

**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 the Sanitation Penalty Schedule in Section 3-122 of Subchapter G of Chapter 3 of Title 48 of the Rules of the City of New York (RCNY). The changes are to create penalties for new Administrative Code sections pertaining to the bulk collection of recyclable containers.

**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 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, NY 10038.
- **Fax.** You can fax written comments to ECB at 212-361-1900.
- **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 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, 10<sup>th</sup> Floor, New York, NY 10038.

**What authorizes ECB to make this rule?** Chapter 4-D of Title 16 of the Administrative Code of the City of New York, and Sections 1043(a) and 1049-a of the City Charter authorize ECB to make this

proposed rule. These rules create penalties for offenses that are heard and decided by ECB pursuant to Sections 1048, and 1049-a of the New York City Charter and Chapter 3 of Title 48 of the RCNY. 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 ECB's rules?** ECB's rules are in Title 48 of the Rules of the City of New York.

**What rules govern the rulemaking process?** ECB must meet the requirements of Section 1043 of the City Charter when creating or changing rules. This notice is made according to the requirements of Section 1043(b) of the City Charter.

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

On August 12, 2013, Mayor Bloomberg signed into law Intro. No. 893-A, also referred to as Local Law No. 57 of 2013. This law created a new chapter in Title 16 of the Administrative Code of the City of New York, Chapter 4-D, which establishes several new violations related to the bulk collection of recyclable containers using motor vehicles.

The law prohibits the use of a motor vehicle to accept, receive, or collect recyclable containers in bulk from more than one person on streets and in public areas, except for by authorized city employees or agents or private carters licensed or registered pursuant to section 16-505 of the Administrative Code. It also restricts the transfer of recyclable containers in bulk from one vehicle to another on or in any street where one or more of the vehicles involved in the transfer has a commercial license plate. The use of city streets for this activity creates significant health and safety risks for pedestrians and drivers. Any owner of a motor vehicle used in violation of this law is also liable unless he or she can show that the vehicle was used without his or her knowledge.

On private property, if individuals wish to accept, receive, or otherwise collect recyclable containers in bulk from more than two persons, or to transfer recyclable containers in bulk from one motor vehicle to another, they must register with the Department of Sanitation. They must also ensure that they do not create nuisances or hazardous conditions by maintaining clean sidewalks and roadways around their sites. They also must satisfy annual reporting requirements, as specified in Administrative Code 16-473.

Pursuant to Sections 1048 and 1049-a of the New York City Charter and Chapter 3 of Title 48 of the RCNY, the New York City Environmental Control Board (ECB) hears and decides notices of violation issued for violations of the Administrative Code requirements pertaining to the acceptance of recyclable containers in bulk using motor vehicles. These requirements can be found in Chapter 4-D of Title 16 of the Administrative Code, enacted by Local Law 57 of 2013.

The proposed rule sets forth the penalties for these violations, which can result in fines of \$250 to \$1000 and/or an owner’s vehicle being impounded.

ECB’s authority for these rules is found in Chapter 4-D of Title 16 of the Administrative Code of the City of New York and Sections 1043(a) and 1049-a of the New York City Charter.

New material is underlined.

**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 adding 8 new entries after the entry in the penalty schedule for Section 16-463(d)\*\*\*\*\*, “Unlawful receipt of refrigerant-containing item” to read as follows:**

<b>SECTION/RULE</b>	<b>DESCRIPTION</b>	<b>OFFENSE</b>	<b>PENALTY</b>	<b>DEFAULT</b>
<b><u>16-471(a)</u></b>	<b><u>Use of motor vehicle to unlawfully accept, receive, or collect recyclable containers in bulk from more than one person on or in any street (Vehicle Operator)</u></b>		<b><u>\$1000</u></b>	<b><u>\$1000</u></b>
<b><u>16-471(a)</u></b>	<b><u>Use of motor vehicle to unlawfully accept, receive, or collect recyclable containers in bulk from more than one person on or in any street (Vehicle Owner)</u></b>		<b><u>\$1000</u></b>	<b><u>\$1000</u></b>
<b><u>16-471(b)</u></b>	<b><u>Unlawful transfer of recyclable containers in bulk from one vehicle to another on or in any street where one or more of the vehicles has a commercial license plate (Vehicle Owner)</u></b>		<b><u>\$1000</u></b>	<b><u>\$1000</u></b>

<b><u>16-471(b)</u></b>	<b><u>Unlawful transfer of recyclable containers in bulk from one vehicle to another on or in any street where one or more of the vehicles has a commercial license plate (Vehicle Operator)</u></b>		<b><u>\$1000</u></b>	<b><u>\$1000</u></b>
<b><u>16-472</u></b>	<b><u>Failure to register with the Department of Sanitation</u></b>		<b><u>\$500</u></b>	<b><u>\$500</u></b>
<b><u>16-473</u></b>	<b><u>Failure to file an annual report to the Department of Sanitation</u></b>		<b><u>\$250</u></b>	<b><u>\$250</u></b>
<b><u>16-474</u></b>	<b><u>Operating at a location other than that specified in registration</u></b>		<b><u>\$250</u></b>	<b><u>\$250</u></b>
<b><u>16-474</u></b>	<b><u>Failure to keep location specified in registration in a safe and sanitary manner</u></b>		<b><u>\$250</u></b>	<b><u>\$250</u></b>

**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 (Redemption of Recyclables)

**REFERENCE NUMBER:** 2013 RG 103

**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, 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 (Redemption of Recyclables)

**REFERENCE NUMBER: OATH/ECB-41**

**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) Does not provide a cure period because the violations pose a significant health and safety risk to pedestrians and drivers.

    /s/ Ruby B. Choi    

Mayor's Office of Operations

    January 13, 2014    

Date