

## NOTICE OF PUBLIC HEARING

**Subject:** Opportunity to comment on proposed amendment by the Department of Transportation of rules relating to the commercial bicyclist safety poster.

**Date / Time:** April 19, 2013 / 11 a.m.

**Location:** DOT  
55 Water Street  
8th Floor, Room 809  
New York, NY10041

**Contact:** Kim Wiley-Schwartz  
Assistant Commissioner, Education and Outreach  
New York City Department of Transportation  
59 Maiden Lane, 34<sup>th</sup> Floor  
New York, NY 10038  
212-839-4778

### **Proposed Rule Amendment**

Pursuant to the authority vested in the Commissioner of the Department of Transportation by subdivision (a) of Section 2903 of the New York City Charter, and Sections 10-157 and 10-157.1 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 Section 4-12(p)(4) of Chapter 4 of Title 34 of the Rules of the City of New York, the Highway Rules.

These amendments were not included in the Agency's regulatory agenda because they were not anticipated at the time the regulatory agenda was published.

### **Instructions**

- Prior to the hearing, individuals may submit written comments about the proposed rules to Kim Wiley-Schwartz, Assistant Commissioner, New York City Department of Transportation, 59 Maiden Lane, 34<sup>th</sup> Floor, New York, NY 10038, by mail or 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) by April 19, 2013.
- Individuals seeking to testify are requested to notify Assistant Commissioner Kim Wiley-Schwartz 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 Assistant Commissioner Kim Wiley-Schwartz at the above address by April 12, 2013.
- Individuals interested in receiving comments may request them by writing to: New York City Department of Transportation, Record Access Office, 55 Water Street, 4<sup>th</sup> 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 parking and traffic operations in the City pursuant to Section 2903(a) of the New York City Charter.

The purpose of the proposed rule is to amend Section 4-12(p)(4) of the Rules of the City of New York to conform the rule with legislative changes made to sections 10-157 and 10-157.1 of the Administrative Code.

### Background

On October 25, 2012, Local Laws 52, 54, 55 and 56 of 2012 were enacted. These laws related to commercial bicyclists and were passed to clarify and streamline requirements for businesses using bicycles for commercial purposes and their bicycle operators. Additionally, DOT was provided explicit enforcement authority for these sections of the Administrative Code.

As a result of these legislative changes, DOT is proposing revisions to its rules to change the requirements for the commercial bicyclist poster provided for in the Administrative Code and DOT's rules. These proposed rule amendments would align the poster to the new law and would make the poster more user-friendly.

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 4-12(p)(4) of Title 34 of the Rules of the City of New York be amended to read as follows:**

(4) Bicycle safety poster.

(i) [Every] For purposes of this subsection, a "business using a bicycle for commercial purposes" shall mean a person, firm, partnership, joint venture, association [or], corporation, or other entity that engages in the course of its business, either on behalf of itself or others, in delivering packages, parcels, papers or articles of any type by bicycle.

(ii) Every business using a bicycle for commercial purposes shall post one or more bicycle safety posters at each [employment] business site using the bicycle for commercial purposes.

~~[(ii)]~~ (iii) The bicycle safety poster shall be in English, Spanish and any other language spoken predominately by any bicycle operator utilized by the business. It shall be clear, [conspicuous,] prominent, and large enough to be visible to the bicycle operators and patrons of the business, however, at a minimum the poster must be in 10 size font on 11x17 size paper.

~~[(iii)]~~ (iv) The poster shall be printed in a manner to be legible even to the colorblind.

~~[(iv)]~~ (v) [A model] An example of the poster shall be made available on the Department's website.

[(v)] (vi) The poster shall [include the following] consist of a header or title, which shall appear at the top of the poster, Sections 1 through 4, and a footer, which shall appear at the bottom of the poster, as more fully described below:

[(A) Commercial Bicyclists Must:

Obey Traffic Signs and Signals

- Bicyclists are subject to all applicable New York state and local laws, rules and regulations, including NYC Traffic Rules.

Wear a Helmet

- While working, commercial bicyclists must wear a properly fitted bicycle helmet.

Never Ride Against Traffic

- Bicyclists cannot ride against the flow of traffic. Ride with traffic to avoid accidents.
- If available, bicyclists must use bicycle lanes.

Stay Off Sidewalks and Limited Access Roadways

Be Safe

- Yield to pedestrians.
- Keep at least one hand on the steering device or handlebars at all times.
- Do not wear more than one earphone attached to a radio, tape player or other audio device while riding.
- Do not attach bicycle to another vehicle being operated on the roadway.
- Any bicyclist involved in an accident resulting in property damage, injury or death must stop and give their name, address, insurance information, etc., and report the accident to the police department.

Be Visible

- Stay visible at night with light-colored clothing reflective materials.
- From dusk to dawn, bicyclist must use a white headlight and red taillight.

Be Prepared

- Bicycle operators must wear upper body apparel with the business' name and the operator's identification number.
- Bicycle operators must also carry and produce, on demand, a numbered business ID card with the operator's photo, name, home address and business' name, address and phone number. It is recommended that the operator also carry a second form of photo identification.

(B) Business Owners Who Employ Commercial Bicyclists Must:

Provide their bicycle operators with the following:

- A bicycle helmet in good condition, which fits properly;
- Upper body apparel with the business' name and operator's identification number;

- A metal or plastic sign to the bicycle's rear or both sides with the business name and a unique bicycle ID number
- Numbered business ID card with the operator's photo, name, home address and the business' name, address and phone number;
- A white headlight and red taillight;
- A bell or other audible signal (not whistle);
- Working brakes;
- Reflective tires and/or other reflective devices on new bicycles.

Businesses must maintain a log book, which must be available for inspection during regular and usual business hours.

Some of the responsibilities listed above are imposed by law and failure to comply with them may subject violators to legal sanctions. ]

(A) Header/Title: Commercial Bicyclist Safety

(B) Section 1: This poster must be displayed where delivery cyclists will easily see it. Sections §10-157 and §10.157.1 of the New York City Administrative Code regulate businesses using a bicycle for commercial purposes. The responsibilities listed below are imposed by law. Failure to comply with these requirements may subject violators to legal sanctions.

(C) Section 2: Commercial bicyclists must obey all traffic laws and rules. These laws include, but are not limited to, the following requirements:

- Yield to pedestrians.
- Ride in the direction of traffic
- Stay off the sidewalk
- Stop at all red lights and stop signs
- Do not wear more than one earphone while riding
- Use a white headlight and red taillight at night

(D) Section 3: Commercial bicyclists must:

- Wear retro-reflective upper body apparel with the business's name and bicyclist's 3 -digit ID number on the back in lettering at least 1 inch high.
- Wear a bicycle helmet in good condition
- Carry a business ID card at all times when riding on behalf of the business, which includes the information below:
  - Business name, address and phone number
  - Bicyclist's name, photo and 3 -digit ID number
- Business owners must provide the above items.

(E) Section 4: Business owners who employ commercial bicyclists must:

- Equip each commercial bicycle with the following, in addition to the items required above:
  - A bell or other audible device
  - White headlight and red taillight
  - Reflex reflectors
  - Brakes
  - Metal or plastic sign in good condition at least 3 inches by 5 inches with the business's name and a unique bicycle ID number for each bicycle in lettering at least 1 inch high. The sign must be affixed to the rear or both sides of the bicycle.
- Make available at the site a roster to include each cyclist's:
  - Name, residence address, date of employment and, where applicable, date of discharge from employment
  - Unique 3-digit ID number
  - Confirmation of cyclist's completed review of DOT Commercial Cyclist Safety course

(F) Footer: For more, please [visit nyc.gov/bikes](https://www.nyc.gov/bikes)

**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:** Amendment of Rules Governing Commercial Bicyclists

**REFERENCE NUMBER:** 2013 RG 008

**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 13, 2013

**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: Commercial Cyclist Poster**

**REFERENCE NUMBER: DOT-11**

**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 a cure period would run counter to the proposed rule's goal of preventing risks to public and worker safety.

/s/ Amy Bishop  
Mayor's Office of Operations

March 14, 2013  
Date