

## 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 Health Code and Miscellaneous Food Vendor Violations Penalty Schedule. This schedule is found in Section 3-110 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 Department of Health and Mental Hygiene (DOHMH). The rule was published in The City Record on March 18, 2014 and a Public Hearing was held on April 22, 2014.

### **Statement of Basis and Purpose of Final Rule**

ECB has amended its penalty schedule to allow for enforcement of new laws and rules that set limits on volatile organic compound (VOC) emissions in carpets and carpet cushions. Local Law 2 of 2012 added a new Chapter 13 to Title 17 of the Administrative Code, effective July 1, 2013. After the law was passed, DOHMH enacted rules implementing this new chapter. Those rules became effective on August 23, 2013.

The ECB held a public hearing on April 22, 2014 regarding amendments to its Health Code and Miscellaneous Food Vendor Violations Penalty Schedule found in Section 3-110 of Subchapter G of Chapter 3 of Title 48 of the Rules of the City of New York. A representative from the NYC Department of Health and Mental Hygiene (“DOHMH”) attended the April 22, 2014 public hearing. Neither written comments nor oral testimony were presented at the April 22, 2014 public hearing concerning the Proposed Rule regarding amendments to ECB’s Health Code and Miscellaneous Food Vendor Violations Penalty Schedule.

VOCs are common chemical contaminants that easily evaporate into the air. Some VOCs may have short- or long-term adverse health effects. U.S. Environmental Protection Agency studies have consistently found that VOC levels can be two to five times higher indoors than outdoors. Their presence can be noticed as an odor from new building materials including carpet, carpet backing, carpet cushion and adhesives. Carpet products that limit VOC emissions protect public health by improving the indoor air quality in homes and workplaces.

The rule sets seven penalties, ranging from \$150 to \$500, related to VOC emissions:

1. Non-compliant carpet or carpet cushion sold, offered for sale or installed, first violation.
2. Non-compliant carpet or carpet cushion sold, offered for sale or installed, second violation.
3. Required notice not posted in a conspicuous location, or not provided in written or electronic form.
4. Required documentation not provided within three business days of request.
5. Receipt not provided to consumer.

6. Posted sign does not meet required specifications.
7. Notice text does not conform to wording requirement.

The penalties are within the limits of the penalty amounts authorized in Administrative Code section 17-1409. For violations issued under section 17-1402, a second and subsequent violation is a violation by the same respondent of the same section of law.

ECB’s authority for these rules is also found in section 1049-a of the New York City Charter.

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

**§ 1. The Environmental Control Board has amended its Health Code and Miscellaneous Food Vendor Violations Penalty Schedule found in Section 3-110 of Subchapter G of Chapter 3 of Title 48 of the Rules of the City of New York and has revised the head notes by adding the following paragraph immediately after the paragraph ending in “See Health Code, section 3.11.” to read as follows:**

For violations issued under section 17-1402, a second and subsequent violation is a violation by the same respondent of the same section of law.

**§ 2. The Environmental Control Board has amended its Health Code and Miscellaneous Food Vendor Violations Penalty Schedule found in Section 3-110 of Subchapter G of Chapter 3 of Title 48 of the Rules of the City of New York and has added 7 new charges after the entry in that schedule for NYC Admin. Code 17-197, “Improperly restraining animal out of doors” to read as follows:**

<b>Section/Rule</b>	<b>Description</b>	<b>Penalty</b>	<b>Default</b>
<u>NYC Admin Code 17-1402</u>	<u>Non-compliant carpet or carpet cushion sold, offered for sale or installed—first violation</u>	<u>\$250</u>	<u>\$500</u>
<u>NYC Admin Code 17-1402</u>	<u>Non-compliant carpet or carpet cushion sold, offered for sale or installed—second and subsequent violation</u>	<u>\$500</u>	<u>\$500</u>
<u>NYC Admin Code 17-1407</u>	<u>Required notice not posted in a conspicuous location, or not provided in written or</u>	<u>\$250</u>	<u>\$250</u>

	<u>electronic form</u>		
<u>24 RCNY 30-03(c)</u>	<u>Required documentation not provided within three (3) business days of request</u>	<u>\$250</u>	<u>\$250</u>
<u>24 RCNY 30-03(d)</u>	<u>Receipt not provided to consumer</u>	<u>\$150</u>	<u>\$250</u>
<u>24 RCNY 30-04(a)</u>	<u>Posted sign does not meet required specifications (8 1/2 x 14” or larger; font size at least one-half inch high)</u>	<u>\$150</u>	<u>\$250</u>
<u>24 RCNY 30-04(b)</u>	<u>Notice text does not conform to wording requirement</u>	<u>\$150</u>	<u>\$250</u>