

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

According to the authority found in the Environmental Control Board by 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

- Written comments regarding the proposed rule may be sent to James Macron, Counsel to the Board, ECB, 66 John Street, 10th Floor, New York, N.Y. 10038, on or before November 9, 2011. Members of the public may also submit comments on the rule electronically through NYC RULES at www.nyc.gov/nycrules.
- A public hearing regarding the proposed rule will be held on November 9, 2011 at 3:30 p. m., at ECB, 66 John Street, 10th Floor, Conference Room, New York, N.Y. 10038. Persons seeking to testify are requested to notify James Macron, Counsel to the Board, ECB, 66 John Street, 10th Floor, New York, N.Y. 10038, (212) 361-1515 on or before November 9, 2011.
- Individuals who need a sign language interpreter or other accommodation for a disability should notify James Macron, Counsel to the Board, ECB, 66 John Street, 10th Floor, New York, N.Y. 10038, (212) 361-1515 by November 2, 2011.
- Individuals interested in receiving written comments and a transcript of oral comments on the proposed rule may request them by writing to: James Macron, Counsel to the Board, ECB, 66 John Street, 10th Floor, New York, N.Y. 10038.

Statement of Basis and Purpose of Proposed Rule

The Environmental Control Board (ECB) is changing the Water Penalty Schedule found in Section 3-126 of Subchapter G of Chapter 3 of Title 48 of the Rules of the City of New York.

On June 23, 2011, the Board approved a change to the penalty for Section 20-04(e) of Title 15 of the Rules of the City of New York, "Failed to submit an annual test report for a backflow preventer." The approved change was to increase the mitigated penalty from \$0 to \$50. A penalty may be mitigated if a person charged with violating 20-04(e) hands in the required test report before the first hearing date. The change was made to meet the \$50 minimum penalty required by Section 24-346(b) of the New York City Administrative Code. The note that precedes the penalty schedule is also being changed to reflect the new mitigated penalty and a prior change of full penalty by a rule that became effective on January 22, 2010. The prior change raised the full penalty from \$350 to \$500.

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

Section 1. The Water Penalty Schedule found in Section 3-126 of Subchapter G of Chapter 3 of Title 48 of the Rules of the City of New York is amended to revise the headnote to read as follows:

WATER PENALTY SCHEDULE

All citations preceded by "A.C." are to the New York City Administrative Code. All other citations are to Title 15 of the Rules of the City of New York.

*If a respondent charged with a violation of 20-04(e) submits the annual test report by the first hearing date, the penalty will be mitigated from [~~\$350~~] \$500 to [~~\$0 (zero)~~] \$50. [~~The~~] For 20-04(e), the possibility of such mitigation exists only in connection with the first NOV issued to a given respondent [~~for 20-04(e) charge~~].

Pursuant to §3-81(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 §3-32, within 30 days of the mailing date of the default order issued against respondent.

Section 1. The Water Penalty Schedule found in Section 3-126 of Subchapter G of Chapter 3 of Title 48 of the Rules of the City of New York is amended to revise the entry in that penalty schedule for section 15 RCNY 20-04(e), "Failed to submit an annual test report for a back flow preventer," to read as follows:

Section	Description	Penalty	Default
15 RCNY 20-04(e)	Failed to submit an annual test report for a backflow preventer	500 or mitigation pen[.] <u>alty</u> of [0] <u>50</u> *	1,000