

NOTICE OF PUBLIC HEARING

Subject: Opportunity to comment on Proposed Rule regarding penalties for offenses adjudicated by the Environmental Control Board (ECB).

Date / Time: June 12, 2012 / 3:30 p.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 Section 1049-a of the New York City Charter, and in accordance with Section 1043(b) of the Charter, the Environmental Control Board proposes to amend subchapter G of Chapter 3 of Title 48 of the Rules of the City of New York, creating penalties for offenses adjudicated by the Environmental Control Board. New matter in the following rule is underlined, and deleted material is in brackets. 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

- Prior to the hearing, you may submit written comments about the proposed rule to Mr. Macron by mail or electronically through NYC RULES at www.nyc.gov/nycrules. Individuals seeking to testify at the hearing should also notify Mr. Macron.
- To request a sign language interpreter or other reasonable accommodation for a disability at the hearing, please contact Mr. Macron by June 5, 2012
- After the hearing, individuals interested in receiving written comments and a transcript of oral comments on the proposed rule may request them by writing to Mr. Macron.

Statement of Basis and Purpose of Proposed Rule

The Environmental Control Board proposes to amend its Department of Buildings (DOB) Penalty Schedule. This schedule is found in Section 3-103 of Subchapter G of Chapter 3 of Title 48 of the Rules of the City of New York (RCNY).

This amendment adjusts penalties for fourteen charges in the penalty schedule.

Most penalties in this schedule follow a formula – both the Standard Default and Aggravated II penalties are the lesser of 5 times the Standard penalty or the statutory maximum. The Aggravated I penalty is the lesser of 2.5 times the Standard penalty or the statutory maximum. The Aggravated I default penalty is the lesser of 10 times the Standard penalty or the statutory maximum. The Aggravated II Default penalty is the statutory maximum.

However, the current penalties for the charges below do not follow this formula. ECB therefore seeks to conform these charges to the others contained in the penalty schedule.

Section 1. The Environmental Control Board is amending its DOB Penalty Schedule found in Section 3-103 of Subchapter G of Chapter 3 of Title 48 of the Rules of the City of New York (RCNY) to make the following changes:

Deleted material is in [brackets].
New matter is underlined.

Section of Law	Classification	Violation Description	Cure	Stipulation	Standard Penalty	Mitigated Penalty	Default Penalty	Aggravated I Penalty	Aggravated I Default Penalty	Aggravated II Penalty	Aggravated II Default – Maximum Penalty
1 RCNY 5-02	Class 2	Failure to meet the requirements of licensing/ identification/ qualification as required by 1 RCNY 5-02	No	No	\$800	Yes	[\$10,000] <u>\$4,000</u>	\$2,000	[\$10,000] <u>\$8,000</u>	\$4,000	\$10,000
1 RCNY 101-07	Class 2	Failure of Approved agency to comply with requirements of 1 RCNY 101-07	Yes	No	\$800	Yes	[\$10,000] <u>\$4,000</u>	\$2,000	[\$10,000] <u>\$8,000</u>	\$4,000	\$10,000
28-406.1	Class 1	Unlicensed concrete testing activity, Immediately Hazardous	No	No	\$1,000	Yes	[\$25,000] <u>\$5,000</u>	\$2,500	[\$25,000] <u>\$10,000</u>	\$5,000	\$25,000
BC 1704.4	Class 2	Failure to perform special inspections and verifications for concrete construction as required by section and Table 1704.4	No	No	\$1,600	No	[\$10,000] <u>\$8,000</u>	\$4,000	\$10,000	\$8,000	\$10,000
BC 1905.6.3.2	Class 2	Failure to comply with ASTM C31 standards for concrete cylinder test samples	No	No	\$1,600	No	[\$10,000] <u>\$8,000</u>	\$4,000	\$10,000	\$8,000	\$10,000
BC 903.6	Class 2	Failure to paint dedicated sprinkler piping/valves in accordance with section	No	No	\$1,600	Yes	[\$10,000] <u>\$8,000</u>	\$4,000	\$10,000	\$8,000	\$10,000
BC 903.6	Class 2	Failure to provide/maintain painting certification of sprinkler and combination sprinkler/standpip	Yes	No	\$500	Yes	[\$10,000] <u>\$2,500</u>	\$1,250	[\$10,000] <u>\$5,000</u>	\$2,500	\$10,000

		e systems in accordance with section									
BC 905.11	Class 2	Failure to paint dedicated standpipe/ valves in accordance with section	No	No	\$1,600	Yes	[\$10,000] <u>\$8,000</u>	\$4,000	\$10,000	\$8,000	\$10,000
BC 905.11	Class 2	Failure to provide/maintain painting certification of standpipe and combination sprinkler/standpipe systems in accordance with section	Yes	No	\$500	Yes	[\$10,000] <u>\$2,500</u>	\$1,250	[\$10,000] <u>\$5,000</u>	\$2,500	\$10,000
28-408.1	Class 1	Performing unlicensed plumbing work without a master plumber license	No	No	\$2,500	No	\$12,500	\$6,250	\$25,000	[\$6,250] <u>\$12,500</u>	\$25,000
Misc. Chapter 4 of title 28	Class 1	Illegally engaging in any business or occupation without a required license or other authorization	No	No	\$2,500	No	\$12,500	\$6,250	\$25,000	[\$6,250] <u>\$12,500</u>	\$25,000
28-105.12.1	Class 2	Outdoor sign permit application contrary to Code and ZR requirements	No	No	\$2,400	No	\$10,000	[\$10,000] <u>\$6,000</u>	\$10,000	\$10,000	\$10,000
Misc. Title 28/Misc ZR	Class 2	Misc outdoor sign violation of ZR and/or Building Code	No	No	\$2,400	No	\$10,000	[\$10,000] <u>\$6,000</u>	\$10,000	\$10,000	\$10,000
28-116.1	Class 2	Failure of permit holder to provide inspection access and/or exposure to ongoing construction or work on an active and permitted worksite.	No	No	\$2,000	Yes	[\$5,000] <u>\$10,000</u>	\$5,000	\$10,000	\$10,000	\$10,000

**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 Buildings Penalty Schedule

REFERENCE NUMBER: OATH/ECB-22

RULEMAKING AGENCY: Office of Administrative Trials and Hearings

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) Does not provide a cure period for certain violations because violations pose a risk to public health or safety, or if providing a cure period would pose an economic disincentive to commit the infraction. Does provide a cure period for all other violations.

Rachel Squire
Mayor's Office of Operations

04/17/12
Date