

New York City Department of Finance

Notice of Public Hearing and Opportunity to Comment on Proposed Rules

What are we proposing? The New York City Department of Finance (“DOF”) is proposing amendments to DOF’s rules concerning Interstate Route 278 (Brooklyn-Queens Expressway or BQE) in Kings County (Brooklyn) to enforce vehicle weight restrictions on such interstate by means of mobile or stationary weigh-in-motion systems. These amendments will establish the fine and penalty for such violations, provide requirements for the notice of liability that will be sent to motorists by the New York City Department of Transportation (“DOT”), and authorize the Parking Violations Bureau (“PVB”), a division of DOF, to adjudicate allegations of liability.

When and where is the hearing? DOF will hold a public hearing on the proposed rules. The public hearing will take place at **11:00am** on **July 12, 2022**. The hearing will be conducted remotely through Webex Event Center. To participate in the public hearing, enter the Webex URL <https://nycdof.webex.com>. If prompted to provide a password or number, please enter the following: WIM72022. You can also participate in the hearing via phone by calling 646-992-2010 or 408-418-9388. The meeting access code is 2346 140 6188.

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

- **Website.** You can submit comments to DOF through the NYC Rules website: <http://rules.cityofnewyork.us> .
- **Email.** You can email written comments to rubing@finance.nyc.gov .
- **Mail.** You can mail written comments to NYC Department of Finance, Legal Affairs Division, 375 Pearl Street, 30th Floor, New York, NY 10038, Attn: Garret Rubin.
- **Fax.** You can fax written comments to NYC Department of Finance, Attn: Garret Rubin, at (212) 748-6982.
- **By speaking at the hearing.** Anyone who wants to comment on the proposed rules at the public hearing must sign up to speak. You can sign up before the hearing by calling Joan Best at (212) 748-7214. You can speak for up to three minutes.

Is there a deadline to submit written comments? The deadline to submit written comments is July 14, 2022.

What if I need assistance to participate in the hearing? Please contact DOF's Legal Affairs Division at least five business days before the hearing if you need a reasonable accommodation of a disability at the hearing. You must tell us if you need a sign language interpreter. You can make any accommodation request by mail at the address given above. You may also make such request by contacting Joan Best; by telephone, by calling (212) 748-7214; TTY (212) 504-4115 or by e-mail at bestj@finance.nyc.gov . Advance notice is requested to allow sufficient time to arrange the accommodation.

This hearing has the following accessibility options available: Simultaneous transcriptions for people who are deaf or hard of hearing and audio-only access; American Sign Language interpretation on video. For audio-only access, call 408-418-9388. The meeting access code is 2346 140 6188.

Can I review the comments made on the proposed rules? You can review the comments that have been submitted online by visiting the NYC Rules website: <http://rules.cityofnewyork.us/> . A few days after the hearing, copies of all comments submitted online, copies of all written comments, and a summary of oral comments concerning the proposed rules will be available to the public at NYC Department of Finance, Legal Affairs Division, 375 Pearl Street, 30th Floor, New York, NY 10038.

What authorizes DOF to adopt these rules? New York State Vehicle and Traffic Law (“VTL”) sections 385-a, 1111-a, 1111-c(g)(5), and 1180-b(h), sections 19-203 and 19-210(f) of the Administrative Code of the City of New York, and New York City Charter (“Charter”) sections 1043 and 1504 authorize DOF to adopt these proposed rule amendments. These proposed rules were not included in DOF’s regulatory agenda for this Fiscal Year because they were not contemplated when DOF published the agenda.

Where can I find DOF’s rules? DOF’s rules can be found in Title 19 of the Rules of the City of New York. <https://codelibrary.amlegal.com/codes/newyorkcity/latest/NYCrules/0-0-0-40773>

What laws govern the rulemaking process? DOF must meet the requirements of Section 1043 of the Charter when creating or amending rules. This notice is made according to the requirements of Section 1043 of the Charter.

STATEMENT OF BASIS AND PURPOSE

On December 22, 2021, the Governor signed Chapter 773 of the Laws of 2021 into law, which enacted Vehicle and Traffic Law (VTL) section 385-a, authorizing the City to establish a demonstration program on that portion of the BQE from the vicinity of Atlantic Avenue to the vicinity of Sands Street in Brooklyn to enforce vehicle weight restrictions imposed by VTL section 385 on that roadway by means of mobile or stationary weigh-in-motion systems.

Weigh-in-motion systems record the axle weights and gross weights of vehicles that drive over devices placed on the road without the need for vehicles to stop. A violation would be issued to vehicle owners whose vehicles are recorded as having axle or gross weights exceeding the existing legal thresholds.

Subdivision (e) of VTL section 385-a authorizes the New York City Parking Violations Bureau (PVB), a division of the New York City Department of Finance (DOF), to promulgate a schedule of fines and penalties for violations of weight restrictions in the described area. Subdivision (g) establishes requirements for the notice of liability. Subdivision (h) authorizes the PVB to adjudicate violations noticed under VTL section 385-a.

The New York City Department of Transportation (“DOT”) will implement the demonstration program in accordance with VTL section 385-a and, as such, DOT will maintain the weigh-in-motion systems, send notices of liability to motorists, and transmit information relating to these violations to DOF. The proposed amendments establish the fine and penalty for such violations, state requirements for the notice of liability, and specify that the PVB will adjudicate allegations of liability in a new section 39-22.

Three other rules in Chapter 39 of Title 19 have provisions parallel to the one in proposed section 39-22 regarding the adjudication of liability where the PVB is similarly authorized by statute to adjudicate. However, those three provisions—in sections 39-17, 39-18, and 39-21—use outdated language that reflect a time when the PVB was housed in the DOT instead of in DOF. DOF proposes to amend those provisions in sections 1 through 3 of this rule so that they, in conformity with the provision on adjudication in the newly proposed section 39-22, use current language that accurately states that the PVB will adjudicate.

DOF's authority for the rule is found in sections 1043 and 1504 of the New York City Charter, sections 19-203 and 19-210(f) of the Administrative Code of the City of New York and sections 385-a, 1111-a, 1111-c(g)(5), and 1180-b(h) of the VTL.

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. Subdivision (d) of section 39-17 of Title 19 of the Rules of the City of New York is amended to read as follows:

(d) [Administrative law judges. The administrative law judges heretofore or hereinafter appointed by the Commissioner of the New York City Department of Transportation or the Commissioner of the New York City Department of Finance for the adjudication of parking violations shall preside at hearings for the adjudication of allegations of liability in accordance with § 1111-a of the vehicle and traffic law.] Adjudication. The Parking Violations Bureau will adjudicate liability imposed upon owners pursuant to section 1111-a of the Vehicle and Traffic Law under section 19-210 of the Administrative Code.

§ 2. Subdivision (d) of section 39-18 of Title 19 of the Rules of the City of New York is amended to read as follows:

(d) [Administrative law judges. The administrative law judges appointed by the Commissioner of the New York City Department of Transportation or the Commissioner of the New York City Department of Finance up to this point and moving forward for the adjudication of parking violations will preside at hearings for the adjudication of allegations of liability in accordance with § 1111-c of the vehicle and traffic law.] Adjudication. The Parking Violations Bureau will adjudicate liability imposed upon owners under section 1111-c of the Vehicle and Traffic Law.

§ 3. Subdivision (d) of section 39-21 of Title 19 of the Rules of the City of New York is amended to read as follows:

(d) [Administrative law judges. The administrative law judges for the adjudication of parking violations appointed by the Commissioner of the New York City Department of Transportation or the Commissioner of the New York City Department of Finance will preside at hearings for the adjudication of allegations of liability in accordance with subdivision (h) of § 1180-b of the Vehicle and Traffic Law.] Adjudication. The Parking Violations Bureau will adjudicate liability imposed upon owners under section 1180-b of the Vehicle and Traffic Law.

§ 4. Section 39-22 of Title 19 of the Rules of the City of New York is added to read as follows:

§ 39-22 Weigh-in-Motion Violation Monitoring System

(a) *Liability.* The liability of an owner pursuant to § 385-a of the Vehicle and Traffic Law for a violation of § 385 of such law shall be \$650.00 for each such violation.

(b) *Additional penalties.* If the owner fails to make payment or contest the liability within thirty days after the mailing of the notice of liability, an additional penalty of \$25.00 may be assessed pursuant to subdivision (e) of § 385-a of the Vehicle and Traffic Law.

(c) *Notice of liability.* The notice of liability must be in accordance with the requirements of subdivision (g) of § 385-a of the Vehicle and Traffic Law and in such form and substance as prescribed by the director of the New York City Parking Violations Bureau.

(d) *Adjudication.* The Parking Violations Bureau will adjudicate liability imposed upon owners under § 385-a of the Vehicle and Traffic Law.

(e) *Effective dates.* This section will remain in effect for as long as § 385-a of the Vehicle and Traffic Law shall remain in effect.

**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: Implementation of Weigh-in-Motion Demonstration Program

REFERENCE NUMBER: 2022 RG 029

RULEMAKING AGENCY: Department of Finance

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: May 19, 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: Implementation of Weigh-in-Motion Demonstration Program

REFERENCE NUMBER: DOF-57

RULEMAKING AGENCY: Department of Finance

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) Cure periods do not apply to violations of the traffic rules.

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

May 19, 2022
Date