



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Environmental Control Board Hearings

66 John St., 10th Floor
 New York, NY 10038
 Telephone: 1-844-OATH-NYC (1-844-628-4692)

Fidel F. Del Valle, Esq.
Commissioner & Chief Administrative Law Judge
Amy Slifka, Esq.
Deputy Commissioner & Executive Director

August 7, 2015

Russell Pecunies
 Assistant Counsel
 NYC Department of Environmental Protection
 59-17 Junction Boulevard
 Flushing, NY 11373

RE: Expansion of selected DEP violations to be adjudicated by Telephone

Dear Mr. Pecunies,

In June 2015 the Department of Environmental Protection (“DEP”), and OATH Environmental Control Board (“OATH ECB”), met regarding possible telephone hearings for certain DEP violations returnable to OATH ECB.

48 RCNY 3-34 authorizes the OATH ECB to designate certain classes of cases for adjudication by mail (“Mail Adjudication”) and to prescribe procedures for such adjudications. ECB has prescribed procedures for remote adjudications that include hearings by mail, one click hearings and hearings by telephone.

DEP consents to having the violations in the Table below heard by telephone. Hearings will be conducted at the OATH-ECB Manhattan office on mutually agreed upon Mondays, Tuesdays and Wednesdays. Hearings will be conducted on dates that the issuing officers are scheduled to appear at OATH ECB. A DEP representative will be present at all such hearings. The issuing officer will be present if required by either the DEP representative or the respondent.

Noise Code Violations

Section of Law	ECB Computer Code	Violation Description
24-206(c)	BN02	Failed to Comply with Commissioner's Order to Provide Access for Testing
	BNB2	
	BNB3	
24-207(c)	BN03	Refused DEP entry into public area(s) of premises
	BNC2	



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Environmental Control Board Hearings

66 John St., 10th Floor
 New York, NY 10038
 Telephone: 1-844-OATH-NYC (1-844-628-4692)

	BNC3	
24-207(d)	BN04	Refusal to allow authorized employee to perform sound testing
	BND2	
	BND3	
24-208	BN05	Operating equipment without a valid registration
	BNE2	
	BNE3	
24-209	BN06	Interfering w/or obstructing DEP Personnel.
	BNF2	
	BNF3	
24-210	BN07	False/misleading statements: unlawful repro/alteration of documents.
	BNG2	
	BNG3	
24-216(d)	BN09	Failure to comply with noise abatement contract requirements
	BNI2	
	BNI3	
24-218(a)	BN10, AN01	Causing or permitting unreasonable noise (7AM to 10PM).
	BNJ2, AN02	
	BNJ3, AN03	
24-218(a)	BN11, AN04	Causing or permitting unreasonable noise (10PM to 7AM).
	BNK2, AN05	
	BNK3, AN06	
24-218(e)	BN12	Failure to comply with Commissioner's Order or mitigation measures re noise from refuse collection facility
	BNL2	
	BNL3	
24-220(a)	BN14	Failure to adopt/implement Noise Mitigation Plan for construction site
	BNN2	
	BNN3	
24-220(b)	BN15	Inadequate/insufficiently detailed noise mitigation plan
	BNO2	
	BNO3	
24-220(b)	BN16	Failure to ensure that all construction workers are familiar with noise mitigation plan
	BNP2	



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Environmental Control Board Hearings

66 John St., 10th Floor
 New York, NY 10038
 Telephone: 1-844-OATH-NYC (1-844-628-4692)

	BNP3	
24-220(c)	BN17	Failure to keep/have available for inspection copy of noise mitigation plan
	BNQ2	
	BNQ3	
24-220(d)	BN18	Failure to amend noise mitigation plan
	BNR2	
	BNR3	
24-220(e)	BN19	Failure to file noise mitigation plan when required
	BNS2	
	BNS3	
24-222	BN20, AN10	Construction activities at impermissible times/days
	BNT2, AN11	
	BNT3, AN12	
24-223(b)	BN21	Failure to submit certification for emergency work within 3 days of starting work
	BNU2	
	BNU3	
24-223(d)	BN22	Failure to respond to request for conference or to amend noise mitigation plan
	BNV2	
	BNV3	
24-224	BN23	Construction work not in compliance with noise mitigation plan
	BNW2	
	BNW3	
24-226(a)	BN26	Operating air compressor without appropriate muffler w/no exhaust leaks
	BNZ2	
	BNZ3	
24-226(b)	BN27	Excessive noise from air compressor (measured @ 1 meter)
	BNA5	
	BNA6	
24-226(c)	BN28	Excessive noise from air compressor (measured @ receiving property)
	BNB4	
	BNB5	
24-228	BN32, AN19	Unreasonable noise from construction devices
	BNF4, AN20	
	BNF5, AN21	



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Environmental Control Board Hearings

66 John St., 10th Floor
 New York, NY 10038
 Telephone: 1-844-OATH-NYC (1-844-628-4692)

24-228.1	BN33, AN22	Unreasonable noise from engine exhaust
	BNG4, AN23	
	BNG5, AN24	
24-229	BN34, AN25	Unreasonable noise from handling/transporting of container or construction material
	BNH4, AN26	
	BNH5, AN27	
24-230(a)	BN35	Operation/caused operation of paving breaker w/o pneumatic discharge muffler
	BNI4	
	BNI5	
24-230(b)	BN36	Sold/offer for sale/operate/permit operation of paving breaker producing over 95 dB(A)
	BNJ4	
	BNJ5	
24-231(d)	BN38	Violation of variance from limits set forth in 24-231(a)
	BNL4	
	BNL5	
24-232(a)	BN39, AN28	Excessive noise from sound source @ commercial or business establishment
	BNM4, AN29	
	BNM5, AN30	
24-233(a)	BN40, AN31	Unreasonable noise: personal audio device
	BNN4, AN32	
	BNN5, AN33	
24-233(b)(1)	BN41, AN34	Unreasonable noise – personal audio device (public right-of-way)
	BNO4, AN35	
	BNO5, AN36	
	BNQ4, AN41	
	BNQ5, AN42	
24-235	BN44, AN43	Permitting animal to cause unreasonable noise
	BNR4, AN44	
	BNR5, AN45	
24-236(a)	BN45, AN46	Excess noise from motor vehicles (10,000 lbs or less)
	BNS4, AN47	
	BNS5, AN48	
24-236(b)	BN46, AN49	Excess noise from motorcycles
	BNT4, AN54	
	BNT5, AN55	



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Environmental Control Board Hearings

66 John St., 10th Floor
 New York, NY 10038
 Telephone: 1-844-OATH-NYC (1-844-628-4692)

24-236(c)	BN47, AN56	Excess noise from motor vehicles (10,000 lbs or greater)
	BNU4, AN57	
	BNU5, AN58	
24-236(d)	BN48	Non-emergency use of compression brake system
	BNV4	
	BNV5	
24-237(a)	BN49, AN59	Unauthorized use of motor vehicle claxon
	BNW4, AN60	
	BNW5, AN61	
24-237(b)	BN50, AN62	Unauthorized use of motor vehicle air horn/gong
	BNX4, AN63	
	BNX5, AN64	
24-237(c)	BN51	Unauthorized use of steam whistle
	BNY4	
	BNY5	
24-241(a)	BN56, AN77	Unauthorized use of emergency signal device
	BND6, AN78	
	BND7, AN79	
24-241(b)	BN57	Failed to file certification regarding test of emergency signal device
	BNE6	
	BNE7	
24-242(a)	BN58, AN80	Operating lawn care devices at unauthorized times or so as to create unreasonable noise
	BNF6, AN81	
	BNF7, AN82	
24-242(b)	BN59, AN83	Operation of leaf blower without muffler
	BNG6, AN84	
	BNG7, AN85	
24-244(a)	BN60, AN86	Unreasonable noise from sound reproduction device
	BNH6, AN87	
	BNH7, AN88	
24-244(b)	BN61, AN89	Unreasonable noise from sound reproduction device for commercial/bus. advert. purposes
	BNI6, AN90	
	BNI7, AN91	
24-245	BN62	Failure to have operating certificate or tunneling permit.
	BNJ6	
	BNJ7	
24-257(b)(7)	BN63	Breaking of Board ordered seal.



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Environmental Control Board Hearings

66 John St., 10th Floor
 New York, NY 10038
 Telephone: 1-844-OATH-NYC (1-844-628-4692)

	BNK6	
	BNK7	
15 RCNY 28-100	BN1A	Failed To Conspicuously Post an Accurate and Complete Construction Noise Mitigation Plan (CNMP)
	BN2A	
	BN3A	
15 RCNY 28-101(a)	BN1B	Failed To Self-Certify Equipment Maintenance in CNMP
	BN2B	
	BN3B	
15 RCNY 28-101(a)	BN1C	Failed to Exercise Noise Mitigation Option Within 5 Business Days of Construction Tool Exceeding Noise Standard
	BN2C	
	BN3C	
15 RCNY 28-101(b)	BN1D	Failed to Equip Construction Equipment with Noise Reduction Device
	BN2D	
	BN3D	
15 RCNY 28-101(c)	BN1E	Failed to Mitigate Noise From Internal Combustion Engine
	BN2E	
	BN3E	
15 RCNY 28-101(d)	BN1F	Failed to Cover Compressors/Generators/Pumps with Noise-Insulating Fabric
	BN2F	
	BN3F	
15 RCNY 28-101(g)	BN1G	Failed to Use Perimeter Noise Barriers
	BN2G	
	BN3G	
15 RCNY 28-101(h)	BN1H	Failed to Create and Utilize Noise Mitigation Training Program
	BN2H	
	BN3H	
15 RCNY 28-101(i)	BN1I	Failed to Coordinate Work Schedule with Sensitive Facility Receptor
	BN2I	
	BN3I	
15 RCNY 28-101(j)	BN1J	Failure to Comply with CNMP or File Alternative Plan w/in 3 Days of Inspection
	BN2J	
	BN3J	
15 RCNY 28-101(l)	BN1K	Failed to Utilize Temporary Barrier



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Environmental Control Board Hearings

66 John St., 10th Floor
 New York, NY 10038
 Telephone: 1-844-OATH-NYC (1-844-628-4692)

	BN2K	
	BN3K	
15 RCNY 28-101(m)	BN1L	Failed to Utilize Noise Barrier on Sandblasting Perimeter Barrier
	BN2L	
	BN3L	
15 RCNY 28-102(a)(1)(B)(ii)	BN1M	Failed to Use Specified Pile Driver When Working w/in 100 ft of Receptor
	BN2M	
	BN3M	
15 RCNY 28-102(a)(1)(B)(iii)	BN1N	Failed to Equip Pile Driver w/Exhaust Muffler
	BN2N	
	BN3N	
15 RCNY 28-102(a)(1)(B)(v)	BN1O	Failed to Pre-Augur/Pre-Trench Pile Holes
	BN2O	
	BN3O	
15 RCNY 28-102(a)(1)(B)(vi)	BN1P	Failed to Properly Secure Impact Cushions to Piles
	BN2P	
	BN3P	
15 RCNY 28-102(a)(1)(C)(i-iv)	BN1Q	Failed to Properly Construct Portable Noise Barrier
	BN2Q	
	BN3Q	
15 RCNY 28-102(a)(2)(B)(iii)	BN1R	Failed to Equip Jackhammer With Effective Muffler
	BN2R	
	BN3R	
15 RCNY 28-102(a)(2)(C)(i)	BN1S	Failed to Properly Construct Portable Noise Barrier
	BN2S	
	BN3S	
15 RCNY 28-102(a)(2)(C)(ii)	BN1T	Exceeded Maximum Height of 15 Feet for Free-Standing Barrier
	BN2T	
	BN3T	
15 RCNY 28-102(a)(2)(C)(iii)(b)	BN1U	Failed to Use Multiple Tents for Multiple Jackhammers
	BN2U	
	BN3U	



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Environmental Control Board Hearings

66 John St., 10th Floor
 New York, NY 10038
 Telephone: 1-844-OATH-NYC (1-844-628-4692)

15 RCNY 28-102(a)(2)(C)(iii)(c)	BN1V	Failed to Move Noise Tents as Jackhammer Work Progresses
	BN2V	
	BN3V	
15 RCNY 28-102(a)(2)(C)(iii)(d)	BN1W	Failed to Use Double Layer of Mitigation During Emergency Jackhammering w/in 500 ft of Residential Receptor
	BN2W	
	BN3W	
15 RCNY 28-102(a)(2)(C)(iii)(e)	BN1X	Failed to Use Tents on Either Side of Jackhammer Where Surrounded by Receptors
	BN2X	
	BN3X	
15 RCNY 28-102(a)(3)(B)(iii)	BN1Y	Failed to Wrap Noise Shroud Around Head of Hoe Ram w/in 200 ft of Receptor
	BN2Y	
	BN3Y	
15 RCNY 28-102(a)(3)(C)(i-iv)	BN1Z	Failed to Properly Construct Portable Noise Barrier
	BN2Z	
	BN3Z	
15 RCNY 28-102(a)(4)(C)(i)	BN5A	Failed to Lay Heavy Rubber Blast Mats Over Blast Site
	BN6A	
	BN7A	
15 RCNY 28-102(a)(4)(C)(ii-iii)	BN5B	Failed to Properly Construct Portable Noise Barrier
	BN6B	
	BN7B	
15 RCNY 28-102(b)(1)(B)(iv)	BN5C	Failed to Cover Vac-Truck's Suction Component w/Noise-Reducing Enclosure
	BN6C	
	BN7C	
15 RCNY 28-102(b)(1)(C)(i-iv)	BN5D	Failed to Properly Construct Portable Noise Barrier
	BN6D	
	BN7D	
15 RCNY 28-102(c)(1)(B)(ii)	BN5E	Failed to Install Bed Liner
	BN6E	
	BN7E	
15 RCNY 28-102(c)(1)(B)(v)	BN5F	Failed to Equip Truck with Effective Muffler



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Environmental Control Board Hearings

66 John St., 10th Floor
 New York, NY 10038
 Telephone: 1-844-OATH-NYC (1-844-628-4692)

	BN6F	
	BN7F	
15 RCNY 28-102(c)(1)(B)(vii)	BN5G	Failed to Keep Housing Doors Closed During Engine Operation
	BN6G	
	BN7G	
15 RCNY 28-102(c)(1)(C)(i-iii)	BN5H	Failed to Properly Construct Portable Noise Barrier
	BN6H	
	BN7H	
15 RCNY 28-102(d)(1)(B)(v)	BN5I	Failed to Equip Crane with Effective Muffler
	BN6I	
	BN7I	
15 RCNY 28-102(d)(2)(B)(i)	BN5J	Failed to Equip Auger Drill Rig with Effective Muffler
	BN6J	
	BN7J	
15 RCNY 28-102(d)(2)(B)(ii)	BN5K	Failed to Lubricate All Moving Parts of Auger Drill Rig
	BN6K	
	BN7K	
15 RCNY 28-102(d)(2)(B)(iii)	BN5L	Failed to Properly Clear Debris From Drill Bits
	BN6L	
	BN7L	
15 RCNY 28-102(d)(2)(C)(i-iv)	BN5M	Failed to Properly Construct Portable Noise Barriers
	BN6M	
	BN7M	
15 RCNY 28-102(d)(3)(A)(i)	BN5N	Failed to Properly Install Street Plates
	BN6N	
	BN7N	
15 RCNY 28-102(d)(4)(A)(i)(a-c)	BN5O	Failed to Equip Work Vehicles with Proper Backup Alarms
	BN6O	
	BN7O	
15 RCNY 28-102(d)(4)(B)(ii-iv)	BN5P	Failed to Properly Construct Portable Noise Barriers
	BN6P	
	BN7P	



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Environmental Control Board Hearings

66 John St., 10th Floor
 New York, NY 10038
 Telephone: 1-844-OATH-NYC (1-844-628-4692)

15 RCNY 28-102(e)(1)(C)(i-iii)	BN5Q	Failed to Properly Construct Portable Noise Barriers
	BN6Q	
	BN7Q	
15 RCNY 28-102(e)(1)(C)(iv)	BN5R	Failed to Use Multiple Tents During Use of Multiple Concrete Saws
	BN6R	
	BN7R	
15 RCNY 28-102(e)(1)(C)(v)	BN5S	Failed to Move Noise Tent As Concrete Saw Work Progressed
	BN6S	
	BN7S	
15 RCNY 28-102(e)(1)(C)(vi)	BN5T	Failed to Use Double Layer of Mitigation for Noise Barrier During Emergency Concrete Sawing within 500 ft of Residential Receptor
	BN6T	
	BN7T	
15 RCNY 28-102(e)(1)(C)(vii)	BN5U	Failed to Use Two Tents on Either Side of Saw When Surrounded by Receptors
	BN6U	
	BN7U	
15 RCNY 28-104	BN5V	Failed to File Alternative Noise Mitigation Plan (ANMP)
	BN6V	
	BN7V	
15 RCNY 28-105	BN5W	Failed to Conspicuously Post Utility Noise Mitigation Plan (UNMP)
	BN6W	
	BN7W	
15 RCNY 28-106(a)	BN5X	Failed to Self-Certify Equipment Maintenance in UNMP
	BN6X	
	BN7X	
15 RCNY 28-106(a)	BN5Y	Failed to Exercise Noise Mitigation Option within 5 Days of Construction Tool Exceeding Noise Standard
	BN6Y	
	BN7Y	
15 RCNY 28-106(b)	BN5Z	Failed to Equip Construction Tool with Noise Reduction Device
	BN6Z	
	BN7Z	
15 RCNY 28-106(c)	BN8A	Failed to Comply with Additional Noise Mitigation Measures for Specialized Vehicles
	BN8B	



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Environmental Control Board Hearings

66 John St., 10th Floor
 New York, NY 10038
 Telephone: 1-844-OATH-NYC (1-844-628-4692)

	BN8C	
15 RCNY 28-106(d)	BN8D	
	BN8E	Failed to Cover Equipment with Noise-Insulating Fabric
	BN8F	
15 RCNY 28-106(h)	BN8G	Failed to Properly Install and Secure Street Plates
	BN8H	
	BN8I	
15 RCNY 28-106(i)	BN8J	Failed to Notify Residents within 200 Feet of Construction Activity
	BN8K	
	BN8L	
15 RCNY 28-106(j)	BN8M	Failed to Respond to Noise Complaints/Notice from DEP
	BN8N	
	BN8O	
15 RCNY 28-106(l)	BN8P	Failed to Create and Utilize Noise Mitigation Training Program
	BN8Q	
	BN8R	
15 RCNY 28-106(m)	BN8S	Failed to Coordinate Work Schedule with Sensitive Receptor Owner
	BN8T	
	BN8U	
15 RCNY 28-106(n)	BN8V	Failed to Correct Excessive Noise Condition/File ANMP
	BN8W	
	BN8X	

Air Code Violations

Section of Law	ECB Computer Code	Violation Description
24-109(b)(1)	BA02	Spraying insulation material w/o registration.
24-109(b)(2)	BA03	Building demolition w/o registration
24-111	BA07	Interference/obstruction of DEP personnel
24-112	BA08	Making/filing false or misleading statements/documents
24-120	BA15	Equipment installed/alterd w/out work permit
24-141	BA22	Emission of air contaminant equipment requiring O.C. or registration
24-141	BA24, AE24	Emission of air contaminant from unregulated source
24-142(a)	BA25	Emission of air contaminant (smoke)
24-142	BA26	Emission of air contaminant from unregulated equipment



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Environmental Control Board Hearings

66 John St., 10th Floor
 New York, NY 10038
 Telephone: 1-844-OATH-NYC (1-844-628-4692)

24-144	BA28	Emission of sulphur compounds
24-145	BA29	Emission of particulates from refuse or fuel burning equipment
24-146(a)	BA30	Particulate matter allowed to become airborne
24-146(b)	BA31	Asbestos spraying w/out permit
24-146(c)	BA32	Particulate emissions from construction activity
24-146(d)	BA33	Particulate emissions from untreated open areas
24-146(e)	BA34	Spraying of insulation material w/o proper required precaution
24-146(f)	BA35	Failure to take required precautions during demolition
24-147	BA36	Emission of air contaminant nitrogen oxides from boiler
24-151	BA40	Concealing or masking of air contaminant emission
24-153	BA41	Air contaminant emission exceeding environmental rating
24-155	BA43	Improper maintenance of equipment requiring O.C. or registration
24-155	BA44	Failure to maintain unregulated equipment
24-156	BA45	Use of equipment w/out required apparatus
24-160	BA47	No air contaminant recorder for boiler
24-163	1st Offense: BA51, AE51 2nd Offense: BA1E, AE1E 3rd Offense: AE1F, BA1F	Idling of Diesel Motor Vehicle engine over three minutes
24-163(f)	1st Offense: BA1I, AE1I 2nd Offense: BA1J, AE1J 3rd and subs Offense: BA1K, AE1K	Idling of Motor Vehicle engine over one minute while adjacent to school (Diesel)
24-167	BA55	Improper use of equipment or apparatus
24-168	BA56	Use of improper fuel in fuel burning equipment
24-168.1	BAH2-1st BAH3- 2nd BAH4-3rd	Use of heating oil containing less than 2% biodiesel
24-168.1	BAH5-1st BAH6- 2nd BAH7-3rd	Delivery of heating oil containing less than 2% biodiesel



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Environmental Control Board Hearings

66 John St., 10th Floor
 New York, NY 10038
 Telephone: 1-844-OATH-NYC (1-844-628-4692)

24-169(c)	BA57	Use/purchase, for regulated equipment, of fuel with excess sulphur
24-169	BA58	Use/purchase, for unregulated equipment of fuel with excess sulphur
24-169	BA59	Sale, offer, storage or transport of fuel with excess sulphur content
24-173	BA60	Improper use of solid fuel in fuel burning equipment
24-176	BA65	Failure to report shipment of fuel to NYC as required
24-178(b)(8)	BA66	Breaking a Board ordered seal
24-131	BA80	Failure to comply with conditions of certificate or permit
24-170	BA81	Failure to supply fuel supply information to the Commissioner
24-172	BA82	Excess volatile matter (by weight) in boiler fuel
24-177(a)	BA83	Fail to have required statement on fuel information ticket
24-177(b)	BA84	Failure to retain fuel information tickets by shipper
24-177(c)	BA85	Failure to retain fuel records for one year
24-131(c)	BA86	Failure to comply with Conditions of Certificate/Regulation of operation or Permit
24-143	BA87, AE87	Emission of Air contaminant from vehicle (non-diesel fuel)
24-163	1st Offense: AE88, BA88 2nd Offense: AE1G, BA1G 3rd Offense: AE1H, BA1H	Idling of Motor Vehicle engine over three minutes (non-diesel fuel)
24-163(f)	1st Offense: BA1L, AE1L 2nd Offense: BA1M, AE1M, 3rd Offense: BA1N, AE1N	Idling of Motor Vehicle engine over one minute while adjacent to school (Nondiesel)
24-163.3(b)(1)	BA92	Failed to use ultra low sulfur diesel fuel in nonroad vehicle
24-163.3(b)(1)	BA93	Failed to use ultra low sulfur diesel fuel in nonroad vehicle (aggravated penalty for excess profit)
24-163.3(b)(2)	BA94	Failed to use best available technology for emission reduction in nonroad vehicle



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Environmental Control Board Hearings

66 John St., 10th Floor
 New York, NY 10038
 Telephone: 1-844-OATH-NYC (1-844-628-4692)

24-163.3(b)(2)	BA95	Failed to use best available technology for emission reduction in nonroad vehicle (aggravated penalty for excess profit)
24-163.3(o)	BA96	Made false claim regarding compliance with emission reduction requirements for diesel non-road vehicles
24-163.3(o)	BA97	Made false claim regarding compliance with emission reduction requirements for diesel non-road vehicles (aggravated penalty for excess profit)
24-163.8(b)(1)	1st Offense: BA1O, 2nd Offense: BA1P, 3rd Offense: BA1Q	Failed to use ultra low sulfur diesel fuel in generator for Film/TV/Ad/Street Fair
24-163.8(c)	1st Offense: BA1R, 2nd Offense: BA1S	Made false claim regarding use of ultra low sulfur diesel fuel in generator
24-117(j)	BA90	Failure to cease operation of refuse burning equipment
24-125(c)	BA91	Failure to comply with appropriate criteria referred to in this section
15 RCNY 2-09	BAG5-1st BAG6-2nd BAG7-3rd	Failure to retain records related to combustion efficiency testing
15RCNY 40-02(b)	BAG8-1st BAG9-2nd BAH1-1st	Failure to maintain records of hours of operation for emergency generator
VAPOR RECOVERY REGULATIONS		
15 RCNY 4-03(a)(1)	BA68	No Stage 1 Vapor Collection System at Gas dispensing site
15 RCNY 403(a)(2)(3)	BA69	Fail to maintain Stage 1 Vapor Collection and control system
15 RCNY 403(a)(2)(IV)	BA70	Fail to connect and operate vapor collection system loading and unloading at site
15 RCNY 4-03(a)(3)	BA71	No Stage 1 Vapor Recovery System Capacity at least 250 gallons
15 RCNY 4-03(b)	BA72	No certificate of registration for gasoline dispensing site
15 RCNY 4-04(a)(3)	BA73	No NYSDEC date for pressure test on gasoline transporting vehicle
15 RCNY 4-04(c)	BA74	Fail to keep dome covers closed on gas transport vehicle
15 RCNY 4-04(d)(1)	BA75	No Stage 1 Vapor collect/control system on gasoline transport vehicle
15 RCNY 4-04(d)(2)	BA76	Fail to provide adequate training for operator of gasoline transport vehicle
15 RCNY 4-04(d)(3)	BA77	Failure to maintain Stage 1 vapor collection/control system on gas transport vehicle



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Environmental Control Board Hearings

66 John St., 10th Floor
 New York, NY 10038
 Telephone: 1-844-OATH-NYC (1-844-628-4692)

15 RCNY 4-04(d)(4)	BA78	Failure to connect/operate vapor collection/control system on gas transport vehicle
15 RCNY 4-05	BA79	Failure to control visible leaks from vehicle vapor collection/control system
15 RCNY 12-04(a)	BA2D	PERCHLORETHYLENE DRY CLEANING FACILITIES Installation of perc dry cleaning machine in residential building after 7/13/06
15 RCNY 12-04(b)	BA3D	Failure to eliminate perc use in specified machines by 7/13/09
15 RCNY 12-05(a)	BA1A	Failure to install vapor barrier or room enclosure and general exhaust ventilation
15 RCNY 12-06(a)	BA2A	Improper vapor barrier or room enclosure and general exhaust ventilation
15 RCNY 12-06(a)(4)(i)	BA3A	Improper process emission point location
15 RCNY 12-06(a)(4)(iii)	BA4A	Process emissions greater than 20 ppm
15 RCNY 12-06(a)(4)(iv)	BA5A	Failure to properly operate exhaust damper
15 RCNY 12-06(a)(5), 15 RCNY 12-06(a)(6)	BA6A	Failure to have proper emission control systems
15 RCNY 12-06(b)	BA7A	Failure to remove equipment from service
15 RCNY 12-06(b)	BA8A	Failure to properly replace, retrofit, or convert equipment
15 RCNY 12-06(b)	BA9A	Fugitive emission greater than 50 ppm
15 RCNY 12-07(a), 15 RCNY 12-07(b)	BA1B	Failure to inspect or self-monitor
15 RCNY 12-07(g)	BA2B	Failure to repair leak w/in 24 hrs.
15 RCNY 12-08	BA3B	Failure to comply with O&M requirements
15 RCNY 12-08(d)(7)	BA4B	Failure to have proper spill control equipment
15 RCNY 12-08(d)(8)	BA5B	Failure to keep solvent containers closed
15 RCNY 12-10	BA6B	Failure to properly manage hazardous waste
15 RCNY 12-11(a)	BA7B	Failure to seal floor drains
15 RCNY 12-11(b)	BA8B	Failure to install proper spill containment system
15 RCNY 12-11(c)	BA9B	Failure to report release, fire or explosion
15 RCNY 12-11(d)	BA1C	Failure to record emergency response actions
15 RCNY 12-12	BA2C	Failure to maintain proper records
15 RCNY 12-13	BA3C	Installation of uncertified equipment
15 RCNY 12-14(a)(1)	BA4C	Failure to have owner or manager certification
15 RCNY 12-14(a)(2)	BA5C	Failure to have operator certification
15 RCNY 12-14(e)	BA4D	Failure to attend required DEC training and hold valid



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Environmental Control Board Hearings

66 John St., 10th Floor
 New York, NY 10038
 Telephone: 1-844-OATH-NYC (1-844-628-4692)

		DEC certificate
15 RCNY 12-15(a)	BA6C	Failure to submit notice of alteration or modifications
15 RCNY 12-15(b)	BA7C	Failure to have work permit or operating certificate
15 RCNY 12-16	BA8C	Failure to have 3d. Party inspection
15 RCNY 12-18(a)	BA9C-1st, BA9D-2nd, BA9E-3rd	Failure to post New York State perc notice in easily visible location
15 RCNY 12-18(b)	BA9F-1st BA9G-2nd BA9H-3rd	Failure to post perc notice in easily visible location
15 RCNY 12-18(c)	BA9J-1st BA9K-2nd BA9L-3rd	Failure to post notice regarding non-perc chemical in easily visible location
15 RCNY 12-18(d)	BA9M-1st BA9N-2nd BA9P-3rd	Failure to post perc and non-perc notices
15 RCNY 12	BA1D	Violation of perc dry cleaner rules
NYC Admin. Code Title 24	BA99	Misc. Violation of Air Pollution Control Code
		CONSTRUCTION DUST RULES
15 RCNY13-01(d)	BAA1, BAD3	No access to inspect site
15 RCNY13-01(e)	BAA2, BAD4	Interference w/DEP employee
15 RCNY13-04(a)	BAA3, BAD5	Failed to control release of dust from construction by wetting or other acceptable means
15 RCNY13-04(b)	BAA4, BAD6	Failed to cover trucks used to transport particulate matter
15 RCNY13-04(c)	BAA5, BAD7	Failed to provide adequate water to perform wet method of dust control
15 RCNY13-04(e)	BAA6, BAD8	Failed to provide suitable drainage for water and sludge
15 RCNY13-05(a)	BAA7, BAD9	Failed to wet (& maintain wet) all exterior building surfaces prior to & during demolition
15 RCNY13-05(b)	BAA8, BAE1	Failed to wet and/or cover construction materials before & during loading and transport
15 RCNY13-05(c)	BAA9, BAE2	Failed to use wetting to control dust during drilling, grinding or other similar construction activities
15 RCNY13-05(d)	BAB1, BAE3	Failed to control dust produced at transfer points
15 RCNY13-05(e)	BAB2, BAE4	Failed to have sprinklers at transfer points capable of being operated by person responsible for loading
15 RCNY13-05(f)	BAB3, BAE5	Failed to moisten soil or debris piles to prevent windblown dust
15 RCNY13-06(a)	BAB4, BAE6	Failed to properly remove debris during hand demolition
15 RCNY13-06(b)	BAB5, BAE7	Failed to board up windows to prevent dust emission during renovation
15 RCNY13-06(c)	BAB6, BAE8	Failed to suppress dust during sandblasting
15 RCNY13-06(d)	BAB7, BAE9	Failed to cover trucks used to transport dust-producing materials
15 RCNY13-06(e)	BAB8, BAF1	Failed to remove earth or other materials daily
15 RCNY13-06(g)	BAB9, BAF2	Used blowers for mud or dirt removal
15 RCNY13-06(h)	BAC1, BAF3	Failed to operate construction vehicles slowly to minimize dust emissions
15 RCNY13-06(i)	BAC2, BAF4	Failed to properly stabilize disturbed areas
15 RCNY13-07(b)	BAC3, BAF5	Failed to wet adequately before and during demolition
15 RCNY13-07(c)	BAC4, BAF6	Failed to use chutes/buckets to transport debris
15 RCNY13-07(d)	BAC5, BAF7	Failed to remove dust/debris daily from adjacent areas



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Environmental Control Board Hearings

66 John St., 10th Floor
 New York, NY 10038
 Telephone: 1-844-OATH-NYC (1-844-628-4692)

15 RCNY13-08(a)	BAC6, BAF8	Performed dry sandblasting
15 RCNY13-08(b)	BAC7, BAF9	Failed to use containment during sandblasting
15 RCNY13-08(c)	BAC8, BAG1	Failed to use curtains during sandblasting
15 RCNY13-08(d)	BAC9, BAG2	Failed to give required advance notice of sandblasting
15 RCNY13-09	BAD1, BAG3	Failed to register dust-emitting construction equipment with DEP
15 RCNY13-10	BAD2, BAG4	Failed to prevent dust emission from open areas after demolition
24-163.9(b)	BA1T, BA2E, BA2F	Failed to retrofit diesel school bus with crankcase ventilation system
24-163.9(b)	BA1U, BA2G, BA2H	Failed to retrofit diesel school bus w/crankcase ventilation system(agg penalty)
24-163.9(c)	BA1V, BA2J, BA2K	Used diesel school bus over 16 yrs old to fulfill school bus contract
24-163.9(c)	BA1W, BA2M, BA2N	Used diesel school bus over 16 yrs old to fulfill school bus contract(agg penalty)
24-163.9(d)	BA1X, BA2P, BA2Q	Failed to replace retired school bus with low-emission school bus
24-163.9(d)	BA1Y, BA2R, BA2S	Failed to replace retired school bus with low-emission school bus(agg penalty)
24-163.9(h)	BA1Z, BA2T, BA2U	Made false claim regarding retrofit of diesel school bus

	ECB Computer Code	STAGE I DROUGHT EMERGENCY
A.C. 24-337	AW01	Waste of city water (commercial or industrial)
A.C. 24-337	AW02	Waste of city water (residential)
21-06	AW03	Failure to post "Save Water" signs
21-07	AW04	Failure to post Water-Conserving Irrigation System sign
21-08	AW05	Improper use of well water
21-09(a)	AW06	Allowing leak or waste of water from faucets, valves, pipes etc.
21-09(b)	AW07	Using public water to wash vehicles
21-09(c)	AW08	Using water to spray or wash sidewalk, street
21-09(d)	AW09	Using any water for ornamental purposes
21-09(e)	AW10	Using water for lawns, golf course, plants, trees
21-09(f)	AW11	Illegal use of fire hydrants
21-09(g)	AW12	Serving water without request
21-09(h)	AW13	Use of public water for pools
21-09(i)	AW14	Use of noncompliant showerhead
		STAGE II DROUGHT EMERGENCY
A.C. 24-337	AW15	Waste of city water (commercial or industrial)
A.C. 24-337	AW16	Waste of city water (residential)
21-06	AW17	Failure to post "Save Water" signs



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Environmental Control Board Hearings

66 John St., 10th Floor
 New York, NY 10038
 Telephone: 1-844-OATH-NYC (1-844-628-4692)

21-07	AW18	Failure to post Water-Conserving Irrigation System sign
21-08	AW19	Improper use of well water
21-10(a)	AW20	Allowing leak or waste of water from faucets, valves, pipes etc.
21-10(b)	AW21	Using public water to wash vehicles
21-10(c)	AW22	Using water to spray or wash sidewalk, street
21-10(d)	AW23	Using any water for ornamental purposes
21-10(e)	AW24	Using water for lawns, golf course, plants, trees
21-10(f)	AW25	Illegal use of fire hydrants
21-10(g)	AW26	Serving water without request
21-10(h)	AW27	Use of public water for pools
21-10(i)	AW28	Use of noncompliant showerhead
STAGE III DROUGHT EMERGENCY		
A.C. 24-337	AW29	Waste of city water (commercial or industrial)
A.C. 24-337	AW30	Waste of city water (residential)
21-06	AW31	Failure to post "Save Water" signs
21-07	AW32	Failure to post Water-Conserving Irrigation System sign
21-08	AW33	Improper use of well water
21-11(a)	AW34	Allowing leak or waste of water from faucets, valves, pipes etc.
21-11(b)	AW35	Using public water to wash vehicles
21-11(c)	AW36	Using water to spray or wash sidewalk, street
21-11(d)	AW37	Using any water for ornamental purposes
21-11(e)	AW38	Using water for lawns, golf course, plants, trees
21-11(f)	AW39	Illegal use of fire hydrants
21-11(g)	AW40	Serving water without request
21-11(h)	AW41	Use of public water for pools
21-11(i)	AW42	Use of noncompliant showerhead
21-11(j)	AW43	Use of non-air cooled air conditioning system using public water with temperature below 79 F.
OTHER WATER REGULATIONS		
AC 24-308	AW44	Illegal Use of Hydrant(s)
AC 24-337	AW45	Illegal waste of water (Residential)
AC 24-339	AW46	Distribution/Sale/Import/Installation of water wasting plumbing fixtures
A.C. 24-346(b)	AW68	Failed to comply with Commissioner's Order
20-01 (b)(1)	AW47	Plumbing work w/o permit
20-01(e)	AW48	Failed to produce permit on demand
20-01(f)	AW49	Failed to obtain/return emergency permit
20-02(b)	AW50	Unlawful connection to City main



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Environmental Control Board Hearings

66 John St., 10th Floor
New York, NY 10038
Telephone: 1-844-OATH-NYC (1-844-628-4692)

15 RCNY 20-03(k)(4)	AW82	Failed to protect curb valve/box from damage
15 RCNY 20-03(w)	AW83	Failed to replace old service pipes upon establishment of new water service
15 RCNY 20-03(x)	AW84	Failed to install meter on unmetered property when service pipe is replaced/repared/relaid/installed
20-05(a)	AW53	No meter in place
20-05(b)(1)	AW54	Meter repair/removal w/o permit
20-05(b)(2)	AW55	Failed to return meter permit
20-05(d)(5)	AW56	No reading receptacle for remote pad
20-05(g)	AW57	Improper size/type of meter
20-05(i)(1)	AW58	Meter not readily accessible
20-05(i)(2-12)	AW59	Improper setting of meter
15 RCNY 20-05(i)(12)	AW85	Failed to design meter setting to ensure electrical continuity
20-05(j)	AW60	Prohibited meter bypass
20-05(k)	AW61	Improper meter pit/box/vault construction
15 RCNY 20-05(m)(1)	AW86	Failed to install new meter after unpermitted disconnection of old meter
20-05(n)	AW62	Breaking seal on equipment w/o permit
20-05(p)	AW63	Inadequate protection of meter/remote receptacle/AMR transmitter/wiring
20-06	AW64	A.C./refrigeration violation
15 RCNY 20-07(c)	AW69	Failed to submit self-certification of domestic water service pipe installation
20-08(a)(6)	AW65	Lawn/garden watering prohibited time/manner
20-08(a)(7)	AW66	Sidewalk flushing prohibited time/manner
20-08(a)(9)	AW67	Prohibited use of water for car washing
15 RCNY Chap. 20	AW99	Violation of miscellaneous rules regarding use and supply of water

This Letter of Agreement and the Letter of Agreement entered into on May 13, 2011 comprise all DEP violations that may be heard by mail, one click or telephone.

This Letter of Agreement may be modified in writing by authorized representatives of the parties. It may not be modified, rescinded or extended orally.

If you agree, please countersign below and return a copy of this letter of Agreement to me so that we each have a formal record of our agencies' agreement.

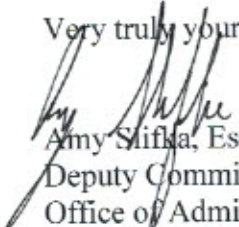


OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Environmental Control Board Hearings

66 John St., 10th Floor
New York, NY 10038
Telephone: 1-844-OATH-NYC (1-844-628-4692)

Thank you for your assistance in this matter.

Very truly yours,


Amy Sifka, Esq.
Deputy Commissioner
Office of Administrative Trials and Hearings

Agreed: _____

By: Russell Pecunies
Assistant Counsel
Department of Environmental Protection