

NOTICE OF PUBLIC HEARING

Subject: Opportunity to comment on the proposed rule regarding penalties for offenses adjudicated by the Environmental Control Board (ECB) related to the Sanitation Penalty Schedule.

Date / Time: August 9, 2012 / 3:30 p.m.

Location: Environmental Control Board
66 John Street, 10th Floor
New York, N.Y. 10038

Contact: James Macron
Counsel to the Board
ECB
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Proposed Rule Amendment

Pursuant to the authority vested in the Environmental Control Board (ECB) by Sections 1049-(c)(3) and 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, for offenses adjudicated by the Environmental Control Board, related to the Sanitation Penalty Schedule.

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 amendment to Mr. Macron by mail or electronically through NYC RULES at www.nyc.gov/nycrules by August 9, 2012.
- If you wish to testify at the hearing, please notify Mr. Macron on or before August 9, 2012.
- To request a sign language interpreter or other reasonable accommodation for a disability at the hearing, please contact Mr. Macron by August 2, 2012.
- A copy of the written comments and a summary of the oral comments received at the hearing will be available on September 7, 2012 at the Environmental Control Board, 66 John Street, 10th Floor, New York, N.Y. 10038.

Statement of Basis and Purpose

The Environmental Control Board (ECB) proposes to change its Sanitation Penalty Schedule. This schedule is found in §3-122 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 Department of Sanitation (DSNY).

The final paragraph of the head notes of the penalty schedule explains what penalties will be imposed when a respondent fails to appear for a hearing. For most charges, a respondent who defaults is given thirty days from the mailing date of the default order to admit and pay the mail-in penalty indicated on the notice of violation plus a \$30 fee. However, there are certain exceptions.

One exception is if the mail-in penalty is the maximum penalty allowed by law. In that case, no late fee is charged.

Other exceptions include charges where the respondent is not allowed to admit and pay the penalty by mail. These charges include more serious violations such as illegal dumping, transfer station violations and improper disposal of medical waste. In those cases, because the full default penalty is charged when the respondent fails to appear for a hearing, no late fee is charged.

New matter in the following rule is underlined
[Deleted material is in brackets]

The Sanitation Penalty Schedule, found in §3-122 of Subchapter G of Chapter 3 of Title 48 of the Rules of the City of New York, is amended to revise the head notes appearing after the word “Default” to read as follows:

A respondent who does not appear or pay the Notice of Violation by mail before the scheduled hearing date is in default. [The] For all charges in this penalty schedule, except for the charges listed under “Exceptions” below, the person or business charged on the Notice of Violation will have thirty days from the mailing date of the default order to pay the mail-in penalty indicated on the notice of violation penalty plus a late admit fee. The late admit fee is \$30.00. At the end of thirty days, the full default penalty will be charged. For the charges listed under “Exceptions,” the full amount of the default penalty will be imposed immediately upon default.

Exceptions:

- Any charge that has a mail-in penalty equal to the maximum penalty allowed by law
- 16-119
- All charges of section 16-120.1 except
 - 16-120.1 (d), “Improper disposal of regulated household waste”
 - 16-120.1(e) or (f), “Late filing of medical waste plans or reports within 30 days as per 16-120.1(i)(6)”
- 16-117.1
- 16-130(b)
- 16 RCNY 4-04 et seq.
- 16 RCNY 4-11 et seq.
- 16 RCNY 3-02 et, seq.
- 16 RCNY 4-32,33,34
- 16 RCNY 4-44
- All charges of section 16 RCNY 11-02 except
 - 16 RCNY 11-02 (a)(b), “Late filing of medical waste plans or reports within 30 days as per 16 RCNY 11-02(c)”

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

RULE TITLE: Amendment of Sanitation Penalty Schedule (Headnote)

REFERENCE NUMBER: 2012 RG 57

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: 6/19/2012

**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 Sanitation Penalty Schedule (Headnote)

REFERENCE NUMBER: OATH/ECB-24

RULEMAKING AGENCY: OATH/ECB

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 it does not establish a violation, modification of a violation, or modification of the penalties associated with a violation.

/s/ Ruby B. Choi
Mayor's Office of Operations

6/19/2012
Date