

**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 and Section 28-202.1 of the New York City Administrative Code. OATH ECB repeals its Department of Transportation Penalty Schedule, found in Section 3-124 of Subchapter G of Chapter 3 of Title 48 of the Rules of the City of New York (RCNY), which contains penalties for summonses issued by the New York City Department of Transportation (DOT) for violations of Title 34 of the RCNY and Title 19 of the New York City Administrative Code. Simultaneous to the repeal of this rule, DOT has promulgated a rule adding the Department of Transportation Penalty Schedule to its rules.

The proposed rule was published in The City Record on July 3, 2017, and a public hearing was held on August 3, 2017. No one attended the public hearing and OATH ECB did not receive any written comments concerning this rule.

Statement of Basis and Purpose of Proposed Rule

The Office of Administrative Trials and Hearings' Environmental Control Board (OATH ECB) repeals its Department of Transportation Penalty Schedule. This schedule is found in 48 RCNY § 3-124, and contains penalties for violations of Title 34 of the RCNY and Title 19 of the New York City Administrative Code. At the same time, DOT has enacted a penalty schedule within its own rules. This penalty schedule is located in section 3-01 of Chapter 3 in Title 34 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 agencies with primary rulemaking and policymaking jurisdiction over the laws to which the penalties correspond.

Although OATH ECB is empowered to impose penalties under the New York City Charter and has until now promulgated penalty schedules, the enforcement agencies have the expertise and policy making authority to determine appropriate penalty structures based on the severity of each violation and its effect on City residents. Moving the penalty schedule makes it easier for the public to find the penalties, which will be located within the same chapter as the rules supporting the violations alleged in the summonses. Finally, the proposed rule repeal speeds up the rulemaking process by eliminating the need for OATH ECB approval of proposed or amended penalties for agency rules that have already gone through the City Administrative Procedure Act (CAPA) rulemaking process. The public will still have the opportunity to comment on proposed penalties during that process.

New material is underlined.

[Deleted material is in brackets.]

Section 1. The Department of Transportation Penalty Schedule, found in Section 3-124 of Subchapter G of Chapter 3 of Title 48 of the Rules of the City of New York, is REPEALED.



THE CITY OF NEW YORK
LAW DEPARTMENT
100 CHURCH STREET
NEW YORK, NY 10007

ZACHARY W. CARTER
Corporation Counsel

STEVEN GOULDEN
Division of Legal Counsel
Room 6-231
Tel: (212) 356-4028
Fax: (212) 356-4019
sgoulden@law.nyc.gov

Hon. Fidel Del Valle
Commissioner
Office of Administrative Trials & Hearings

Re: Repeal of Transportation Penalty Schedule

No. 2016 RG 070

Dear Commissioner Del Valle:

Pursuant to New York City Charter § 1043 subd. c, the above-referenced rule has been reviewed and determined to be within the authority delegated by law to your agency.

Sincerely,

A handwritten signature in blue ink that reads "Steven I. Goulden".

STEVEN GOULDEN
Senior Counsel
Division of Legal Counsel

cc: Simone Salloum (OATH ECB)
Patricia Browne (DOT)