

ENVIRONMENTAL CONTROL BOARD

NOTICE OF OPPORTUNITY TO COMMENT on Proposed Rule regarding penalties for offenses adjudicated by the Environmental Control Board (ECB).

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED in the Environmental Control Board (ECB) by Section 1049-(c)(3) of the New York City Charter, and by 1049-a of the New York City Charter and in accordance with Section 1043(b) of the Charter, that the Environmental Control Board proposes to amend subchapter G of Chapter 3 of Title 48 of the Rules of the City of New York, setting forth penalties for offenses adjudicated by the Environmental Control Board. New matter in the following rule is underlined, and deleted material is in brackets. This rule was not included in the Environmental Control Board's regulatory agenda because it was not anticipated at the time the agenda was created.

Written comments regarding the proposed rule may be sent to James Macron, Counsel to the Board, ECB, 66 John Street, 10th Floor, New York, NY 10038, on or before August 10, 2010. Members of the public may also submit comments on the rule electronically through NYC RULES at www.nyc.gov/nycrules. A public hearing regarding the proposed rule will be held on August 10, 2010, in ECB's 10th Floor Conference Room, at 66 John Street, 10th Floor, New York, NY 10038, at 5:00 p.m. Persons seeking to testify are requested to notify James Macron, Counsel to the Board, ECB, 66 John Street, 10th Floor, New York, NY 10038, (212) 361-1515, on or before August 10, 2010. Persons who need a sign language interpreter or other accommodation for a disability are asked to notify James Macron, Counsel to the Board, ECB, 66 John Street, 10th Floor, New York, NY 10038, (212) 361-1515 by August 3, 2010. Persons interested in receiving written comments and a transcript of oral comments on the proposed rule may request them by writing to: James Macron, Counsel to the Board, ECB, 66 John Street, 10th Floor, New York, NY 10038.

Section 1. Chapter 31 of Title 15, Subchapter G of the Rules of the City of New York is amended by adding a new section, 3-127, to read as follows:

New matter is underlined.

§3-127: Small Business Services Penalty Schedule

SMALL BUSINESS SERVICES PENALTY SCHEDULE

*For these sections, a repeat violation is a violation by the same respondent of 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.

<u>SECTION/RULE</u>	<u>DESCRIPTION</u>	<u>PENALTY</u>	<u>DEFAULT</u>
<u>§22-112(a)(1)*</u>	<u>Placement, discharge</u>	<u>1st offense: \$1,500</u>	<u>1st offense: \$10,000</u>

	<u>or deposit of refuse, sludge, acid or any other refuse into the Port of New York</u>	<u>2nd offense: \$5,000</u> <u>3rd offense: \$10,000</u> <u>4th offense: \$15,000</u> <u>5th and any subsequent offense:\$20,000</u>	<u>2nd offense: \$20,000</u> <u>3rd offense: \$20,000</u> <u>4th offense: \$20,000</u> <u>5th and any subsequent offense:\$20,000</u>
<u>§22-112(a)(2)*</u>	<u>Discharging, causing or permitting oil, oil refuse or other inflammable matter from any ship or vessel into the Port of New York</u>	<u>1st offense: \$1,500</u> <u>2nd offense: \$5,000</u> <u>3rd offense: \$10,000</u> <u>4th offense: \$15,000</u> <u>5th and any subsequent offense:\$20,000</u>	<u>1st offense: \$10,000</u> <u>2nd offense: \$20,000</u> <u>3rd offense: \$20,000</u> <u>4th offense: \$20,000</u> <u>5th and any subsequent offense:\$20,000</u>

Statement of Basis and Purpose of Proposed Rule

The Environmental Control Board (ECB) proposes adding a new penalty schedule to the ECB Penalty Schedules. This new schedule will cover violations issued by the Department of Small Business Services (SBS).

On March 18, 2010, Mayor Bloomberg signed Intro. No. 54-A into law as Local Law No. 4 of 2010. Local Law No.4 implements a change to the New York City Administrative Code by providing for a civil penalty to be recovered through an action brought before the Environmental Control Board (ECB) for illegal dumping into the Port of New York. Although violations of these sections may be issued by the Department of Sanitation and the Department of Environmental Protection, primary enforcement will be by SBS. As a result, ECB seeks to establish a Penalty schedule for the SBS, including violations of Local Law No. 4 of 2010.

The penalty provisions, set forth in §22-112(c), allow for the imposition of a penalty of not less than \$1,500 nor more than \$10,000 for the first violation and not less than \$5,000 nor more than \$20,000 for each subsequent violation.