

Public Hearing, August 10, 2022

Proposed Rules for Administration of Local Law 108

Installation of Sideguard on Large Vehicles

Opening Remarks, Keith Kerman, Deputy Commissioner at the Department of Citywide Administrative Services (DCAS) and NYC Chief Fleet Officer

Good morning. My name is Keith Kerman and I serve as a Deputy Commissioner at the Department of Citywide Administration Services (DCAS) and as New York City's Chief Fleet Officer. I'm here today with Deputy Chief Fleet Officer Eric Richardson, Deputy DCAS Counsel Robina Gumbs, and Scott Wagner and Rei Watanabe of the DCAS Counsel's Office.

Thank you for participating in the public hearing regarding the issuance of rules to implement Local Law 108 of 2021 which requires truck safety sideguards on large vehicles from both the City fleet and commercial trucks working under contracts with the City of New York. The law also governs commercial waste vehicles.

The purpose of these Rules includes the following goals:

- To reduce and/or eliminate deaths and serious injuries resulting from traffic crashes caused by large vehicles used by the City Fleet and City contractors and subcontractors while performing work for the City;
- To enhance the City's "Vision Zero" initiative to prioritize human life and the safety of our streets by reducing traffic crashes that cause death and serious injury, through an equitable distribution of resources and community engagement; and
- To require City contractors and their subcontractors install side guards on vehicles used in the performance City contracts.

Truck sideguards were introduced to NYC as part of the citywide Vision Zero initiative. Trucks sideguards are common-sense protections for pedestrians, bicyclists, children, and even small cars against being pulled underneath trucks, especially during right and left hand turns in crowded city areas. At its most basic, a truck sideguard is a rail blocking the space between the front and rear tires on each side of a truck. A specific technical definition is provided in the law.

Truck side-guards have been mandated in many parts of the world for decades but are still uncommon in North America. While New York City is leading the effort to implement truck side-guards, this effort is also going national. The National Highway Traffic Safety Administration (NHTSA) announced on June 30, 2022 that it was issuing final rules for rear underride protection on trucks and establishing a federal advisory committee and planning to publish a notice of proposed rulemaking for side underride protection on trucks.

In 2014, DCAS partnered with the US Department of Transportation (DOT) Volpe Center to study and report on the potential implementation of truck side-guards in NYC. Truck side-guards are relatively inexpensive, costing about \$1,500 to \$2,500 to implement. More importantly, they save lives. The

fatality rate for bicyclists and pedestrians colliding with the side of a truck decreased by 61% and by 20%, respectively, following a national sideguard requirement in the United Kingdom in the 1980s. Truck side-guards can be thought of as air bags for pedestrians. DCAS worked with Volpe to establish market suppliers of the guards and to train installers. NYC helped create the industry around side-guard supply in the United States. DCAS will supply information about current market suppliers of guards and trained installers to City contractors governed by the new local law.

In 2015, NYC passed Local Law 56 requiring truck side-guards for the City Fleet and Commercial Waste Trucks. The law outlines the detailed specification that qualifies as an acceptable side-guard and empowers DCAS to inspect guards and make exceptions and/or exemptions by vehicle type, vehicle operations, or for other technical reasons. There are some types of trucks, for example sweepers or fire engines, that cannot take truck side-guards.

Local Law 108, passed in October 2021, extends the truck side-guards requirements to City Contractors. Passing of this law was led by then Councilman Ydanis Rodriguez who is now DOT Commissioner. The law covers contracts valued at \$2 million or more where a truck is used on a weekly or more frequent basis to perform requirements material to the contract. This includes sub-contractors.

Install of truck side-guards is part of the DCAS Vision Zero Safe Fleet Transition Plan which outlines a wide variety of safety outfitting and safety design for all City fleet units. In December 2021, DCAS published a Safe Fleet Transition Plan which advised on broader safety technology for the commercial waste industry.

By the new local law, all City trucks and commercial waste vehicles must be complete with side-guards by Jan 1, 2023 unless exempted according to these rules. The Business Integrity Commission (BIC) is implementing and enforcing the law for commercial waste vehicles.

Contractors will have one year to 18 months to outfit the trucks, depending on the size of the impacted fleet. Specifically, a contractor utilizing 10 or fewer impacted trucks will have no later than 12 months to install the guards from the issuance of a notice to proceed pursuant to that contract. A vendor with more than 10 impacted trucks will have up to 18 months.

The law governs contracts registered by the Comptroller on or after January 1, 2023 and does not cover renewals of existing contracts. Contractors will have the time to build these costs into their bids.

Each City agency will work with their vendors and DCAS to monitor and enforce compliance. DCAS will work with each agency and contractor to address technical issues, exemptions, and inspections. By law, there are financial consequences for non-compliance. The penalty is up to \$4,000 per truck that is non-compliant.

Within 14 days following the Notice to Proceed or the issuance of the first order under the contract involving trucks impacted by the law, vendors must supply the contracting agency and DCAS a written compliance plan for the law. At six months, as applicable, or as required by DCAS, the vendor must also supply the contracting agency and DCAS with a compliance report outlining the specific list of impacted vehicles, with vehicle details, side-guard details, and pictures showing compliance.

There are exemptions in the law. These exemptions can include:

- Supply chain disruptions;

- Delays in the commencement of work or payments which are not caused by the fault of the Contractor;
- If removing the vehicle from service would have a material effect on the contractor's ability to perform work under the Contract;
- Natural or man-made emergencies;
- Financial hardship. However, please keep in mind that vendors will have the opportunity to include the costs of side-guards in their bids;
- Any other circumstance, whether or not anticipated or found to be usual or typical

The requirements for Side Guards will be considered satisfied if one or more of the following three situations is present:

- The Large Vehicle is equipped with Side Guards that allow for a maximum 13.8 inch ground clearance, a maximum 13.8 inch top clearance up to four feet in height, and a minimum 440 pound impact strength that achieves a smooth and continuous longitudinal (forward to backward) impact surface flush with the vehicle sidewall, known as the "NYC Side Guard Standard"
 - For example, there are instances where existing truck features, like tool boxes, already play the functional role of sideguards.
- Instance where the design or operations of the vehicle cannot allow truck sideguards, for example many models of three axle trucks or street sweepers.
- The Large Vehicle is designed or equipped on each side of the unit such that, by virtue of its shape and characteristics, its component parts can be regarded as replacing or functioning as Side Guards in accordance with the Volpe Side Guard Standard, or will perform the function of Side Guards with modifications separate from installation of Volpe Standard sideguards, subject to the approval of DCAS.

Requests for exemptions must be submitted to DCAS in writing outlining in detail the purpose of the exemption and including any vehicle pictures, specifications, or other information required for DCAS to make a decision. DCAS will reply in writing to exemption requests within 90 days.

We thank you for your support of this important safety law and look forward to working with all of you to outfit trucks with these lifesaving guards. We are happy to take any questions.

Thank you.

Prepared 8/10/22