

NOTICE OF PUBLIC HEARING

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

Date / Time: February 20, 2013 / 3:30p.m.

Location: ECB
66 John Street
10th Floor, Conference Room
New York, N.Y. 10038

Contact: James Macron
Counsel to the Board
ECB
66 John Street
10th Floor
New York, N.Y. 10038
(212) 361-1515

Proposed Rule Amendment

Pursuant to Sections 1043 and 1049-a of the New York City Charter, and in accordance with Sections 19-121(b)(7), 19-147, and 19-150 of the New York City Administrative Code, the Environmental Control Board proposes to amend Section 3-124 of Subchapter G of Chapter 3 of Title 48 of the Rules of the City of New York (the DOT Penalty Schedule), creating penalties for offenses adjudicated by the Environmental Control Board. This rule was not included in the Environmental Control Board's regulatory agenda because it was not anticipated at the time the agenda was created.

Instructions

- Written comments regarding the proposed rule may be sent to Mr. Macron at his contact address above on or before February 20, 2013. Members of the public may also submit comments on the rule electronically through NYC RULES at www.nyc.gov/nycrules.
- Individuals who want to testify at the hearing should notify Mr. Macron on or before February 20, 2013.
- Individuals who need a sign language interpreter or other accommodation for a disability should notify Mr. Macron on or before February 13, 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.

Statement of Basis and Purpose

On October 25, 2012, the Mayor signed into law amendments to Sections 10-157 and 10-157.1 of the Administrative Code of the City of New York. These amendments granted the Environmental Control Board specific authorization to hear and decide notices of violation issued to businesses that violate commercial bicycling provisions.

Administrative Code Sections 10-157 and 10-157.1 outline the responsibilities of businesses and bicycle operators who use bicycles for commercial purposes. As amended, both Administrative Code sections 10-157 and 10-157.1 broaden the enforcement jurisdiction of these sections to specifically allow the New York City Department of Transportation (DOT), as well as the New York City Police Department, to issue such violations. To enforce these new laws, the Environmental Control Board is proposing to add first and subsequent offense charges for four new violations to ECB's DOT 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 (RCNY).

Failure to provide appropriate equipment to a bicycle operator delivering on behalf of a business using a bicycle for commercial purposes

The law requires businesses owners who use commercial delivery bicycle operators to provide suitable equipment to these operators. This equipment includes protective headgear, retro-reflective outermost upper apparel, and ID cards.

The protective headgear (e.g. helmet) must meet federal consumer product safety standards and be readily available on-site. The retro-reflective apparel (e.g. reflective vest) must indicate the business' name and the bicycle operator's three-digit identification number in letters/numerals not less than one inch in height so that it is readable at a distance of at least 10 feet. The ID card must contain the operator's name, three-digit identification number, a photo of the operator and the business' name, address and telephone number.

Failure of a business using a bicycle for commercial purposes to produce or maintain a roster

The roster must indicate the name and place of residence of each bicyclist operating a bicycle on behalf of such business. In addition, the roster must include the date of employment and discharge (if applicable) of such bicyclist, the bicyclist's three-digit identification number and whether or not the employee has completed a required bicycle safety course.

The law also requires the roster to be available for inspection during regular and usual business hours (or any other time that such business is open for business) upon request by any person authorized by law to enforce this section of law.

Failure to properly equip a bicycle used on behalf of a business using a bicycle for commercial purposes

The new law requires each bicycle to be properly equipped with a lamp, a bell or other device capable of giving an audible signal from a distance of at least 100 feet (not a siren or whistle), brakes and reflective tires or a reflex reflector mounted on the spokes of each wheel. These requirements conform with section 1236 of the New York State Vehicle and Traffic Law and enhance the visibility of commercial delivery cyclists for motorists and pedestrians.

Failure to post Commercial Bicyclist Safety Poster containing required information

Section 10-157.1 of the Administrative Code requires that a safety poster be present in all businesses that use a bicycle for commercial purposes. The poster must summarize the responsibilities of bicycle operators and businesses indicated in Administrative Code Section 10-157. The poster must also summarize various other provisions of law and rules deemed most important by DOT, as listed in Section 10-157.1 of the Administrative Code, for the safe operation of bicycles in New York City. The poster must be in English, Spanish and any other language spoken predominately by any bicycle operator utilized by

the business. The poster must be posted so that it is clearly visible to bicycle operators and business patrons present at the business site.

Penalties

Penalties are set out in section 10-157(g) of the New York City Administrative Code. That section provides for a civil penalty of \$100 for a first offense. A business is subject to a subsequent offense penalty of \$250 if it violates the same provision of law more than thirty days after such business has already violated that provision of law.

New matter 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 to add eight new entries before the entry in that schedule for Admin. Code 19-102(i) (“Use/opening of street w/o permit”) to read as follows:

SECTION	DESCRIPTION	PENALTY	DEFAULT
<u>Admin. Code 10-157</u>	<u>Failure to provide appropriate equipment to bicycle operator delivering on behalf of a business using a bicycle for commercial purposes—first offense</u>	<u>\$100</u>	<u>\$100</u>
<u>Admin. Code 10-157</u>	<u>Failure to provide appropriate equipment to bicycle operator delivering on behalf of a business using a bicycle for commercial purposes—subsequent offense</u>	<u>\$250</u>	<u>\$250</u>
<u>Admin. Code 10-157 (d)</u>	<u>Failure to produce or maintain a roster by a business using a bicycle for commercial purposes—first offense</u>	<u>\$100</u>	<u>\$100</u>
<u>Admin. Code 10-157 (d)</u>	<u>Failure to produce or maintain a roster by a business using a bicycle for commercial purposes—subsequent offense</u>	<u>\$250</u>	<u>\$250</u>
<u>Administrative Code 10-157 (f)</u>	<u>Failure to properly equip bicycle used on behalf of a business using a bicycle for commercial purposes—first offense</u>	<u>\$100</u>	<u>\$100</u>
<u>Administrative Code 10-157 (f)</u>	<u>Failure to properly equip bicycle used on behalf of a business using a bicycle for commercial purposes—subsequent offense</u>	<u>\$250</u>	<u>\$250</u>

<u>Administrative Code 10-157.1</u>	<u>Failure to post Commercial Bicyclist Safety Poster containing required information—first offense</u>	<u>\$100</u>	<u>\$100</u>
<u>Administrative Code 10-157.1</u>	<u>Failure to post Commercial Bicyclist Safety Poster containing required information—subsequent offense</u>	<u>\$250</u>	<u>\$250</u>

**NEW YORK CITY LAW DEPARTMENT
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**CERTIFICATION PURSUANT TO
CHARTER §1043(d)**

RULE TITLE: Amendment of DOT Penalty Schedule (Commercial Bicycles)

REFERENCE NUMBER: 2012 RG 091

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: January 3, 2013

**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: Amendment of DOT Penalty Schedule (Commercial Bicycles)

REFERENCE NUMBER: 2012 RG 091

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

/s/ Amy Bishop
Mayor's Office of Operations

January 3, 2013
Date