

## 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-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 March 8, 2010 and a Public Hearing was held on April 8, 2010.

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 Rule

The Environmental Control Board held a Public Hearing on April 8, 2010 on amendments to 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. Nine members of the public attended the public hearing held on April 8, 2010. One individual gave brief testimony relating to the rule at issue. No written comments were received.

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 has added 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 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.