

NOTICE OF ADOPTION OF FINAL RULE

Department of Environmental Protection

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED IN THE COMMISSIONER OF THE DEPARTMENT OF ENVIRONMENTAL PROTECTION by Section 1043 (c) of the New York City Charter and Sections 24-178 and 24-105 of the New York City Administrative Code, that the Department of Environmental Protection has amended the penalty schedule for violations of Title 24, Chapter 1 of the Administrative Code, also known as the Air Pollution Control Code (Air Code). These amendments were proposed and published in the City Record on March 22, 2017 and no comments were received. A public hearing was held on April 26, 2017. No testimony was given at the hearing.

Statement of Basis and Purpose of Rule

On May 11, 2016, Chapter 43 of Title 15 of the Rules of the City of New York, establishing a penalty schedule for violations of the Air Code, took effect. It has since been discovered that there is an error in the penalty schedule.

Administrative Code Section 24-169, which prohibits the use, purchase, sale, offer, storage or transport of fuel with excess sulfur content, is listed in the penalty schedule with the incorrect subdivision. The schedule should include § 24-169(a) and § 24-169(b) but not § 24-169(c), which is not a charging section. The amounts of the penalties are set forth correctly, and remain unchanged.

Consistent with the above, DEP promulgates the following amendment, to be found at 15 RCNY Chapter 43.

The text of the Rule follows.

Section 1. Chapter 43 of Title 15 of the Rules of the City of New York is amended to read as follows:

Section of Law	Violation Description	Compliance	1st Offense Stip.	1st Offense	Default Penalty	2nd Offense	2nd Stip.	3rd and Subsq. Offense	3rd & Subsq. Stip.
24-169(a)	<u>Use/purchase/sale/offer/storage/transport of fuel with excess sulfur content (# 2 oil)</u>	<u>Purchase and use fuel with proper sulfur content - forthwith</u>	<u>1,600</u>	<u>1,600</u>	<u>6,400</u>	<u>3,200</u>	<u>3,200</u>	<u>4,800</u>	<u>4,800</u>
24-169(b)	<u>Use/purchase/sale/offer/storage/transport of fuel with excess sulfur content (# 4 oil)</u>	<u>Purchase and use fuel with proper sulfur content - forthwith</u>	<u>1,600</u>	<u>1,600</u>	<u>6,400</u>	<u>3,200</u>	<u>3,200</u>	<u>4,800</u>	<u>4,800</u>
[24-169(c)]	[Use/purchase/sale/offer/storage/transport of fuel with excess sulfur]	[Purchase and use fuel with proper sulfur content - forthwith]	[1,600]	[1,600]	[6,400]	[3,200]	[3,200]	[4,800]	[4,800]