

ENVIRONMENTAL CONTROL BOARD

NOTICE OF OPPORTUNITY TO COMMENT on Proposed Rule regarding penalties for offenses adjudicated by the Environmental Control Board (ECB).

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED 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, that the Environmental Control Board proposes to amend subchapter G of Chapter 3 of Title 48 of the Rules of the City of New York, setting forth 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.

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 October 5, 2010. 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 October 5, 2010 at 5:00 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 October 5, 2010. Persons who need a sign language interpreter or other accommodation for a disability are asked to notify James Macron, Counsel to the Board, ECB, 66 John Street, 10th Floor, New York, N.Y. 10038, (212) 361-1515 by September 28, 2010. Persons 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.

Section 1. The Department of Transportation Penalty Schedule found in Section 3-124 of Subchapter G of Chapter 3 of Title 48 of the Rules of the City of New York is amended by adding a new charge immediately following the entry in that penalty schedule for Administrative Code section 19-122, "Sand/dirt/rubbish/debris not removed from site within 7 days," to read as follows:

New matter is underlined.
Deleted material is in [brackets].

Section/Rule	Description	Penalty	Default
<u>19-123</u>	<u>Commercial refuse container stored on the street w/o a permit</u>	<u>\$750</u>	<u>\$2250</u>

Section 2. The Department of Transportation Penalty Schedule found in Section 3-124 of Subchapter G of Chapter 3 of Title 48 of the Rules of the City of New York is amended by adding five new charges immediately following the entry in that penalty schedule for 34 RCNY 2-14 (e)(2)(xxi), "Failure to certify work for holiday/temp lighting," to read as follows:

New matter is underlined.
Deleted material is in [brackets].

Section/Rule	Description	Penalty	Default
<u>34 RCNY 2-14 (f)(2)(iv)</u>	<u>Commercial refuse container placed in a crosswalk or pedestrian ramp</u>	<u>\$250</u>	<u>\$750</u>
34 RCNY 2-14 (f)(3)	<u>Commercial refuse</u>	<u>\$250</u>	<u>\$750</u>

	<u>container causing obstruction or interference</u>		
34 RCNY 2-14 (f)(4)	<u>Unlabeled or Improperly labeled commercial refuse container</u>	<u>\$250</u>	<u>\$750</u>
34 RCNY 2-14 (f)(5)	<u>Commercial refuse container not parallel to the curb or extended more than 9 feet into the roadway</u>	<u>\$250</u>	<u>\$750</u>
34 RCNY 2-14 (f)(6)	<u>Failure to have the proper street protection under commercial refuse container</u>	<u>\$250</u>	<u>\$750</u>

Section 3. The Department of Transportation Penalty Schedule found in Section 3-124 of Subchapter G of Chapter 3 of Title 48 of the Rules of the City of New York is amended by revising the entries below to read as follows:

New matter is underlined.
Deleted material is in [brackets].

Section/Rule	Description	Penalty	Default
34 RCNY 2-14 (f)[(4)](2)(i)	[Commercial refuse cont. stored/placed in "No Stopping," "No Standing," or "No Parking Anytime" area] <u>Commercial refuse container stored or placed in an unauthorized area</u>	\$250	\$750
34 RCNY 2-14 (f)[(4)](2)(ii)	Commercial refuse container stored[/] or placed within [fifteen] <u>15</u> [feet] ft of a hydrant	\$250	\$750
34 RCNY 2-14 (f)[(9)](7)	Commercial refuse container w/o proper reflective markings on all four sides	\$250	\$750
34 RCNY 2-14 (f)[(11)](8)	Commercial refuse container/debris obstructing sidewalks, gutters, crosswalks or driveways	\$250	\$750

Statement of Basis and Purpose

The Environmental Control Board is amending its Department of Transportation (DOT) Penalty Schedule found in Section 3-124 of Subchapter G of Chapter 3 of Title 48 of the Rules of the City of New York.

Sections 1 and 2 of the rule propose to add six new charges to the Penalty Schedule. The first new charge is for the failure to obtain a permit for the storage of a commercial refuse container on the street. Carting companies must obtain permits because doing so provides a way for the DOT to track the locations of containers. This is necessary in order to help avoid conflicts with other street uses such as special events, moratoriums, and construction embargoes. In addition, knowing where commercial refuse containers are placed throughout the city will allow DOT to coordinate street opening work and other construction with contractors, utilities, DOT crews, and other city agencies. Knowing they might face a penalty for failing to get a permit provides an incentive to carting companies that otherwise might neglect to secure a permit.

The second new charge is for placing a commercial refuse container in a crosswalk or pedestrian ramp. The addition of this charge will help discourage contractors from placing containers in a manner that blocks the crosswalk, a pedestrian safety zone that is designed to give the public a safe way to cross from one side of the street to the other. Likewise, pedestrian ramps must remain unobstructed to allow members of the public who have mobility impairments to access sidewalks and streets safely.

The third new charge is for placing a commercial refuse container in a manner that causes an obstruction or interference. Ensuring commercial refuse containers do not cause obstructions or interfere with access points, bus stops, shelters and shut off valves is essential to public safety. The inaccessibility of these elements can cause a dangerous situation.

The fourth new charge is for a contractor's failure to have its business information on its container. This section applies to container owners. Placing contractor business information on refuse containers will enable the DOT to identify parties responsible for said containers and will be particularly useful if a container must be removed relatively quickly.

The fifth new charge would be issued when a commercial refuse container is not parallel to the curb or is extended more than nine (9) feet into the roadway. Containers that are not parallel to the curb or that extend out more than nine (9) feet impede the flow of traffic on the street.

The sixth new charge would be issued when a carting company has failed to use the proper street protection under a commercial refuse container. Heavy containers placed directly on the street for even short periods do considerable damage to the street surface. This charge will help discourage damage to roadways by imposing penalties against carting companies that fail to provide the necessary protection, such as 1 ½ inch pieces of wood under the wheels of refuse containers.

Section 3 of the proposed rule includes modifications to four existing entries in ECB's DOT penalty schedule. These modifications reflect where within the revised rules the cited codes will now appear. The penalties listed for these sections of law are unchanged.