

**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, which is found in Section 3-122 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 Sanitation (DSNY).

**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 April 14, 2015. 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 212-436-0708. You can also sign up in the hearing room before the hearing begins on April 14, 2015. You can speak for up to three minutes.

**Is there a deadline to submit written comments?** You may submit written comments up to April 14, 2015.

**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 212-436-0708. You must tell us by April 7, 2015.

**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?** Sections 1043 and 1049-a of the New York City Charter and Sections 10-169, 16-118, and 16-120 of the New York City 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 ECB's rules?** 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 Section 1043(b) of the Charter.

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

ECB is proposing to amend its Sanitation Penalty Schedule to create penalties for violations of Local Law 67 of 2014 ("Local Law 67"), which relates to publicly accessible collection bins (typically used for clothing donations). ECB is also proposing to create a penalty for violations of 16 RCNY 1-04.2 which prohibits the placement of electronic waste out for solid waste or recycling collection.

#### **Publicly Accessible Collection Bins**

On December 14, 2014, Intro. Number 409-A of 2014 became a law, designated as Local Law 67, which will become effective on March 14, 2015. Local Law 67 relates to the regulation of publicly accessible collection bins, which are prohibited from being placed on City property, property maintained by the City, or any public sidewalk or roadway. Bins may be placed on private property if the property owner or the property owner's designated agent provides written permission to the bin owner. Owners of publicly accessible collection bins that operate lawfully on private property are required to place their names, addresses, and telephone numbers on their bins.

When Local Law 67 takes effect on March 14, 2015, DSNY will be authorized to immediately remove any publicly accessible collection bin placed on public property and to issue violations against owners of illegally placed collection bins. Further, owners of bins that are lawfully placed on private property will be required to register and file an annual report with DSNY. Additionally, the bin owner and the private property owner will each be responsible for maintaining the bin in a clean and neat condition. Bin owners who fail to comply with these requirements will be liable for civil penalties.

The new law defines a subsequent offense as a violation issued to the same respondent within any eighteen-month period. The proposed rule reflects this definition.

#### **Electronic Waste**

As of January 1, 2015, the New York State Electronic Equipment Recycling and Reuse Act (Chapter 99 of the laws of 2010, codified as Title 26 of Article 27 of the Environmental Conservation Law) prohibits disposal of electronic waste as solid waste in the State of New York. This act prohibits electronic waste from being placed or disposed of in any solid waste management facility, or being placed out for collection for disposal at a solid waste management facility or hazardous waste management facility in the State of New York. Specifically, the law

means that residents and businesses may no longer place electronic waste, such as computers and cell phones, for example, out for collection with either regular waste or with recyclables.

Pursuant to section 753 of the New York City Charter, DSNY is responsible for the functions and operations of waste disposal within the City, and has authority under sections 16-118 and 16-120 of the New York City Administrative Code to issue violations to persons who improperly dispose of solid waste. In response to the new law, DSNY promulgated a new rule, 16 RCNY 1-04.2, to prohibit electronic waste from being set out for solid waste or recycling collection in New York City.

ECB’s authority for these rules is found in Sections 1043(a) and 1049-a of the New York City Charter and Sections 10-169, 16-118, and 16-120 of the New York City Administrative Code.

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New material is underlined.

[Deleted material is in brackets.]

**§ 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 and revising the headnote appearing at “\*\*\*\*For section 16-119, a repeat violation is:” to read as follows:**

\*\*\*\*For sections 16-119 and 10-169, a repeat violation is:

- A violation by the same respondent
- Of [section 16-119] the same section of law as the previous violation
- With a date of occurrence within 18 months of the date of occurrence of the previous violation

**§ 2. 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 entries to that schedule just below the entry for Section 10-120, “Defacement of City handbill/notice,” to read as follows:**

Section of Law	Description	Offense	Penalty	Default
<u>10-169(b)(1)****</u>	<u>Failure to display owner information on publicly accessible collection bin</u>	<u>1<sup>st</sup></u>	<u>50</u>	<u>50</u>
		<u>2<sup>nd</sup></u>	<u>100</u>	<u>100</u>
<u>10-169(b)(2)****</u>	<u>Placement of publicly accessible collection</u>	<u>1<sup>st</sup></u>	<u>250</u>	<u>250</u>

	<u>bin on city property, property maintained by the city or public sidewalk or roadway</u>	<u>2<sup>nd</sup></u>	<u>500</u>	<u>500</u>
<u>10-169(b)(2)****</u>	<u>Attaching or enclosing publicly accessible collection bin to city property, property maintained by the city or on public sidewalk or roadway</u>	<u>1<sup>st</sup></u>	<u>500</u>	<u>500</u>
		<u>2<sup>nd</sup></u>	<u>1000</u>	<u>1000</u>
<u>10-169(b)(4)****</u>	<u>Failure to maintain publicly accessible collection bin in a clean and neat condition (Property owner)</u>	<u>1<sup>st</sup></u>	<u>50</u>	<u>50</u>
		<u>2<sup>nd</sup></u>	<u>100</u>	<u>100</u>
<u>10-169(b)(4)****</u>	<u>Failure to maintain publicly accessible collection bin in a clean and neat condition (Bin Owner)</u>	<u>1<sup>st</sup></u>	<u>50</u>	<u>50</u>
		<u>2<sup>nd</sup></u>	<u>100</u>	<u>100</u>
<u>10-169(b)(5)****</u>	<u>Failure to register publicly accessible collection bin with DSNY</u>	<u>1<sup>st</sup></u>	<u>50</u>	<u>50</u>
		<u>2<sup>nd</sup></u>	<u>100</u>	<u>100</u>
<u>10-169(b)(5)****</u>	<u>Submitting an annual report with false or misleading information or failure to submit an annual report to DSNY</u>	<u>1<sup>st</sup></u>	<u>50</u>	<u>50</u>
		<u>2<sup>nd</sup></u>	<u>100</u>	<u>100</u>

**§ 3. 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 an entry in that schedule just below the entry for 16 RCNY 1-04, “Improper disposal of regulated household waste,” to read as follows:**

Section of Law	Violation Description	Offense	Penalty	Default
<u>16 RCNY 1-04.2</u>	<u>Improper disposal of electronic waste</u>		<u>\$100</u>	<u>\$100</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:** Amendment of Sanitation Penalty Schedule (Electronic Waste and Collection Bins on Public Property)

**REFERENCE NUMBER:** 2015 RG 012

**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  
Acting Corporation Counsel

Date: February 19, 2015

**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 (Electronic Waste and Collection Bins on Public Property)**

**REFERENCE NUMBER: OATH-ECB-56**

**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 rule violations arise from completed events, which makes a cure period impracticable under the circumstances.

*/s/ Francisco Navarro*

*February 19, 2015*

Mayor's Office of Operations

Date