

## **NOTICE OF PUBLIC HEARING**

**Subject:** Opportunity to comment on proposed rules regarding amendments to the Department of Transportation (DOT) Penalty Schedule for offenses adjudicated by the Environmental Control Board (ECB).

**Date / Time:** October 16, 2013 / 3:30 p.m.

**Location:** ECB  
66 John Street  
10<sup>th</sup> Floor Conference Room  
New York, N.Y. 10038

**Contact:** James Macron  
Counsel to the Board  
Environmental Control Board  
66 John Street  
10<sup>th</sup> Floor  
New York, N.Y. 10038  
(212) 436-0594

### **Proposed Rule Amendment**

In accordance with Sections 1043 and 1049-a of the New York City Charter and Section 1642-a of the Vehicle and Traffic Law, the Environmental Control Board (ECB) proposes to amend 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), establishing penalties for offenses adjudicated by the ECB.

### **Instructions**

- Written comments regarding the proposed rule may be sent to Mr. Macron at his contact address above on or before October 16, 2013. Members of the public may also submit comments on the rule electronically through NYC RULES at [www.nyc.gov/nycrules](http://www.nyc.gov/nycrules).
- Individuals who want to testify at the hearing should notify Mr. Macron on or before October 16, 2013.
- Individuals who need a sign language interpreter or other accommodation for a disability should notify Mr. Macron on or before October 9, 2013.
- Individuals interested in receiving written comments and a transcript of oral comments on the proposed rule may request them by writing to Mr. Macron at his contact address above on or before November 15, 2013.

### **Statement of Basis and Purpose**

The intercity bus industry has grown significantly over the last fifteen years. While intercity buses provide a useful service, their on-street operations can cause serious disruption to the local traffic network and risks to public safety. In certain communities within the City, the proliferation of these buses has led to an increase in traffic and sidewalk congestion; a higher concentration of on-street bus parking, double parking or blocking of travel lanes; and the creation of traffic and safety concerns for drivers, travelers, pedestrians and residents.

In an effort to help address these concerns, New York State adopted Vehicle and Traffic Law (VTL) Section 1642-a, which authorized the City to establish an intercity bus permit system inclusive of a schedule of fines or civil penalties for violations of rules related to the system.

Section 1642-a provides that notices of violation issued pursuant to the Department of Transportation (DOT) intercity bus permit system rules are returnable to the Environmental Control Board (ECB). In addition, the Parking Violations Bureau (PVB), a part of the Department of Finance (DOF), is authorized to adjudicate violations of the DOT intercity bus permit system rules pursuant to Section 1642-a and Article 2-B of the VTL.

On April 10, 2013, the Mayor issued a letter designating the DOT to promulgate rules to implement and enforce the intercity bus permit system, and DOT has subsequently promulgated such rules (the “DOT intercity bus permit system rules”), found at 34 RCNY §§ 4-01 and 4-10. The Mayor also designated the DOF and the ECB to promulgate rules setting forth fines or civil penalties for violations of the DOT intercity bus permit system rules.

In coordination with the DOT and the New York City Police Department (NYPD), both ECB and DOF intend to establish penalty schedules for violations of the DOT intercity bus permit system rules as part of a coordinated enforcement scheme. In a separate rulemaking, DOF will add civil penalties for the DOT intercity bus permit system rules returnable to the PVB.

In this rulemaking, ECB is proposing to amend its DOT penalty schedule to add new penalties for violations of the DOT intercity bus permit system rules adjudicated at ECB. In accordance with VTL Section 1642-a, the proposed amendments provide that a first offense will result in a civil penalty of \$500. Each subsequent offense of the same violation occurring within two years after the first offense will result in a civil penalty of \$2500. Prior offenses include violations of both the ECB and DOF enforcement codes.

#### Violations of the DOT Intercity Bus Permit System Rules

These proposed amendments to the DOT penalty schedule for offenses adjudicated at ECB involve the following violations of the DOT intercity bus permit system rules:

- Unauthorized passenger pickup or discharge in violation of 34 RCNY § 4-10(c)(1)  
The intent of implementing an intercity bus permit system is to ensure that intercity bus operators utilizing the City’s curb space inform the DOT of their intended operations, and, once approved for such operations, adhere to permit requirements. In applying for a

permit, bus operators will provide DOT with important information related to overall bus operations within the City necessary for administration of the program.

- Failure of an intercity bus permit holder to prominently display a copy of an intercity bus permit in violation of 34 RCNY § 4-10(d)(7)(ii)  
The prominent display of a copy of the intercity bus permit is necessary to assure that enforcement officers are easily able to identify buses with valid authorization to utilize the City’s curb space.
- Failure of an intercity bus permit holder to properly display the operator’s name, address and telephone number in violation of 34 RCNY § 4-10(d)(7)(iii)  
The operator’s name, address, and telephone number must be affixed in characters at least five inches high on both sides of the vehicle, with such display being in a color contrasting with that of the vehicle and placed approximately midway vertically on doors or side panels. The operator’s name, address, and telephone number are necessary to ensure that enforcement officers are easily able to identify buses with valid authorization to utilize the City’s curb space.
- 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 in violation of 34 RCNY § 4-10(d)(7)(v)  
Intercity bus permits are for the temporary utilization of curb space by approved bus operators in order to expeditiously pick up or discharge passengers. This code is necessary to ensure that permittees do not park or stand their vehicles in curb space and thereby create layover spaces in bus stops not intended for longer-term stops.
- Altering an intercity bus permit in violation of 34 RCNY § 4-10(d)(7)(vi)  
Prohibiting the alteration of an intercity bus permit is necessary to ensure that enforcement officers have the ability to easily determine whether permittees are adhering to permit requirements.

“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.

New material is underlined.

**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 ten new penalty codes, after the entry in such schedule for 34 RCNY 2-20(n)(4) “Anchor guy attached to City property not protected by approved shield,” to read as follows:**

<b>SECTION/RULE</b>	<b>DESCRIPTION</b>	<b>PENALTY</b>	<b>DEFAULT</b>
<u>34 RCNY § 4-10(c)(1)</u>	<u>Unauthorized passenger pickup or discharge—First</u>		<u>\$1000</u>

	<u>Offense</u>	<u>\$500</u>	
<u>34 RCNY § 4-10(c)(1)</u>	<u>Unauthorized passenger pickup or discharge—Second or Subsequent Offense</u>	<u>\$2500</u>	<u>\$2500</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>\$1000</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>\$2500</u>	<u>\$2500</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>\$1000</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>\$2500</u>	<u>\$2500</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>\$1000</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>\$2500</u>	<u>\$2500</u>
<u>34 RCNY § 4-10(d)(7)(vi)</u>	<u>Altering an intercity bus permit—First Offense</u>	<u>\$500</u>	<u>\$1000</u>
<u>34 RCNY § 4-10(d)(7)(vi)</u>	<u>Altering an intercity bus permit —Second or Subsequent Offense</u>	<u>\$2500</u>	<u>\$2500</u>

**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 (Intercity Bus Violations)

**REFERENCE NUMBER:** 2013 RG 059

**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

Date: July 25, 2013

Acting Corporation Counsel

**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:** Amendment of Transportation Penalty Schedule (Intercity Bus Violations)

**REFERENCE NUMBER:** OATH/ECB-33

**RULEMAKING AGENCY:** OATH/ECB

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 rule violations arise from the consequences of immediate events, which makes a cure period impracticable under the circumstances.

/s/ Andrea Bender

Mayor's Office of Operations

September 4, 2013

Date