

NEW YORK CITY DEPARTMENT OF ENVIRONMENTAL PROTECTION

Notice of Public Hearing and Opportunity to Comment on Proposed Rules

What are we proposing? The Department of Environmental Protection (“DEP” or “Department”) is proposing rules that would establish penalties for violations of Title 24, Chapter 1 of the New York City Administrative Code, also known as the Air Pollution Control Code.

When and where is the hearing? The Department will hold a public hearing on the proposed rule. The public hearing will take place at 10 a.m. on April 7, 2016. The hearing will be held in the 11th floor conference room at 59-17 Junction Boulevard, Flushing, New York.

How do I comment on the proposed rules? Anyone can comment on the proposed rules by:

- **Website.** You can submit comments to DEP through the NYC Rules web site at <http://rules.cityofnewyork.us>.
- **Email.** You can email written comments to nycrules@dep.nyc.gov.
- **Mail.** You can mail written comments to DEP’s Bureau of Legal Affairs, 59-17 Junction Boulevard, 19th Floor, Flushing, NY 11373.
- **Fax.** You can fax written comments to DEP’s Bureau of Legal Affairs, at 718-595-6543.
- **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 718-595-6531. You can also sign up in the hearing room before the hearing begins on April 7, 2016. You can speak for up to three minutes.

Is there a deadline to submit written comments? Yes, you must submit written comments by April 6, 2016.

Do you need assistance to participate in the hearing? You must tell the Bureau of Legal Affairs 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 718-595-6531. You must tell us by April 1, 2016.

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 Bureau of Legal Affairs.

What authorizes the Department to make this rule? Section 1043 of the City Charter and sections 24-178 and 24-105 of the Administrative Code authorize the Department to make this proposed rule. This proposed rule was included in the Department’s regulatory agenda for this fiscal year.

Where can I find the Department’s rules? The Department’s rules are in Title 15 of the Rules of the City of New York.

What rules govern the rulemaking process? The Department must meet the requirements of Section 1043(c) 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 of Proposed Rule

DEP is proposing new rules, to be found at Title 15 of the Rules of the City of New York (“RCNY”) Chapter 43, to establish penalties for violations of Title 24, Chapter 1 of the New York City Administrative Code, also known as the Air Pollution Control Code (“Air Code”), as amended by Local Law 38 of 2015 (“LL 38”). The proposed rules are authorized by Section 1043 of the Charter of the City of New York and sections 24-105 and 24-178 of the Administrative Code.

LL 38, which takes effect on May 6, 2016, amends Title 24 of the Administrative Code by adding a new Table of Civil Penalties, replacing the existing table, which is found in Section 24-178(b)(5)(i), and simplifies the existing table by establishing four categories of violations, with minimum penalties of \$200, \$400, \$800 and \$1600, respectively. The existing table has a wider range of penalties and requires frequent references to accompanying schedules that have been eliminated from the new table.

The existing Air Code Penalty Schedule is incorporated into the rules of the Office of Administrative Trials and Hearings/Environmental Control Board (“OATH/ECB”) published at 48 RCNY 3-102. Because the penalties in the existing Air Code Penalty Schedule do not, in many cases, fall within the range of penalties established by LL 38, a new Air Code Penalty Schedule is being proposed. The new penalty schedule would take effect on May 6, 2016, the same date as LL 38 becomes effective. It would apply as provided by proposed rules of OATH/ECB, which would also repeal the existing penalty schedule, effective the same day.

New text is underlined.

The text of the proposed rule follows:

Section 1. Title 15 of the Rules of the City of New York is amended by adding a new Chapter 43 to read as follows:

Chapter 43. Air Code Penalty Schedule

§43-01 General

1. Unless otherwise indicated, all citations are to the New York City Administrative Code.

2. Sections marked with an asterisk (*) indicate that the conduct or activity is subject to an aggravated penalty for excess profit, equal to twice the amount of money saved by respondent as a result of its failure to comply. When an aggravated penalty is sought, it will be indicated on the face of the summons and no stipulation will be offered. The respondent will be required to appear.

3. “Stipulation” is abbreviated as “Stip.”

4. “N/A” means not applicable.

5. Except in connection with violations of Section 24-163, a second offense means a violation of any section of the Air Code by the same respondent within two years of the prior violation, at the same premises (if premises-related), and involving the same equipment. In connection with violations of Section 24-163, a second or third or subsequent offense is a violation by the same respondent within two years of the prior violation(s) and involving the same equipment, where the prior violation(s) was for a violation of Section 24-163.

6. “(Mitigation: 0¹)” A zero penalty may be imposed for a first offense following a respondent’s timely submission to DEP (within 45 days of the return date indicated on the Notice of Violation) of acceptable certification of compliance and admission of liability.

§43-02 Air Code Penalty Schedule

When a respondent is found in violation of any of the following provisions of the New York City Administrative Code, Rules of the City of New York, or New York Codes, Rules and Regulations, any civil penalties recommended by a Hearing Officer under 48 RCNY §3-57(a) and/or any default penalties imposed under 48 RCNY §3-81(a) in accordance with §1049-a(d)(1)(d) of the Charter, and/or any civil penalties imposed for admissions of violation(s) under 48 RCNY §3-32 or late admissions under 48 RCNY §3-81(b), will be imposed in accordance with the following penalty schedule:

| <u>Section of Law</u> | <u>Violation Description</u> | <u>Compliance</u> | <u>1st Offense Stip. (\$)</u> | <u>1st Offense (\$)</u> | <u>Default Penalty (\$)</u> | <u>2nd Offense (\$)</u> | <u>2nd Stip. (\$)</u> | <u>3rd and Subsq. Offense (\$)</u> | <u>3rd and Subsq. Stip. (\$)</u> |
|-----------------------|--------------------------------------------------------------------------------------|-------------------------------------------------------------|-------------------------------|-------------------------|-----------------------------|-------------------------|-----------------------|------------------------------------|----------------------------------|
| 24-108(f) | Location of key to boiler room not posted or no key on premises | Post sign/provide key - forthwith | 200 | 200 | 800 | 400 | 400 | 600 | 600 |
| 24-109(a)(1) | Spraying insulation material without registration | Register for spraying - forthwith | 800 | 800 | 3,200 | 1,600 | 1,600 | 2,400 | 2,400 |
| 24-109(a)(2) | Building demolition without registration | Register demolition site - forthwith | 800 | 800 | 3,200 | 1,600 | 1,600 | 2,400 | 2,400 |
| 24-109(a)(3) | Unregistered boiler or water heater – 350,000-4,200,000 btu/hr | Obtain registration - 60 days | 400 | 400 | 1,600 | 800 | 800 | 1,200 | 1,200 |
| 24-109(a)(4) | Unregistered boilers or water heaters – aggregate 350,000+ btu/hr | Obtain registration - 60 days | 400 | 400 | 1,600 | 800 | 800 | 1,200 | 1,200 |
| 24-109(a)(5) | Unregistered fuel burning equipment or portable equipment – 350,000-4,200,000 btu/hr | Obtain registration – 60 days | 400 | 400 | 1,600 | 800 | 800 | 1,200 | 1,200 |
| 24-109(a)(6) | Unregistered emergency generator – 40 kw+ | Obtain registration – 60 days | 400 | 400 | 1,600 | 800 | 800 | 1,200 | 1,200 |
| 24-109(a)(7) | Unregistered portable generator – 40 kw+ | Obtain registration – 60 days | 400 | 400 | 1,600 | 800 | 800 | 1,200 | 1,200 |
| 24-109(a)(8) | Unregistered portable engine – 50-600 hp | Obtain registration – 60 days | 400 | 400 | 1,600 | 800 | 800 | 1,200 | 1,200 |
| 24-109(a)(9) | Unregistered stationary generator – 40-450 kw | Obtain registration – 60 days | 400 | 400 | 1,600 | 800 | 800 | 1,200 | 1,200 |
| 24-109(a)(10) | Unregistered stationary engine – 50-600 hp | Obtain registration – 60 days | 400 | 400 | 1,600 | 800 | 800 | 1,200 | 1,200 |
| 24-109(a)(11) | Unregistered engine used at construction site – 50 hp + | Obtain registration – 60 days | 400 | 400 | 1,600 | 800 | 800 | 1,200 | 1,200 |
| 24-109(a)(12) | Unregistered equipment with environmental rating of C – 100-2,000 cfm | Obtain registration – 60 days | 400 | 400 | 1,600 | 800 | 800 | 1,200 | 1,200 |
| 24-109(a)(13) | Unregistered cogeneration system – 350,000-4,200,000 btu/hr | Obtain registration – 60 days | 400 | 400 | 1,600 | 800 | 800 | 1,200 | 1,200 |
| 24-109(a)(14) | Unregistered flare | Obtain registration – 60 days | 400 | 400 | 1,600 | 800 | 800 | 1,200 | 1,200 |
| 24-109(a)(15) | Unregistered gasoline dispensing station | Obtain registration – 60 days | 400 | 400 | 1,600 | 800 | 800 | 1,200 | 1,200 |
| 24-109(a)(16) | Unregistered commercial char broiler | Obtain registration – 60 days | 400 | 400 | 1,600 | 800 | 800 | 1,200 | 1,200 |
| 24-109(a)(17) | Unregistered equipment – all other emission sources | Obtain registration – 60 days | 400 | 400 | 1,600 | 800 | 800 | 1,200 | 1,200 |
| 24-109(f) | Failure to notify regarding change in registration information | Notify of change – forthwith | 400 | 400 | 1,600 | 800 | 800 | 1,200 | 1,200 |
| 24-109(g) | Operating emission source with expired registration | Obtain renewal of registration - 60 days | 400 | 400 | 1,600 | 800 | 800 | 1,200 | 1,200 |
| 24-109(h) | Failure to cancel existing registration upon registration of new equipment | Cancel existing registration – forthwith | 400 | 400 | 1,600 | 800 | 800 | 1,200 | 1,200 |
| 24-109(i) | Failure to notify and cancel registration when removing registered equipment | Notify and cancel registration – forthwith | 400 | 400 | 1,600 | 800 | 800 | 1,200 | 1,200 |
| 24-111 | Interference with or obstruction of DEP personnel | Stop interference with personnel - forthwith | 400 | 400 | 1,600 | 800 | 800 | 1,200 | 1,200 |
| 24-112 | Making/filing false or misleading statements/documents | Submit accurate/truthful documented information - forthwith | No | 400 | 1,600 | 800 | No | 1,200 | No |
| 24-113 | Permit, certificate, or registration not displayed | Post permit, certificate, or registration - forthwith | 200 | 200 | 800 | 400 | 400 | 600 | 600 |
| 24-118 | Installation of refuse burning equipment other than permitted types | Remove prohibited equipment - forthwith | No | 1,600 | 6,400 | 3,200 | No | 4,800 | No |

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| 24-120 | Equipment installed/altered without work permit | File plans and application - 30 days | 800 | 800 | 3,200 | 1,600 | No | 2,400 | No |
| 24-122(a) | Operating permitted equipment without operating certificate | Obtain operating certificate – 90 days | 800 | 800 | 3,200 | 1,600 | 1,600 | 2,400 | 2,400 |
| 24-122(b)(1) | Operating fuel burning equipment without operating certificate | Obtain operating certificate - 90 days | 800 | 800 | 3,200 | 1,600 | No | 2,400 | No |
| 24-122(b)(2) | Operating process equipment without operating certificate | Obtain operating certificate - 90 days | 800 | 800 | 3,200 | 1,600 | No | 2,400 | No |
| 24-122(b)(3) | Operating portable equipment without operating certificate | Obtain operating certificate - 90 days | 800 | 800 | 3,200 | 1,600 | No | 2,400 | No |
| 24-122(b)(4) | Operating permitted types of refuse burning equipment without operating certificate | Obtain operating certificate - 90 days | 800 | 800 | 3,200 | 1,600 | No | 2,400 | No |
| 24-123(d) | Operating without renewal of expired operating certificate | File for renewal of operating certificate - 30 days | 800 | 800 | 3,200 | 1,600 | No | 2,400 | No |
| 24-131 | Failure to comply with conditions of work permit or operating certificate | Comply with conditions – forthwith | 200 | 200 | 800 | 400 | 400 | 600 | 600 |
| 24-135 | Improper transfer of work permit | Recertify application - forthwith | 400 | 400 | 1,600 | 800 | 800 | 1,200 | 1,200 |
| 24-140 | Spraying asbestos onto building or structure during construction, alteration or repair | Stop spraying asbestos – forthwith | 400 | 400 | 1,600 | 800 | 800 | 1,200 | 1,200 |
| 24-141 | Emission of odorous air contaminant | Stop odorous emission – forthwith | 400 | 400 | 1,600 | 800 | 800 | 1,200 | 1,200 |
| 24-142 | Emission of air contaminant (smoke) | Operate without further emissions – forthwith | 400 | 400 | 1,600 | 800 | 800 | 1,200 | 1,200 |
| 24-143 | Emission of air contaminant from motor vehicle | Operate without further emissions – forthwith | 200 | 200 | 800 | 400 | 400 | 600 | 600 |
| 24-145 | Emission of particulates | Prevent particulates from becoming airborne - forthwith | 800 | 800 | 3,200 | 1,600 | 1,600 | 2,400 | 2,400 |
| 24-146(b) | Dust allowed to become airborne | Keep dust from becoming airborne - forthwith | 400 | 400 | 1,600 | 800 | 800 | 1,200 | 1,200 |
| 24-146(c) | Dust resulting from construction activity | Keep dust from becoming airborne - forthwith | 400 | 400 | 1,600 | 800 | 800 | 1,200 | 1,200 |
| 24-146(d) | Failure to take precautions to prevent dust from lots covered by ZR 12-10 | Take precautions to prevent dust from becoming air borne - forthwith | 400 | 400 | 1,600 | 800 | 800 | 1,200 | 1,200 |
| 24-146(e) | Spraying of insulation material without proper required precaution | Take proper precautions for spraying - forthwith | 800 | 800 | 3,200 | 1,600 | 1,600 | 2,400 | 2,400 |
| 24-146(f) | Failure to take required precautions during demolition | Take proper precautions for demolition - forthwith | 800 | 800 | 3,200 | 1,600 | 1,600 | 2,400 | 2,400 |
| 24-147 | Emission of nitrogen oxides from boiler | Reduce nitrogen oxides emissions to legal limits - forthwith | 800 | 800 | 3,200 | 1,600 | 1,600 | 2,400 | 2,400 |
| 24-148 | Use of prohibited architectural coating | Stop use of prohibited coating - forthwith | 800 | 800 | 3,200 | 1,600 | 1,600 | 2,400 | 2,400 |
| 24-149 | Causing or permitting air contaminant from open fire | Stop use of open fire - forthwith | 200 | 200 | 800 | 400 | 400 | 600 | 600 |
| 24-149.1(a) | Burning improper fuel in outdoor wood boiler | Stop use of improper fuel – forthwith | 400 | 400 | 1,600 | 800 | 800 | 1,200 | 1,200 |
| 24-149.1(b) | Impermissible smoke emission from outdoor wood boiler | Stop emission from boiler – forthwith | 400 | 400 | 1,600 | 800 | 800 | 1,200 | 1,200 |
| 24-149.1(c) | Improperly operating outdoor wood boiler under 250,000 btu/hr | Stop improper operation of boiler – forthwith | 400 | 400 | 1,600 | 800 | 800 | 1,200 | 1,200 |
| 24-149.1(d) | Operating outdoor wood boiler over 250,000 btu/hr | Stop operating boiler – forthwith | 400 | 400 | 1,600 | 800 | 800 | 1,200 | 1,200 |
| 14-149.2(b) | Operating fireplace as primary source of heat | Stop operating fireplace – forthwith | 400 | 400 | 1,600 | 800 | 800 | 1,200 | 1,200 |
| 24-149.2(c) | Operating new fireplace with improper fuel | Use proper fuel – forthwith | 400 | 400 | 1,600 | 800 | 800 | 1,200 | 1,200 |
| 24-149.2(d) | Operating existing fireplace with improper firewood | Use proper firewood – forthwith | 400 | 400 | 1,600 | 800 | 800 | 1,200 | 1,200 |
| 24-149.2(e) | Operating fireplace not in compliance with federal emissions standards | Stop using fireplace – forthwith | 400 | 400 | 1,600 | 800 | 800 | 1,200 | 1,200 |

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| 24-149.3(a) | Operating wood burning heater as primary source of heat | Stop operating heater – forthwith | 400 | 400 | 1,600 | 800 | 800 | 1,200 | 1,200 |
| 24-149.3(b) | Operating wood burning heater with non-renewable fuel | Stop operating heater with improper fuel – forthwith | 400 | 400 | 1,600 | 800 | 800 | 1,200 | 1,200 |
| 24-149.4(b) | Operating commercial char broiler to cook 875+ lbs of meat without emissions control | Install emissions control – forthwith | 800 | 800 | 3,200 | 1,600 | 1,600 | 2,400 | 2,400 |
| 24-149.4(d) | Failure to keep maintenance records for commercial char broiler | Maintain records – forthwith | 800 | 800 | 3,200 | 1,600 | 1,600 | 2,400 | 2,400 |
| 24-149.4(e) | Failure to maintain records showing amount of meat cooked/purchased for commercial char broiler | Maintain records – forthwith | 800 | 800 | 3,200 | 1,600 | 1,600 | 2,400 | 2,400 |
| 24-149.5 | Operating cookstove without emission control device | Install required device – forthwith | 400 | 400 | 1,600 | 800 | 800 | 1,200 | 1,200 |
| 24-149.6(a) | Operating stationary generator not equipped with Tier 4 engine | Stop operating generator – forthwith | 400 | 400 | 1,600 | 800 | 800 | 1,200 | 1,200 |
| 24-151 | Concealing or masking of air contaminant emission | Undo concealment or masking of air contaminant – 30 days | 800 | 800 | 3,200 | 1,600 | 1,600 | 2,400 | 2,400 |
| 24-153 | Air contaminant emission exceeding environmental rating | Reduce air contaminant level as per environmental. rating - forthwith | 800 | 800 | 3,200 | 1,600 | 1,600 | 2,400 | 2,400 |
| 24-155 | Improper maintenance of equipment | Maintain equipment properly - forthwith | 400 | 400 | 1,600 | 800 | 800 | 1,200 | 1,200 |
| 24-156 | Use of fuel burning equipment without required apparatus | Use required apparatus while operating equipment – forthwith | 400 | 400 | 1,600 | 800 | 800 | 1,200 | 1,200 |
| 24-159 | Use of fuel burning equipment by person without certificate of fitness | Operate equipment with qualified personnel - forthwith | 200 | 200 | 800 | 400 | 400 | 600 | 600 |
| 24-160 | No air contaminant recorder for boiler | Install and use air contaminant recorder - forthwith | 400 | 400 | 1,600 | 800 | 800 | 1,200 | 1,200 |
| 24-161 | Operating fuel burning equipment without certificate of instruction | Obtain certificate of instruction - 180 days | 200 | 200 | 800 | 400 | 400 | 600 | 600 |
| 24-163 | Idling of motor vehicle engine more than three minutes | Do not idle motor vehicle more than 3 minutes - forthwith | 350 | 350 | 1st: 1,000; 2nd: 1,500; 3rd and subsg: 2,000 | 440 | 440 | 600 | 600 |
| 24-163(f) | Idling of motor vehicle engine more than one minute while adjacent to school | Do not idle motor vehicle more than 1 minute - forthwith | 350 | 350 | 1st: 1,000; 2nd: 1,500; 3rd and subsg: 2,000 | 440 | 440 | 600 | 600 |
| 24-163.3(b)(1)* | Failure to use ultra low sulfur diesel fuel in non-road vehicle | Use low sulfur fuel in non-road vehicle - forthwith | 1,000 | 1,000 | 10,000 | 5,000 | 5,000 | 5,000 | 5,000 |
| 24-163.3(b)(2)* | Failure to use best available technology for emission reduction in non-road vehicle | Use best available technology - forthwith | 1,000 | 1,000 | 10,000 | 5,000 | 5,000 | 5,000 | 5,000 |
| 24-163.5(b)(1)* | Failure to comply with solid waste/recyclable contract spec to use ultra low sulfur diesel fuel (ULSDF) | Use ULSDF–forthwith | 1,000 | 1,000 | 10,000 | 5,000 | 5,000 | 5,000 | 5,000 |
| 24-163.5(b)(2)* | Failure to comply with solid waste/recyclable contract spec to use best available retrofit technology (BART) | Use BART – forthwith | 1,000 | 1,000 | 10,000 | 5,000 | 5,000 | 5,000 | 5,000 |
| 24-163.6(b)* | Failure to use best available retrofit technology for sightseeing bus | Use BART – forthwith | 1,000 | 1,000 | 10,000 | 5,000 | 5,000 | 5,000 | 5,000 |

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|-----------------|------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------|----------------|-------|-------|-------|-------|
| 24-163.7(b)(2)* | Failure to use ultra low sulfur diesel fuel in school bus | Use ULSD - forthwith | 1,000 | 1,000 | 10,000 | 5,000 | 5,000 | 5,000 | 5,000 |
| 24-163.7(c)* | Failure to use best available retrofit technology in school bus as per schedule | Use BART - forthwith | 1,000 | 1,000 | 10,000 | 5,000 | 5,000 | 5,000 | 5,000 |
| 24-163.8(b)(1) | Failure to use ultra low sulfur diesel fuel in generator for film/TV/Ad/street fair | Use ULSD - forthwith | 500 | 500 | 500 | 500 | 500 | 500 | 500 |
| 24-163.9(b)* | Failure to retrofit diesel school bus with crankcase ventilation system | Retrofit bus with crankcase ventilation system - forthwith | 1,000 | 1,000 | 10,000 | 5,000 | 5,000 | 5,000 | 5,000 |
| 24-163.9(c)* | Using diesel school bus older than 16 years to fulfill school bus contract | Stop use of buses older than 16 years - forthwith | 1,000 | 1,000 | 10,000 | 5,000 | 5,000 | 5,000 | 5,000 |
| 24-163.9(d)* | Failure to replace retired school bus with low-emission school bus | Replace retired school bus with compliant bus - forthwith | 1,000 | 1,000 | 10,000 | 5,000 | 5,000 | 5,000 | 5,000 |
| 24-163.11(b) | Failure to use best available retrofit technology in heavy duty trade waste hauling vehicle as of 1/1/2020 | Use BART - forthwith | 10,000/vehicle in violation (mitigation: 0 ¹ if correction certified within 60 days) (separate penalty of 500/day for each day not corrected after 60 days) | No | 10,000/vehicle | N/A | N/A | N/A | N/A |
| 24-164 | Operating soot blower on vessel within city waters | Stop using soot blower - forthwith | 400 | 400 | 1,600 | 800 | 800 | 1,200 | 1,200 |
| 24-165 | Failure to use air contaminant detector/recording as required | Use air contaminant detector - forthwith | 400 (mitigation: 0 ¹) | 400 | 1,600 | 800 | 800 | 1,200 | 1,200 |
| 24-166 | Use of inadequate combustion shut-off device | Use properly functioning shutoff device - forthwith | 200 (mitigation: 0 ¹) | 200 | 800 | 400 | 400 | 600 | 600 |
| 24-167 | Improper use of equipment or apparatus | Use equipment as per code - forthwith | 200 | 200 | 800 | 400 | 400 | 600 | 600 |
| 24-168 | Use of improper fuel in fuel burning equipment | Use fuel specified for equipment - forthwith | 800 | 800 | 3,200 | 1,600 | 1,600 | 2,400 | 2,400 |
| 24-168.1 | Use or delivery of heating oil containing less than 2% biodiesel | Use or deliver heating oil with at least 2% biodiesel - forthwith | 800 | 800 | 3,200 | 1,600 | 1,600 | 2,400 | 2,400 |
| 24-169(c) | Use/purchase/sale/offer/storage/transport of fuel with excess sulfur | Purchase and use fuel with proper sulfur content - forthwith | 1,600 | 1,600 | 6,400 | 3,200 | 3,200 | 4,800 | 4,800 |
| 24-173 | Use of coal in fuel burning equipment | Stop use of coal - forthwith | 1,600 | 1,600 | 6,400 | 3,200 | 3,200 | 4,800 | 4,800 |
| 24-176 | Failure to report shipment of fuel to NYC as required | File fuel trip tickets - forthwith | 200 | 200 | 800 | 400 | 400 | 600 | 600 |
| 24-177(a) | Failure to have required statement on fuel information ticket | Supply required info on fuel tickets - forthwith | 200 | 200 | 800 | 400 | 400 | 600 | 600 |
| 24-177(b) | Failure to retain fuel information tickets by shipper | Retain fuel info tickets - forthwith | 200 | 200 | 800 | 400 | 400 | 600 | 600 |

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| 24-177(c) | Failure to retain fuel records for one year | Retain fuel info tickets for one year - forthwith | 200 | 200 | 800 | 400 | 400 | 600 | 600 |
| 24-178(b)(8) | Breaking a Board ordered seal | Stop tampering with seal - forthwith | 1,600 | 1,600 | 4,000 | 2,480 | No | 2,480 | No |
| NYC Admin. Code Title 24 | Miscellaneous violation of Air Pollution Control Code | N/A | 400 | 400 | 1,600 | 800 | 800 | 1,200 | 1,200 |
| 15 RCNY 2-09 | Failure to retain records related to combustion efficiency testing | | 400 | 400 | 1,600 | 800 | 800 | 1,200 | 1,200 |
| 15RCNY 40-02(b) | Failure to maintain records of hours of operation for emergency generator | | 400 | 400 | 1,600 | 800 | 800 | 1,200 | 1,200 |
| | VAPOR RECOVERY REGULATIONS | | | | | | | | |
| 15 RCNY 4-03(a)(1) | No stage 1 vapor collection system at gas dispensing site | Install stage 1 vapor collection system - forthwith | 400 | 400 | 875 | 545 | 545 | 545 | 545 |
| 15 RCNY 4-03(a)(2)(3) | Failure to maintain stage 1 vapor collection and control system | Properly maintain stage 1 vapor collection/control system at site - forthwith | 400 | 400 | 875 | 545 | 545 | 545 | 545 |
| 15 RCNY 4-03(a)(2)(iv) | Failure to connect and operate vapor collection system loading and unloading at site | Connect and operate vapor collection system while loading/unloading at site - forthwith | 400 | 400 | 875 | 545 | 545 | 545 | 545 |
| 15 RCNY 4-03(a)(3) | No stage 1 vapor recovery system capacity at least 250 gallons | Install stage 1 vapor recovery system at gas dispensing site - forthwith | 400 | 400 | 875 | 545 | 545 | 545 | 545 |
| 15 RCNY 4-03(b) | No certificate of registration for gasoline dispensing site | Obtain certificate of registration for gas dispensing site - forthwith | 400 | 400 | 875 | 545 | 545 | 545 | 545 |
| 15 RCNY 4-04(a)(3) | No NYS DEC date for pressure test on gasoline transporting vehicle | Post NYS DEC marking indicating last date pressure/vacuum test - forthwith | 400 | 400 | 875 | 545 | 545 | 545 | 545 |
| 15 RCNY 4-04(c) | Failure to keep dome covers closed on gas transport vehicle | Keep dome cover closed while transport vehicle loading/unloading motion - forthwith | 400 | 400 | 875 | 545 | 545 | 545 | 545 |

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| 15 RCNY 4-04(d)(1) | No stage 1 vapor collection/control system on gasoline transport vehicle | Install stage 1 vapor collection and control system on gas transport - forthwith | 400 | 400 | 875 | 545 | 545 | 545 | 545 |
| 15 RCNY 4-04(d)(2) | Failure to provide adequate training for operator of gasoline transport vehicle | Provide training for operator of gas transport vehicle - forthwith | 400 | 400 | 875 | 545 | 545 | 545 | 545 |
| 15 RCNY 4-04(d)(3) | Failure to maintain stage 1 vapor collection/control system on gas transport vehicle | Properly maintain stage 1 vapor collection and control system on gas transport vehicle - forthwith | 400 | 400 | 875 | 545 | 545 | 545 | 545 |
| 15 RCNY 4-04(d)(4) | Failure to connect/operate vapor collection/control system on gas transport vehicle | Connect and operate vapor collection/control system on gas transport vehicle - forthwith | 400 | 400 | 875 | 545 | 545 | 545 | 545 |
| 15 RCNY 4-05 | Failure to control visible leaks from vehicle vapor collection/control system | Control visible leaks from vapor collection and control system loading/unloading vehicle - forthwith | 400 | 400 | 875 | 545 | 545 | 545 | 545 |
| | PERCHLORETHYLENE ("PERC") DRY CLEANING FACILITIES | | | | | | | | |
| 15 RCNY 12-04(a) | Installation of perc dry cleaning machine in residential building after 7/13/06 | | No | 750 | 875 | 875 | No | 875 | No |
| 15 RCNY 12-05(a) | Failure to install vapor barrier or room enclosure and general exhaust ventilation | Install vapor barrier or room enclosure and general exhaust ventilation - 30 days | No | 750 | 875 | No | 875 | No | 875 |

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| 15 RCNY 12-06(a) | <u>Improperly installed vapor barrier or room enclosure and general exhaust ventilation</u> | <u>Install proper vapor barrier or room enclosure and general exhaust ventilation - 30 days</u> | 750 | 750 | 875 | 875 | No | 875 | No |
| 15 RCNY 12-06(a)(4)(i) | <u>Improper process emission point location</u> | <u>Relocate process ventilation point - 30 days</u> | No | 750 | 875 | 875 | No | 875 | No |
| 15 RCNY 12-06(a)(4)(iii) | <u>Process emissions greater than 20 ppm</u> | <u>Retrofit to meet 20ppm standard - 30 days</u> | 750 | 750 | 875 | 875 | No | 875 | No |
| 15 RCNY 12-06(a)(4)(iv) | <u>Failure to properly operate exhaust damper</u> | <u>Close or repair exhaust damper - forthwith</u> | 750 | 750 | 875 | 875 | No | 875 | No |
| 15 RCNY 12-06(a)(5), 15 RCNY 12-06(a)(6) | <u>Failure to have proper emission control systems</u> | <u>Install proper emission controls - 30 days</u> | No | 750 | 875 | 875 | No | 875 | No |
| 15 RCNY 12-06(b) | <u>Failure to remove equipment from service</u> | <u>Remove equipment - forthwith</u> | No | 750 | 875 | 875 | No | 875 | No |
| 15 RCNY 12-06(b) | <u>Failure to properly replace, retrofit, or convert equipment</u> | <u>Replace, retrofit, or convert equipment - 30 days</u> | No | 750 | 875 | 875 | No | 875 | No |
| 15 RCNY 12-06(b) | <u>Fugitive emission greater than 50 ppm</u> | <u>Control fugitive emissions - 30 days</u> | No | 750 | 875 | 875 | No | 875 | No |
| 15 RCNY 12-07(a), 15 RCNY 12-07(b) | <u>Failure to inspect or self-monitor</u> | <u>Conduct inspection or self-monitoring - forthwith</u> | 750 | 750 | 875 | 875 | No | 875 | No |
| 15 RCNY 12-07(a) | <u>Failure to repair leak within 24 hours</u> | <u>Repair leak - forthwith</u> | 750 | 750 | 875 | 875 | No | 875 | No |
| 15 RCNY 12-08 | <u>Failure to comply with Operations and Maintenance (O&M) requirements</u> | <u>Comply with O&M requirements - forthwith</u> | 750 | 750 | 875 | 875 | No | 875 | No |
| 15 RCNY 12-08(d)(7) | <u>Failure to have proper spill control equipment</u> | <u>Install spill control equipment - 30 days</u> | 750 | 750 | 875 | 875 | No | 875 | No |
| 15 RCNY 12-08(d)(8) | <u>Failure to keep solvent containers closed</u> | <u>Close solvent containers - forthwith</u> | 750 | 750 | 875 | 875 | No | 875 | No |
| 15 RCNY 12-10 | <u>Failure to properly manage hazardous waste</u> | <u>Manage hazardous waste - forthwith</u> | 750 | 750 | 875 | 875 | No | 875 | No |
| 15 RCNY 12-11(a) | <u>Failure to seal floor drains</u> | <u>Seal floor drains - 30 days</u> | 750 | 750 | 875 | 875 | No | 875 | No |
| 15 RCNY 12-11(b) | <u>Failure to install proper spill containment system</u> | <u>Install proper spill containment system - 30 days</u> | 750 | 750 | 875 | 875 | No | 875 | No |
| 15 RCNY 12-11(c) | <u>Failure to report release, fire or explosion</u> | N/A | 750 | 750 | 875 | 875 | No | 875 | No |
| 15 RCNY 12-11(d) | <u>Failure to record emergency response actions</u> | N/A | 400 | 400 | 875 | 500 | No | 500 | No |
| 15 RCNY 12-12 | <u>Failure to maintain proper records</u> | <u>Maintain proper records - forthwith</u> | 400 | 400 | 875 | 500 | No | 500 | No |
| 15 RCNY 12-13 | <u>Installation of uncertified equipment</u> | <u>Remove uncertified equipment - forthwith</u> | 750 | 750 | 875 | 875 | No | 875 | No |
| 15 RCNY 14(a)(1) | <u>Failure to have owner or manager certification</u> | <u>Register for certification course - 60 days</u> | 750 | 750 | 875 | 875 | No | 875 | No |
| 15 RCNY 14(a)(2) | <u>Failure to have operator certification</u> | <u>Register for certification course - 60 days</u> | 750 | 750 | 875 | 875 | No | 875 | No |
| 15 RCNY 12-14(e) | <u>Failure to attend required NYS DEC training and hold valid NYS DEC certificate</u> | | 750 | 750 | 875 | 875 | No | 875 | No |

| | | | | | | | | | |
|------------------|-----------------------------------------------------------------------------------------------------------|---------------------------------------------------------|-------|-------|-------|-------|-------|-------|-------|
| 15 RCNY 12-15(a) | Failure to submit notice of alteration or modifications | Submit notices - 14 days | 400 | 400 | 875 | 500 | No | 500 | No |
| 15 RCNY 12-15(b) | Failure to have work permit or operating certificate | File for work permit or operating certificate - 14 days | 750 | 750 | 875 | 875 | No | 875 | No |
| 15 RCNY 12-16 | Failure to have third party inspection | Obtain inspection - 14 days | 750 | 750 | 875 | 875 | No | 875 | No |
| 15 RCNY 12-18(a) | Failure to post New York State perc notice in easily visible location | Post notice in a conspicuous location - forthwith | 400 | 400 | 875 | 500 | No | 500 | No |
| 15 RCNY 12-18(b) | Failure to post perc notice in easily visible location | | 220 | 220 | 875 | 440 | No | 440 | No |
| 15 RCNY 12-18(c) | Failure to post notice regarding non-perc chemical in easily visible location | | 220 | 220 | 875 | 440 | No | 440 | No |
| 15 RCNY 12-18(d) | Failure to post perc and non-perc notices | | 220 | 220 | 875 | 440 | No | 440 | No |
| 15 RCNY 12 | Violation of perc dry cleaner rules | Comply with perc dry cleaner rule - forthwith | No | 750 | 875 | 875 | No | 875 | No |
| | CONSTRUCTION DUST RULES | | | | | | | | |
| 15 RCNY13-01(d) | No access to inspect site | | 700 | 700 | 1,600 | 1,085 | 1,085 | 1,085 | 1,085 |
| 15 RCNY13-01(e) | Interference with DEP employee | | 700 | 700 | 1,600 | 1,085 | 1,085 | 1,085 | 1,085 |
| 15 RCNY13-04(a) | Failure to control release of dust from construction by wetting or other acceptable means | | 1,000 | 1,000 | 1,600 | 1,500 | 1,500 | 1,500 | 1,500 |
| 15 RCNY13-04(b) | Failure to cover trucks used to transport particulate matter | | 1,000 | 1,000 | 1,600 | 1,500 | 1,500 | 1,500 | 1,500 |
| 15 RCNY13-04(c) | Failure to provide adequate water to perform wet method of dust control | | 1,000 | 1,000 | 1,600 | 1,500 | 1,500 | 1,500 | 1,500 |
| 15 RCNY13-04(e) | Failure to provide suitable drainage for water and sludge | | 800 | 800 | 1,600 | 1,200 | 1,200 | 1,200 | 1,200 |
| 15 RCNY13-05(a) | Failure to wet (and maintain wet) all exterior building surfaces prior to and during demolition | | 1,000 | 1,000 | 1,600 | 1,500 | 1,500 | 1,500 | 1,500 |
| 15 RCNY13-05(b) | Failure to wet and/or cover construction materials before and during loading and transport | | 1,000 | 1,000 | 1,600 | 1,500 | 1,500 | 1,500 | 1,500 |
| 15 RCNY13-05(c) | Failure to use wetting to control dust during drilling, grinding or other similar construction activities | | 1,000 | 1,000 | 1,600 | 1,500 | 1,500 | 1,500 | 1,500 |
| 15 RCNY13-05(d) | Failure to control dust produced at transfer points | | 800 | 800 | 1,600 | 1,200 | 1,200 | 1,200 | 1,200 |
| 15 RCNY13-05(e) | Failure to have sprinklers at transfer points capable of being operated by person responsible for loading | | 800 | 800 | 1,600 | 1,200 | 1,200 | 1,200 | 1,200 |
| 15 RCNY13-05(f) | Failure to moisten soil or debris piles to prevent windblown dust | | 1,000 | 1,000 | 1,600 | 1,500 | 1,500 | 1,500 | 1,500 |
| 15 RCNY13-06(a) | Failure to properly remove debris during hand demolition | | 1,000 | 1,000 | 1,600 | 1,500 | 1,500 | 1,500 | 1,500 |
| 15 RCNY13-06(b) | Failure to board up windows to prevent dust emission during renovation | | 800 | 800 | 1,600 | 1,200 | 1,200 | 1,200 | 1,200 |

| | | | | | | | | | |
|------------------------|----------------------------------------------------------------------------|--|-------|-------|-------|-------|-------|-------|-------|
| 15 RCNY13- 06(c) | Failure to suppress dust during sandblasting | | 800 | 800 | 1,600 | 1,200 | 1,200 | 1,200 | 1,200 |
| 15 RCNY13- 06(d) | Failure to cover trucks used to transport dust-producing materials | | 1,000 | 1,000 | 1,600 | 1,500 | 1,500 | 1,500 | 1,500 |
| 15 RCNY13- 06(e) | Failure to remove earth or other materials daily | | 800 | 800 | 1,600 | 1,200 | 1,200 | 1,200 | 1,200 |
| 15 RCNY13- 06(g) | Use of blowers for mud or dirt removal | | 800 | 800 | 1,600 | 1,200 | 1,200 | 1,200 | 1,200 |
| 15 RCNY13- 06(h) | Failure to operate construction vehicles slowly to minimize dust emissions | | 800 | 800 | 1,600 | 1,200 | 1,200 | 1,200 | 1,200 |
| 15 RCNY13- 06(i) | Failure to properly stabilize disturbed areas | | 800 | 800 | 1,600 | 1,200 | 1,200 | 1,200 | 1,200 |
| 15 RCNY13- 07(b) | Failure to wet adequately before and during demolition | | 1,000 | 1,000 | 1,600 | 1,500 | 1,500 | 1,500 | 1,500 |
| 15 RCNY13- 07(c) | Failure to use chutes/buckets to transport debris | | 1,000 | 1,000 | 1,600 | 1,500 | 1,500 | 1,500 | 1,500 |
| 15 RCNY13- 07(d) | Failure to remove dust/debris daily from adjacent areas | | 800 | 800 | 1,600 | 1,200 | 1,200 | 1,200 | 1,200 |
| 15 RCNY13- 08(a) | Performing dry sandblasting | | 800 | 800 | 1,600 | 1,200 | 1,200 | 1,200 | 1,200 |
| 15 RCNY13- 08(b) | Failure to use containment during sandblasting | | 800 | 800 | 1,600 | 1,200 | 1,200 | 1,200 | 1,200 |
| 15 RCNY13- 08(c) | Failure to use curtains during sandblasting | | 800 | 800 | 1,600 | 1,200 | 1,200 | 1,200 | 1,200 |
| 15 RCNY13- 08(d) | Failure to give required advance notice of sandblasting | | 800 | 800 | 1,600 | 1,200 | 1,200 | 1,200 | 1,200 |
| 15 RCNY13- 09 | Failure to register dust-emitting construction equipment with DEP | | 800 | 800 | 1,600 | 1,200 | 1,200 | 1,200 | 1,200 |
| 15 RCNY13- 10 | Failure to prevent dust emission from open areas after demolition | | 800 | 800 | 1,600 | 1,200 | 1,200 | 1,200 | 1,200 |

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**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: Air Code Penalty Schedule

REFERENCE NUMBER: 2016 RG 021

RULEMAKING AGENCY: Department of Environmental Protection

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: March 3, 2016

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: Air Code Penalty Schedule

REFERENCE NUMBER: DEP-21

RULEMAKING AGENCY: Department of Environmental Protection

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) Provides a cure period for penalties associated with violations when those violations do not pose significant risks to public health and safety or create environmental hazards. Does not provide a cure period when those violations pose significant risks to public health and safety and/or create environmental hazards.

/s/ Guenevere Knowles

March 3, 2016

Mayor's Office of Operations

Date