

**City of New York
Environmental Control Board**

Notice of Public Hearing and Opportunity to Comment on Proposed Rule

What are we proposing? The Environmental Control Board (ECB) proposes to amend its Department of Transportation (DOT) Penalty Schedule. This schedule is found in Section 3-124 of Subchapter G of Chapter 3 of Title 48 of the Rules of the City of New York. It contains penalties for violations of provisions of Titles 10 and 19 of the New York City Administrative Code and Title 34 of the Rules of the City of New York that are heard and decided by ECB.

When and where is the hearing? ECB will hold a public hearing on the proposed rule. The public hearing will take place at 2:00 p.m. on January 6, 2015. The hearing will be in the ECB Conference Room located at 66 John Street, 10th Floor, New York, NY 10038.

How do I comment on the proposed rules? Anyone can comment on the proposed rule by:

- **Website.** You can submit comments to the ECB through the NYC rules Web site at <http://rules.cityofnewyork.us>.
- **Email.** You can email written comments to Rules_Oath@oath.nyc.gov.
- **Mail.** You can mail written comments to ECB, Attention: James Macron, Counsel to the Board, 66 John Street, 10th Floor, New York, NY 10038.
- **Fax.** You can fax written comments to ECB at 212-361-1900.
- **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 Elizabeth Nolan at 212-436-0708. You can also sign up in the hearing room before the hearing begins on January 6, 2015. You can speak for up to three minutes.

Is there a deadline to submit written comments? You may submit written comments up to January 6, 2015.

Do you need assistance to participate in the hearing? You must tell ECB staff 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 212-436-0708. You must tell us by December 30, 2014.

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, a transcript of the hearing and copies of the written comments will be available to the public at the ECB's office located at 66 John Street, 10th Floor, New York, NY 10038.

What authorizes ECB to adopt this rule? Sections 1043 and 1049-a of the New York City Charter and Sections 19-190 and 19-191 of the New York City Administrative Code (Section 19-191 as enacted by Local Law No. 50 of 2014) authorize ECB to adopt this proposed rule. This proposed rule was not included in ECB's regulatory agenda for this Fiscal Year because it was not contemplated when ECB published the agenda.

Where can I find the ECB's rules? The ECB's rules are in Title 48 of the Rules of the City of New York.

What laws govern the rulemaking process? ECB 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(b) of the Charter.

Statement of Basis and Purpose of Proposed Rule

On February 18, 2014, Mayor de Blasio launched the Vision Zero action plan – an ambitious plan to reduce traffic fatalities in New York City. Vision Zero accepts no traffic fatality as inevitable. Vision Zero allows government agencies, industry groups, key transportation stakeholders and the public to understand traffic crashes as the result of a series of actions that can be changed or prevented through enforcement, education and design. As part of Mayor de Blasio's Vision Zero Action Plan, several pieces of legislation have been enacted that are intended to reduce fatalities resulting from motor vehicle accidents. Among this legislation are two new laws, Local Law No. 29 and Local Law No. 50 of 2014, which establish civil penalties for certain traffic-related offenses, and which provide for adjudication by the Environmental Control Board. This proposed rule would amend ECB's DOT Penalty Schedule to implement these new laws.

Section One: Right of Way

Local Law No. 29 of 2014 added a new Section 19-190 to the Administrative Code, entitled "Right of way." Subdivision (a) provides that if a motor vehicle driver fails to yield to a pedestrian or bicyclist who has the right of way, the driver shall be subject to a civil penalty of not more than \$100, in addition to or as an alternative to the penalties that can be imposed for committing a traffic infraction as provided in the law. Subdivision (b) of Section 19-190 provides that if a driver violates subdivision (a) and the vehicle causes contact with the pedestrian or bicyclist, and thereby causes physical injury, the driver shall be subject to a civil penalty of not more than \$250, in addition to or as an alternative to the penalties that can be imposed for committing a misdemeanor as provided in the law.

Section Two: Civil Penalties for Leaving the Scene of an Incident without Reporting

Local Law No. 50 of 2014 added a new Section 19-191 to the Administrative Code, entitled “Civil penalties for leaving the scene of an incident without reporting.” The civil penalties contemplated by the law relate to a violation of Vehicle and Traffic Law Section 600, which obligates motor vehicle operators, who know or have cause to know that property damage or personal injury has been caused due to an incident involving their vehicle, to stop and share their identifying information with the person sustaining the damage or injury and/or with a police officer, the nearest police station, or a judicial officer, as applicable.

New Administrative Code Section 19-191 sets forth four levels of civil penalties associated with a motor vehicle operator’s failure to comply with Vehicle and Traffic Law Section 600, as follows:

- If an incident involves property damage, the operator is liable for a civil penalty of not more than \$500;
- If an incident involves physical injury, the operator is liable for a civil penalty of not less than \$1,000 and not more than \$2,000;
- Notwithstanding the limits on civil penalties where an incident involves physical injury, if an incident involves serious physical injury, the operator is liable for a civil penalty of not less than \$2,000 and not more than \$10,000; and
- Notwithstanding the limits on civil penalties where an incident involves physical injury, if an incident involves death, the operator is liable for a civil penalty of not less than \$5,000 and not more than \$10,000.

Penalties

The default penalties for these sections are the maximum penalty amounts pursuant to the respective sections.

The proposed rule would add six new entries to the Department of Transportation Penalty Schedule in Section 3-124 of Subchapter G of Chapter 3 of Title 48 of the Rules of the City of New York (RCNY), setting forth civil penalties for the enforcement of Sections 19-190 and 19-191 of the Administrative Code. In recognition of the seriousness of the offenses articulated by these two new laws, no cure periods are provided and the civil penalties are set at the maximum authorized by Local Law Nos. 29 and 50, respectively.

ECB’s authority for these rules is found in Sections 1043 and 1049-a of the New York City Charter and Sections 19-190 and 19-191 of the New York City Administrative Code (Section 19-191 as enacted by Local Law No. 50 of 2014).

New material is underlined.

“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. The Environmental Control Board proposes to amend its Department of Transportation Penalty Schedule found in Section 3-124 of Subchapter G of Chapter 3 of Title 48 of the Rules of the City of New York by adding two new entries after the entry in that schedule for Admin. Code 19-176(c) “Riding bicycle on sidewalk in manner which endangers any person or property and causes physical contact with a person – SECOND OFFENSE” to read as follows:

SECTION/RULE	DESCRIPTION	PENALTY	DEFAULT
<u>Admin. Code 19-190(a)</u>	<u>Right of way – failure to yield</u>	<u>\$100</u>	<u>\$100</u>
<u>Admin. Code 19-190(b)</u>	<u>Right of way – failure to yield, physical injury</u>	<u>\$250</u>	<u>\$250</u>

§ 2. The Environmental Control Board proposes to amend its Department of Transportation Penalty Schedule found in Section 3-124 of Subchapter G of Chapter 3 of Title 48 of the Rules of the City of New York by adding four new entries after the entry in that schedule for Admin. Code 19-190(b) “Right of way – failure to yield, physical injury,” as added by section one of this proposed rule, to read as follows:

SECTION/RULE	DESCRIPTION	PENALTY	DEFAULT
<u>Admin. Code 19-191(a)</u>	<u>Leaving the scene – property damage</u>	<u>\$500</u>	<u>\$500</u>
<u>Admin. Code 19-191(b)</u>	<u>Leaving the scene – physical injury</u>	<u>\$2,000</u>	<u>\$2,000</u>
<u>Admin. Code 19-191(b)</u>	<u>Leaving the scene – serious physical injury</u>	<u>\$10,000</u>	<u>\$10,000</u>
<u>Admin. Code 19-191(b)</u>	<u>Leaving the scene – death</u>	<u>\$10,000</u>	<u>\$10,000</u>

§ 3. This rule shall take effect immediately, except that section two of this rule shall take effect on the same date that local law number 50 for the year 2014 takes effect, but if this rule is adopted on a date thereafter, section two of this rule shall take effect immediately.

**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: Amendment of Transportation Penalty Schedule (Failure to Yield and Leaving Scene of Accident)

REFERENCE NUMBER: 2014 RG 090

RULEMAKING AGENCY: Environmental Control Board

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: November 6, 2014

**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: ECB DOT Penalty Schedule amendments - failure to yield, leaving scene

REFERENCE NUMBER: ECB-50

RULEMAKING AGENCY: Environmental Control Board

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 no cure period necessary, rule violations arise from completed events, the consequences of which are immediate, so there is not a need for a cure.

/s/ Stephen Narloch
Mayor's Office of Operations

11/6/2014
Date