



**MEREDITH FEINMAN**  
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May 13, 2011

**Via Email: Gerryk@dep.nyc.gov**

Gerry Kelpin  
 Director  
 NYC Department of Environmental Protection  
 59-17 Junction Boulevard  
 Flushing, NY 11373

RE: Expansion of DEP Cases to be Adjudicated by Mail, Internet or Telephone

Dear Director Kelpin:

On April 26, 2011, Julio Rodriguez, the Director of Tribunal Affairs of the New York City Environmental Control Board ("ECB") and you, on behalf of the New York City Department of Environmental Protection ("DEP"), met to discuss the adjudication of DEP cases returnable to ECB by alternatives to live hearings (the "Meeting"). Also present at the Meeting were Russell Pecunies, DEP Assistant Counsel, and ECB Director Amy Slifka.

48 RCNY 3-34 authorizes ECB to designate certain classes of alleged violations for adjudication by mail ("Mail Adjudication") and to prescribe procedures for such adjudications. ECB has prescribed procedures for Mail adjudication that includes hearings by mail, One Click hearings (internet), and hearings by telephone.

I am writing to confirm DEP's consent to Mail Adjudication for the 49 DEP violations listed below, which adjudication shall include, but not be limited to, hearings by mail, internet or telephone.

VIOLATION TYPE		DESCRIPTION
1	24-108(f) BA01 Compliance Post	Location of key to boiler room not posted or no key on premises

2	24-109 (f) BA06 Compliance obtain registration-60 days	Operating emission source with expired registration
3	24-113(a) BA09 Compliance Post permit, certificate or registration Forthwith	Permits, certificate, or registration not displayed
4	24-113c BA10 Compliance post notice forthwith	No display of notice required for equipment using residual oil
5	24-117 BA11 Compliance Obtain Operation certificate or comply with subsection 117 & 119 90days	Unauthorized discontinuance of refuse burning equipment
6	24-117(j) BA90 Compliance cease operation of refuse burning equipment Forthwith	Failure to cease operation of refuse burning equipment
7	24-118 BA12 Compliance Remove incinerator Forthwith	Installation of refuse burning equip. non-municipal, greater than 25sq. Ft.
8	24-118 BA13 Compliance Remove incinerator Forthwith	Installation of refuse burning equip. non-municipal, less than 25sq.ft.
9	24-119(a) BA14 Compliance Install compactor 90 days	Failure to provide refuse compactor
10	24-123 (e) BA21 Compliance file for renewal of operating certificate-30 days	Operating w/out renewal of expired operating certificate

<b>11</b>	24-109 (b)(4) BA05 Compliance obtain registration-60 days	Unregistered fuel burning equipment #2 oil or natural gas
<b>12</b>	24-122 (b)(1) BA16 Compliance obtain operation certificate-90 days	Operating fuel burning equipment w/out an operating certificate
<b>13</b>	24-122 (b)(2) BA17 Compliance obtain operation certificate-90 days	Operating manufacturing equipment w/out an operating certificate
<b>14</b>	20-910 AE1P	Exterior door open while AC or central cooling system is in operation (1st offense after warning)
<b>15</b>	20-910 AE1Q	Exterior door open while AC or central cooling system is in operation (2nd offense after warning)
<b>16</b>	24-109 (b)(3) BA04 Compliance obtain registration-60 days	Unregistered fuel burning equipment #4 or #6 oil
<b>17</b>	24-122 (b)(3) BA18 Compliance obtain operation certificate-90 days	Operating portable powered equipment w/out an operating certificate
<b>18</b>	24-122 (b)(4) BA19 Compliance obtain operation certificate-90 days	Operating refuse burning equipment w/out an operating certificate
<b>19</b>	24-122 (b)(5) BA20 Compliance obtain operation certificate-90 days	Operating equipment w/out required operating certificate

20	24-122 (a) BA67 Compliance obtain an operating certificate-90 days	Use or operating of equipment w/out an operating certificate
21	24-143 BA87, AE87 Compliance operate without further emissions-forthwith	Emission of air contaminant from vehicle (non-diesel fuel)
22	24-148 BA37 Compliance Stop sale or use of photo-chemical solvents Forthwith	Sale or use of photo-chemical solvents
23	24-149 BA38 Compliance Stop use of open fire Forthwith	Caused or permitted air contaminant from open fire
24	24-150 BA39 Compliance Do not smoke in elevator/post no smoking sign Forthwith	Smoking in elevator/failure to post no smoking sign
25	24-154 BA42 Compliance File environmental rating report within 30 days	Failure to file environmental rating report
26	24-159 BA46 Compliance Operate equipment with qualified personnel Forthwith	Use of burning equipment by person w/out a certificate of fitness
27	24-161 BA48 Compliance Obtain a certificate of instruction -180 days	Operating fuel burning equipment w/out certificate of instruction
28	24-162(a) BA49 Compliance Operate incinerator during authorized times Forthwith	Operating Refuse burning equipment at unauthorized times

29	24-162c BA50 Compliance Do not use discontinued incinerator Forthwith	Operation of discontinued refuse burning equipment
30	24-174(a) BA61 Compliance Cease handling of gasoline with high lead content Forthwith	Sale, offer, transport or storage of gasoline with excessive lead content
31	24-174(b) BA62 Compliance Cease purchase or use of gasoline with high lead content Forthwith	Use or purchase of gasoline with excessive lead content
32	24-175(a) BA63 Cease handling of gasoline exceeding legal volatility Forthwith	Sale, offer, store, transport or storage of gasoline exceeding volatility limits
33	24-175 BA64 Compliance Cease purchase or use of gasoline with high volatility Forthwith	Use or purchase of gasoline exceeding volatility limits
34	24-211 BN08, BNH2, BNH3	Failure to post certificate or tunneling permit
35	24-234 BN43, AN40 BNQ4, AN41 BNQ5, AN45	Excess noise from sound reproduction device on rapid transit(subway, bus, ferry)
36	24-237 (d) BN52 AN65 BNZ4 AN66 BNZ5 AN67	Improper use of sound signal device (food vendor)
37	24-228.1 BN33 AN22 BNG4 AN23	Unreasonable noise from engine exhaust

38	24-233 (b)(2) BN42 AN37 BNP4 AN38 BNP5 AN39	Unreasonable noise – personal audio device (motor vehicle)
39	24-228 BN32 AN19 BNF4 AN20 BNF5 AN21	Unreasonable noise from construction devices
40	24-225 (a) BN24 AN13 BNX2 AN14 BNX3 AN15	Sell/offer/operate/permit operation of refuse compacting vehicle producing excessive noise
41	24-233 (a) BN40 AN31 BNN4 AN32 BNN5 AN33	Unreasonable noise: personal audio device
42	10-108 BN01 AN50 BNA2 AN51 BNA3 AN52 BNA4 AN53	Noise from sound device exceeding permit levels
43	24-218.1 BN13 AN07 BNM2 AN08 BNM3 AN09	Use of mobile telephones in a place of public performance
44	24-225 (b) BN25 AN16 BNY2 AN17 BNY3 AN18	Operate/cause operation of refuse compacting vehicle producing excessive noise (11PM to 7AM)
45	24-229 BN34 AN25 BNH4 AN26 BNH5 AN27	Unreasonable noise from handling/ transporting of container or construction material
46	24-233 (b)(1) BN41 AN34 BNO4 AN35 BNO5 AN36	Unreasonable noise – personal audio device (public right-of-way)

47	24-238(a) BN53, AN68 BNA7, AN69	Improper audible burglar alarm/no automatic termination
48	24-238(b) BN54, AN71 BNB6, AN72 BNB7, AN73	Audible status indicator on motor vehicle in operation
49	24-239(b) BN55, AN74 BNC6, AN75 BNC7, AN76	Vehicle owner failure to display owner's local precinct number

Please countersign below and return a copy of this letter to me, so that we both have a formal record of our agencies' agreement.

Thank you and your staff for your assistance and support of ECB's effort to expand the public's access to justice.

Very truly yours,

*Meredith Feinman*  
Meredith Feinman

Agreed: \_\_\_\_\_

*Geraldine Lee*  
NYC Department of Environmental Protection