

**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 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).

When and where is the Hearing? ECB will hold a public hearing on the proposed rule. The public hearing will take place at 3:30p.m. on April 22, 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, 10th 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 April 22, 2014. You can speak for up to three minutes.

Is there a deadline to submit written comments? You may submit written comments up to April 22, 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 April 15, 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, 10th Floor, New York, NY 10038.

What authorizes ECB to adopt this rule? Section 1049-a and 1043 of the New York City Charter and Chapter 14 of Title 17 of the Administrative Code authorize ECB to adopt this proposed rule. 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

ECB is amending 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.

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 proposed rule sets seven new 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 proposed 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 proposes to amend 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 by revising the head notes to add 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 proposes to amend 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 to add 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:

Section/Rule	Description	Penalty	Default
<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 electronic form</u>	<u>\$250</u>	<u>\$250</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</u>	<u>\$150</u>	<u>\$250</u>

	<u>least one-half inch high)</u>		
<u>24 RCNY 30-04(b)</u>	<u>Notice text does not conform to wording requirement</u>	<u>\$150</u>	<u>\$250</u>

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: Health Code penalty schedule (carpet emissions)

REFERENCE NUMBER: 2013 RG 108

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: January 13, 2014

Acting Corporation Counsel

NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS

253 BROADWAY, 10th FLOOR

NEW YORK, NY 10007

212-788-1400

CERTIFICATION / ANALYSIS

PURSUANT TO CHARTER SECTION 1043(d)

RULE TITLE: Health Code penalty schedule (carpet emissions)

REFERENCE NUMBER: OATH-ECB-42

RULEMAKING AGENCY: OATH-ECB-42

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 for certain violations because rule violations arise from completed events, the consequences of which are immediate, which makes a cure period impracticable under the circumstances.

/s/ Francisco Navarro

January 23, 2014

Mayor's Office of Operations

Date