

**City of New York
Environmental Control Board**

Notice of Promulgation of Rule

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED in the Environmental Control Board (ECB) in accordance with Sections 1049-a and 1043 of the New York City Charter and Section 28-202.1 of the New York City Administrative Code. The ECB has amended 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. It contains penalties for notices of violation issued by the New York City DOB. The proposed rule was published in the City Record on February 29, 2016, and a public hearing was held on March 30, 2016.

Statement of Basis and Purpose of Final Rule

The New York City Environmental Control Board (“ECB”) has modified the ECB Buildings Penalty Schedule to reflect the 2014 updates to the NYC Construction Codes and to more clearly and effectively allow the New York City Department of Buildings (“DOB”) to enforce particular sections of law. The ECB held a public hearing on March 30, 2016, regarding amendments to its Department of Buildings 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.

This modification to the penalty schedule adds two new infractions and amends three existing infractions. The new infractions enable DOB to effectively enforce Commissioner’s Orders relating to the safe operation of construction equipment and other matters that ensure public safety. The amendments increase the penalties for inadequate safety measures during crane, derrick or other hoisting operations and for failure to safeguard all persons and property affected by construction operations, promoting DOB’s zero tolerance policy for abuses of public safety regulations.

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

Section 1. The Environmental Control Board proposes to amend 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, by adding, in numerical order, new entries relating to Section 28-201.1 of the New York City Administrative Code, to read as follows:

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 (\$)
<u>28-201.1</u>	<u>Class 1</u>	<u>Unlawful Acts. Failure to comply with a law, rule or Commissioner's Order involving construction and/or equipment safety operations</u>	<u>No</u>	<u>No</u>	<u>\$10,000</u>	<u>No</u>	<u>\$25,000</u>	<u>\$25,000</u>	<u>\$25,000</u>	<u>\$25,000</u>	<u>\$25,000</u>
<u>28-201.1</u>	<u>Class 2</u>	<u>Unlawful Acts. Failure to comply with a law, rule or Commissioner's Order involving construction and/or equipment safety operations</u>	<u>No</u>	<u>No</u>	<u>\$5,000</u>	<u>No</u>	<u>\$10,000</u>	<u>\$10,000</u>	<u>\$10,000</u>	<u>\$10,000</u>	<u>\$10,000</u>

§ 2. The Environmental Control Board proposes to amend entries in 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, for NYC Admin. Code BC 3316.2 & BC 3319.1 & 27-1054, Inadequate safety measures: Operation of crane/derrick/hoisting equipment in unsafe manner, and both classes 1 and 2 of NYC Admin. Code BC 3301.2 & 27-1009(a), Failure to safeguard all persons and property affected by construction operations, to read as follows:

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 (\$)
BC3316.2 & BC 3319.1 [& 27-1054]	Class 1	Inadequate safety measures: [Oper'n] Operation of crane/derrick/hoisting [equip]equipment in unsafe manner	No	No	[\$4800] \$10,000	No	[\$24,000] \$25,000	[\$12,000] \$25,000	\$25,000	[\$24,000] \$25,000	\$25,000
BC 3301.2 [& 27-1009(a)]	Class 1	Failure to safeguard all persons and property affected by construction operations.	No	No	[\$2400] \$10,000	No	[\$12000] \$25,000	[\$6000] \$25,000	[\$24000] \$25,000	[\$12000] \$25,000	\$25,000
BC 3301.2 [& 27-1009(a)]	Class 2	Failure to safeguard all persons and property affected by construction operations.	No	No	[\$1200] \$5,000	No	[\$6000] \$10,000	[\$3000] \$10,000	\$10,000	[\$6000] \$10,000	\$10,000

