

New York City Department of Transportation

Notice of Public Hearing and Opportunity to Comment on Proposed Rules

What are we proposing? This proposed rule would add a new section to Chapter 4 of Title 34 of the Rules of the City of New York (“34 RCNY”) to outline details of the Dangerous Vehicle Abatement Program (“DVAP”) as authorized by Local Law 36 of 2020.

When and where is the hearing? The New York City Department of Transportation (“DOT”) will hold a public hearing on the proposed rule online. Members of the public may access and participate in this hearing online or by telephone. The public hearing will take place on October 20, 2021 at 10am.

Join through Internet:

- To join the hearing via your browser, either click on the following URL link or copy and paste it into your browser’s address bar.

Join Zoom Meeting

<https://zoom.us/j/96148346876?pwd=dkJ5SnpHZ0s5SE5FWC9MWitjYUNEdz09>

Meeting ID: 961 4834 6876

Passcode: 831512

If you have low bandwidth or inconsistent Internet connection, we suggest you use the “Call-in” option for the hearing. This will reduce the possibility of dropped audio and stutters.

Join via phone only:

To join the meeting only by phone, use the following information to connect:

Phone: 1-646-518-9805 or 1-929-205-6099

Access code: 961 4834 6876

Password (if requested): 831512

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

- **Website.** You can submit comments to DOT through the NYC rules website at <http://rules.cityofnewyork.us>.
- **Email.** You can email comments to rules@dot.nyc.gov.
- **Mail.** You can mail comments to Julia Kite-Laidlaw, New York City Department of Transportation, 55 Water Street, 9th Floor, New York, NY 10041.
- **Fax.** You can fax comments to Julia Kite-Laidlaw at 212-839-7188.

- **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 emailing rules@dot.nyc.gov by October 19, 2021 and including your name and affiliation. While you will be given an opportunity during the hearing to indicate that you would like to provide comments, we prefer that you sign up in advance. You can speak for up to three minutes.

Is there a deadline to submit written comments? The deadline for written comments is 5pm on October 20, 2021.

Do you need assistance to participate in the hearing? You must tell the DOT Office of the General Counsel if you need a reasonable accommodation of a disability during the hearing. You must tell us if you need a sign language interpreter. You can tell us by e-mailing at rules@dot.nyc.gov. If you wish to receive a reasonable accommodation, you must do so by October 11, 2021.

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, a transcript or audio file of the hearing and copies of the written comments are available by submitting a Freedom of Information Law request electronically on the NYC OpenRecords Portal at <https://a860-openrecords.nyc.gov/>.

What authorizes DOT to make this rule? Section 2903(a) of the New York City Charter (City Charter) authorizes DOT to make this proposed rule. This proposed rule was included in DOT's regulatory agenda for fiscal year 2021.

Where can I find DOT's rules? DOT's rules are in Title 34 of the RCNY.

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

Statement of Basis and Purpose of Proposed Rule

The Commissioner of the New York City Department of Transportation ("DOT" or "Department") is authorized to promulgate rules regarding parking and traffic operations in the City pursuant to Section 2903(a) of the New York City Charter. The rules that DOT is seeking to amend are contained within Chapter 4 of Title 34 of the Rules of the City of New York.

More than 200 people in New York City are killed each year in traffic crashes. Being struck by a vehicle is the leading cause of injury-related death for children under 14, and the second leading cause for senior citizens. In a DOT analysis, vehicles with the most school speed camera violations per year or the most red light camera violations per year were more likely to be involved in injury crashes than vehicles with few or no violations. The City Council established a safety education program to educate registered vehicle owners who had received multiple red light camera and school speed camera violations regarding the dangers of exceeding speed limits and failing to comply with traffic signals.

As a result, Local Law 36 was enacted on February 26, 2020 and the Dangerous Vehicle Abatement Program was established. The law provides that registered owners of vehicles with five or more finally adjudicated red light camera violations or 15 or more finally adjudicated speed camera violations within any 12-month period may be required to complete a safe vehicle operation course. On October 26, 2020, DOT began to issue notices about the program, which contained warnings that failure to enroll in and complete a safe vehicle operation course may result in the seizure and impoundment of such vehicle.

The purpose of the proposed rule is to outline details of the Dangerous Vehicle Abatement Program as authorized by Local Law 36 of 2020.

Specifically, the proposed amendments would be as follows:

- A new Section 4-18 would be added to describe the requirements of the Dangerous Vehicle Abatement Program by providing timeframes for completing a safe vehicle operation course, the procedure for contesting notices of violation, and certifying completion of such course.

New material is underlined.

Section 1. Section 4-18 of Chapter 4 of Title 34 of the Rules of the City of New York is added to read as follows:

§ 4-18 Dangerous Vehicle Abatement Law.

(a) *Definitions.* For purposes of this section, the following terms have the following meanings:

Covered vehicle. The term “covered vehicle” means any motor vehicle that, in accordance with the records of the department of finance, has accumulated five or more finally adjudicated red light camera violations as determined by the department, or 15 or more finally adjudicated school speed camera violations as determined by the department, within any 12-month period. Such term shall not include any vehicle owned or leased by the United States government or any state or local government.

Person. The term “person” means a natural person, co-partnership, firm, company, association, joint stock association, corporation or other like organization.

Predicate violation. The term “predicate violation” means a red light camera violation or school speed camera violation.

Red light camera violation. The term “red light camera violation” means the notice of liability issued for failure of a vehicle operator to comply with section 1111-a of the Vehicle and Traffic Law or section 19-210 of the Administrative Code of the City of New York.

School speed camera violation. The term “school speed camera violation” means the notice of liability issued for failure of a vehicle operator to comply with section 1180-b of the vehicle and traffic law.

Safe vehicle operation course. The term “safe vehicle operation course” means a course approved by the department that educates vehicle owners about the dangers resulting from vehicle operators exceeding posted speed limits and failing to comply with traffic signals, including the potential to cause injury or death, by utilizing a skilled facilitator to actively engage

participants in self-reflection and discussion to identify and commit to specific safe driving practices. The goal of such course is to prevent vehicles from becoming dangerous instruments by educating owners about responsible vehicle ownership.

(b) *Notice to vehicle owners.* The department shall send by first-class mail, to all persons receiving a red light camera violation or a school speed camera violation, a notice that pursuant to subchapter 4 of title 19 of the New York City Administrative Code, a vehicle that incurs five or more red light camera violations or 15 or more school speed camera violations within any 12-month period may be determined to be a covered vehicle, and that such vehicle's registered owner may thereafter be required to enroll in and complete a safe vehicle operation course pursuant to the aforementioned subchapter and this section. Such notice shall also contain a warning that failure to enroll in and complete such course may result in the seizure and impoundment of such vehicle, pending completion of such course.

(c) *Safe vehicle operation course.*

(1) The department must serve a safe vehicle operation course notice on the registered owner of a vehicle determined by the Department to be a covered vehicle. Such notice must be served by first-class mail

(2) The registered owner of a vehicle who receives the safe vehicle operation course notice must enroll in and complete an approved safe vehicle operation course within forty-five days from the date of such notice. Available approved courses and the method of enrollment in such courses shall be set forth in such notice or as indicated on the website of the Department.

(3) The registered owner must certify completion of the safe vehicle operation course to the Department within ten days from the date of the completion of such course in the manner set forth in such notice. The registered owner may request review of the safe vehicle operation course notice by the Department within forty-five days from the date of such notice as indicated in such notice. If the Department finds that such notice was issued properly, the registered owner may contest such notice before the Office of Administrative Trials and Hearings as indicated in such notice. At such hearing, the owner may assert defenses, including but not limited to:

(i) a person other than the registered owner was driving the vehicle when the predicate violations were issued, provided that such other person has or will complete the course on behalf of the registered owner;

(ii) there are insufficient finally adjudicated predicate violations for such covered vehicle notice;

(iii) the registered owner in good faith attempted to enroll in the safe vehicle operation course but was unable to do so, due to no fault of their own; or

(iv) employment, health or family circumstances beyond the control of the registered owner would cause undue hardship and prevent them from completing the safe vehicle operation course within the time frame required by this section.

(4) Notwithstanding any inconsistent provision of paragraph (4) of this subdivision, where the registered owner of a covered vehicle is a person other than a natural person, the registered owner shall identify to the department the natural person who operated or is responsible for

overseeing the operation of such covered vehicle. The department may require proof that such person operated or is responsible for the operation of such covered vehicle. Such person shall complete the safe vehicle operation course on behalf of the registered owner, as set forth in this section.

(5) If the Office of Administrative Trials and Hearings finds that such registered owner must complete the safe vehicle operation course, such registered owner must complete such course within forty-five days from such determination. The determination of the Office of Administrative Trials and Hearings shall be a final determination for purposes of review, pursuant to article 78 of the Civil Practice Law and Rules.

(d) *Seizure and impoundment.* Where a registered owner fails to complete the safe vehicle operation course in accordance with this section, the covered vehicle may be subject to impoundment.

(1) The Department shall serve an order by first-class mail upon the registered owner of such covered vehicle. Such order shall require the owner to complete the safe vehicle operation course and certify to the department completion of such course within a period of time to be set forth in such order, or appear at a hearing before the Office of Administrative Trials and Hearings at a time and place set forth in such order, at which such registered owner may present reasons why their covered vehicle should not be seized and impounded until such registered owner completes the safe vehicle operation course. The determination of the Office of Administrative Trials and Hearings shall be a final determination for purposes of review, pursuant to article 78 of the Civil Practice Law and Rules.

(2) If the Office of Administrative Trials and Hearings sustains the order of seizure and impoundment, the Department shall direct the City Sheriff, after twenty days have passed from the date of such final determination, to seize and impound the covered vehicle. Such covered vehicle shall not be released until the owner provides certification of completion of the safe vehicle operation course and pays the Department fees for recoupment of expenses for the seizure and impoundment of vehicles. If within six months after completing a safe vehicle operation course a vehicle does not accumulate any additional predicate violations, any red light camera or school speed camera violations accrued prior to the completion of such course may not be counted as predicate violations for purposes of this section.

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: Rules Governing Dangerous Vehicle Abatement Program

REFERENCE NUMBER: 2021 RG 073

RULEMAKING AGENCY: Department of Transportation

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

- (i) is drafted so as to accomplish the purpose of the authorizing provisions of law;
- (ii) is not in conflict with other applicable rules;
- (iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and
- (iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN

Date: September 17, 2021

Acting Corporation Counsel

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: Rules Governing Dangerous Vehicle Abatement Program

REFERENCE NUMBER: DOT-62

RULEMAKING AGENCY: Department of Transportation

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

- (i) Is understandable and written in plain language for the discrete regulated community or communities;
- (ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and
- (iii) Does not provide a cure period because a cure period would defeat the purpose of the rule.

/s/ Francisco X. Navarro

Mayor's Office of Operations

September 17, 2021

Date