

NOTICE OF PUBLIC HEARING

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

Date / Time: November 9, 2011 at 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 November 2, 2011.
- 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).

Section 28-105.1 of the New York City Administrative Code prohibits certain construction work without a permit. DOB issues a violation when construction work is found to be ongoing and the permit has expired. Currently, DOB also issues a violation under this section of law whenever temporary construction equipment is found on a work site and the permit has expired.

However, the Administrative Code contains a more appropriate section of law, 105.8.2. Section 105.8.2 specifically states when construction equipment is at a work site, the work permit must be in effect at all times. This would apply to sites where work is ongoing. It would also apply to sites where work has stopped but the temporary construction equipment is still on the site. Temporary construction equipment includes such items as fences, sidewalk sheds, scaffolds, temporary railings and catch platforms.

ECB is proposing to amend its penalty schedule to reference a more specific section of the Administrative Code 105.8.2. This will direct the public to a more appropriate section of the law for this violation. The amount of the penalty is not being changed.

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 change:

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
[28-105.1] <u>BC</u> <u>105.8.2</u>	Class 2	[Work without a permit: Expired permit.] <u>Temporary Construction Equipment on Site—</u> <u>Expired Permit</u>	Yes	Yes	\$800	Yes	\$4,000	\$2,000	\$8,000	\$4,000	\$10,000