

## §3-123 Sewer Control Rules Penalty Schedule

### SEWER CONTROL RULES PENALTY SCHEDULE

The name "Division of Pollution Control and Monitoring" is abbreviated as "DPCM."

The term "Not Applicable" is abbreviated as "N/A."

The term "Notice of Violation" is abbreviated as "NOV."

Citations preceded by "A.C." are to the NYC Administrative Code.

Pursuant to §31-81(b), a late admit fee of \$30.00 will be added to all the below listed penalties for a failure to submit a payment by mail, as per §31-32, within 30 days of the mailing date of the default order issued against respondent.

For purposes of this Penalty Schedule, the term "serious" in the charge for A.C. Title 24, Ch 5 / 15 RCNY Ch. 19, for "any serious Admin Code Rule violation" is defined as "any violation resulting in injury to human, animal, or aquatic life, harm to public health or the environment, or damage to the publicly owned treatment works or its collection system."

A second, third and/or subsequent violation shall be based on the following criteria: (1) an offense by the same respondent; (2) the prior NOV(s) is for the same subsection and paragraph of the same regulation as the current NOV; (3) the offense does **not** have to involve the same premises, equipment and/or vehicle; (4) the prior NOV(s) was concluded by a finding of violation or an admission or a default **and** has a date of offense within 1 year of the date of offense of the current NOV; and (5) if NOV(s) with different dates of offense are adjudicated at the same hearing, each NOV shall serve as a prior violation for all subsequently issued NOV's.

The default penalty for all charges in this Penalty Schedule is \$10,000.

Mitigation, if applicable, shall be determined as per notes 1 through 9 below, and as indicated in the mitigation penalty column ("MIT. PENALTY") of this Penalty Schedule, and also as per "Compliance Incentives Policy Mitigation" set out below.

1	19-03 (a) (9) 19-04 (a)-(c)	Mitigation	DPCM has received the results of sampling conducted by the respondent subsequent to the date of offense which are in compliance with applicable limits and deemed acceptable by DPCM. Such results must be received by DPCM within 30 calendar days from the date of service of the NOV. The burden of proving compliance shall be upon the respondent.
2	24-524 (f)	Mitigation failure	DPCM has received proof deemed acceptable by DPCM that the Commissioner of Environmental Protection's order or permit has

		to comply	been fully complied with, within 30 calendar days from the due date for compliance with said order, or report due date.
3	19-03 (a)(4)-(8) 19-03 (a)(10)-(11) 19-03 (a)(15)	Mitigation	DPCM has received proof deemed acceptable by DPCM that the spill/discharge was accidental, that the respondent has properly reported the spill/discharge to DPCM, has taken adequate measures to minimize the extent of the spill/discharge, and has properly cleaned the spill/discharge.
4	24-524 (f)	Mitigation failure to comply	DPCM has received proof deemed acceptable by DPCM that the Commissioner of Environmental Protection's order or permit has been fully complied with, within 30 calendar days from the due date for compliance with said order, or report due date. Alternatively, a prior NOV exists for the same commissioner of environmental protection's order or permit reporting requirement (i.e. same report was due) and has a date of offense within 1 year of the date of offense of the the current NOV and DPCM has received proof deemed acceptable by DPCM that the commissioner of environmental protection's order or permit has been fully complied with within 30 calendar days from the date of service of the current NOV.
5	19-02 (a), (d) 19-05 (e) 19-06 (b)	Mitigation	DPCM has received proof deemed acceptable by DPCM that the violation has been corrected within 30 calendar days from the date of service of the NOV.
6	19-03 (a)(12)	Mitigation discharge burdensome to plant	DPCM has received proof deemed acceptable by DPCM that the respondent has immediately ceased the Unauthorized discharge, performed a proper cleanup, if applicable, and taken adequate measures to prevent future unauthorized discharges.
7	24-509 (c)	Mitigation failure to	Respondent has DEP house connection permit by first scheduled hearing date and connects within three

		connect to public sewer	weeks of the first scheduled hearing date.
8	24-509 (c)	Mitigation failure to connect to public sewer	Respondent files plumbing repair application with department of buildings by first scheduled hearing date and completes connection within five weeks of the first scheduled hearing date.
9	24-509 (c)	Mitigation failure to connect to public sewer	Respondent fails to initiate the connection process by first scheduled hearing date but completes connection within seven weeks of the first scheduled hearing date.

### COMPLIANCE INCENTIVES POLICY MITIGATION

IF RECOMMENDED BY DPCM, PENALTIES MAY BE ASSESSED UNDER THE TERMS OF THE **NEW YORK CITY DEPARTMENT OF ENVIRONMENTAL PROTECTION'S POLICY ON INCENTIVES FOR BUSINESSES TO COMPLY WITH REGULATIONS GOVERNING DISCHARGES TO PUBLIC SEWERS**, ALSO KNOWN AS THE COMPLIANCE INCENTIVES POLICY (CIP). A COPY OF THE CIP CAN BE OBTAINED FROM THE NEW YORK CITY DEPARTMENT OF ENVIRONMENTAL PROTECTION, BUREAU OF WASTEWATER TREATMENT, DIVISION OF POLLUTION CONTROL AND MONITORING. THE ACTUAL TEXT OF THE CIP SHALL BE DETERMINATIVE OF THE REQUIREMENTS FOR MITIGATION UNDER THE CIP. SEE BELOW FOR A BRIEF SUMMARY OF THE CIP. SEE ALSO THE CIP PENALTY REDUCTION TABLE, BELOW.

#### Summary of CIP

(See actual CIP for further details)

Qualifying violations will be: 1) violations discovered through a voluntary on-site compliance assistance program, as per the terms of the CIP; 2) violations discovered through an environmental self-audit, as per the terms of the CIP; 3) violations discovered through special testing, sampling, or monitoring performed by a business for the purpose of evaluating or upgrading its equipment or processes, as per the terms of the CIP.

The disclosure of the violation must occur within the time frames required by the CIP, and before the violation was otherwise discovered by, or reported to DPCM, and cannot be a result of a legally mandated monitoring or sampling requirement prescribed by statute, regulation, permit, judicial or administrative order, or consent agreement.

As described in the CIP, businesses must correct the violations within the shortest practicable period of time, not to exceed 90 days following detection of the violation, unless an additional 90 day period is approved by DPCM, only if necessary to allow the business to correct the violation by implementing pollution prevention measures.

Additional requirements include, but are not limited to (see actual CIP for all requirements, and for further details):

- a) the business immediately corrects threats to the public's health, safety or the environment; and
- b) the business has not intentionally, knowingly, recklessly, or with criminal or gross negligence caused harm to public health, safety or the environment; and
- c) the violation does not involve criminal conduct; and
- d) the violation does not cause the publicly-owned treatment works facility, which treats the related NYC sewer discharge where the violation occurred, to exceed its effluent limitations; and
- e) the business has not received any NOV's, for the same subsection and paragraph of the same regulation as the current NOV, with a date of offense within two years prior to the date of offense of the current NOV, or alternatively, at DPCM's discretion, the business either funds an environmentally beneficial project that contributes to the betterment of the NYC wastewater collection and treatment system (or other related or non-related Department of Environmental Protection concerns), or attends a mandatory user-paid environmental education program.

#### **CIP Penalty Reduction Table**

If Respondent also qualifies for a non-CIP mitigated penalty, the CIP percentage penalty reduction shall be applied to the mitigated penalty amount.

<b>Determining Factors For Reduction in Penalty</b>	<b>Percent Reduction In Penalty</b>
All CIP requirements satisfied, and violation corrected within 90 days following detection of the violation, and no prior NOV for the same subsection and paragraph as current NOV within 2 years, and no harm to public health, safety or the environment.	100%
All CIP requirements satisfied, and violation corrected within 180 days (with DPCM approval), instead of 90 days following detection of the violation, and no prior NOV for the same subsection and paragraph as current NOV within 2 years, and no harm to public health, safety or the environment.	90%
All CIP requirements satisfied, and violation corrected within 90 days following detection of the violation, and NOV exists for same subsection and paragraph within 2 years, but environmentally beneficial project funded or environmental education program attended, and no harm to public health, safety or the environment.	80%
All CIP requirements satisfied, and violation corrected within 180 days (with DPCM approval), instead of 90 days following detection of the violation, and NOV exists for same subsection and paragraph within 2 years but environmentally beneficial project funded or environmental education program attended, and no harm to public health, safety or the environment,	70%

All CIP requirements satisfied, and violation corrected within 90 days following detection of the violation, and no prior NOV for the same subsection and paragraph as current NOV within 2 years, and harm to public health, safety or the environment, but not intentionally, knowingly, recklessly, or with criminal or gross negligence.	60%
All CIP requirements satisfied, and violation corrected within 180 days (with DPCM approval) instead of 90 days following detection of the violation, and no prior NOV for the same subsection and paragraph as current NOV within 2 years, and harm to public health, safety or the environment, but not intentionally, knowingly, recklessly, or with criminal or gross negligence.	50%
All CIP requirements satisfied, and violation corrected within 90 days following detection of the violation, and NOV exists for same subsection and paragraph within 2 years, but environmentally beneficial project funded or environmental education program attended, and harm to public health, safety, or the environment, but not intentionally, knowingly, recklessly, or with criminal or gross negligence.	40%
All CIP requirements satisfied, and violation corrected within 180 days (with DPCM approval) of the violation, and NOV exists for same subsection and paragraph within 2 years, but environmentally beneficial project funded or environmental education program attended, and harm to public health, safety or the environment, but not intentionally, knowingly, recklessly, or with criminal or gross negligence.	30%

REGULATION	DESCRIPTION	FIRST VIOLATION		SECOND VIOLATION		THIRD VIOL.	SUBS VIOL.
		PENALTY	MIT. PENALTY	PENALTY	MIT. PENALTY		
15RCNY 19-02 (a), (d) P25	Unauthorized connection to public sewer/ Interceptor	300	200 <sup>5</sup>	500	NO	1000	2500
15RCNY 19-02 (b), (c),(e) 1 <sup>st</sup> off P26 2 <sup>nd</sup> off P2B 3 <sup>rd</sup> off P3B Subs off P4B	Unauthorized discharge to catch basin/storm/ sanitary sewer	250	NO	500	NO	1000	2500
15RCNY 19-02 (f), 1 <sup>st</sup> off P27 2 <sup>nd</sup> off P2C	Discharge of Groundwater without permit	250	NO	500	NO	1000	2500
15RCNY 19-03 (a)(1) 1 <sup>st</sup> off P29 2 <sup>nd</sup> off P2D 3 <sup>rd</sup> off P3D Subs off P4D	Discharge of obstructive substance or Other Interference	350	NO	500	NO	1000	2500
15RCNY 19-03 (a)(2) 1 <sup>st</sup> off P31 2 <sup>nd</sup> off P2E	Discharge of snow and ice at Unauthorized Location	100	NO	200	NO	500	1000
15RCNY 19-03 (a)(3) 1 <sup>st</sup> off P33 2 <sup>nd</sup> off P2F	Discharge of steam/waste water over 150° f	350	NO	500	NO	1000	2000

15RCNY 19-03 (a)(4) P35	Discharge of flammable or explosive Substance	1000	250 <sup>3</sup>	2000	NO	4000	10,000
15RCNY 19-03 (a)(5) 1 <sup>st</sup> off P36 2 <sup>nd</sup> off P2H	Discharge of oil 0-5 qts from changing oil in privately owned Automobile	500	NO	800	NO	1000	2000
15RCNY 19-03 (a) (5)-(8) P37	Discharge of oil sludge/non-polar material/ coal tar/ paints	1000	500 <sup>3</sup>	2000	800 <sup>3</sup>	4000 MIT. PENALTY 1000 <sup>3</sup>	7500
15RCNY 19-03 (a)(9) P38	Discharge of wastewater outside of applicable ph limits	400	250 <sup>1</sup>	800	400 <sup>1</sup>	1000	2000
15RCNY 19-03 (a) (10)-(11) P39	Discharge of toxics	1000	250 <sup>3</sup>	2000	NO	4000	10000
15RCNY 19-03 (a)(12) P40	Discharge of pollutant burdensome to sewage treatment plant	2500	1500 <sup>6</sup>	5000	NO	7500	10000
15RCNY 19-03	Discharge of	350	NO	800	NO	1000	2000

(a)(13)-(14) 1 <sup>st</sup> off P41 2 <sup>nd</sup> off P2M	noxious malodorous or discoloring substance							
15RCNY 19-03 (a)(15) P86	Discharge of dry cleaning wastes	1000	250 <sup>3</sup>	2000	NO	4000	5000	
15RCNY 19-03 (b) 1 <sup>st</sup> off P43 2 <sup>nd</sup> off P2O	Discharge of unshredded garbage	350	NO	1000	NO	2000	5000	
15RCNY 19-03 (d)(1) 1 <sup>st</sup> off P45 2 <sup>nd</sup> off P2P 3 <sup>rd</sup> off P3P	Failure to Protect against accidental discharge	350	NO	1000	NO	2500	5000	
15RCNY 19-03 (d)(2) 1 <sup>st</sup> off P47 2 <sup>nd</sup> off P2Q 3 <sup>rd</sup> off P3Q	failure to immediately notify DEP of accidental discharge	500	NO	1000	NO	2500	5000	
15RCNY 19-03 (d)(3) 1 <sup>st</sup> off P49 2 <sup>nd</sup> off P2R	Failure to post accidental discharge procedures	250	NO	500	NO	1000	2500	
15RCNY 19-03 (d)(4) 1 <sup>st</sup> off P1A	Failure to mitigate discharge and commence	500	NO	1000	NO	2500	5000	

2 <sup>nd</sup> off P2S 3 <sup>rd</sup> off P3S	clean-up						
15RCNY 19-03 (e) 1 <sup>st</sup> off P51 2 <sup>nd</sup> off P2T	Failure to control sewer odor arising in premise	350	NO	500	NO	1000	2500
15RCNY 19-03 (f) 1 <sup>st</sup> off P53 2 <sup>nd</sup> off P2U 3 <sup>rd</sup> off P3U Subs off P4U	Failure to install or maintain pretreatment equipment (grease)	100	NO	400	NO	800	1500
15RCNY 19-03 (g) P55	Unlawful discharge of radioactive material	2500	NO	5000	NO	7500	10000
15RCNY 19-04 (a) P56	Discharge of cyanide amenable in excess of local limit, w/exceedance less than 25x the limit	400	250 <sup>1</sup>	800	400 <sup>1</sup>	1000	2000
15RCNY 19-04 (a) P57	Discharge of cyanide amenable in excess of local limit, w/exceedance 25x the limit or greater	750	NO	1000	NO	2000	5000
15RCNY 19-04 (a)-(c) P58	Discharge in excess of local/ categorical limits/ limits set by commissioner w/	400	250 <sup>1</sup>	800	400 <sup>1</sup>	1000	2000

	exceedance less than 10x the limit (not applicable to cn amenable under 19-04 (a))						
15RCNY 19-04 (a)-(c) P59	Discharge in excess of local/ categorical limits/ limits set by commissioner w/ exceedance 10x the limit or greater (not applicable to cn amenable under 19-04 (a))	750	NO	1000	NO	2000	5000
15RCNY 19-04 (d) 1 <sup>st</sup> off P60 2 <sup>nd</sup> off P5A 3 <sup>rd</sup> off P6A	Failure to Maintain/properly operate pretreatment equipment (categorical)	350	NO	500	NO	1000	2500
15RCNY 19-04 (e) 1 <sup>st</sup> off P61 2 <sup>nd</sup> off P5B 3 <sup>rd</sup> off P6B	Unlawful dilution of wastewater	500	NO	1000	NO	2500	5000
15RCNY 19-05(a) (1)-(2) 1 <sup>st</sup> off P1B 2 <sup>nd</sup> off P5C 3 <sup>rd</sup> off P6C	Discharge of wastewater w/o permit or equivalent control mechanism	300	NO	500	NO	1000	2500
15RCNY 19-05 (c) P62	Refusal to provide information or	500	NO	1000	NO	2500	5000

	permit inspection (pretreatment)						
15RCNY 19-05 (d) P63	Failure to install measurement/ sampling equipment, as required	350	NO	500	NO	1000	2500
15RCNY 19-05 (e) P65	New connection to public sewer, without permit	500	250 <sup>5</sup>	1000	NO	2500	5000
15RCNY 19-06 (a)(1) 1 <sup>st</sup> off P66 2 <sup>nd</sup> off P5G	Discharge of scavenger waste without scavenger waste permit	1000	NO	2500	NO	5000	7500
15RCNY 19-06 (a) (1)-(2) 1 <sup>st</sup> off P67 2 <sup>nd</sup> off P5H 3 <sup>rd</sup> off P6H Subs off P7H	Discharge of scavenger waste in violation of terms of permit/ discharge of scavenger waste from outside NYC	500	NO	1000	NO	2500	5000
15RCNY 19-06 (a)(3) 1 <sup>st</sup> off P68 2 <sup>nd</sup> off P5I	Discharge of non-sanitary Wastes	1000	NO	2500	NO	5000	7500
15RCNY 19-06 (a)(4) 1 <sup>st</sup> off P69 2 <sup>nd</sup> off P5J 3 <sup>rd</sup> off P6J	Discharge of scavenger wastes at non-designated Manhole	500	NO	1000	NO	2500	5000

15RCNY 19-06 (b) P71	Discharge of Scavenger wastes in unclean manner/failure to produce permit	400	100 <sup>5</sup>	1000	250 <sup>5</sup>	2500	5000
15RCNY 19-06 (d) 1 <sup>st</sup> off P73 2 <sup>nd</sup> off P5L	Unlawful transport of other wastes in scavenger Truck	1000	NO	2500	NO	5000	7500
15RCNY 19-06 (e) 1 <sup>st</sup> off P1C 2 <sup>nd</sup> off P5M	Impermissible discharge of waste from Grease interceptor, separator, or Trap	1000	NO	2500	NO	5000	7500
15RCNY 19-07 (a), (i) 1 <sup>st</sup> off P1D 2 <sup>nd</sup> off P5N 3 <sup>rd</sup> off P6N	Failure to prepare/ Implement silver halide bmp	350	NO	500	No	1000	2500
15RCNY 19-07 (b), (f) 1 <sup>st</sup> off P1F 2 <sup>nd</sup> off P5O 3 <sup>rd</sup> off P6O	Failure to install, operate, and maintain proper Pretreatment Equipment	350	NO	500	NO	1000	2500
15RCNY 19-07 (c) 1 <sup>st</sup> off P1H 2 <sup>nd</sup> off P5P 3 <sup>rd</sup> off P6P	Failure to follow off-site recovery req. for silver Halide records and measurements, or vendor Certification	350	NO	500	NO	1000	2500

15RCNY 19-07 (d), (h) 1 <sup>st</sup> off P1J 2 <sup>nd</sup> off P5Q 3 <sup>rd</sup> off P6Q	Failure to maintain and make available all required records and measurements, or vendor Certification	350	NO	500	NO	1000	2500
15RCNY 19-10 (b) (1)-(2) 1 <sup>st</sup> off P75 2 <sup>nd</sup> off P5R	Unauthorized entry into or damage to	2500	NO	5000	NO	7500	10000
15RCNY 19-10 (c) P74	Interference with DEP personnel/ Equipment	1000	NO	2500	NO	5000	10000
15RCNY 19-10 (d) P76	Refusal to allow entry/tampering With sampling or testing device	1000	NO	2500	NO	5000	10000
15RCNY 19-10 (e) P77	Failure to Provide Required Information/ refusal to Cooperate	500	NO	1500	NO	5000	7500
15RCNY 19-12 (a), (c) 1 <sup>st</sup> off P89 2 <sup>nd</sup> off P5S 3 <sup>rd</sup> off P6S	Failure to install/ maintain pretreatment equipment (dry Cleaners	50	NO	500	NO	1000	2500
15RCNY 19-12 (b), 1 <sup>st</sup> off P90	Discharge of dry cleaning waste	500	NO	1000	NO	2500	5000

2 <sup>nd</sup> off P5T 3 <sup>rd</sup> off P6T	(perc)						
15RCNY 19-12 (d), 1 <sup>st</sup> off P91 2 <sup>nd</sup> off P5U 3 <sup>rd</sup> off P6U	Failure to protect against accidental spill (dry cleaner Waste	350	NO	500	NO	1000	2500
15RCNY 19-12 (e), 1 <sup>st</sup> off P93 2 <sup>nd</sup> off P5V 3 <sup>rd</sup> off P6V Subs off P7V	Failure to maintain records (dry cleaners)	350	NO	500	NO	1000	2500
24-509 (c) P88	Failure to connect to public sewer w/i 6 months of notification	3000	500 <sup>7</sup> 750 <sup>8</sup> 1000 <sup>9</sup>	N/A	N/A	N/A	N/A
24-523 (c)(2) 1 <sup>st</sup> off P78 2 <sup>nd</sup> off P5W 3 <sup>rd</sup> off P6W Subs off P7W	Failure to maintain/submit required record/ Report	350	NO	500	NO	1000	2500
24-523 (c)(2) 1 <sup>st</sup> off P79 2 <sup>nd</sup> off P5X 3 <sup>rd</sup> off P6X Subs off P7X	Failure to Maintain monitoring equipment/ Methods	350	NO	500	NO	1000	2500
24-523 (c)(2) P80	Failure to Provide Required information	500	NO	1500	NO	5000	7500
24-523 (c)(3) P81	Refusal to allow inspection of monitoring	1000	NO	2500	NO	5000	10000

	equipment/method or sampling						
24-523 (c)(4) P82	Providing false or misleading information	1000	NO	2500	NO	5000	10000
24-523 (f)/24-524 (f) 1 <sup>st</sup> off P83 2 <sup>nd</sup> off P5Y 3 <sup>rd</sup> off P6Y Subs off P7Y	Failure to comply with Comm. request for information/terms of permit other than reporting requirements	500	NO	1000	NO	2500	5000
24-524 (f) P84	Failure to comply With Comm's Order	400	125 <sup>2</sup>	600	250 <sup>4</sup>	800 MIT. PENALTY 400 <sup>4</sup>	1000
24-524 (f) P85	Failure to comply with terms of permit reporting requirements	250	125 <sup>2</sup>	500	250 <sup>4</sup>	800	1000
A.C. Title 24, Ch.5 15 RCNY Ch. 19 P99	Miscellaneous Administrative Code/rule violation	500	NO	1000	NO	2500	5000
A.C. Title 24, Ch.5 15 RCNY Ch. 19 P98	Any serious Administrative Code/rule violation	2500	NO	5000	NO	7500	10000