

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 (ECB) 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 April 8, 2010. A public hearing regarding the proposed rule will be held on April 8, 2010, at the ECB 66 John Street, 10th Floor, Conference Room, at 5:00 p.m. 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 April 8, 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 April 1, 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.

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

Section 1. The Air Asbestos Code Penalty Schedule found in Section 3-101 of Subchapter G of Chapter 3 of Title 48 of the Rules of the City of New York is amended by adding the following material immediately after the entry in that penalty schedule for 1-94(e), "Failed to document specified events in daily projects log," to read as follows:

SECTION	DESCRIPTION	1ST VIOLATION		2ND VIOLATION	
		Penalty	STIP.	Penalty	STIP.
<u>1-94(f)</u>	<u>Failed to document daily inspection to ensure exits have been checked against blockage</u>	<u>2400</u>	<u>1500</u>	<u>4800</u>	<u>3000</u>
<u>1-94(g)</u>	<u>Failed to stop abatement activities if exits are found blocked</u>	<u>4800</u>	<u>3000</u>	<u>9600</u>	<u>6000</u>

Statement of Basis and Purpose of Proposed Rule

The Board recently approved a revised Air Asbestos Penalty Schedule which has now gone into effect. Due to an oversight, two new infractions were omitted from the revision.

These charges are part of the 28 issues identified and 33 recommendations which were developed by a Working Group consisting of the Department of Environmental Protection, the Department of Buildings, the Fire Department, the Mayor's Office of Operations, and the Law Department. The Working Group was created in the aftermath of the August 18, 2007 fire at the Deutsche Bank building in lower Manhattan, which killed two New York City firefighters.

The issues and recommendations were summarized in a July 2008 report to the Mayor entitled "Strengthening the Safety, Oversight and Coordination of Construction, Demolition and Abatement Operations".

As a result of the Report, new provisions were added to the Air Pollution Control Code, requiring changes to the existing DEP Asbestos Rules found in Title 15, Chapter 1 of the Rules of the City of New York and the Environmental Control Board (ECB) Penalty Schedule found in Section 3-101, Subchapter G of Title 48 of the Rules of the City of New York entitled Air Asbestos Penalty Schedule. Therefore, the Board is proposing to add Section 1-94(f), "Failed to document daily inspection to ensure that exits have been checked against blockage" and Section 1-94(g), "Failed to stop abatement activities if exits are found blocked" to ECB's Air Asbestos Penalty Schedule found in Section 3-101 of Subchapter G of Chapter 3 of Title 48 of the Rules of the City of New York.