

New York City Department of Transportation

Notice of Public Hearing and Opportunity to Comment on Proposed Rules

What are we proposing? The New York City Department of Transportation (NYCDOT) is proposing to add a subdivision (g) to Section 4-10 of Chapter 4 of Title 34 of the Official Compilation of the rules of the City of New York to perform a one-time random assignment of bus stop permits to sightseeing bus operators.

When and where is the hearing? The Department of Transportation will hold a public hearing on the proposed rule. The public hearing will take place at 2:00 p.m. on November 12, 2015. The hearing will be in the bid room at 55 Water Street, New York, New York 10041.

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

- **Website.** You can submit comments to NYCDOT through the NYC rules Web site at <http://rules.cityofnewyork.us>.
- **Email.** You can email comments to rules@dot.nyc.gov.
- **Mail.** You can mail comments to NYCDOT, 55 Water Street, New York, NY 10041 Attn: Tajinder Jassal.
- **Fax.** You can fax comments to: Tajinder Jassal, New York City Department of Transportation at (718) 894-2785.
- **By speaking at the hearing.** Anyone who wants to comment on the proposed rule at the public hearing must sign up to speak. You can sign up before the hearing by calling (718) 894-2785. You can also sign up in the hearing room before the hearing begins on November 10, 2015. You can speak for up to three minutes.

Is there a deadline to submit written comments? Yes, there is a deadline. Written comments must be submitted by: November 10, 2015.

Do you need assistance to participate in the hearing? You must tell the Office of Legal Affairs 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 tell us by mail at the address given above. You may also tell us by telephone at 718-894-2785. You must tell us by November 10, 2015.

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 of the hearing and copies of the written comments will be available to the public at the Office of Legal Affairs at (insert address).

What authorizes NYCDOT to make this rule? Sections 1043(a) and 2903(a) of the City Charter authorizes NYCDOT to make this proposed rule. This proposed rule was not included in NYCDOT's regulatory agenda for this Fiscal Year because it was not contemplated at that time.

Where can I find the NYCDOT's rules? NYCDOT's rules are in title 34 of the Rules of the City of New York.

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

Statement of Basis and Purpose

The New York City Department of Transportation (the “Department”) reviews and approves applications for bus stops at locations where buses, including “hop-on, hop-off” buses, seek to stop to load and unload passengers.

As a result of anti-trust litigation brought by the Department of Justice (DOJ) and the New York State Attorney General’s Office, a sight-seeing bus operator relinquished fifty bus stops assigned to it by the Department. The Department intends to distribute about 90% of these sightseeing bus stops through random assignment to operators within the sightseeing bus industry.

The Department will publish a notice requesting applications from sightseeing operators interested in obtaining use of the relinquished bus stops up for random assignment. All qualified applicants will be placed into a pool of qualified applicants for each bus stop and the Department will assign each bus stop based on a random drawing. The Department will not accept applications for bus stops from any bus operators that already have a bus stop within a three-block radius of any bus stop in the random assignment pool, unless they are willing to relinquish another bus stop in exchange for the one applied for.

An applicant offered a bus stop permit has 45 days to comply with all permit requirements of the Department or the bus stop will be offered to the applicant with the next randomly assigned number.

Section 1. Section 4-10 of chapter 4 of title 34 of the Rules of the City of New York is amended by adding a new subdivision (g) to read:

(g) One Time Sight-Seeing Bus Stop Random Assignment Process

(1) The Commissioner will determine the sightseeing bus stops that will be available for a one time random assignment to qualified applicants pursuant to this section.

(2) **Applications.** An application must be submitted to the Department on a form provided by the Department no later than 5:00 p.m. on the twentieth business day following the publication in the City Record of the Department’s intent to assign the bus stops.

- (i) **Form.** The form to be provided will require, but not be limited to, the following information from applicants:
- (i) Legal name, doing business as certificate, if applicable, address, telephone number, e-mail address, contact person’s name;
 - (ii) Department of Consumer Affairs License and vehicle inspection report, if applicable;
 - (iii) Insurance policy listing vehicle identification numbers for all buses, if applicable;
 - (iv) Length of bus, vehicle type, e.g. open top bus, regular bus, double decker;
 - (v) Daily schedule;
 - (vi) Passengers anticipated for each bus;
 - (vii) List of bus stop locations for which the applicant is seeking permit for use. Only one application for each sight-seeing bus stop will be accepted from each applicant; and

(vii) Planned garage or other bus parking locations when the bus is not being used to pick up or drop off passengers.

(3) The Commissioner will use the following procedures to grant permits to applicants for use of available bus stops:

- (i) For each available bus stop, the Commissioner will assign a priority number to each accepted application using a computer generated random number selection program;
- (ii) For each available bus stop, the Commissioner will offer the selected applicant the bus stop based upon the randomly selected priority number;
- (iii) The Commissioner will issue the bus stop permit that has been offered when the applicant demonstrates, within 45 days of when the offer was made, that it complies with all applicable licensing requirements;
- (iv) If the applicant is unable or unwilling to comply with all applicable licensing requirements within 45 days, the bus stop permit will be offered to the applicant with the next randomly selected priority number. This process will repeat until the bus stop is permitted for use to an applicant.

(4) Applications will not be accepted from any sightseeing bus operator that already holds a bus stop permit within a three block radius of the bus stop subject to the random assignment unless the applicant agrees to relinquish the previously awarded permit if awarded the bus stop pursuant to this process.

(5) All applicants receiving bus stops permits must comply with all applicable laws, rules and regulations related to the operation of sightseeing buses.

(6) The bus stop permits offered as a result of this process will be for a term of no more than 2 years.

(7) Expiration of Random Assignment Pool and Process. After one year following the effective date of this Rule, this rule shall expire and have no further force and effect, unless otherwise modified and/or extended by further rule of the Department.

**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: Bus Stop Permits for Sightseeing Buses

REFERENCE NUMBER: 2015 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
Acting Corporation Counsel

Date: September 14, 2015

**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: Bus Stop Permits for Sightseeing Buses

REFERENCE NUMBER: DOT-28

RULEMAKING AGENCY: DOT

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 it does not establish a violation, modification of a violation, or modification of the penalties associated with a violation.

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

September 14, 2015
Date