

**City of New York  
Environmental Control Board**

**Notice of Public Hearing and Opportunity to Comment on Proposed Rules**

**What are we proposing?** The Environmental Control Board (ECB) proposes to amend its Sanitation Penalty Schedule. This schedule is found in Section 3-122 of Subchapter G of Chapter 3 of Title 48 of the Rules of the City of New York. This schedule contains penalties for notices of violation issued by the New York City Department of Sanitation (DSNY). This proposed rule amends the Sanitation penalty schedule to reflect the relettering of certain subdivisions of section 16-308 of the New York City Administrative Code by Local Law 77 of 2013 (Local Law 77). The penalty amounts for these violations remain unchanged.

**When and where is the Hearing?** ECB will hold a public hearing on the proposed rules. The public hearing will take place at 2:00 p.m. on June 11, 2014. The hearing will be in the ECB Conference Room located at 66 John Street, 10th Floor, NY, NY 10038.

**How do I comment on the proposed rules?** Anyone can comment on the proposed rules by:

- **Website.** You can submit comments to the ECB through the NYC rules Web site at <http://rules.cityofnewyork.us>.
- **Email.** You can email written comments to Rules\_Oath@oath.nyc.gov.
- **Mail.** You can mail written comments to ECB, Attention: James Macron, Counsel to the Board, ECB, 66 John Street, 10<sup>th</sup> Floor, New York, N.Y. 10038.
- **Fax.** You can fax written comments to ECB, 212-361-1900.
- **By Speaking at the Hearing.** Anyone who wants to comment on the proposed rule at the public hearing must sign up to speak. You can sign up before the hearing by calling Elizabeth Nolan at 212-436-0592. You can also sign up in the hearing room before the hearing begins on June 11, 2014. You can speak for up to three minutes.

**Is there a deadline to submit written comments?** You may submit written comments up to June 11, 2014.

**Do you need assistance to participate in the Hearing?** You must tell ECB staff if you need a reasonable accommodation of a disability at the Hearing. You must tell us if you need a sign language interpreter. You can tell us by mail at the address given above. You may also tell us by telephone at 212-436-0592. You must tell us by June 4, 2014.

**Can I review the comments made on the proposed rules?** You can review the comments made online on the proposed rules by going to the website at <http://rules.cityofnewyork.us/>. A few days after the hearing, a transcript of the hearing and copies of the written comments will be available to the public at the ECB's office located at 66 John Street, 10<sup>th</sup> Floor, New York, NY 10038.

**What authorizes ECB to adopt this rule?** ECB is authorized to adopt this rule by sections 1043(a) and 1049-a of the New York City Charter and by Local Law 77, as codified in § 16-308 of the Administrative Code. This proposed rule was not included in ECB's regulatory agenda for this Fiscal Year because it was not contemplated when ECB published the agenda.

**Where can I find the ECB's rules?** The ECB's rules are in Title 48 of the Rules of the City of New York.

**What laws govern the rulemaking process?** ECB must meet the requirements of section 1043(b) of the Charter when creating or changing rules. This notice is made according to the requirements of sections 1043(b) and section 1049-a of the Charter.

### **Statement of Basis and Purpose**

On October 2, 2013, Mayor Bloomberg signed into law Intro 1107-A, which became Local Law 77 of 2013 (Local Law 77), in relation to the collection of food waste. Specifically, this law codified the Department of Sanitation's (DSNY) organic waste collection pilot program and made several technical amendments to section 16-308 of the New York City Administrative Code.

Several subdivisions of section 16-308 that DSNY currently enforces were relettered. These sections relate to a city yard waste collection program. This proposed rule amends ECB's Sanitation Penalty Schedule to reflect the relettering of subdivisions of section 16-308 by Local Law 77. The penalties for these violations remain unchanged.

The former subdivision (e) of section 16-308 of the Administrative Code establishes requirements related to the manner in which yard waste should be set out for collection by DSNY. Local Law 77 relettered subdivision (e) as subdivision (f).

The former subdivision (f) of section 16-308 of the Administrative Code, establishes requirements applicable to business that generate yard waste. Local Law 77 relettered subdivision (f) as subdivision (g).

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.]

**Section 1. The Environmental Control Board proposes to amend its Sanitation Penalty Schedule found in Section 3-122 of Subchapter G of Chapter 3 of Title 48 of the Rules of the City of New York by amending the entries for 16-308(e) and 16-308(f), to read as follows:**

| <b>Section/Rule</b>          | <b>Description</b>  | <b>Offense</b>  | <b>Penalty</b> | <b>Default</b> |
|------------------------------|---|---|----------------|----------------|
| [16-308(e)] <u>16-308(f)</u> | Improper receptacle for yard waste (Resident—One to eight dwelling units) | 1st   | \$25           | \$25           |
|                              |   | 2 <sup>nd</sup>   | \$50           | \$50           |
|                              |   | 3 <sup>rd</sup>   | \$100          | \$100          |
| [16-308(e)] <u>16-308(f)</u> | Improper receptacle for yard waste (Resident-Nine or more dwelling units) | 1st   | \$100          | \$100          |
|                              |   | 2 <sup>nd</sup>   | \$200          | \$200          |
|                              |   | 3 <sup>rd</sup>   | \$400          | \$400          |
|                              |   | Persistent Violator* (fourth and any subsequent violation within a period of six months from the issuance of the first violation) | \$400          | \$400          |
| [16-308(f)] <u>16-308(g)</u> | Improper Dispersal of Yard Waste (Business Generating Yard Waste)         | 1st   | \$250          | \$250          |
|                              |   | 2 <sup>nd</sup>   | \$1000         | \$1000         |

|                              |  |                 |        |        |
|------------------------------|--|-----------------|--------|--------|
|                              |  | 3 <sup>rd</sup> | \$2500 | \$2500 |
| [16-308(f)] <u>16-308(g)</u> | Improper Disposal of Yard Waste (Business Generating Yard Waste) | 1 <sup>st</sup> | \$250  | \$250  |
|                              |  | 2 <sup>nd</sup> | \$1000 | \$1000 |
|                              |  | 3 <sup>rd</sup> | \$2500 | \$2500 |

**NEW YORK CITY LAW DEPARTMENT**

**DIVISION OF LEGAL COUNSEL**

**100 CHURCH STREET**

**NEW YORK, NY 10007**

**212-356-4028**

**CERTIFICATION PURSUANT TO  
CHARTER §1043(d)**

**RULE TITLE:** Amendment of Sanitation Penalty Schedule (Organic Waste Recycling)

**REFERENCE NUMBER:** 2014 RG 025

**RULEMAKING AGENCY:** Environmental Control Board

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

- (i) is drafted so as to accomplish the purpose of the authorizing provisions of law;
- (ii) is not in conflict with other applicable rules;
- (iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and
- (iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN

Date: April 15, 2014

Acting Corporation Counsel

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS**

**253 BROADWAY, 10<sup>th</sup> FLOOR**

**NEW YORK, NY 10007**

**212-788-1400**

**CERTIFICATION / ANALYSIS**

**PURSUANT TO CHARTER SECTION 1043(d)**

**RULE TITLE:** Amendment of Sanitation Penalty Schedule (Organic Waste Recycling)

**REFERENCE NUMBER:** OATH/ECB-45

**RULEMAKING AGENCY:** OATH/ECB

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

- (i) Is understandable and written in plain language for the discrete regulated community or communities;
- (ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and
- (iii) Does not provide a cure period because it does not establish a violation, modification of a violation, or modification of the penalties associated with a violation.

/s/ Ruby B. Choi

April 15, 2014

Mayor's Office of Operations

Date