

New York City Department of Transportation

Notice of Public Hearing and Opportunity to Comment on Proposed Rules

What are we proposing? The purpose of the proposed rule is to allow certain Access-A-Ride (“AAR”) vehicles to use bus lanes, to clarify express lane requirements contained in Chapter 4 of Title 34 of the Rules of the City of New York, and to repeal Chapter 5 of Title 34, which contains obsolete provisions regulating the paratransit program Access-A-Ride.

When and where is the Hearing? New York City Department of Transportation (DOT) will hold a public hearing on the proposed rule. The public hearing will take place at 1pm on April 11, 2019. The hearing will be in the DOT Bid Room at 55 Water Street, Concourse Level, New York, NY 10041. The entrance to the Bid Room is located on the southeast corner of 55 Water Street facing the NYC Vietnam Veterans Memorial Plaza.

This location has the following accessibility option(s) available: Wheelchair accessibility.

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 Web site at <http://rules.cityofnewyork.us>.
- **Email.** You can email comments to rules@dot.nyc.gov.
- **Mail.** You can mail comments to Eric Beaton, Deputy Commissioner, New York City Department of Transportation, Transportation Planning and Management, 55 Water Street, 6th Floor, New York, NY 10041.
- **Fax.** You can fax comments to Eric Beaton, Deputy Commissioner 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 calling 212-839-6500. You can also sign up in the hearing room before the hearing begins on April 11, 2019. You can speak for up to three minutes.

Is there a deadline to submit written comments? The deadline for written comments is 1:00 PM on April 11, 2019.

What if I need assistance to participate in the Hearing? You must tell the Office of the General Counsel 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 212-839-6500 or TTY 212-504-4115. Advance notice is requested to allow sufficient time to arrange the accommodation. Please tell us by April 4, 2019.

Can I review the comments made on the proposed rules? You can review the comments made online on the proposed rule by going to the website at <http://rules.cityofnewyork.us/>. A few days after the hearing, copies of all comments submitted online and copies of all written comments concerning the proposed rule will be available through the DOT Freedom of Information Law (FOIL) Office, 55 Water Street, 4th Floor, New York, NY 10041.

What authorizes DOT to make this rule? Sections 1043 and 2903(a) of the New York City Charter (City Charter) authorizes DOT to make this proposed rule. This rule was not included in DOT's regulatory agenda for 2019 Fiscal Year because it was not contemplated when DOT published the agenda.

Where can I find the Department of Transportation rules? DOT's rules are in Title 34 of the Rules of the City of New York.

What laws 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

These proposed rule amendments would allow certain AAR vehicles to use bus lanes in order to provide a faster service to people with disabilities; clarify express lane requirements for Access-A-Ride vehicles; and repeal Chapter 5, which contains provisions regulating the paratransit program Access-A-Ride that is no longer operated by DOT.

Specifically, the proposed amendments are as follows:

- Section 4-01(b) would be amended by adding a new definition for "Access-A-Ride vehicle".
- Section 4-07(k) would be amended by clarifying express lane requirements for Access-A-Ride vehicles.
- Section 4-12(m) would be amended by allowing certain Access-A-Ride vehicles to use bus lanes.
- Chapter 5 of Title 34 of the City's rules would be repealed in its entirety.

The repeal of Chapter 5 was identified during the retrospective rules review. Working with the City's rulemaking agencies, the Law Department, and the Office of Management and Budget, the Mayor's Office of Operations conducted a retrospective rules review of the City's existing rules, identifying those rules that will be repealed or modified to reduce regulatory burdens, increase equity, support small businesses, and simplify and update content to help support public understanding and compliance.

New material is underlined.

[Deleted material is in brackets.]

Section 1. Subdivision (b) of Section 4-01 of Chapter 4 of Title 34 of the Rules of the City of New York is amended by adding a new definition of “Access-A-Ride vehicle” to read as follows:

(b) Definitions.

Access-A-Ride vehicle. An “Access-A-Ride vehicle” means a vehicle authorized by the Metropolitan Transportation Authority New York City Transit to provide only the Access-A-Ride service. Such vehicle must bear a license plate with the New York Department of Motor Vehicles designation of “New York City Transit Authority”, and must also have an authorized and clearly visible Access-A-Ride logo on its back side, not smaller than six inches by six inches in size.

§2. Paragraphs 1, 2, 3 and 4 of subdivision (k) of Section 4-07 of Chapter 4 of Title 34 of the Rules of the City of New York are amended to read as follows:

(k) Express lanes [on limited access highways].

(1) **Restrictions.** Wherever signs are erected on highways or bridges giving notice of express lanes, except as otherwise posted, no person shall operate a vehicle other than a vehicle as specified in paragraph (2) of this subdivision, [a medallion taxi or a for-hire vehicle with at least one passenger as specified in paragraph (3) of this subdivision,] an emergency vehicle as specified in paragraph (4) of this subdivision, or a vehicle classified as an HOV, with or without EZPASS as specified on such sign, within a designated express lane on a highway or bridge during the hours specified on such signs.

(2) **Buses[, out-of-state bus equivalents,] and Access-A-Ride vehicles[, ambulettes and wheelchair accessible vans].** Vehicles registered as buses in New York State, vehicles registered out-of-state that are equivalent to New York State registered buses, [all vehicles authorized by the Metropolitan Transportation Authority New York City Transit (“MTA/NYCT”) to provide Access-A-Ride service, ambulettes, wheelchair accessible vans,] Access-A-Ride vehicles and motorcycles shall be eligible to use express lanes on highways or bridges pursuant to this subdivision [as follows:

(i) The owner or operator of any vehicle registered as a bus in New York State shall be able to provide proof of:

(A) operating authority issued by one or more of the following as required: the appropriate New York City agency, department or authority; the New York State Department of Transportation; or the Interstate Commerce Commission; and

(B) current valid vehicle registration indicating New York State bus or official license plates; and

(C) minimum vehicle seating capacity of 16 passengers not including the operator; and

(D) seating capacity consistent with the seating capacity set forth in the appropriate grant of operating authority; and

(E) valid insurance consistent with state requirements.

(ii) The owner or operator of any vehicle registered out-of-state that is equivalent to a New York State registered bus shall be able to provide proof of:

(A) operating authority issued by one or more of the following as required: the appropriate New York City agency, department or authority; the appropriate out-of-state authorizing agency, department or authority; or the Interstate Commerce Commission; and

(B) current valid vehicle registration indicating license plates equivalent to New York State bus or official license plates; and

(C) minimum vehicle seating capacity of 16 passengers not including the operator; and

(D) seating capacity consistent with the seating capacity set forth in the appropriate grant of operating authority; and

(E) valid insurance consistent with State requirements.

(iii) The owner or operator of any vehicle authorized by the Metropolitan Transportation Authority New York City Transit ("MTA/NYCT") to provide Access-A-Ride service, ambulette or wheelchair accessible van shall be able to provide proof of:

(A) operating authority issued by one or more of the following as required: the New York City Taxi and Limousine Commission; the New York State Department of Transportation; or the Interstate Commerce Commission; and

(B) current valid vehicle registration; and

(C) seating capacity consistent with the seating capacity set forth in the applicable grant of operating authority, where such grant specifies a seating capacity; and

(D) valid insurance consistent with state requirements.

(iv) The owner or operator of any vehicle registered as a motorcycle in New York State shall be able to provide proof of:

(A) current valid vehicle registration; and

(B) valid insurance consistent with State requirements].

(3) **Taxis and for-hire vehicles.** Medallion taxis and for-hire vehicles duly licensed by the New York City Taxi and Limousine Commission carrying at least one passenger shall be allowed to use express lanes on highways or bridges. Medallion taxis and for-hire vehicles without passengers shall not be allowed to use express lanes on highways or bridges. Medallion taxis and for-hire vehicles without passengers shall not be allowed to use express lanes on highways or bridges.

(4) **Emergency vehicles.** Emergency vehicles responding to emergencies shall be allowed to use express lanes on highways or bridges. Emergency vehicles not responding to emergencies shall not be allowed to use express lanes on highways or bridges.

§ 3. Paragraph 1 of subdivision (m) of Section 4-12 of Chapter 4 of Title 34 of the Rules of the City of New York is amended by allowing Access-A-Ride vehicle to use bus lanes to read as follows:

(m) Bus lane restrictions on city streets.

(1) When signs are erected giving notice of bus lane restrictions, no person shall drive a vehicle other than a bus or a wheelchair accessible Access-A-Ride vehicle having a seating capacity of four or more passengers, within a designated bus lane during the restricted hours, except:

§4. Chapter 5 of Title 34 of the Rules of the City of New York, relating to regulating the paratransit program Access-A-Ride, is REPEALED.

**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: Amendments Relating to Access-A-Ride Vehicles

REFERENCE NUMBER: 2018 RG 138

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: March 1, 2019

**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: Amendments Relating to Access-A-Ride Vehicles

REFERENCE NUMBER: DOT-51

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 cure periods do not apply to traffic or moving violations.

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

March 1, 2019
Date