

Environmental Control Board

Notice of Promulgation of Rule

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED in the Environmental Control Board (ECB) in accordance with Sections 1049-a and 1043 of the New York City Charter and Sections 19-144 and 19-150 of the New York City Administrative Code. The ECB has amended its Department of Transportation (DOT) Penalty Schedule. The DOT Penalty 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 notices of violation issued by the New York City DOT. The rule was published in The City Record on January 12, 2015 and a public hearing was held on February 11, 2015.

Statement of Basis and Purpose of Final Rule

The Environmental Control Board has amended 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. The Department of Transportation issues violations for certain types of infractions against contractors who fail to provide adequate protection at worksites to ensure the safety of pedestrians and vehicles. Although existing law allows fines for these infractions to be as high as \$5,000, the current fine is set at only \$400, and has been at that amount since 1995. This amount is also relatively low compared to other DOT safety-related violations such as for failing to secure a steel plate. The fine for that violation is \$1,200 and reflects the danger to public safety that could occur from a steel plate that is not properly secured.

To maintain consistency across its safety related infractions, and to promote the safety of pedestrians and vehicles around a worksite, the Environmental Control Board (“ECB”) has promulgated a rule to increase the penalty for failure to provide adequate protection from \$400 to \$1,200. The ECB has amended the default penalty for failure to provide adequate protection to be raised from \$1,200 to \$3,600.

The ECB held a public hearing on February 11, 2015 regarding amendments to its Department of Transportation Penalty (DOT) Schedule found in Section 3-124 of Subchapter G of Chapter 3 of Title 48 of the Rules of the City of New York. One representative from DOT and two (2) individuals from the public attended the public hearing. Neither of the individuals from the public presented testimony on the proposed rule at the February 11, 2015, public hearing. ECB received one written comment on the proposed rule regarding amendments to its DOT Penalty Schedule.

[Deleted material is in brackets.]

New material is underlined.

§ 1. The Department of Transportation Penalty Schedule entry for Admin. Code 19-109(a), found in Section 3-124 of Subchapter G of Chapter 3 of Title 48 of the Rules of the City of New York, is amended to read as follows:

Section/Rule	Description	Penalty	Default
Admin. Code 19-109(a)	Failure to provide adequate protection at worksite	[\$400] <u>\$1,200</u>	[\$1,200] <u>\$3,600</u>