

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 Chapter 14 of Title 17 of the Administrative Code. The ECB has amended its Department of Buildings (DOB) Penalty Schedule. The DOB Penalty 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 rule was published in The City Record on November 25, 2014 and a public hearing was held on December 29, 2014. This rule supersedes the final rule published on February 6, 2015.

Statement of Basis and Purpose of Final Rule

The New York City Environmental Control Board has modified the ECB Buildings Penalty Schedule to enforce Local Law 141 of 2013 (LL 141), also known as the 2014 NYC Construction Code update.

The ECB held a public hearing on December 29, 2014 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. Two representatives from the NYC Department of Transportation (“DOT”) attended the December 29, 2014 Public Hearing that also addressed an ECB proposed rule concerning amendments to ECB’s DOT Penalty Schedule. Neither written comments nor oral testimony were presented at the December 29, 2014 public hearing concerning the Proposed Rule regarding amendments to ECB’s DOB Penalty Schedule.

LL 141, effective December 31, 2014, amends the Administrative Code of the City of New York, the New York City Plumbing Code, the New York City Building Code, the New York City Mechanical Code and the New York City Fuel Gas Code and brings these codes up to date with the 2009 editions of the International Building, Mechanical, Fuel Gas and Plumbing Codes.

LL 141 amended some requirements, added new requirements and renumbered existing sections of these codes. The penalty schedule is amended to reflect these changes. The rule amends the penalty schedule by:

- updating sections of the Administrative Code,
- updating descriptions to the table of classifications,
- deleting some existing violations that no longer apply or could be combined with existing descriptions, and
- adding new violations and their classifications.

Penalty amounts for all existing infractions remain unchanged. All penalties fall within the guidelines for all classes of violations, as stated in Section 28-202.1. The statutory maximum for each class of violation is:

- Class 3 -\$500,
- Class 2 - \$10,000, and
- Class 1 - \$25,000.

New violations that are not immediately hazardous (Class 1) are indicated as curable in the penalty schedule.

[Deleted material is in brackets.]

New material is underlined.

§ 1. The Environmental Control Board has amended the Headnotes to the DOB Penalty Schedule for Section 3-103 of Subchapter G of Chapter 3 of Title 48 of the Rules of the City of New York by adding new paragraphs 9.) and 10.) to read as follows:

9.) References to the 2008 code pertain to the New York City Construction Codes effective on July 1, 2008 and any applicable subsequent amendments prior to December 31, 2014.

10.) References to the 2014 code pertain to the amendments and additions to the New York City Construction Codes effective on December 31, 2014 and any applicable subsequent amendments.

§ 2. The Environmental Control Board has amended 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 deleting the following three sections of law:

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 (\$)

[1 RCNY 9-03]	[Class 1]	[Licensed Rigger failed to ensure scaffold worker met minimum req.]	[No]	[No]	[1600]	[No]	[8000]	[4000]	[16000]	[8000]	[25000]
[1 RCNY 9-03]	[Class 2]	[Licensed Rigger failed to ensure scaffold worker met minimum req.]	[No]	[No]	[800]	[Yes]	[4000]	[2000]	[8000]	[4000]	[10000]
[28-210.2]	[Class 2]	[Plumbing work contrary to approved app'n/plans that assists/maintains conversion of industrial/manufacturing occupancy for residential use]	[No]	[Yes]	[1500]	[Yes]	[7500]	[3750]	[10000]	[7500]	[10000]

§ 3. The Environmental Control Board has amended the following charges 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 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 (\$)
27-369 [&] BC 1020.2 (2008 code) & BC 1023.2 (2014 code)	Class 1	Failure to provide unobstructed exit passageway.	No	No	1200	No	6000	3000	12000	6000	25000
27-371.1 [&] BC 715.3.7 (2008 code) & BC 715.4.8 (2014 code)	Class 2	Exit door not self-closing.	Yes	No	500	Yes	2500	1250	5000	2500	10000
27-383(b), [&] BC 403.16 (2008 code) & BC 403.5.5 (2014 code)	Class 1	Failure to install <u>luminous egress</u> or photoluminescent exit path marking in a high-rise building.	No	No	4800	Yes	24000	12000	25000	24000	25000
27-393.1 [&] BC 1019.1.7 (2008 code) & BC 1022.8 (2014 code)	Class 2	Stair and/or floor identification signs missing and/or defective.	Yes	Yes	500	Yes	2500	1250	5000	2500	10000

27-509_[&] BC 3111.1 (2008 code) & BC 3112.1 (2014 code)	Class 3	Fence exceeds permitted height.	Yes	Yes	200	Yes	500	500	500	500	500
27-528_[&] BC 1024.1.3 (2008 code) & BC 1028.1.3 (2014 code)	Class 2	Approved Place of Assembly plans not available for inspection.	Yes	No	500	Yes	2500	1250	5000	2500	10000
27-921(a), [&] PC 107.3 (2008 code) & PC107.4 (2014 code)	Class 1	Failure to have new or altered plumbing system tested.	No	No	1000	No	5000	2500	10000	5000	25000
27-921(a), [&] PC 107.3 (2008 code) & PC107.4 (2014 code)	Class 2	Failure to have new or altered plumbing system tested.	Yes	No	500	Yes	2500	1250	5000	2500	10000
27-972(h), [&] BC 907.2.12.3 (2008 code) & BC 907.2.13.3 (2014 code)	Class 2	Failure to install an acceptable two-way voice communication system with central station connection.	Yes	No	500	Yes	2500	1250	5000	2500	10000
28-104.2.2	Class 2	Failure to provide approved/accepted [plans] construction documents at job site at time of inspection.	Yes	No	500	Yes	2500	1250	5000	2500	10000
28-202.1	Class 1	Additional daily penalty for Class 1 violation of 28-210.1 [- 1 or 2 family converted to 4 or more families] or 28-210.2.	No	No	1000	No	45000	N/A	N/A	N/A	N/A
28-210.1	Class 1	[Residence altered for occupancy] 1- or 2- family residence converted to or maintained as a dwelling [from 1 or 2 families to] for 4 or more families.	No	No	2400	No	12000	6000	24000	12000	25000

28-210.1	Class 2	Residence altered [for occupancy] as a dwelling for more than the <u>number of families</u> legally [approved number of families] <u>authorized by the C of O or official records.</u>	No	No	1200	No	6000	3000	10000	6000	10000
28-210.2	Class 2	[Maintain or permit conversion of industrial] <u>Industrial/manufacturing [bldg to] building converted, maintained or occupied for residential use [w/out] contrary to the C of O [code compliance] or official records.</u>	No	No	2400	No	10000	6000	10000	10000	10000
[28-216.12.1] <u>28-217.1.1</u>	Class 2	Failure to submit required report of inspection of potentially compromised building.	Yes	Yes	800	Yes	4000	2000	8000	4000	10000
[28-216.12.6] <u>28-217.16</u>	Class 1	Failure to immediately notify Department that building or structure has become potentially compromised	No	No	1200	No	6000	3000	12000	6000	25000
28-301.1	Class 1	Failure to maintain building in a code compliant matter. Failure to provide number of required means of egress for every floor per BC 1018.1 (2008 code), [&] 27-366; BC 1021.1 (2014 code).	No	No	1200	No	6000	3000	12000	6000	25000

28-301.1	Class 1	Failure to maintain building in code-compliant manner: floor numbering signs missing and/or defective per BC 1019.1.7 (2008 code); 27-392; BC 1022.8 (2014 code).	No	No	1000	No	5000	2500	10000	5000	25000
28-301.1	Class 2	Failure to maintain building in code-compliant manner: floor numbering signs missing and/or defective per BC 1019.1.7 (2008 code); 27-392; BC 1022.8 (2014 code).	Yes	Yes	500	Yes	2500	1250	5000	2500	10000
28-301.1	Class 2	Failure to maintain building in code-compliant manner: failure to provide non-combustible proscenium curtain or stage water curtain per BC410.3.5; 27-546.	Yes	Yes	500	Yes	2500	1250	5000	2500	10000
28-301.1	Class 1	Failure to maintain building in code-compliant manner: Improper exit/exit access doorway arrangement per BC 1014.2 (2008 code); 27-361; BC 1015.2 (2014 code).	No	No	1200	No	6000	3000	12000	6000	25000
BC 1704.21.1 (2008 code) & BC 1704.23.1 (2014 code)	Class 1	Fail to perform hydrostatic pressure test – sprinkler	No	No	2400	No	12000	6000	24000	12000	25000
BC 1704.22.1 (2008 code) & BC 1704.24.1 (2014 code)	Class 1	Fail to perform hydrostatic pressure test – standpipe	No	No	2400	No	12000	6000	24000	12000	25000

BC 1905.6.3.2 (2008 code) & BC 1905.6.3.3 (2014 code)	Class 2	Failure to comply with ASTM C31 standards for concrete cylinder test samples	No	No	1600	No	8000	4000	10000	8000	10000
BC 3301.8	Class 1	Failure to promptly notify the Department of an accident or <u>damage to adjoining property</u> at construction/demolition site.	No	No	2500	No	12500	6250	25000	12500	25000
BC 3303.3 [& 27-1020](2008 code)	Class 2	Failure to post D.O.T. permit for street/sidewalk closing.	Yes	No	500	Yes	2500	1250	5000	2500	10000
BC 3303.8.1	Class 1	Failure to provide <u>standpipe or air</u> pressurized alarm system for standpipe system during construction or demolition operation.	No	No	2400	No	12000	6000	24000	12000	25000
BC 3307.1.1 (2008 code) & BC 3307.4.6 (2014 code)	Class 1	Prohibited Outdoor Ad. Co. sign on sidewalk shed or construction fence.	No	No	10000	Yes	25000	25000	25000	25000	25000
BC 3307.1.1 (2008 code) & BC 3307.4.6 (2014 code)	Class 2	Posting of unlawful signs, information, pictorial representation, business or advertising messages on structures.	Yes	No	2400	Yes	10000	6000	10000	10000	10000
BC 3307.3.1 (2008 code), [&] 27-1021(a) & BC 3307.6.2 (2014 code)	Class 1	Failure to provide sidewalk shed where required.	No	No	4800	No	24000	12000	25000	24000	25000
BC 3307.6.4 (2008 code) & BC 3307.6.4.11 (2014 code)	Class 2	Sidewalk shed does not meet color specification	Yes	No	800	Yes	4000	2000	8000	4000	10000

BC 3310.8.2 (2008 code) & BC 3310.8.2.1 (2014 code)	Class 1	Site safety manager/ coordinator failed to immediately notify the department of conditions as required	No	No	2500	No	12500	6250	25000	12500	25000
BC 3314.1.1 (2008 code). [&] 27- 1050.1 & BC 3314.4.1.5 (2014 code)	Class 2	Failed to notify Department prior to [use/inst. off C-hooks/outrigger beams in connection with] <u>installation or removal of Suspended Scaffold.</u>	No	No	800	Yes	4000	2000	8000	4000	10000
BC 3314.4.3.1 (2008 code). [&] 27-1045 & BC 3314.4.3 (2014 code)	Class 1	Failure to perform safe/proper inspection of suspended scaffold.	No	No	10000	No	25000	25000	25000	25000	25000
BC 3314.4.3.1 (2008 code). [&] 27- 1045(b) & BC 3314.4.3.4 (2014 code)	Class 1	No record of daily inspection of Suspended Scaffold performed by authorized person at site.	No	No	2400	No	12000	6000	24000	12000	25000
BC 3314.4.5 (2008 code) & BC 3314.4.5.1 (2014 code)	Class 1	[Erected, dismantled repaired, maintained, modified or removed supported scaffold without a scaffold certificate of completion.] <u>Unqualified supervisor or worker performing work on scaffold.</u>	No	No	2400	Yes	12000	6000	24000	12000	25000

§ 4. The Environmental Control Board has amended 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 one new charge after the entry in that schedule for the Class 3 charge of NYC Admin. Code 28-118.3.2, Occupancy contrary to that allowed by the Certificate of Occupancy or Building Department records, 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 –
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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>BC 3301.1.3 (2014 code)</u>	<u>Class 1</u>	<u>Failure to comply with manufacturer specifications.</u>	<u>No</u>	<u>No</u>	<u>1600</u>	<u>No</u>	<u>8000</u>	<u>4000</u>	<u>16000</u>	<u>8000</u>	<u>25000</u>
<u>BC 3301.1.3 (2014 code)</u>	<u>Class 2</u>	<u>Failure to comply with manufacturer specifications.</u>	<u>Yes</u>	<u>No</u>	<u>800</u>	<u>Yes</u>	<u>4000</u>	<u>2000</u>	<u>8000</u>	<u>4000</u>	<u>10000</u>

§ 7. The Environmental Control Board has amended 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 two new charges after the entry in that schedule for BC 3301.2 & 27-1009(a), Failure to institute/maintain safety equipment measures or temporary construction—No handrails, to read as follow:

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>BC 3301.7 (2014 code)</u>	<u>Class 1</u>	<u>Failure to maintain/display on site documents required by BC Chapter 33.</u>	<u>No</u>	<u>No</u>	<u>1000</u>	<u>Yes</u>	<u>5000</u>	<u>2500</u>	<u>10000</u>	<u>5000</u>	<u>25000</u>
<u>BC 3301.7 (2014 code)</u>	<u>Class 2</u>	<u>Failure to maintain/display on site documents required by BC Chapter 33.</u>	<u>Yes</u>	<u>No</u>	<u>500</u>	<u>Yes</u>	<u>2500</u>	<u>1250</u>	<u>5000</u>	<u>2500</u>	<u>10000</u>

§ 8. The Environmental Control Board has amended 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 four new charges after the entry in that schedule for BC 3304.4 & 27-1032, Failure to provide protection at sides of excavation, to read as follow:

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 (\$)
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<u>BC</u> <u>3304.12</u> <u>(2014</u> <u>code)</u>	<u>Class 1</u>	<u>Failure to</u> <u>perform slurry</u> <u>operations in</u> <u>accordance with</u> <u>section.</u>	<u>No</u>	<u>No</u>	<u>2400</u>	<u>No</u>	<u>12000</u>	<u>6000</u>	<u>24000</u>	<u>12000</u>	<u>25000</u>
<u>BC</u> <u>3305.3.1.2</u> <u>1</u> <u>(2014</u> <u>code)</u>	<u>Class 1</u>	<u>Failure to</u> <u>obtain</u> <u>registered</u> <u>design</u> <u>professional</u> <u>evaluation prior</u> <u>to using</u> <u>existing</u> <u>structure to</u> <u>support</u> <u>formwork</u> <u>loads.</u>	<u>No</u>	<u>No</u>	<u>2400</u>	<u>No</u>	<u>12000</u>	<u>6000</u>	<u>24000</u>	<u>12000</u>	<u>25000</u>
<u>BC</u> <u>3305.3.2</u> <u>(2014</u> <u>code)</u>	<u>Class 1</u>	<u>No site-specific</u> <u>formwork</u> <u>design drawings</u> <u>present per</u> <u>3301.7.</u>	<u>No</u>	<u>No</u>	<u>1000</u>	<u>No</u>	<u>5000</u>	<u>2500</u>	<u>10000</u>	<u>5000</u>	<u>25000</u>
<u>BC</u> <u>3305.3.3.2</u> <u>(2014</u> <u>code)</u>	<u>Class 1</u>	<u>Failure to</u> <u>perform</u> <u>required</u> <u>formwork</u> <u>observation.</u>	<u>No</u>	<u>No</u>	<u>2400</u>	<u>No</u>	<u>12000</u>	<u>6000</u>	<u>24000</u>	<u>12000</u>	<u>25000</u>