

**City of New York
Office of Administrative Trials and Hearings
Environmental Control Board**

Notice of Promulgation of Rule

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED in the Office of Administrative Trials and Hearings' Environmental Control Board (OATH ECB) in accordance with Sections 1049-a and 1043 of the New York City Charter. OATH ECB repeals its Noise Code Penalty Schedule in Section 3-115 of Subchapter G of Chapter 3 of Title 48 of the Rules of the City of New York. The proposed rule repeal was published in *The City Record* on December 23, 2016, and a public hearing was held on January 26, 2017.

No one attended or testified at the public hearing concerning this rule repeal and OATH did not receive any written comments.

Statement of Basis and Purpose

The NYC Office of Administrative Trials and Hearings' Environmental Control Board (OATH ECB) repeals its Noise Code Penalty Schedule. This schedule is found in 48 RCNY § 3-115, and contains penalties for violations of Title 15 of the RCNY and Titles 10 and 24 of the New York City Administrative Code. At the same time, DEP promulgates a penalty schedule for violation of these laws within Title 15 of the RCNY. DEP's penalty schedule is located in Chapter 47 of Title 15 of the RCNY. OATH ECB is in the process of repealing all penalty schedules in its rules at Subchapter G of Chapter 3 of Title 48 of the RCNY so that they can be relocated to the rules of the enforcement agencies with rulemaking and policymaking jurisdiction over the laws that underlie these penalties.

Although OATH ECB is empowered to impose penalties under the New York City Charter and has promulgated penalty schedules, the regulatory and enforcement agencies have the regulatory authority and necessary expertise to determine appropriate penalties to address violation of the rules and of the laws within their jurisdiction. In addition, moving the penalty schedule makes it easier for the public to find the penalties, which are now located within the same chapter as the rules that contain the substantive violations alleged in the summonses rather than in the OATH ECB schedule. Finally, the rule repeal speeds up the rulemaking process by eliminating the need for board approval of penalties that have already been established by the legislature and/or that have already undergone the City Administrative Procedure Act (CAPA) process by the enforcement agency. The public will still have the opportunity to comment on proposed penalties during that process.

Working with the City's rulemaking agencies, the Law Department, the Mayor's Office of Management and Budget, and the Mayor's Office of Operations conducted a retrospective rules review of the City's existing rules, identifying those rules that will be repealed or modified to reduce regulatory burdens, increase equity, support small businesses, and simplify

and update content to help support public understanding and compliance. This rule repeal was identified as meeting the criteria for this initiative.

New material is underlined.

[Deleted material is in brackets.]

Section 1. Section 3-115 of Subchapter G of Chapter 3 of Title 48 of the Rules of the City of New York is REPEALED.