty-eight of this rule, which delays the application of the amendments to 19 RCNY § 39-09(a)(4) made by section fifteen of this rule, and the application of the amendments to 19 RCNY § 39-09(b)(4) made by section twenty-two of this rule, for certain respondents who have 10,000 or more summonses that have not been adjudicated or otherwise satisfied.

STATEMENT OF BASIS AND PURPOSE

DOF's Adjudications Division, which is a component of the Parking Violations Bureau or PVB, adjudicates parking summonses issued in New York City. DOF is amending various provisions of Chapter 39 of Title 19 of the Rules of the City of New York to revise and add defined terms, update pronoun and capitalization usage, and correct ministerial spelling and defined term reference errors. Additionally, this rule amendment updates and clarifies procedures to conform to current practices and improve the operations of PVB and certain special purpose hearing parts. These rules would standardize and update the procedures used in special purpose hearing parts to conform them to new systems and technological improvements that have been implemented since these rules were last updated. These changes will promote the efficient, fair and impartial adjudication of parking summonses for the general public and business community of New York City. DOF is authorized to promulgate these rules under VTL § 237, New York City Administrative Code § 19-203, and Charter §§ 1043 and 1504.

A recurring theme in comments received by DOF regarding this rule related to questions of authority. Several commenters questioned the legality of the DOF Fleet Program, generally, based on the principle that the term "Fleet Program" is not specifically invoked in the text of the VTL. One commenter questioned the scope of DOF's rulemaking authority under VTL § 237(3). Another suggested that Article 2-B of the VTL was unlawfully being amended through this rule change.

In addition, a member of the State Legislature submitted written comments after the public comment period ended objecting to this rule, specifically regarding its purported inconsistency with the VTL and its denial of due process as well as a general comment on the lack of virtual but live adjudication hearings that DOF offers.

As explained in more detail both above and below in this Statement of Basis of Purpose, these objections are unfounded. First and foremost, the New York State Supreme Court Appellate Division, First Department has already upheld the legality of DOF's creation and utilization of special adjudication programs within PVB. The First Department has also upheld the principle that DOF possesses broad authority to promulgate interstitial rules regarding the organization of PVB and the adjudication of parking summonses where such rules further the purposes underlying Article 2-B of the VTL. Accordingly, this rule is not inconsistent with VTL Article 2-B, but rather exercises the flexible authority delegated to DOF by the State Legislature.

DOF is making the following rule amendments described below:

- Section one of this rule amends the definitions of "Business Entity," "Car Rental Program," "Commercial Abatement Program," "Commercial Organization," "Fleet Program," "Operator," "Parking Violations Bureau," "primary filing" and "Stipulated Fine Program" codified in 19 RCNY § 39-01 and adds to such section new definitions for "Consolidated Adjudication Unit (CAU)," "electronic case folder" and "meter number." Following the publication of the proposed version of these rules, DOF amended the name of the Unit known as the "Commercial Adjudication Unit" or "CAU." This unit is now known as "Consolidated Adjudication Unit" and will continue to be referred to through the initialism "CAU." The new definition of the term Consolidated Adjudication Unit in this section reflects that summonses issued to individuals and entities that are not Business Entities can also be adjudicated in that Unit.
- Sections two, nine, ten, eleven, fourteen, twenty-one, twenty-two, twenty-seven, twenty-eight, thirty, thirty-one, thirty-two, thirty-three, thirty-four, thirty-five, and thirty-six of this rule amend 19 RCNY §§ 39-02(d), 39-05(o), 39-08(a)(2), (b)(1), (b)(2) and (h), 39-09(a)(9), (b)(2), (b)(9) and (c)(3), 39-10(h)(2), (j)(1), (j)(2), (j)(3) and (j)(5), 39-12(d)(1), (e) and (g)(1) and 39-14(d) to update pronoun usage.
- Sections three, four, eight, eleven, twelve, fifteen through nineteen, twenty-one, twenty-two, and twenty-four through twenty-seven of this rule amend 19 RCNY §§ 39-02(e)(1) and (e)(2), 39-03(c), 39-05(i), 39-08(c), 39-09(a)(2), (a)(3), (a)(4), (a)(6), (a)(8), (a)(9), (b)(2), (b)(3), (b)(4), (b)(8) and (b)(9) to update outdated terms and defined terms and correct typos and spelling and capitalization errors.
- Section five of this rule amends 19 RCNY § 39-03(f) to permit a hearing to be conducted without the presence of a Fleet Program company or their representative if they have not requested a hearing and submitted their evidence for their in-person hearing prior to such hearing. Both the request and the submission must occur within the required time period of 60 days. Note also that the text of this rule was amended following the publication of the proposed rules to add an additional condition providing that, if a company fails to appear at a hearing and the allotted 60-day time period expires, DOF may conduct such hearing without the company's presence. One commenter expressed concern regarding extreme circumstances in which a respondent is unable to schedule a hearing within 60 days, such as during the COVID pandemic. Existing rule 19 RCNY § 39-14 allows for the expansion of timelines at the discretion of the Director, which would resolve such unusual

circumstances. Several commentators also questioned the legality of this regulatory provision in light of the requirement of VTL § 237(8) for PVB to provide a response to a relevant and reasonable inquiry for a parking summons within 45 days. But there is no reason to believe that VTL § 237(8) conflicts with the text of this rule, which is about mandating that adjudications for parking summons take place within a reasonable period of time, rather than mandating that the PVB responds to requests for information in a reasonable period of time. Rather, this rule change is designed to provide flexibility for companies in the Fleet Program while ensuring that hearings in the Fleet Program are conducted without undue delay, and in fact provides a greater amount of time to Fleet Program participants than the amount of time that is currently afforded to respondents outside of the Fleet Program.

- Sections six and seven of this rule amend 19 RCNY § 39-04(a)(2), (b) and (c) to update the procedures for entering pleas and the payment of fines and penalties with a guilty plea.
- Section eleven of this rule amends 19 RCNY § 39-08(b)(3) to permit the Director to determine the method of hearings conducted at PVB, based on those hearing methods established elsewhere in these rules. Such determinations will be made in order to meet the needs of PVB and after considering a variety of factors. Several commentators expressed concern that this rule change could result in a due process violation. A commenter at the public hearing indicated that the Director has no power to dictate the hearing method that a respondent must follow because live, in-person hearings must always be available, with the option to obtain a transcript. With respect to voluntary participation in special purpose hearing parts created by PVB, the Director has the power to control the hearing methods that DOF makes available in order to meet the needs of PVB. As clarified in the text of this rule, any respondent may request a live, in-person hearing at any of DOF's Business Centers if they so choose. That option remains available. Further, DOF added into this rule an additional requirement that the Director consider constitutional due process requirements in making such a determination on available hearing methods. This provision, building off existing rules, establishes a framework for the Director to determine the appropriate methods of conducting hearings, balancing efficiency, workload, staffing and the availability of other resources, while preserving the constitutional due process rights of respondents.
- Section twelve of this rule amends 39-08(d)(2) to add a requirement to provide the email address of counsel on a notice of appearance.
- Section thirteen of this rule amends RCNY § 39-08(f)(2) to clarify that evidence submitted at a hearing must be in a form prescribed by the Director and that all testimony presented at a hearing would be given upon an oath or affirmation issued by an Administrative, Senior or Supervising Law Judge, where appropriate based on policies established by PVB. Based on comments made at a public hearing, DOF added into this rule an additional requirement that the Director consider constitutional due process requirements in determining the form of such evidence. This provision establishes a framework for the Director to determine methods of receiving evidence, balancing efficiency, workload,

staffing and the availability of other resources, while preserving the due process rights of respondents. This commenter at the public hearing also questioned the legality of the provision that would permit the Director to determine the form in which evidence may be submitted, and speculated that the result could be inequitable. This commenter suggested that this rule provision would conflict with VTL § 240(2)(c), which states that an Administrative Law Judge (ALJ) is generally not bound by the rules of evidence. But this concern is unwarranted. This provision of the VTL relates to rules of evidence and provides that PVB is *not* obligated to follow the rigorous statutory rules of evidence. It also does not prohibit DOF from promulgating a rule for the implementation of reasonable procedures for establishing relevant facts in a hearing.

- Section fifteen of this rule amends 19 RCNY § 39-09(a)(2) to update the procedures regarding broker registration. This provision would work in tandem with existing rules to provide the Director appropriate flexibility to manage the affairs of PVB. In order to clarify the range of permissible submissions of broker registration forms, a provision permitting the electronic submission of such forms was added following the publication of the proposed rules.
- Section fifteen of this rule amends 19 RCNY § 39-09(a)(4) to require that a Business Entity represented by a broker must be registered in the Fleet Program or the Car Rental Program. Since the publication of the proposed rules, this requirement was amended so that it applies only to Business Entities. The provision allowing for brokers to represent Business Entities enrolled in the Car Rental Program was also added following the publication of the proposed rules. Several commentators argued that the Fleet Program was unnecessary or obsolete, or expressed dissatisfaction with past outcomes adjudicating summonses in the Fleet Program. Several alleged—without further explanation—that this rule would constitute “tortious interference” or speculated regarding DOF’s motives in promulgating this rule provision. DOF’s motives are to improve efficiency. By mandating that Business Entities using the services of brokers participate in either the Fleet Program or the Car Rental Program, this amendment will improve the efficiency of the Consolidated Adjudication Unit by standardizing applicable procedures and rules. Comments alleging that the Fleet Program has been rendered obsolete by other, more recent electronic platforms managed by the City are not accurate. The data platform supporting the Fleet Program has no functional equivalent elsewhere in the City.
- Sections sixteen and twenty-three of this rule repeal 19 RCNY § 39-09(a)(5) and (b)(5) establishing a hearing log procedure.
- Section eighteen of this rule amends 19 RCNY § 39-09(a)(8) to update and clarify the rules regarding broker conduct. Following publication of the proposed rule, DOF added a provision to this section of the rule to clarify that brokers are prohibited from making additional arguments via email—in addition to other means of communication listed in the rule—to ALJs or other DOF employees outside the context of a hearing.

- Section twenty of this rule amends 19 RCNY § 39-09(a)(8) by adding two new subparagraphs (xiii) and (xiv). These subparagraphs establish additional broker conduct rules and mandate that brokers comply with their clients' instructions and remit payments received from their clients to pay for parking summonses. A commenter at a public hearing expressed concern that this rule would be interpreted to mandate that brokers receive specific client instructions for each individual summons. This concern is unfounded and is not supported by the text of the rule. The text of this rule provides adequate flexibility for clients to authorize their brokers through general authorizations or more specific, tailored authorizations.
- Section twenty-two of this rule amends 19 RCNY § 39-09(b)(2) to update the procedures regarding employee registration.
- Section twenty-two of this rule amends 19 RCNY §39-09(b)(4) to require that a company represented by an employee must be registered in the Fleet Program.
- Sections twenty-four and twenty-five of this rule amend 19 RCNY § 39-09(b)(8) to update and clarify the rules regarding employee conduct. Following publication of the proposed rule, DOF added a provision to this rule language to clarify that employees are prohibited from making additional arguments via email—in addition to other means of communication listed in the rule—to ALJs or other DOF employees outside the context of a hearing.
- Section twenty-nine of this rule adds a new subdivision (d) to section 19 RCNY § 39-09 requiring that a respondent, employee, unpaid representative, or any other type of representative consolidate at least the minimum number of summonses into an electronic case folder (ECF) authorized by the Director for a hearing or appeal at the Consolidated Adjudication Unit (CAU). Consistent with DOF's broad regulatory authority, the Director will set such minimum number based on the needs of PVB, and shall consider efficiency, workload, staffing and other resources in making such determination. Based on thematically related comments made at a public hearing, DOF has since added into this rule an additional requirement that the Director also consider constitutional due process and the volume of outstanding ECFs in setting this minimum number. This section twenty-nine also clarifies the decision format for CAU hearings and sets CAU evidence procedures. Several commenters questioned the use of decision codes by the Consolidated Adjudication Unit as vague or unreasonable. DOF considers these codes to be efficient and effective tools in adjudicating summonses before CAU. Further, the use of decision codes has been upheld by the First Department of the New York State Appellate Division. Since the publication of the proposed rules, the number of digits specifying the alpha-numeric character length of a reason code for CAU decisions was removed to ensure that DOF has adequate administrative flexibility in using such decision codes. A commenter also suggested that the evidence procedures set forth in this rule conflict with statutory disclosure provisions. This concern is unfounded. The text of this rule includes an exception for circumstances where statutory disclosure requirements apply. Additionally, a commenter stated that the provision permitting the Director to determine the minimum amount of summonses to be consolidated into one ECF violates

VTL § 240(1), which provides that PVB must provide a respondent with notice as to the date the respondent must “answer the charge at a hearing.” The commenter stated that requiring a respondent to answer multiple charges at one time conflicts with the use of the singular noun “charge” in VTL § 240(1). This statutory reading is incorrect, and, just as significantly, misstates the effect of the proposed rule: the ECF is a purely administrative tool to facilitate more efficiently scheduling and collecting evidence for summonses. In every instance, a respondent will still answer a single summons with individualized testimony and evidence. This rule only regulates how summonses are grouped together in the administrative electronic folder to save time and resources for PVB and respondents who use CAU alike.

- Section thirty-four of this rule amends 19 RCNY § 39-12(e) by authorizing the Director to determine that the directory 60-day period set forth in that subdivision is inadequate and thereafter establish a longer period for the adjudication of appeals based on considerations of due process, efficiency, workload, staffing and other resources. This provision was added after the receipt of public comments in order to ensure that the overall effect of this rule change does not disrupt the efficiency of PVB’s business processes.
- Section thirty-seven of this rule amends 19 RCNY § 39-19 by explicitly authorizing PVB to implement contemporaneous hearings through virtual videographic methods. This rule also authorizes a pilot program that would allow a small subset of hearings to be conducted virtually before this hearing methodology is expanded more broadly. Comments regarding this rule noted the lack of virtual but contemporaneous adjudications, and encouraged DOF to implement such methods. This rule balances the public’s expressed desire for greater access and flexibility with DOF’s need to ensure that the roll-out of these hearings occurs smoothly and that PVB maintains the same standards of accuracy and due process in conducting its adjudications.
- Section thirty-eight of this rule sets forth an effective date for all sections of this rule as the earliest effective date provided by § 1043(f) of the Charter, except that the amendments to 19 RCNY § 39-09(a)(4) made by section fifteen of this rule and 19 RCNY § 39-09(b)(4) made by section twenty-two of this rule shall not apply to an affected respondent for two additional months for each set of 10,000 summonses against that respondent that have not been adjudicated or otherwise satisfied as of the effective date provided by Charter § 1043(f). For example, if a hypothetical respondent has 32,000 outstanding summonses, the above-mentioned provisions would not apply to such respondent until an additional 6 months expired after the Charter effective date. The purpose of this provision is to ensure that those respondents with a high volume of outstanding summonses have adequate time to comply with the requirements of 19 RCNY §§ 39-03 and 39-11(b). However, this provision cannot delay the application of these amendments for any respondent beyond a maximum of 12 months.

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.

Amendments to Rules Relating to Parking Violations

Section 1. The definitions of “Business Entity,” “Car Rental Program,” “Commercial Abatement Program,” “Commercial Organization,” “Fleet Program,” “Operator,” “Parking Violations Bureau,” “primary filing” and “Stipulated Fine Program” in section 39-01 of Title 19 of the Rules of the City of New York are amended and such section is further amended by adding new definitions for “Consolidated Adjudication Unit (CAU),” “Electronic case folder” and “meter number” in appropriate alphabetical order to read as follows :

Business [entity] Entity. “Business [entity] Entity” means a corporation, partnership, organization or other entity engaged in business, but does not include an individual person or persons.

Car [rental program] Rental Program. “Car [rental program] Rental Program” means a voluntary enrollment program whereby a lessor, upon registering vehicles and paying fees in accordance with 19 RCNY § 39-11(b), receives computer-generated hearing logs and can schedule hearings in PVB's [Commercial] Consolidated Adjudication Unit [(CAU)].

Commercial Abatement Program. “Commercial Abatement Program” means a voluntary enrollment program whereby [commercial organizations] Commercial Organizations that are enrolled in the Fleet Program and meet the eligibility criteria established in 19 RCNY § 39-03.2, but are not eligible for the Stipulated Fine Program pursuant to 19 RCNY § 39-03.1, waive their right to challenge parking summonses and agree to pay a reduced fine amount for each summons, pursuant to 19 RCNY § 39-03.2.

Consolidated Adjudication Unit (CAU). “Consolidated Adjudication Unit” or “CAU” means a special purpose hearing part of PVB that adjudicates high volumes of summonses, as determined by the Director, in accordance with the representation procedures set forth in 19 RCNY § 39-09.

Commercial Organization. “Commercial Organization” means any [business entity] Business Entity that is an owner or lessee of at least one vehicle that is used exclusively for the delivery of goods or services.

Electronic case folder. “Electronic case folder” or “ECF” means an electronic file folder generated for the adjudication of parking summonses, which may include any summons, evidence, a written defense, the decision and order, and the hearing audio.

Fleet Program. “Fleet Program” means a voluntary enrollment program whereby [commercial organizations] Commercial Organizations receive computer-generated hearing logs and can schedule hearings in the Parking Violation Bureau’s [(PVB’s) Commercial] Consolidated Adjudication Unit [(CAU)] pursuant to 19 RCNY § 39-03.

Meter number. “Meter number” means, as applicable:

(1) The identification number of a parking meter, as defined in 34 RCNY § 4-01, in circumstances where parking time has been purchased using such a parking meter; or

(2) The applicable zone number included on posted signage or within a mobile payment application for the side of a block where a motor vehicle is parked in on-street or off-street parking areas, in circumstances where a timed receipt is dispensed to be displayed on the dashboard of such vehicle or in a visible and secure place on a motorcycle or parking time has been purchased using an authorized electronic communication device.

Operator. Whenever used, the term “operator” [shall mean] means any person, corporation, firm, agency, association or organization that uses, operates or is responsible for a vehicle at the time the violation occurs, with or without the permission of the owner, and an owner who operates [his or her] their or its own vehicle.

Parking Violations Bureau (PVB). “Parking Violations Bureau,” or “PVB,” is an administrative tribunal in the New York City Department of Finance established to accept pleas to, and to hear and determine charges of traffic infractions relating to parking violations within the City of New York, to provide for monetary fines, penalties and fees for such violations, and to enter and enforce judgments of the Bureau in the same manner as the enforcement of money judgments in civil actions.

Primary filing. “Primary filing” means the initial filing of registration plate numbers by a lessor or [commercial organization] Commercial Organization prior to the commencement of each fiscal year.

Stipulated Fine Program. “Stipulated Fine Program” means a voluntary enrollment program whereby [commercial organizations] Commercial Organizations that make expeditious pick-ups, deliveries and/or service calls and that are enrolled in the Fleet Program and meet the eligibility criteria established in 19 RCNY § 39-03.1, waive their right to challenge parking summonses and agree to pay a reduced fine amount for each summons, pursuant to 19 RCNY § 39-03.1.

§ 2. Subdivision (d) of section 39-02 of Title 19 of the Rules of the City of New York is amended to read as follows:

(d) *Certified copies of notice of violation (summons).* The Bureau shall provide, upon request of the respondent or [his or her] their attorney or authorized agent, certified copies of summonses issued to that respondent. The fee for such certified copies shall be one dollar (\$1.00) per copy. The Director may prescribe procedures for application for such copies, and/or the waiving of the aforementioned charge.

§ 3. Subdivision (e) of section 39-02 of Title 19 of the Rules of the City of New York is amended to read as follows:

(e)(1) *Notice of violation (summons) Copies.* A respondent is entitled to one request of up to five free summons copies (in judgment or not in judgment). Beginning with copy number 6 in any single request, or any additional requests within thirty days of the previous request, there will be a charge of \$1.00 per summons copy.

This rule applies to all respondents, including [commercial organizations] Commercial Organizations, except as provided in paragraph (2) of this subdivision. Note that the respondent is entitled to only five free copies per request, not per plate.

(2) *Indigent respondents*. Notwithstanding any other provision of this subdivision, a Senior [Hearing] Administrative Law Judge, a Supervising Administrative Law Judge, the Chief Administrative Law Judge, the Special Counsel for Adjudications, the First Deputy Commissioner of Finance or the Commissioner of Finance may authorize, without fee, the provision of summons copies to which a fee is otherwise applicable under this subdivision, to a respondent who is a natural person for the purpose of defending against a charged parking violation or moving to open a default judgment, upon the respondent making affidavit or sworn statement on the record that the respondent is unable to pay the fee and demonstrating the indigence of the respondent. Such affidavit or sworn statement [shall] must also state the reason the copy of each summons that was served at the time of occurrence is unavailable and, in the case of a motion to open default judgment, the basis of excusable neglect.

§ 4. Subdivision (c) of section 39-03 of Title 19 of the Rules of the City of New York is amended to read as follows:

(c) Plates may be commercial or non-commercial and must be registered with the Department of Motor Vehicles under the company's name and address upon enrollment and all times during enrollment. A vehicle leased by a long-term lease by the company from a lessor that is a [business entity] Business Entity may be enrolled; provided, however, that if not registered by the company then the lease agreement must be in the name of the company or a subsidiary/parent and the registrant must consent in writing to designate the company as its agent to receive notices of violation, notices of impending default in judgment, and other PVB notices as if the registrant itself had been served. At PVB's request, the company must supply copies of the registrations, lease agreements and other information. Failure to meet these requirements may result in the deletion of plates and/or termination of the company's enrollment in the Fleet Program without prior notice.

§ 5. Subdivision (f) of section 39-03 of Title 19 of the Rules of the City of New York is amended to read as follows:

(f) (1) Within 60 days from the Department of Finance system entry date for the summons, the company must pay the fine for each summons it does not contest. If the company wishes to contest a summons at an in-person or a virtual contemporaneous videographic hearing, within 60 days from the Department of Finance system entry date for the summons the company must:

(i) request a hearing, in accordance with 19 RCNY § 39-08[.]; and [be prepared to arrange to appear at]

(ii) submit its evidence prior to such hearing[, within 60 days from the Department of Finance system entry date for the summons].

(2) If such company does not submit its evidence prior to such in-person or a virtual contemporaneous videographic hearing, as applicable, within that 60 day period or if such company does not appear at a hearing scheduled by the Department of Finance and such 60 day period expires, such hearing may be conducted without the presence of the company or its representative, broker or employee.

§ 6. Paragraph (2) of subdivision (a) of section 39-04 of Title 19 of the Rules of the City of New York is amended to read as follows:

(2) A plea may be entered in person or by representative at any [borough hearing office] business center listed in 19 RCNY § 39-08(a)[or], by ordinary mail, through a website maintained or controlled by the Department, or by any other electronic medium as determined by the Director.

§ 7. Subdivisions (b) and (c) of section 39-04 of Title 19 of the Rules of the City of New York are amended to read as follows:

(b) [*Mailed*] Submission of pleas; completion of plea form. Pleas [by mail] entered by the respondent [shall] must be made by:

(1) [Entering] Submitting the desired plea on the plea form on [the back of the summons] paper, through a website maintained or controlled by the Department or on any other electronic medium as determined by the Director;

(2) [Entering his or her] Submitting their name and address in the space provided on the plea form on paper, through a website maintained or controlled by the Department or on any other electronic medium as determined by the Director;

(3) Signing the plea form; and

(4) Mailing [the notice of violation (summons) with], submitting or uploading the completed plea form [completed], by appropriate form of mail or electronic submission, to the mailing or electronic address or website stated on the notice of violation (summons).

(c) *Pleas of guilty; payment.* Pleas of guilty [shall] must be accompanied by a check[or], money order, or other form of payment, electronic or otherwise, as prescribed by the Director, for the payment in full of the scheduled fines as listed in 19 RCNY § 39-05 and 19 RCNY § 39-06 and the penalties as listed in 19 RCNY § 39-07.

§ 8. Paragraph (i) of a subdivision entitled “scheduled fines” set forth in section 39-05 of Title 19 of the Rules of the City of New York is amended to read as follows:

(i) Standing or parking of vehicle with [commercial] <u>commercial</u> plates without the name and address of the owner properly marked on the vehicle in violation of 34 RCNY § 4-08(k)(1)	\$100.00
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§ 9. Paragraph (o) of a subdivision entitled “scheduled fines” set forth in section 39-05 of Title 19 of the Rules of the City of New York is amended to read as follows:

(o) Parking in violation of officially posted street cleaning rules, unless such rules have been suspended by the Commissioner of Transportation or [his or her] <u>their</u> designee	\$50.00
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§ 10. Paragraph (2) of subdivision (a) of section 39-08 of Title 19 of the Rules of the City of New York is amended to read as follows:

(2) The Director, in [his or her] their discretion, may establish such special purpose hearing parts, and at such locations as deemed necessary.

§ 11. Subdivisions (b) and (c) of section 39-08 of Title 19 of the Rules of the City of New York are amended to read as follows:

(b) *Time schedule for hearings.*

(1) Hearing parts shall meet on days and at times as the Director shall from time to time in [his or her] their discretion determine, upon appropriate notice to the public.

(2) The Director, in [his or her] their discretion, may set additional times and days for hearings or limit, reduce or vary the time and days for hearings, to meet the needs of the Bureau, upon appropriate notice to the public.

(3) [Reserved] The Director, in their discretion, may determine for such hearing parts whether such hearing is conducted in-person or via another method, in order to meet the needs of the Bureau based on considerations of due process, efficiency, workload, staffing and other resources, in accordance with this section and sections 39-09, 39-12, 39-15, and 39-19 of this chapter, upon appropriate notice to the public, provided, however, that the Director shall not prohibit respondents from alternatively adjudicating summonses in-person at business centers.

(c) [*Hearing examiner*] Administrative Law Judge to preside. Every hearing shall be held before an Administrative Law Judge, Senior Administrative Law Judge, or Supervising Administrative Law Judge. All hearings shall be public.

§ 12. Paragraph (2) of subdivision (d) of section 39-08 of Title 19 of the Rules of the City of New York is amended to read as follows:

(2) *Counsel.* Appearance by Counsel shall not be recognized unless such attorney shall have filed a proper notice of appearance. The notice of appearance [shall] must contain the name, office address, email address, and telephone number of the attorney. No other attorney shall be permitted to appear for the respondent in such matter without an order in writing or made at open hearing by an administrative law judge. (See 19 RCNY §39-09 – Representatives at Parking Violations Bureau Hearings.)

§ 13. Paragraph (2) of subdivision (f) of section 39-08 of Title 19 of the Rules of the City of New York is amended to read as follows:

(2) Evidence may be presented [in any form] in a form as prescribed by the Director based on considerations of due process, efficiency, workload, staffing and other resources. All testimony shall be given on oath or affirmation issued by an administrative law judge, supervising administrative law judge, or senior administrative law judge, where appropriate, based on policies established by the Bureau.

§ 14. Subdivision (h) of section 39-08 of Title 19 of the Rules of the City of New York is amended to read as follows:

(h) *Subpoenas.* The administrative law judge may, in [his or her] their discretion, or at the request of the Respondent on a showing of good cause and need therefor, issue a subpoena to compel the appearance at a hearing of the officer who served the notice of violation or of other persons to give testimony, and may issue a subpoena duces tecum to compel the production for examination or introduction into evidence of any book, paper or other thing relevant to the charges alleged.

§ 15. Paragraphs (2), (3), and (4) of subdivision (a) of section 39-09 of Title 19 of the Rules of the City of New York are amended to read as follows:

(2) *Rules and authorization.* The rules set forth in paragraph (8) of subdivision (a) of this section apply to brokers appearing before the Department of Finance in any capacity, which include but are not limited to: the [fleet program, stipulated fine program, commercial abatement program, car rental program] Fleet Program, Stipulated Fine Program, Commercial Abatement Program, Car Rental Program, hearings by mail or web, CAU hearings, and scheduling and billing.

A broker must register with the Department of Finance before representing a respondent before the Department of Finance in any capacity by submitting such forms as prescribed by the Department of Finance and receiving approval of such forms by the Department of Finance. [Such registration] For the broker to represent a respondent, the broker must [be on] submit a Broker Authorization Form prescribed by the Department of Finance. The Broker Authorization Form must be:

(i) signed by a duly authorized principal, officer or partner of the respondent;

(ii) duly acknowledged before a Notary Public; and

(iii) mailed to PVB by certified mail, return receipt requested, electronically submitted to PVB as prescribed by the Department of Finance, or hand delivered to the Fleet Program Manager, who will issue a receipt. The Broker Authorization Forms will be filed in a central location in the [Commercial] Consolidated Adjudication Unit (CAU). Upon revocation of the authorization of a broker to represent a person or company, it is the joint and several responsibility of the broker and the person or company to notify PVB within seven days by certified mail, return receipt requested.

(3) *Hearing location and schedule.* All hearings involving brokers shall be conducted by appointment only in CAU. No other location or unit (e.g. [Help Centers] business centers) shall schedule or conduct hearings for respondents represented by brokers.

(4) *Fleet [program and car rental program] Program and Car Rental Program.* [All respondents represented by a] A broker [must register] shall not represent a Business Entity unless such Business Entity is registered in the Fleet Program [, if eligible] or the Car Rental Program. For vehicles registered in either the Fleet Program or the Car Rental Program, no hearing will be allowed without a PVB computer-generated log.

§ 16. Paragraphs (5) and (6) of subdivision (a) of section 39-09 of Title 19 of the Rules of the City of New York are amended to read as follows:

(5) [*Hearing logs.* For vehicles not in the Fleet Program or Car Rental Program, brokers shall be responsible for the proper preparation of the hearing log as per instruction of the CAU manager] Reserved.

(6) *Summons copy fees.* [Companies] Respondents represented by brokers are subject to the same summons copy fees as the general public (19 RCNY § 39-02(e)).

§ 17. Subparagraphs (i), (ii) and (iii) of paragraph (8) of subdivision (a) of section 39-09 of Title 19 of the Rules of the City of New York are amended to read as follows:

(i) Brokers [shall] must observe in good faith the laws and regulations governing the adjudication of parking violation summonses and any forms and instructions provided to the broker by the Department of Finance.

(ii) Brokers must exercise due diligence in:

(1) Learning and obeying applicable statutes, rules, and instructions governing the disposition of, or agreements concerning payment of, parking violation summonses, in full, before the CAU;

(2) Complying with [schedules for appearances,] scheduling and creating ECFs, and submitting evidence for hearings; and

(3) Ensuring that their oral and written arguments [and], statements, and evidence submitted to the Department of Finance are correct.

(iii) A broker who knows or has reason to believe that a respondent has made a factual error in or omission from a document submitted at or prior to the hearing must advise the respondent promptly of such error or omission. A broker [shall] must urge the applicant to correct the error and promptly submit the corrected information. If the applicant refuses to do so, the broker must withdraw from representation for the summons(es) where continued representation would violate this section.

§ 18. Subparagraphs (viii), (ix) and (x) of paragraph (8) of subdivision (a) of section 39-09 of Title 19 of the Rules of the City of New York are amended to read as follows:

(viii) Brokers must not attempt to initiate conversations or correspondence about particular cases with the ALJ before or after the hearing. At the hearing brokers must discuss the scheduled matters only. Brokers must not telephone [or], write, email, or otherwise communicate with the ALJ or other employees of the Department of Finance before or after the hearing with additional arguments.

(ix) Brokers must not attempt to influence any ALJ or employee of the Department of Finance by the use of threats, false accusations, intimidation or coercion; promises of advantage; or the presenting or offer of any gift, favor or thing of value. A broker must report promptly any such acts of which the broker is aware to the New York City Department of Investigation.

(x) Brokers must not engage in disrespectful conduct [in appearing before] when communicating with an ALJ regarding Parking Violations Bureau business at any time through means including, but not limited to, using abusive language or disrupting a hearing.

§ 19. Subparagraph (xii) of paragraph (8) of subdivision (a) of section 39-09 of Title 19 of the Rules of the City of New York is amended to read as follows:

(xii) Brokers must not request any Department of Finance clerical staff to perform non-routine tasks. All such requests must be addressed directly to and approved by the CAU Manager. "Nonroutine" means anything out of the regular processing stream.

§ 20. Paragraph (8) of subdivision (a) of section 39-09 of Title 19 of the Rules of the City of New York is amended by adding new subparagraphs (xiii) and (xiv) to read as follows:

(xiii) Every broker must follow the directions provided by their clients to pay or contest parking violation summonses. A broker shall not contest a summons where a client has instructed the broker to plead guilty and pay the summons. A broker shall not plead guilty to a summons where a client has instructed the broker to contest the summons.

(xiv) A broker in receipt of a payment from a client for a parking violation summons must remit in a timely manner a payment to the Department of Finance to pay the applicable summons in accordance with applicable laws and rules.

§ 21. Paragraph (9) of subdivision (a) of section 39-09 of Title 19 of the Rules of the City of New York is amended to read as follows:

(9) *Penalty for violation of these rules.* Any broker or brokerage company who willfully or repeatedly violates these rules may be barred from representing clients at PVB in any capacity. The Commissioner may, after providing notice to the broker and, if the brokerage company is also subject to suspension, the brokerage company, and an opportunity to be heard, suspend the broker for any period up to life from appearing before the Department of Finance in any capacity, except that the broker may appear on parking violations issued in the broker's name, and/or suspend a brokerage company for any period up to and until the dissolution of the brokerage company from appearing before the Department of Finance in any capacity, except that the brokerage company may appear on parking violations issued in the brokerage company's name. Such notice(s) will inform the broker and, if the brokerage company is subject to suspension, the brokerage company, of the reasons for the proposed suspension and that the broker and the brokerage company, if the brokerage company is subject to suspension, has the right to present information as to why the broker and/or brokerage company should not be suspended to the Commissioner, or [his or her] their designee, within 10 business days of delivery of the notice by hand or 15 business days of the posting of notice by mail. Any suspension of a broker will apply solely to the broker unless the Department of Finance has evidence either that the brokerage company which employed the broker had knowledge of the broker's infractions and did not inform the Department of Finance or that the standard practice of such brokerage company was to commit infractions in its interactions with the Department of Finance regardless of the broker involved. Any suspension of a brokerage company will apply to all brokers employed by the brokerage company for the period during which those brokers remain employed by the brokerage company. Any brokerage company shall be barred from representing clients at PVB in any capacity when a broker subject to a life suspension is employed by, engaged by, is subcontracted to, consults with or has any ownership interest in, such brokerage company.

§ 22. Paragraphs (2), (3), and (4) of subdivision (b) of section 39-09 of Title 19 of the Rules of the City of New York are amended to read as follows:

(2) *Rules and authorization.* The rules set forth in paragraph (8) of subdivision (b) of this section apply to employees appearing before the Department of Finance in any capacity, which include but are not limited to: the [fleet program, stipulated fine program, commercial abatement program, car rental program] Fleet Program, Stipulated Fine Program, Commercial Abatement Program, Car Rental Program, hearings by mail or through a website maintained or controlled by the Department, CAU hearings, and scheduling and billing.

An employee must register with the Department of Finance before representing a respondent before the Department of Finance in any capacity by submitting an Authorization for Employee to Act as Representative at Special/Commercial Adjudication Hearings, which is[. Such

registration must be on an Employee Authorization Form] prescribed by the [City of New York] Department of Finance and receiving approval of such Authorization by the Department of Finance. The [Employee] Authorization [Form] for Employee to Act as Representative at Special/Commercial Adjudication Hearings must be:

(i) [on the letterhead of the registrant;]

[(ii)] signed by a duly authorized principal, officer or partner of the respondent; and

[(iii)] (ii) duly acknowledged before a Notary Public. Such Authorizations must be received by CAU before an employee may act on behalf of [his or her] their company. They will be kept on file at CAU.

(3) *Hearing location and schedule.* All hearings in which employees act as representatives shall be conducted by appointment only in CAU. No other location or unit (e.g. [Help] Business Centers) shall schedule or conduct hearings for respondents represented by employees.

(4) *Fleet [program and car rental program] Program and Car Rental Program.* [All respondents represented by an] An employee [must register] shall not represent a respondent unless such respondent is registered in the Fleet Program[, if eligible] or the Car Rental Program. For vehicles registered in either the Fleet Program or the Car Rental Program, no hearing will be allowed without a computer-generated log.

§ 23. Paragraph (5) of subdivision (b) of section 39-09 of Title 19 of the Rules of the City of New York, relating to preparation of hearing logs, is amended to read as follows:

[(5) *Hearing logs.* For vehicles not in the Fleet Program or Car Rental Program, employees shall be responsible for the proper preparation of the hearing log as per instruction of the CAU manager] Reserved.

§ 24. Subparagraphs (i), (ii) and (iii) of paragraph (8) of subdivision (b) of section 39-09 of Title 19 of the Rules of the City of New York are amended to read as follows:

(i) Employees [shall] must observe in good faith the laws and regulations governing the adjudication of parking violation summonses and any forms and instructions provided to the employee by the Department of Finance.

(ii) Employees must exercise due diligence in:

(1) Learning and obeying applicable statutes, rules, and instructions governing the disposition of, or agreements concerning payment of parking violation summonses, in full, before the CAU;

(2) Complying with [schedules for appearances], scheduling and creating ECFs, and submitting evidence for hearings; and

(3) Ensuring that their oral and written arguments [and], statements, and evidence submitted to the Department of Finance are correct.

(iii) An employee who knows or has reason to believe that a respondent has made a factual error in or omission from a document submitted at or prior to the hearing must advise the

respondent promptly of such error or omission. An employee [shall] must urge the applicant to correct the error and promptly submit the corrected information.

§ 25. Subparagraphs (vi), (viii), (ix) and (x) of paragraph (8) of subdivision (b) of section 39-09 of Title 19 of the Rules of the City of New York are amended to read as follows:

(vi) Employees must not present a demand or an opinion of fact or law to the ALJ at a hearing unless the [broker] employee holds it in good faith and can support it on reasonable grounds.

(viii) Employees must not attempt to initiate conversations or correspondence about particular cases with the ALJ before or after the hearing. At the hearing employees must discuss the scheduled matters only. Employees must not telephone [or], write, email, or otherwise communicate with the ALJ or other employees of the Department of Finance before or after the hearing with additional arguments.

(ix) Employees must not attempt to influence any ALJ or employee of the Department of Finance by the use of threats, false accusations, intimidation or coercion; promises of advantage; or the presenting or offer of any gift, favor or thing of value. An employee must report promptly any such acts of which the employee is aware to the New York City Department of Investigation.

(x) Employees must not engage in disrespectful conduct [in appearing before] when communicating with an ALJ regarding Parking Violations Bureau business at any time through means including, but not limited to, using abusive language or disrupting a hearing.

§ 26. Subparagraph (xii) of paragraph (8) of subdivision (b) of section 39-09 of Title 19 of the Rules of the City of New York is amended to read as follows:

(xii) Employees must not request any Department of Finance clerical staff to perform non-routine tasks. All such requests must be addressed directly to and approved by the CAU Manager. "Non-routine" means anything out of the regular processing stream.

§ 27. Paragraph (9) of subdivision (b) of section 39-09 of Title 19 of the Rules of the City of New York is amended to read as follows:

(9) Penalty for violation of these rules. Any employee who willfully or repeatedly violates these rules may be barred from representing [his or her] their employer at PVB in any capacity. The Commissioner may, after providing notice to the employee and an opportunity to be heard, suspend the employee for any period up to life from appearing before the Department of Finance in any capacity, except that the employee may appear on parking violations issued in the employee's name. Such notice will inform the employee of the reasons for the proposed suspension and that the employee has the right to present information as to why the employee should not be suspended to the Commissioner, or [his or her] their designee, within 10 business days of delivery of notice by hand or 15 business days of the posting of notice by mail. Any suspension will apply solely to the employee unless the Department of Finance has evidence either that the standard practice of the employer was to commit infractions in its interactions with the Department of Finance regardless of the employee involved or that the employer had knowledge of the employee's infractions and did not inform the Department of Finance.

§ 28. Paragraph (3) of subdivision (c) of section 39-09 of Title 19 of the Rules of the City of New York is amended to read as follows:

(3) *Authorization for summonses in judgment.* An unpaid representative may not have a hearing on summonses in judgment unless [he or she submits] they submit to the Department of Finance a notarized Request for Hearing After Judgment, signed by the registrant of the summonsed vehicle and duly acknowledged before a Notary Public.

§ 29. Section 39-09 of Title 19 of the Rules of the City of New York is amended by adding a new subdivision (d) to read as follows:

(d) Additional CAU Procedures

(1) In addition to any other procedures set forth in this subchapter, the following procedures shall apply to hearings at which respondents, employees, brokers, unpaid representatives, or any other representatives appear before CAU:

(i) All decisions rendered by ALJs at CAU hearings shall be expressed in the form of an alpha numeric reason code from a list of alpha numeric reason codes as determined and maintained by PVB. Each alpha numeric reason code shall consist of an alpha numeric prefix constituting the defenses to a summons provided by a respondent and an alpha numeric suffix constituting the determination rendered by the ALJ. Notwithstanding the foregoing, an ALJ may provide additional information establishing the basis of the ALJ's decision.

(ii) Except as otherwise provided by law, all evidence submitted in any form at CAU hearings will be retained by CAU. CAU is not required to produce copies or certified true copies of any evidence submitted at CAU hearings.

(2) Respondents, Brokers, unpaid representatives, and any other representatives who appear before CAU must consolidate at least the minimum number of summonses authorized by the Director into one ECF for hearing or appeal. Such minimum number of summonses shall be determined by the Director based on the needs of the Bureau, and shall include a consideration of due process, efficiency, workload, staffing, volume of outstanding ECFs and other resources. Where the total number of outstanding summonses pending hearing or appeal against a respondent is less than such minimum number, such minimum number will be deemed to be the total number of summonses pending hearing or appeal, as applicable.

(3) For the purpose of this subdivision:

(i) The term "broker" has the meaning set forth in paragraph (1) of subdivision (a) of this section.

(ii) The term "employee" has the meaning set forth in paragraph (1) of subdivision (b) of this section.

(iii) The term "unpaid representative" has the meaning set forth in paragraph (1) of subdivision (c) of this section.

§ 30. Paragraph (2) of subdivision (h) of section 39-10 of Title 19 of the Rules of the City of New York is amended to read as follows:

(2) In the case of judgments rendered after hearing, the respondent [shall] must pay such judgments in full immediately. However, for good cause shown, the Director or [his or her] their designee may extend the time for such payment or set conditions therefor.

§ 31. Paragraphs (1), (2) and (3) of subdivision (j) of section 39-10 of Title 19 of the Rules of the City of New York are amended to read as follows:

(1) A determination dismissing a charged parking violation that has been procured due to the knowing fraud, false testimony, misrepresentation or other misconduct, or the knowing alteration of a notice of parking violation, by the person so charged or [his or her] their agent, employee or representative may be set aside by an administrative law judge as hereinafter provided.

(2) Notice shall be served on the owner by mail to the last known registered address within two years of the time that the enforcing authority discovers, or could with reasonable diligence have discovered, that the dismissal was procured due to the knowing fraud, false testimony, misrepresentation, or other misconduct, or the knowing alteration of a notice of parking violation, by the person so charged or [his or her] their agent, employee or representative. Such notice shall fix a time when and place where a hearing shall be held before an administrative law judge to determine whether or not dismissal of a charged parking violation shall be set aside. Such notice shall set forth the basis for setting aside the dismissal and advise the owner that failure to appear at the date and time indicated in such notice shall be deemed an admission of liability and shall result in the setting aside of the dismissal and entry of a determination on the charged parking violation. Such notice shall also contain a warning that civil penalties may be imposed for the violation pursuant to this subdivision and that a default judgment may be entered thereon.

(3) Upon a finding by an administrative law judge that the dismissal of a charged parking violation has been procured due to the knowing fraud, false testimony, misrepresentation, or other misconduct, or the knowing alteration of a notice of parking violation, by the person so charged or [his or her] their agent, employee or representative, the dismissal shall be set aside and a determination may be rendered against the owner on the charged parking violation. The administrative law judge may impose monetary penalties for the charged parking violation of up to three times the scheduled fine for the violation pursuant to 19 RCNY § 39-05 and three times the additional penalties that may be imposed for failure to respond to a notice of violation pursuant to 19 RCNY § 39-07. The administrative law judge shall also impose, without multiplying, the surcharge authorized by section 1809-a of the Vehicle and Traffic Law. For purposes of determining the amount of such additional penalties, the administrative law judge shall disregard the plea that procured the dismissal that has been set aside and shall calculate such penalties as if there had been no plea or appearance in the proceeding. In any proceeding under this subdivision to set aside a determination and to impose penalties for the violation, it shall not be necessary for the administrative law judge to find that the owner personally committed the unlawful acts that procured the dismissal of the violation.

§ 32. Paragraph (5) of subdivision (j) of section 39-10 of Title 19 of the Rules of the City of New York is amended to read as follows:

(5) A default judgment pursuant to paragraph 4 of this subdivision may be entered more than two years after the expiration of the time prescribed pursuant to subdivision (f) of this section, but no more than two years after the time that the enforcing authority discovers, or could with reasonable diligence have discovered, that the dismissal was procured by fraud, false testimony,

misrepresentation, or other misconduct, or the knowing alteration of a notice of parking violation by the respondent or by [his or her] their agent, employee or representative.

§ 33. Paragraph (1) of subdivision (d) of section 39-12 of Title 19 of the Rules of the City of New York is amended to read as follows:

(1) Appeals shall be heard upon the record of the hearing before the administrative law judge (if provided), the notice of appeal and such briefs as the respondent may file. The Appeals Board may request or accept briefs on behalf of other interested parties or by amici curiae. All appeals shall be submitted to the Appeals Board without oral argument, unless such oral argument is expressly requested by the appellant, or [his or her] their attorney in the notice of appeal, and upon compliance with the rules and regulations of the Bureau. Procedures for oral argument and application therefor, shall be prescribed by the Director.

§ 34. Subdivision (e) of section 39-12 of Title 19 of the Rules of the City of New York is amended to read as follows:

(e) *Determinations.* (1) Within sixty days or a period of time determined by the Director pursuant to paragraph (2) of this subdivision, as applicable, after the filing of the notice of appeal, respondent's briefs or completion of oral argument, whichever date shall come last, the Appeals Board shall render its determination in writing. A copy of such determination shall be sent by ordinary mail or another method deemed appropriate by the Director to the respondent or [his or her] their counsel.

(2) If the Director determines that the 60-day period set forth in paragraph (1) of this subdivision is inadequate, the Director may establish a longer period based on considerations of due process, efficiency, workload, staffing and other resources.

§ 35. Paragraph (1) of subdivision (g) of section 39-12 of Title 19 of the Rules of the City of New York is amended to read as follows:

(1) Failure by any Respondent-Appellant to furnish or supply any relevant material required to process [his or her] their appeal, within thirty days of a request by the Bureau therefor shall be deemed an abandonment of such appeal.

§ 36. Subdivision (d) of section 39-14 of Title 19 of the Rules of the City of New York is amended to read as follows:

(d) *Extensions.* The period of time in which any act required by this chapter is to be performed, may be extended by the Director or [his or her] their designees for good cause, prior to the expiration of the original time period.

§ 37. Section 39-19 of Title 19 of the Rules of the City of New York is amended to read as follows:

§ 39-19 Hearings by Website and Virtual but Contemporaneous Videographic Adjudication Methods.

(a) The Director may determine certain classes of alleged violations as appropriate for adjudication electronically through the Department of Finance website or using of virtual but contemporaneous videographic means through the Department of Finance website or another

website designated by the Department of Finance and may prescribe procedures for such adjudication.

(b) Notwithstanding any other provision of this Chapter, the Director may establish a virtual hearing pilot program, whereby the Director designates a certain number or percentage of summonses as eligible to be adjudicated through virtual but contemporaneous videographic adjudication methods in order to test the efficacy of such methods. The Director may further limit such pilot program to summonses that are adjudicated in one or more special purpose hearing parts or other programs operated by PVB. Upon a written determination by the Director, such pilot program will terminate, and the Director shall determine whether and how to conduct virtual but contemporaneous videographic adjudication methods in accordance with the procedures set forth in 19 RCNY § 39-08(b)(3).

§ 38. This rule takes effect on the earliest effective date authorized by subdivision f of section 1043 the Charter, provided that:

(a) For respondents who have at least 10,000 summonses against them that have not been adjudicated or otherwise satisfied, application of the amendments to 19 RCNY § 39-09(a)(4) made by section 15 of this rule and the amendments to 19 RCNY § 39-09(b)(4) made by section 22 of this rule shall be delayed two additional months for each such set of 10,000 unadjudicated or otherwise unsatisfied summonses; and

(b) Any such delay authorized pursuant to subdivision a of this section shall not exceed a total of twelve months.