

**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 Department of Parks and Recreation Penalty Schedule in Section 3-116 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 22, 2016, and a public hearing was held on January 24, 2017.

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

Statement of Basis and Purpose

OATH's Environmental Control Board (OATH ECB) is centralizing and streamlining its hearings to make it more efficient for the public to have their cases heard. As part of this process, OATH ECB is repealing agency penalties from its rules so that they can be relocated within the rules of the regulatory and enforcement agencies that enforce the violations of rules and laws within their jurisdiction. This shift will help clarify to the public that OATH ECB is a neutral third party that hears and tries cases brought by other City agencies and is not an enforcement agency.

In this case, the Department of Parks and Recreation (DPR) is enacting a penalty schedule within its own rules (to be located at 56 RCNY 1-07). Moving the Penalty Schedule to Chapter 56 of the Rules of the City of New York, entitled "Department of Parks and Recreation," makes it easier for the public to find the penalties, which, with one exception in the New York City Administrative Code, will be located within the same chapter as the violations alleged in the summonses.

The change effected by the rule repeal also places the responsibility for determining penalty amounts on the DPR, which has the necessary expertise to establish appropriate penalties based on the severity of each violation and its effect on park property and park users.

Furthermore, the rule repeal speeds up the rulemaking process by removing the need for redundant OATH ECB Board approval of proposed penalties for DPR rules that have already gone through the City Administrative Procedure Act ("CAPA") rulemaking requirements. Since DPR must undergo the CAPA process when enacting or amending a rule, the public will still have the opportunity to comment on proposed penalties during the DPR rulemaking process.

§ 1. The Department of Parks and Recreation Penalty Schedule, found in Section 3-116 of Subchapter G of Chapter 3 of Title 48 of the Rules of the City of New York, is REPEALED.

§ 2. This rule takes effect on June 13, 2017.