

## **The 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 relocate the Department of Transportation (DOT) Penalty Schedule from the Office of Administrative Trials and Hearings Environmental Control Board (OATH/ECB) rules in Section 3-124 of Subchapter G of Chapter 3 of Title 48 of the Rules of the City of New York to a new Chapter 3 of Title 34 of the Rules of the City of New York. It should be noted that the repeal of the DOT Penalty Schedule from OATH/ECB's rules will be coordinated with the promulgation of these rules. The proposed rule would also update the penalty schedule to reflect changes in the law and recently adopted rules.

**When and where is the hearing?** The New York City Department of Transportation (DOT) will hold a public hearing on the proposed rule. The public hearing will take place on Monday, July 31, 2017 at 2pm. 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 accessible.

**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 website 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:  
  
Vincent Maniscalco, Assistant Commissioner  
New York City Department of Transportation  
55 Water Street, 7<sup>th</sup> Floor  
New York, NY 10041
- **Fax.** You can fax comments to Assistant Commissioner Vincent Maniscalco at 212-839-8867.
- **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 Monday, July 31, 2017. You can speak for up to three minutes.

**Is there a deadline to submit comments?** The deadline to submit comments is Monday, July 31, 2017.

**Do you need assistance to participate in the hearing?** You must tell the DOT Office of the General Counsel if you need a reasonable accommodation of a disability at the hearing other than the one(s) indicated above. 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. Please tell us by Monday, July 24, 2017.

**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 all comments submitted online, copies of all written comments, and a summary of oral comments concerning the proposed rule will be available to the public at the DOT Office of the General Counsel, 55 Water Street, 9<sup>th</sup> Floor, New York, NY 10041.

**What authorizes DOT to make this rule?** Sections 1043 and 2903 of the New York City Charter authorize DOT to make this proposed rule. This proposed rule was not included in DOT's regulatory agenda for this fiscal year because it was not contemplated when DOT published the agenda.

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

**What rules govern the rulemaking process?** DOT must meet the requirements of Section 1043 of the New York City Charter when creating or changing rules. This notice is made according to the requirements of Section 1043 of the New York City Charter.

### **Statement of Basis and Purpose of Proposed Rule**

The Commissioner of the New York City Department of Transportation is authorized to issue rules regarding parking and traffic operations and highway operations in the City pursuant to Sections 1043 and 2903 of the New York City Charter.

The purpose of the proposed rule is to:

- relocate the Department of Transportation (DOT) Penalty Schedule from the Office of Administrative Trials and Hearings Environmental Control Board (OATH/ECB) rules in Chapter 3 of Title 48 of the Rules of the City of New York to DOT's rules in Title 34 of the Rules of the City of New York;
- update the schedule as needed to reflect recently adopted rules and changes to the law; and
- provide clearer, more concise language including by replacing abbreviations 'w/o' and 's/w' with 'without' and 'sidewalk', respectively.

Although OATH/ECB is empowered to impose penalties under the New York City Charter and has until now promulgated penalty schedules, enforcement agencies like DOT have the expertise to recommend appropriate penalties based on the severity of each violation and its effect on City residents. Moving the penalty schedule will also make it easier for the public to find the

penalties, which will be located within the same chapter as the rules supporting the violations alleged in the summonses. Finally, the proposed rule relocation will speed up the rulemaking process by eliminating the need for OATH/ECB approval of proposed or amended penalties for agency rules that have already gone through the City Administrative Procedure Act (CAPA) rulemaking process. The public will still have the opportunity to comment on proposed penalties during this process.

Working with the City's rulemaking agencies, the Law Department, the Mayor's Office of Management and Budget, and 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 to simplify and update content to help support public understanding and compliance. The proposed repeal of 48 RCNY § 3-124, the current rule containing OATH/ECB's DOT penalty schedule, was identified as meeting the criteria for this initiative.

In addition to being relocated into Title 34 of the Rules of the City of New York, the DOT penalty schedule has been updated to add new penalties and default amounts for the following: Administrative Code sections 19-151, 19-176.2, 19-191, 19-196 as well as sections 2-07(a)(2), 2-07(b)(2), 2-09(g)(1)(i), 2-11(c)(1)(iii), 2-11(e)(10)(vii), 2-11(e)(10)(viii), 2-11(e)(12)(ix), 2-20(q)(7), and 4-16 of the Rules of the City of New York (RCNY). These new penalty amounts range from \$250 to \$20,000.

The descriptions for the following sections have been updated to reflect recently adopted language: 2-11(e)(2), 2-11(e)(11)(iv), 2-11(e)(13)(vi), 2-11(e)(16)(iii), 2-11(f)(4)(v). The penalties for these sections have not been changed.

New material is underlined.

[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. Title 34 of the Rules of the City of New York is amended by adding a new chapter 3 to read as follows:

CHAPTER 3

PENALTY SCHEDULE

§ 3-01. Department of Transportation Penalty Schedule.

All citations are to the Administrative Code of the City of New York or to this Title.

Except as otherwise noted or provided in the relevant rule or law, a second or subsequent violation is a violation by the same respondent of the same provision of law, with a date of occurrence within 6 months of the date of occurrence of the previous violation.

When a respondent is found in violation of any of the following provisions of the Administrative Code or this Title, any civil penalty recommended by the Hearing Officer under 48 RCNY, § 6-17(c)(3), any default penalty imposed pursuant to 48 RCNY § 6-20(b) and subject to § 1049-a(d)(1)(d) of the Charter, and any civil penalty imposed for admissions of violation(s) pursuant to 48 RCNY §6-09(a) or late admissions pursuant to 48 RCNY § 3-17 will be imposed in accordance with the following penalty schedule:

<u>Section</u>	<u>Description</u>	<u>Penalty (\$)</u>	<u>Default (\$)</u>
<u>34 RCNY 4-10(c)(1)</u>	<u>Unauthorized passenger pickup or discharge (FIRST OFFENSE)</u>	<u>500</u>	<u>500</u>
<u>34 RCNY 4-10(c)(1)</u>	<u>Unauthorized passenger pickup or discharge (SECOND OR SUBSEQUENT OFFENSE)</u>	<u>2,500</u>	<u>2,500</u>
<u>34 RCNY 4-10(d)(7)(ii)</u>	<u>Failure of an intercity bus permit holder to prominently display a copy of an intercity bus permit (FIRST OFFENSE)</u>	<u>500</u>	<u>500</u>
<u>34 RCNY 4-10(d)(7)(ii)</u>	<u>Failure of an intercity bus permit holder to prominently display a copy of an intercity bus permit (SECOND OR SUBSEQUENT OFFENSE)</u>	<u>2,500</u>	<u>2,500</u>
<u>34 RCNY 4-10(d)(7)(iii)</u>	<u>Failure of an intercity bus permit holder to properly display the operator's name, address and telephone number (FIRST OFFENSE)</u>	<u>500</u>	<u>500</u>
<u>34 RCNY 4-10(d)(7)(iii)</u>	<u>Failure of an intercity bus permit holder to properly display the operator's name, address and telephone number (SECOND OR SUBSEQUENT OFFENSE)</u>	<u>2,500</u>	<u>2,500</u>
<u>34 RCNY 4-10(d)(7)(v)</u>	<u>Unlawful stopping or standing in an assigned on-street bus stop location except when actively engaged in the pick-up or discharge of passengers by an intercity bus permit holder (FIRST OFFENSE)</u>	<u>500</u>	<u>500</u>
<u>34 RCNY 4-10(d)(7)(v)</u>	<u>Unlawful stopping or standing in an assigned on-street bus stop location except when actively engaged in the pick-up or discharge of passengers by an intercity bus permit holder (SECOND OR SUBSEQUENT OFFENSE)</u>	<u>2,500</u>	<u>2,500</u>
<u>34 RCNY 4-10(d)(7)(vi)</u>	<u>Altering an intercity bus permit (FIRST OFFENSE)</u>	<u>500</u>	<u>500</u>
<u>34 RCNY 4-10(d)(7)(vi)</u>	<u>Altering an intercity bus permit (SECOND OR SUBSEQUENT OFFENSE)</u>	<u>2,500</u>	<u>2,500</u>