

**City of New York
OATH Environmental Control Board**

Notice of Public Hearing and Opportunity to Comment on Proposed Rules

What are we proposing? The NYC Office of Administrative Trials and Hearings' Environmental Control Board (OATH ECB) proposes to repeal its Department of Parks and Recreation Penalty Schedule. This schedule is found in Section 3-116 of Subchapter G of Chapter 3 of Title 48 of the Rules of the City of New York. It contains penalties for notices of violation issued by the New York City Department of Parks and Recreation (DPR).

When and where is the Hearing? OATH ECB will hold a public hearing on the proposed rule. The public hearing will take place from 10:00 a.m. through 12:00 p.m. on January 24, 2017. The hearing will be in the OATH ECB Conference Room located at 66 John Street, 10th Floor, New York, NY 10038.

This location has the following accessibility option(s) available: Wheelchair Accessible; Large Print.

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

- **Website.** You can submit comments to the OATH ECB through the NYC rules website at <http://rules.cityofnewyork.us>.
- **Email.** You can email written comments to Rules_Oath@oath.nyc.gov.
- **Mail.** You can mail written comments to OATH ECB, Attention: Simone Salloum, Assistant General Counsel, 66 John Street, 10th Floor, New York, NY 10038.
- **Fax.** You can fax written comments to OATH ECB, Attention: Simone Salloum, Assistant General Counsel, at 212-361-1900.
- **Hearing.** You can speak 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 Elizabeth Nolan at 212-436-0708, or you can sign up in the hearing room before the hearing begins on January 24, 2017. You can speak for up to three minutes.

Is there a deadline to submit written comments? You may submit written comments up to the close of business on January 24, 2017.

Do you need assistance to participate in the Hearing? You must tell us if you need a reasonable accommodation of a disability to attend 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 212-436-0708. You must tell us by January 17, 2017.

Can I review the comments made on the proposed rules? You can review the comments that are submitted online 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 OATH ECB, 66 John Street, 10th Floor, New York, NY 10038.

What authorizes OATH ECB to repeal this rule? Sections 1049-a, 1043, and 533(a)(9) of the New York City Charter and Section 1-07(c) of the Rules of the City of New York authorize OATH ECB to propose this rule. This proposed rule is included in OATH's Regulatory Agenda for this Fiscal Year.

Where can I find the OATH ECB's rules? OATH ECB's rules are in Title 48 of the Rules of the City of New York.

What laws govern the rulemaking process? OATH ECB must meet the requirements of Section 1043 of the New York City Charter when creating or changing rules. This notice is made according to the requirements of Sections 1043(b) and 1049-a of the City Charter.

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 agency that enforces the violations. 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) will also enact 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," will make 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 proposed rule repeal also places the responsibility for determining penalty amounts on the DPR, which has the expertise to determine appropriate penalties based on the severity of each violation and its effect on park property and park users.

Furthermore, the proposed rule repeal will speed up the rulemaking process by removing the need for 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.

**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: Repeal of Parks Penalty Schedule

REFERENCE NUMBER: 2015 RG 113

RULEMAKING AGENCY: Office of Administrative Trials and Hearings

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: December 9, 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: Repeal of Parks Penalty Schedule

REFERENCE NUMBER: OATH-ECB-64

RULEMAKING AGENCY: OATH-ECB

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) Does not provide a cure period because it does not establish a violation, modification of a violation, or modification of the penalties associated with a violation.

/s/ Francisco X. Navarro
Mayor's Office of Operations

November 16, 2016
Date