

## **NOTICE OF PUBLIC HEARING**

**Subject:** Opportunity to comment on proposed Department of Transportation rules relating to the Intercity Bus Permit System.

**Date/Time:** June 10, 2013, 1 p.m.

**Location:** Department of Transportation (DOT)  
55 Water Street, Room 809  
New York, NY 10041

**Contact:** Thomas Maguire  
Assistant Commissioner, Project Development  
55 Water Street  
New York, NY 10041  
T: 212-839-6675

### **Proposed Rule Amendment**

Notice is hereby given pursuant to the authority vested in the Commissioner of Transportation by Section 1642-a of the New York State Vehicle and Traffic Law and subdivision (a) of Section 2903 of the New York City Charter and in accordance with the requirements of Section 1043 of the New York City Charter, that the Department of Transportation proposes to amend sections 4-01 and 4-10 of Chapter 4 of Title 34 of the Official Compilation of the Rules of the City of New York, the Traffic Rules, in relation to an Intercity Bus Permit System. The proposed amendments were not included in the Agency's regulatory agenda, because Section 1642-a of the Vehicle and Traffic Law was enacted after the agenda was published.

### **Instructions**

- Written comments regarding the proposed rules may be sent to Thomas Maguire, Assistant Commissioner, New York City Department of Transportation, 55 Water Street, 9th Floor, New York, N.Y. 10041, on or before June 10, 2013 or may be submitted electronically to [rules@dot.nyc.gov](mailto:rules@dot.nyc.gov) or to the NYC Rules web site at [www.nyc.gov/nycrules](http://www.nyc.gov/nycrules).
- Persons seeking to testify at the public hearing are requested to notify Thomas Maguire at the address stated above.
- Persons who need a sign language interpreter or other accommodation for a disability at the hearing are asked to notify Thomas Maguire at the foregoing address by June 10, 2013.
- Persons interested in receiving comments may request them by writing to: New York City Department of Transportation, Record Access Office, 55 Water Street, 6th Floor, New York, NY 10041.

## **STATEMENT OF BASIS AND PURPOSE**

The Commissioner of Transportation is authorized to promulgate rules regarding bus parking and traffic operations in the City pursuant to §2903(a) of the New York City Charter and pursuant to New York State Vehicle and Traffic Law §1642-a, which authorizes the City to establish an

intercity bus permit system. In accordance with §1642-a, the Mayor designated the Department of Transportation to promulgate rules to implement the intercity bus permit system.

## **Background**

The intercity bus industry has grown significantly over the last fifteen years, particularly as the rates of fare have dropped for travel between cities. Consequently, many bus companies have opted to operate from on-street bus stop locations, whether authorized by the City or not. This has created a concentration of on-street bus operations in particular areas of the City.

While intercity buses provide a useful service, their on-street operations can cause serious disruption to the local traffic network and risks to public safety. The proliferation of these buses in certain communities within the City has led to an increase in traffic and sidewalk congestion, a higher concentration of on-street bus parking in particular areas of the City, double parking or blocking of travel lanes, and the creation of traffic and safety concerns for drivers, travelers, pedestrians and residents.

In an effort to help address these concerns, the State Legislature adopted Vehicle and Traffic Law § 1642-a. Section 1642-a authorizes the City to establish an intercity bus permit system that would, among other things:

- prohibit intercity buses from loading or unloading passengers on City streets, except at designated on-street bus stop locations;
- require intercity bus owners and/or operators to submit an application for each proposed on-street bus stop location;
- establish criteria for assigning on-street bus stop locations, including traffic considerations and the applicant's preferences;
- provide for consultation with the local Community Board and, where appropriate, the Metropolitan Transportation Authority and the Port Authority of New York and New Jersey;
- authorize the Department of Transportation to issue intercity bus permits and to charge a fee;
- provide for the relocation of an existing permitted on-street bus stop, upon 90-day notice to the permit holder and the local Community Board;
- grandfather intercity buses that currently have designated on-street bus stop locations, by granting them a permit to continue to use those locations for up to three years;

These amendments to the traffic rules (Chapter 4 of Title 34 of the Official Compilation of the Rules of the City of New York) are being proposed to implement this permit system. The proposed rules would amend the definition of "bus" and "charter bus" in §4-01 of the traffic rules and add definitions for "chartered party," "intercity bus," and "public transportation" based on Vehicle and Traffic Law §1642-a.

Section 4-10 of the traffic rules, which governs buses, would be amended to:

- clarify that bus operators are only allowed to pick up and discharge passengers at on-street bus stops designated by the Commissioner for that operator and to provide that intercity buses do not fall into an exception to that provision;
- amend subdivision d of §4-10 to establish the intercity bus permit system, in accordance with §1642-a. The existing text of subdivision d, which prohibits the

- operation of buses on streets except from a terminal, would be deleted to reflect the establishment of the permit system; and
- clarify that bus owners/operators that have been granted authorized on-street bus stops before the effective date of these amendments have a grace period of 30 days to submit an application for an intercity bus permit while continuing to use their current assigned on-street bus stop for a total period of up to 90 days while the permit application is processed.

New text in the following rule is underlined, and 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.

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 amending the definition of “Bus” and “Charter Bus” and by adding definitions of “Chartered Party,” “Intercity Bus,” and “Public Transportation” in alphabetical order to read as follows:

**Bus.** A "bus" shall mean every motor vehicle having a seating capacity of more than fifteen [adults] passengers, in addition to the operator, and used for the transportation of persons, and every charter bus, [interstate bus, intrastate bus,] school bus and sight-seeing bus, regardless of seating capacity, as defined below.

(i) **Charter bus.** A "charter bus" shall mean a bus [engaging in a specific or special trip in the nature of an excursion or outing, for which it has been hired or otherwise engaged by oral or written contract for the exclusive use of the charterer] transporting passengers for compensation in chartered party.

(ii) **[Interstate bus.** An "interstate bus" shall mean a bus which operates between a point within the City of New York and a point outside the State of New York.

(iii) **Intrastate bus.** An "intrastate bus" shall mean a bus which operates only in the State of New York between a point within the City of New York and a point outside the City of New York.

(iv) **School bus.** A “school bus” shall mean every motor vehicle regardless of seating capacity owned by a public or governmental agency or private school and operated for the transportation of pupils, teachers and other persons acting in a supervisory capacity, to or from school or school activities or privately owned and operated on a regular basis for compensation for the transportation of pupils, teachers and other persons acting in a supervisory capacity to or from school or school activities.

(v) **(iii) Sight-seeing bus.** A “sight-seeing bus” shall mean a bus for hire carrying passengers from a fixed point in the City of New York, at which point the passengers embark and are generally discharged to a place or places of interest or amusement in the City of New York, and including a charter bus, as defined in these rules, when engaged in a sight-seeing operation.

**Chartered party.** A “chartered party” means a group of persons who, pursuant to a common purpose and under a single contract and at a fixed charge, have acquired exclusive use of a bus to travel together as a group to a specific destination or for a particular itinerary either agreed upon in advance or modified after having left the place of origin by such group.

**Intercity bus.** An “intercity bus” means a bus that transports the general public between the City of New York and any location outside the City of New York in scheduled bus service. Such term does not include a school bus, a bus providing public transportation, or a charter bus.

**Public transportation.** “Public transportation” means:

**(i)** mass transportation services provided to the general public by any public benefit corporation constituting a transportation authority, or a subsidiary thereof, or any public transportation corporation constituted as an instrumentality of a state, or a subsidiary thereof, directly or through a contract with another entity; or  
**(ii)** mass transportation services provided to the general public by any county, city, town or village directly or through a contract with another entity pursuant to section one hundred nineteen-r of the general municipal law, or provided to the general public by another state or any county, city, town or village in a state other than New York directly or through a contract with another entity pursuant to a similar law of such other state.

Section 2. Paragraph (1) of subdivision c of section 4-10 of Chapter 4 of Title 34 of the Rules of the City of New York is amended to read as follows:

**(1) Pickup and discharge of passengers at designated bus stops.** Except as provided in paragraph (2) below, no operator of a bus shall pick up or discharge passengers on a street except at a bus stop designated for the use of that operator by the Commissioner in writing. Only buses designated by the Commissioner in writing may stop at such locations. A charter bus may stop on the highway at points of origin and destination for the purpose of expeditiously receiving or discharging passengers, except where prohibited by sign or by the Commissioner. While engaging in the picking up or discharging of passengers, buses must be within twelve inches of the curb and parallel thereto, except where a bus stop is physically obstructed.

Section 3. Subparagraph (i) of Paragraph (2) of subdivision c of section 4-10 of Chapter 4 of Title 34 of the Rules of the City of New York is amended by adding a new clause (D) to read as follows:

**(D) This subparagraph does not apply to intercity buses.**

Section 4. Subdivision d of section 4-10 of Chapter 4 of Title 34 of the Rules of the City of New York is amended to read as follows:

**(d) [Approved bus terminals.** No person shall operate or cause to be operated on any street any intrastate or interstate bus unless such intrastate or interstate bus operates from an off-street terminal or terminals duly approved by the proper authorities of the City of New York.]

**Intercity Bus Permit System.**

**(1) Permit Required.** The owner or operator of an intercity bus must obtain an Intercity Bus Permit from the Department to be assigned an on-street bus stop location. A separate Intercity Bus Permit is required for each on-street bus stop location designated to such owner or operator.

**(2) Applications.** An application must be filed with the Department for new Intercity Bus Permit(s) or the renewal of Intercity Bus Permit(s).

**(i)** An application for new Intercity Bus Permit(s) or for the renewal of Intercity Bus Permit(s) must be submitted on a form provided by the

Department, which will include, but not be limited to, the following information:

(A) Name, address, telephone number, e-mail address and motor carrier number of the intercity bus owner or operator, United States Department of Transportation number and/or New York State Department of Transportation number for each bus that would use the proposed location(s).

(B) Proposed on-street bus stop location(s) and two or more alternative locations for each proposed location.

(C) Number of bus trips per day that would use the proposed location(s).

(D) Proposed intercity bus schedule for the proposed location.

(E) Final destination(s) of proposed bus service.

(F) Number of passengers per bus anticipated for each bus trip.

(G) Planned garage or other parking location of the bus during periods when the bus is not being used to pick up or drop off passengers.

(ii) Renewal applications must be submitted to the Department no earlier than six months and no later than three months prior to the expiration of an Intercity Bus Permit.

(iii) The Department will have up to one hundred fifty days to make a determination on any new Intercity Bus Permit application.

(iv) The Department will have up to ninety days to make a determination on any renewal Intercity Bus Permit application.

**(3) Review and issuance of permits. (i) The Commissioner may refuse to issue a permit to an applicant who:**

(A) Is in arrears to the City of New York for an amount totaling more than one thousand dollars;

(B) Has been issued five or more violations pursuant to this subdivision;

(C) Is currently under suspension of its authorization to operate by either the United States Department of Transportation Federal Motor Carrier Safety Administration and/or the New York State Department of Transportation.

(ii) Owners or operators of buses operating intercity bus service who have been assigned on-street bus stop locations by the department that are still in effect upon the effective date of this subdivision will, upon application submitted to the department within thirty days of the effective date of this subdivision, be issued Intercity Bus Permits by the department for a term of up to three years. Such owners or operators who had previously been assigned on-street bus stop locations by the department and who submitted an application within such thirty day period may continue to use such assigned on-street bus stop locations for a period of up to ninety days from the effective date of this subdivision, or until the Intercity Bus Permit is issued by the department, whichever date is sooner. Intercity Bus Permits issued pursuant to this subparagraph are subject to all provisions of this subdivision.

(iii) The Department will post on its website all approved on-street bus stop locations and a copy of all approved applications within thirty days of approval.

**(iv) On-street bus stop location assignment criteria.** On-street bus stop assignments will be made based on the following criteria:

(A) Traffic, pedestrian flow, and safety.

(B) Preferences of the Intercity Bus Permit applicant.

(C) Location of planned garage or other parking location during periods when the bus is not being used to pick up or discharge passengers.

**(v) Consultation about proposed on-street bus stop locations. (A)** The Department will notify the local community board for the district encompassing the location of a proposed on-street bus stop at least forty-five calendar days prior to the issuance of an Intercity Bus Permit or the relocation of an assigned on-street bus location, in order to provide the community board the opportunity to comment on the proposed on-street bus stop location.

**(B)** The Department will consult with the Metropolitan Transportation Authority, if the location of a proposed on-street bus stop overlaps with an existing Metropolitan Transportation Authority bus stop.

**(C)** The Department will consult with the Port Authority of New York and New Jersey, if the location of a proposed on-street bus stop overlaps with an existing Port Authority of New York and New Jersey bus facility.

**(vi)** If the Department refuses to issue a permit pursuant to subparagraph (i) of this paragraph, or disapproves of all of an applicant's on-street bus stop location(s) requested in its application based on the bus stop assignment criteria in subparagraph (iv) of this paragraph, the applicant will have fifteen days to appeal such determination by the Department or submit alternative bus stop location(s). The Department will make a final determination on such appeal within thirty days.

**(4) Relocation of on-street bus stop locations.** The Department may relocate an assigned on-street bus stop location based on the criteria provided in subparagraph (iv) of paragraph (3) of this subdivision and upon ninety days notice to the permit holder.

**(5) Permit fees.** Permittees must pay an annual fee of thirty dollars for each scheduled weekly pick-up or drop-off listed on the Intercity Bus Permit issued by the Department.

**(6) Term of Intercity Bus Permits.** Intercity Bus Permits will be issued for a term of up to three years.

**(7) Permittee obligations.** All Intercity Bus Permit permittees must comply with the following obligations:

**(i)** Promptly notify the Department of changes to information provided in its application.

**(ii)** Prominently display a copy of the Intercity Bus Permit in each intercity bus operating pursuant to such Intercity Bus Permit.

**(iii)** Display on each intercity bus using the designated location(s) the operator's name, address and telephone number permanently affixed in characters at least five inches high on both sides of the vehicle, with such display being in a color contrasting with that of the vehicle and placed approximately midway vertically on doors or side panels.

**(iv)** Pick up and discharge passengers only at on-street bus stops designated by the Commissioner for use by the permittee.

**(v)** Not alter any Intercity Bus Permit issued pursuant to this section.

**(8) Suspension and revocation of Intercity Bus Permits.**

**(i)** The Department may suspend or revoke an Intercity Bus Permit for failure to comply with any of the requirements of this subdivision or in the event of suspension or termination of the authorization to operate its buses by either the

United States Department of Transportation Federal Motor Carrier Safety Administration or the New York State Department of Transportation.

(ii) Prior to suspending or revoking an Intercity Bus Permit the Department will give the permittee an opportunity to be heard with at least two business days notice.

(iii) If the Department determines that an imminent peril to life or property exists, including but not limited to, if any permittee's driver has been issued a violation for driving while intoxicated or driving under the influence pursuant to the New York State Vehicle and Traffic Law, or if a permittee's bus has been involved in an accident resulting in a fatality, the Department may suspend or revoke an Intercity Bus Permit without providing the permittee an opportunity to be heard prior to such suspension or revocation. Upon request of the permittee, the Department will provide the permittee an opportunity to present its objections to such suspension or revocation within five business days after the Department receives the request. Any such request by a permittee must be made within thirty business days of such suspension or revocation.

**(9)Temporary relocation of intercity on-street bus stops.** The Department may temporarily relocate a designated intercity on-street bus stop location for a period of up to ninety days for reasons of public safety or other emergency or temporary need as determined by the Department. The Department will notify the local community board for the district encompassing the location within thirty days of such temporary relocation.

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS  
253 BROADWAY, 10<sup>th</sup> FLOOR  
NEW YORK, NY 10007  
212-788-1400**

**CERTIFICATION / ANALYSIS  
PURSUANT TO CHARTER SECTION 1043(d)**

**RULE TITLE: Intercity Bus Permit Rules**

**REFERENCE NUMBER: DOT-13**

**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) If it establishes or modifies a violation or penalty, provides a cure period.

/s/ Andrea M. Bender  
Mayor's Office of Operations

May 2, 2013  
Date

**NEW YORK CITY LAW DEPARTMENT  
DIVISION OF LEGAL COUNSEL  
100 CHURCH STREET  
NEW YORK, NY 10007  
212-788-1087**

**CERTIFICATION PURSUANT TO  
CHARTER §1043(d)**

**RULE TITLE:** Intercity Bus Permit Rules

**REFERENCE NUMBER:** 2013 RG 15

**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: May 2, 2013  
Acting Corporation Counsel