

NOTICE OF PUBLIC HEARING

- Subject:** Opportunity to comment on proposed amendment by the Department of Transportation of rules relating to pedestrian traffic managers.
- Date / Time:** September 7, 2012 / 2:00pm
- Location:** DOT
55 Water Street
BID Room, Room A
New York, NY 10041
(entrance located on the south side of the building facing the Vietnam Veterans Memorial)
- Contact:** Joshua Benson
Director of Bicycle and Pedestrian Programs
55 Water Street, 6th Floor
New York, NY 10041
212-839-7193

Proposed Rule Amendment

Pursuant to the authority vested in the Commissioner of the Department of Transportation by subdivision (b) of Section 2903 of the New York City Charter, and Title 19 of the New York City Administrative Code, and in accordance with the requirements of Section 1043 of the New York City Charter, notice is hereby given that the Department of Transportation proposes to amend Sections 2-01 and 2-05 of Chapter 2 of Title 34 of the Official Compilation of the Rules of the City of New York, the Highway Rules.

The amendment of sections were included in the Agency's regulatory agenda.

Instructions

- Prior to the hearing, individuals may submit written comments about the proposed rules to Joshua Benson, Director of Bicycle and Pedestrian Programs, 55 Water Street, 6th Floor, New York, NY 10041, by mail or electronically to rules@dot.nyc.gov or to the NYC RULES web site at www.nyc.gov/nycrules by September 7, 2012.
- Individuals seeking to testify are requested to notify Joshua Benson at the address stated above.
- Individuals who need a sign language interpreter or other reasonable accommodation for a disability at the hearing are asked to notify Joshua Benson at the foregoing address by August 31, 2012.
- Individuals 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 the New York City Department of Transportation (DOT) is authorized to promulgate rules regarding highway operations in the City pursuant to Section 2903(b) of the New York City Charter.

The purpose of the proposed rule is to provide pedestrian and cyclist safety around large construction projects.

The proposed rule will achieve this goal by:

- giving the Department of Transportation Commissioner discretion to require the use of pedestrian traffic managers at selected construction sites.
- providing experience and certification criteria for pedestrian traffic managers.

Background

DOT permittees already provide staff to control vehicular traffic around large construction projects. However, with the increase in bicycle ridership and pedestrian volume throughout the city, it is important that permittees also place trained pedestrian traffic managers, who will focus on bicycle and pedestrian safety, in and around major construction projects. Permittees have recently deployed pedestrian traffic managers successfully at large construction sites, such as the World Trade Center site and the reconstruction of Peck Slip in Lower Manhattan.

New text is underlined, and deleted material is in [brackets].

“Shall” and “must” denote mandatory requirements and may be used interchangeably in the rules of this office, unless otherwise specified or unless the context clearly indicates otherwise.

§1. It is proposed that Section 2-01 of Title 34 of the Rules of the City of New York be amended by adding a new definition, in alphabetical order, to read as follows:

Pedestrian Traffic Manager. The term “pedestrian traffic manager” means a person authorized by the Commissioner to direct bicycle and pedestrian traffic pursuant to these rules.

§2. It is proposed that section 2-05 of Title 34 of the Rules of the City of New York be amended by adding a new subdivision (m), to read as follows:

(m) Pedestrian Traffic Managers

- (1) Permittees must deploy pedestrian traffic managers when required by the department for any of the construction activities set forth in this section 2-05.
- (2) All pedestrian traffic managers must have a minimum of five or more years of law enforcement or traffic control experience when they are deployed. Law enforcement experience may include but not be limited to New York City Police Department, New York City Department of Corrections, New York/New Jersey Port Authority Police, New York State Police, military police, or other comparable municipal law enforcement agencies.
- (3) All pedestrian traffic managers must have flagger certification or its equivalent from an accredited organization that is current and valid when they are deployed and during their employment and active service as a pedestrian traffic manager.

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

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

RULE TITLE: Pedestrian Traffic Managers at Construction Sites

REFERENCE NUMBER: 2012 RG 063

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: July 24, 2012

**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: Pedestrian Traffic Managers at Construction Sites

REFERENCE NUMBER: DOT-9

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 Navarro
Mayor's Office of Operations

July 26, 2012
Date