

ENVIRONMENTAL CONTROL BOARD

Notice of Promulgation of Rule

NOTICE IS HEREBY GIVEN 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 hereby promulgates the following rule. The rule was published in The City Record on July 9, 2012 and a Public Hearing was held on August 9, 2012.

Statement of Basis and Purpose of Final Rule

The Environmental Control Board (ECB) held a Public Hearing on August 9, 2012 regarding changes to 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). Neither written comments nor oral testimony were presented at the August 9, 2012 Public Hearing.

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 and has revised 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)"