

ENVIRONMENTAL CONTROL BOARD

Notice of Promulgation of Rule

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED in the Environmental Control Board (ECB) by Section 1049-(c)(3) of the New York City Charter, and by 1049-a of the New York City Charter and in accordance with Section 1043(b) of the Charter, that the Environmental Control Board hereby promulgates the following rule. The rule was published in The City Record on July 9, 2010 and a Public Hearing was held on August 10, 2010.

Section 1. Chapter 3 of Title 48, Subchapter G of the Rules of the City of New York is amended by adding a new section, 3-127, to read as follows:

New matter is underlined.

§3-127: Small Business Services Penalty Schedule

SMALL BUSINESS SERVICES PENALTY SCHEDULE

*For these sections, a repeat violation is a violation by the same respondent of the same section of law as the previous violation with a date of occurrence within 18 months of the date of occurrence of the previous violation.

<u>SECTION/RULE</u>	<u>DESCRIPTION</u>	<u>PENALTY</u>	<u>DEFAULT</u>
<u>§22-112(a)(1)*</u>	<u>Placement, discharge or deposit of refuse, sludge, acid or any other refuse into the Port of New York</u>	<u>1st offense: \$1,500</u> <u>2nd offense: \$5,000</u> <u>3rd offense: \$10,000</u> <u>4th offense: \$15,000</u> <u>5th and any subsequent offense: \$20,000</u>	<u>1st offense: \$10,000</u> <u>2nd offense: \$20,000</u> <u>3rd offense: \$20,000</u> <u>4th offense: \$20,000</u> <u>5th and any subsequent offense: \$20,000</u>
<u>§22-112(a)(2)*</u>	<u>Discharging, causing or permitting oil, oil refuse or other inflammable matter from any ship or vessel into the Port of New York</u>	<u>1st offense: \$1,500</u> <u>2nd offense: \$5,000</u> <u>3rd offense: \$10,000</u> <u>4th offense: \$15,000</u> <u>5th and any subsequent offense: \$20,000</u>	<u>1st offense: \$10,000</u> <u>2nd offense: \$20,000</u> <u>3rd offense: \$20,000</u> <u>4th offense: \$20,000</u> <u>5th and any subsequent offense: \$20,000</u>

Statement of Basis and Purpose of Final Rule

The Environmental Control Board held a Public Hearing on August 10, 2010 regarding the addition of a new penalty schedule to ECB Penalty Schedules. This Penalty Schedule will cover violations issued by the Department of Small Business Services (SBS). Neither written comments nor oral testimony were presented.

On March 18, 2010, Mayor Bloomberg signed Intro. No. 54-A into law as Local Law No. 4 of 2010. Local Law No.4 implements a change to the New York City Administrative Code by providing for a civil penalty to be recovered through an action brought before the Environmental Control Board (ECB) for illegal dumping into the Port of New York. Although violations of these sections may be issued by the Department of Sanitation and the Department of Environmental Protection, primary enforcement will be by SBS. As a result, ECB has added a Penalty Schedule for the SBS, including violations of Local Law No. 4 of 2010 to ECB's Penalty Schedules found in Subchapter G of Chapter 3 of Title 48 entitled "Penalties".

The penalty provisions, set forth in §22-112(c), allow for the imposition of a penalty of not less than \$1,500 nor more than \$10,000 for the first violation and not less than \$5,000 nor more than \$20,000 for each subsequent violation.