

## 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 new subdivision (g) to Section 4-10 of Chapter 4 of Title 34 of the Rules of the City of New York to conduct assignment of available bus stop permits. The Department proposes to assign these bus stop permits by randomly ranking bus operators and then allowing them to select bus stop permit locations based upon the order of ranking.

**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 2:30 p.m. on March 11, 2016. 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](mailto: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 (212) 839-9685.
- **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 (646) 892-1241. You can also sign up in the hearing room before the hearing begins on March 11, 2016. 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: March 11, 2016.

**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 (646) 892-1241. You must tell us by March 1, 2016.

**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, copies of the written comments will be available to the public at the DOT Freedom of Information Law (FOIL) Office, 55 Water Street, 4<sup>th</sup> Floor, New York, NY 10041.

**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 sightseeing buses, including “hop-on, hop-off” buses, 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 sightseeing bus operator relinquished fifty bus stops assigned to it by the Department. The Department plans to distribute 45 of these bus stops through an assignment process where applicants will be given a random rank and, based upon that rank, select bus stop locations from the available 45.

The Department will publish a notice requesting applications from sightseeing operators interested in the relinquished bus stops available for assignment. The Department will not assign bus stops to bus operators that already have a bus stop within a three-block radius of a selected bus stop, unless they are willing to relinquish the currently-assigned bus stop in exchange for the one applied for.

The Department will randomly assign a rank to each applicant to select a bus stop. Applicants will then select bus stops according to their assigned rank. After each applicant has selected a bus stop location, a round is complete. Rounds will continue in the same order of assigned rank until each of the available bus stops has been distributed.

An applicant offered a bus stop permit has 45 days to comply with all permit requirements of the Department or the bus stop.

**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) Sight-Seeing Bus Stop Permit Assignment Process through Random Ranking**

(1) The Commissioner will determine the sightseeing bus stops that will be available for assignment through a random ranking process allowing bus stop applicants to select from the available bus stop locations.

(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) U.S. Department of Transportation numbers, 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) Number of passengers anticipated for each bus at each bus stop location;
- (vii) List of bus stop locations for which the applicant is seeking permit for use; 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 procedure to grant permits to applicants for use of available bus stops:

- (i) Each applicant shall be assigned a rank chosen randomly utilizing a computer generated random number selection program.
- (ii) Applicants will then select from the list of available bus stops in consecutive order based upon their rank.
- (iii) The selected bus stop is then removed from the list of available bus stops and the next ranked applicant will then select from the revised list of available stops.
- (iv) After each applicant has utilized its position in the assigned order, a round is complete. Rounds will continue until each of the available sight-seeing bus stops are distributed.
- (v) The Commissioner will assign 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. If the applicant does not comply with all applicable licensing requirements, the Department will not offer the applicant the bus stops it selects. If this circumstance arises, the Commissioner may conduct another assignment of available bus stop permits through random ranking of bus operators using the assignment procedure outlined in this paragraph, allowing the operators to select from available bus stop permits.

(4) Bus stops will not be assigned to a sightseeing bus operator that already holds a bus stop within a three block radius of the bus stop subject to the selection unless the applicant agrees to relinquish the previously assigned bus stop if assigned the new selected 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 2 years.

(7) After one year following the effective date of this Rule, this Rule shall expire and have no further force and effect.

**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: February 2, 2016

**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: Bus Stop Permits for Sightseeing Buses**

**REFERENCE NUMBER: DOT-32**

**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

February 2, 2016  
Date