

ENVIRONMENTAL CONTROL BOARD

Notice of Promulgation of Rule

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED in the Environmental Control Board pursuant to Section 1049-a of the New York City Charter, and in accordance with Section 1043(b) of the Charter, that the Environmental Control Board hereby amends 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. The rule was published in The City Record on May 11, 2012, and a Public Hearing was held on June 12, 2012.

Statement of Basis and Purpose of Final Rule

The Environmental Control Board held a Public Hearing on June 12, 2012 regarding amendments to 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). One member of the public attended the hearing and did not wish to testify on this Proposed Rule. No written comments were received.

The amendment adjusts penalties for fourteen charges in the penalty schedule.

Most penalties in this schedule follow a formula – both the Standard Default and Aggravated II penalties are the lesser of 5 times the Standard penalty or the statutory maximum. The Aggravated I penalty is the lesser of 2.5 times the Standard penalty or the statutory maximum. The Aggravated I default penalty is the lesser of 10 times the Standard penalty or the statutory maximum. The Aggravated II Default penalty is the statutory maximum.

Since the current penalties for the charges below did not follow this formula, ECB is conforming these charges to the others contained in the penalty schedule.

Section 1. The Environmental Control Board amends 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 changes:

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
1 RCNY 5-02	Class 2	Failure to meet the requirements of licensing/ identification/ qualification as required by 1 RCNY 5-02	No	No	\$800	Yes	[\$10,000] <u>\$4,000</u>	\$2,000	[\$10,000] <u>\$8,000</u>	\$4,000	\$10,000
1 RCNY 101-07	Class 2	Failure of Approved agency to comply with requirements of 1 RCNY 101-07	Yes	No	\$800	Yes	[\$10,000] <u>\$4,000</u>	\$2,000	[\$10,000] <u>\$8,000</u>	\$4,000	\$10,000
28-406.1	Class 1	Unlicensed concrete testing activity, Immediately Hazardous	No	No	\$1,000	Yes	[\$25,000] <u>\$5,000</u>	\$2,500	[\$25,000] <u>\$10,000</u>	\$5,000	\$25,000
BC 1704.4	Class 2	Failure to perform	No	No	\$1,600	No	[\$10,000]	\$4,000	\$10,000	\$8,000	\$10,000

		special inspections and verifications for concrete construction as required by section and Table 1704.4					<u>\$8,000</u>					
BC 1905.6.3.2	Class 2	Failure to comply with ASTM C31 standards for concrete cylinder test samples	No	No	\$1,600	No	[\$10,000] <u>\$8,000</u>	\$4,000	\$10,000	\$8,000	\$10,000	
BC 903.6	Class 2	Failure to paint dedicated sprinkler piping/valves in accordance with section	No	No	\$1,600	Yes	[\$10,000] <u>\$8,000</u>	\$4,000	\$10,000	\$8,000	\$10,000	
BC 903.6	Class 2	Failure to provide/maintain painting certification of sprinkler and combination sprinkler/standpipe systems in accordance with section	Yes	No	\$500	Yes	[\$10,000] <u>\$2,500</u>	\$1,250	[\$10,000] <u>\$5,000</u>	\$2,500	\$10,000	
BC 905.11	Class 2	Failure to paint dedicated standpipe/ valves in accordance with section	No	No	\$1,600	Yes	[\$10,000] <u>\$8,000</u>	\$4,000	\$10,000	\$8,000	\$10,000	
BC 905.11	Class 2	Failure to provide/maintain painting certification of standpipe and combination sprinkler/standpipe systems in accordance with section	Yes	No	\$500	Yes	[\$10,000] <u>\$2,500</u>	\$1,250	[\$10,000] <u>\$5,000</u>	\$2,500	\$10,000	
28-408.1	Class 1	Performing unlicensed plumbing work without a master plumber license	No	No	\$2,500	No	\$12,500	\$6,250	\$25,000	[\$6,250] <u>\$12,500</u>	\$25,000	
Misc. Chapter 4 of title 28	Class 1	Illegally engaging in any business or occupation without a required license or other authorization	No	No	\$2,500	No	\$12,500	\$6,250	\$25,000	[\$6,250] <u>\$12,500</u>	\$25,000	
28-105.12.1	Class 2	Outdoor sign permit application contrary to Code and ZR requirements	No	No	\$2,400	No	\$10,000	[\$10,000] <u>\$6,000</u>	\$10,000	\$10,000	\$10,000	
Misc. Title 28/Misc ZR	Class 2	Misc outdoor sign violation of ZR and/or Building Code	No	No	\$2,400	No	\$10,000	[\$10,000] <u>\$6,000</u>	\$10,000	\$10,000	\$10,000	
28-116.1	Class 2	Failure of permit holder to provide inspection access and/or exposure to ongoing construction or work on an active and permitted worksite.	No	No	\$2,000	Yes	[\$5,000] <u>\$10,000</u>	\$5,000	\$10,000	\$10,000	\$10,000	