DEPARTMENT OF ENVIRONMENTAL PROTECTION

NOTICE OF ADOPTION

AMENDMENTS TO CHAPTER 16 OF TITLE 15 OF
THE RULES OF THE CITY OF NEW YORK:
RULES FOR THE RECREATIONAL USE OF
WATER SUPPLY LANDS AND WATERS

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED IN the Commissioner of the Department of Environmental Protection ("DEP") by §24-302 of the New York City Administrative Code and in accordance with the requirements of §1043(a) of the New York City Charter, that DEP hereby amends the provisions of Chapter 16 of Title 15 of the Rules of the City of New York, the DEP *Rules for the Recreational Use of Water Supply Lands and Waters.*

Written comments regarding the amendments were received in accordance with notice published in the City Record and public hearings were held on: September 30, 2010 at 1 Lefrak City Plaza, 59-17 Junction Blvd., Flushing, NY; October 4, 2010 at Belleayre Mountain, 181 Galli Curci Road, Highmount, NY; and October 6, 2010 at Sparkle Lake Service Building, 178 Granite Springs Road, Yorktown Heights, NY.

Written comments and transcripts of the public hearings are available for public inspection between the hours of 10:00 am and 4:00 pm at the offices of DEP, Bureau of Legal Affairs, 59-17 Junction Blvd., 19th floor, Flushing, NY, 11373-5108.

The language deleted is bracketed ([*deletion*]) and new material is underlined (*addition*).

Section 1. Subdivision (j) of section 16-02 of Title 15 of the Rules of the City of New York is amended to read as follows:

(j) **Group.** "Group" means any congregation of individuals in excess of [twelve] six (6) people and shall not consist of more than thirty (30) individuals.

§2. Subdivision (c) of section 16-03 of Title 15 of the Rules of the City of New York is amended to read as follows:

(c) **Eligibility.** Individuals aged 12 years or older who do not have an outstanding Access Permit suspension or revocation[;], do not have a valid current Access Permit[;], and are not otherwise restricted for security or public safety reasons from applying are eligible to receive an Access Permit. Individuals under the age of 18 must have the written consent of their parent or legal guardian indicated on their Access Permit application.

§3. Subdivision (e) of section 16-03 of Title 15 of the Rules of the City of New York is amended to read as follows:

(e) **Internet Submission and Processing.** The NYCDEP Access Permit application may be completed and submitted [, and Access Permits issued through] on the NYCDEP website. Access Permit issuance letters, Access Permits and corresponding Vehicle Tags may be printed directly from the NYCDEP website. NYCDEP is not responsible for electronic delivery errors or limitations of equipment and services not maintained by NYCDEP that may cause delays or prevent printing.

§4. Subdivisions (f), (g), (h), (i), (j), (k), (l), (m) , (n), (o) and (p) of section 16-03 of Title 15 of the Rules of the City of New York are amended and relettered to read as follows:

(f) [**Internet Processing.** For applications submitted through the interactive NYCDEP website:

(1) An Access Permit issuance letter, Access Permit and corresponding Vehicle Tag may be printed directly from the NYCDEP website.

(2) Processing time will generally be immediate. NYCDEP is not responsible for limitations of equipment and services not maintained by NYCDEP or its representatives that may cause delays or prevent printing.

(g)] **Mail Submission and Processing.** Completed Access Permit applications may be submitted by United States Postal Service ("USPS") mail to the address on the form.

[(h) **Mail Processing.**] Accepted applications submitted by USPS mail shall [include the following steps] proceed as follows:

[(1)] An Access Permit issuance letter and Access Permit shall be generated and mailed with the corresponding Vehicle Tag within two weeks of receipt, except in unusual circumstances, directly to the address [on file for the permittee] submitted on the application.

[(2) Processing time shall generally be within two weeks of application receipt, except in unusual circumstances.

(3)] Mailings may be accompanied by other official NYCDEP communications, e.g. the *Watershed Recreation* newsletter, notices, and other recreational use materials.

[(i) **Returned Mailings.**] Addresses on any [Mailings] mailings returned to NYCDEP as undeliverable by the USPS shall be [handled as follows:

(1) If a forwarding address is provided by USPS, the contact information shall be updated accordingly in NYCDEP files and the returned mailing re-mailed to the new address on file;

(2) If no forwarding address is provided, the address will be checked] verified for accuracy and [corrected and] re-mailed if necessary [; updated via telephone or electronic mail, and re-mailed if necessary; and/or status marked "invalid" in NYCDEP files and

excluded from all further Access Permit mailings, the returned mail filed, and contact attempts documented]. Applicants are responsible for maintaining current, accurate contact information with NYCDEP. NYCDEP shall not be responsible for USPS delivery errors or lost mail.

[(j)](g) **Refusal.** Rejected applications shall be returned to the applicant, accompanied by a letter identifying the reason(s) for refusal, generally within two weeks of application receipt or by electronic means through the Internet. Within ten days of receipt of the communication, the applicant may provide NYCDEP with an appeal of NYCDEP's refusal to issue an Access Permit that shall include any relevant information pertaining to the basis for the refusal. Upon examination of the circumstances and generally within two weeks of receipt, NYCDEP will either uphold the refusal or revise its prior decision and issue an Access Permit upon such terms and conditions as may be appropriate. The applicant will be notified of NYCDEP's determination in writing. Grounds for refusal of an Access Permit include the following:

(1) Incomplete or illegible application;

(2) Failure to meet application eligibility requirements;

(3) Submission of false information;

(4) Current, valid Access Permit status.

[(k)](h) **Term.** An Access Permit is valid for the period of five (5) years, or the period indicated thereon, expiring on the permit holder's day and month of birth, unless revoked, suspended or altered by NYCDEP.

[(l)](i) **Renewal.** An Access Permit renewal application shall be sent via electronic or USPS mail to the address on file for each valid Access Permit holder generally two months prior to the Access Permit expiration date. Content of an Access Permit renewal application shall include confirmation of the permit holder's information on file, as well as user survey questions, if any. Access Permit renewal processing shall be as provided for initial application, except that Vehicle Tags do not expire, and therefore will not be renewed. Applicants may renew their Access Permits by returning the application by USPS mail or through the NYCDEP website.

[(m)](j) **Replacement.** Lost or destroyed Access Permits may be replaced upon the permit holder's written request to NYCDEP by USPS or electronic mail. Electronically requested replacements may be printed immediately. Replacements requested by USPS mail will generally be issued within two weeks.

[(n)](k) **Notifications.** Notices to Access Permit holders shall be sent to the address on record with NYCDEP. It is the Access Permit holder's responsibility to inform NYCDEP of any changes to the address and information submitted on a permit application or renewal form.

[(o)](l) **Updating [Registration] Contact Information.** It is the Access Permit holder's responsibility to inform NYCDEP of any changes to the contact information submitted on his or her application. Access Permit holders shall notify NYCDEP in writing, [via] either by electronic [mail] or USPS mail, of any such changes [to their contact information on file with NYCDEP]. Failure to do so may result in the Access Permit holder not receiving important [communications] notifications, such as boat [removal] removals, [or] area closure notices or Access Permit renewal notices. Access Permit holders may use the Access Permit Update Form to submit [such] contact changes or update their information on the NYCDEP website. This form [shall be] is available for download from or completion on the NYCDEP website and for pick-up at NYCDEP facilities in New York City, NYCDEP offices throughout the Watershed and such other locations as indicated on the NYCDEP website.

[(p)](m) **Transferability.** An Access Permit is not transferable and may be used only by the person to whom it has been issued.

§5. Subdivisions (g) and (h) of section 16-04 of Title 15 of the Rules of the City of New York are amended to read as follows:

(g) **Bait and Bait Disposal.** The use of terrestrial bait such as worms and crickets is allowed. Live aquatic bait, which may include, but is not limited to, alewives, shiners, leeches, and crawfish, may be used for Fishing unless it has been taken from waters infested with zebra mussels or other invasive species of mussels, including, but not limited to: Lake Champlain, Lake Erie, Lake Ontario, the Finger Lakes, the Erie Canal, the Niagara River, the Mohawk River, the St. Lawrence River, the Susquehanna River and the Hudson River. Neither bait nor the water from aquatic bait containers shall be disposed of on City Property. NYCDEP, at its sole discretion, may prohibit the use of specified bait. Any such prohibitions shall be indicated by NYCDEP on sign postings and, when applicable, on the NYCDEP website, on Public Maps, and/or in other publications and notices.

(h) **Fishing Equipment.** The following equipment rules apply to Fishing:

(1) Waterproof waders shall be used when entering water for purposes of Fishing. Due to the potential threat of invasive species being transferred from waders into the NYC water supply, NYCDEP reserves the right to prohibit certain waders from use in the watershed. A list of waders prohibited from use is posted on the NYCDEP website.

(2) Temporary, portable, fabric fishing shelters and windbreaks may be used for ice fishing on City Property. Shelters shall contain the occupant's name and Access Permit number. Wood or metal shelters are not permitted.

(3) Ice fishing equipment, including shelters and windbreaks, shall remain within view of the occupant and shall be removed from City Property by the occupant when not in use or at the end of each day, whichever is sooner.

(4) Use of float tubes or inflatable waders is prohibited.

(5) Motorized fishing equipment is prohibited on City Property, including but not limited to [power] powered ice augers and trolling motors. Automotive type batteries shall not be used to power lights or fishing equipment.

(6) Anglers may carry pocket or hunting knives for purposes of Fishing.

§6. The first unnumbered paragraph and subdivisions (a), (c), (d), (e), (f), (i), (k), (n), (p), (q), (r), (s), (t) and (u) of section 16-05 of Title 15 of the Rules of the City of New York are amended to read as follows:

§16-05 **Boat Tag.**

Due to the threat of Water Supply contamination by organisms such as zebra mussel larvae that may be introduced to City waters by boats previously used in contaminated waters, all boats used on City Property shall be registered and steam cleaned by NYCDEP or its designees, when available, as listed on the NYCDEP website, and [permanently] stored on-site in Boat Storage Areas designated by NYCDEP. All boats on City Property must have a valid Boat Tag affixed thereto.

(a) **Application.** Boat Tag applications shall be available at the same locations as Access Permit applications as indicated in §16-03(a) above. [No application fee is required.]

(c) **Eligibility.** Valid Access Permit holders aged 16 years or older who do not have an outstanding Access Permit suspension or revocation[;], are not otherwise restricted for security or public safety reasons from applying by NYCDEP[;], and who own the rowboat that they are registering are eligible to receive a Boat Tag for the boat documented on the application. Applicants under 18 need parental or legal guardian consent. Each Boat Tag will be issued to one boat owner only. Access Permit holders may apply for Boat Tags for more than one boat.

(d) **Application Submission and Appointment.** Boat Tag applications shall be submitted to NYCDEP or its designee, when available, as listed on the NYCDEP website, at the boat registration appointment on the day the boat is to be placed on a reservoir or lake. The appointment must be made in advance by contacting the NYCDEP office nearest the reservoir where the boat will be located, or the NYCDEP designee, when available, as listed on the NYCDEP website. Boat owners shall speak directly with a NYCDEP representative or the designee's representative and provide their name, telephone number, valid Access Permit number, and desired Boat Storage Area in order to make a processing appointment. Completed applications shall be submitted in person at the processing appointment. Boat Tag applications may be completed in advance of the appointment. A boat owner who is unable to attend his or her appointment shall notify NYCDEP or its designee in advance. Appointments may be rescheduled to a later available date.

(e) **Boat Processing and Tag Issuance.** A boat owner shall attend the processing appointment for his or her boat in person and shall bring his or her boat, valid Access Permit, and government-issued photo identification. A boat processing appointment shall consist of the following steps:

(1) The boat owner shall submit the completed Boat Tag application.

(2) Access Permit data on file shall be confirmed with the applicant. This information shall include contact information and Access Permit status.

(3) Boat type, shape, size, color, make, model, serial number, absence of possible contaminants, and apparent seaworthiness shall be confirmed and entered into the file.

(4) Boats shall be steam cleaned by NYCDEP on all surfaces to remove any possible Water Supply contaminants such as zebra mussel larvae.

(5) A unique boat number shall be assigned to the boat.

(6) The boat number shall be painted by NYCDEP on both sides of the bow hull above the anticipated immersion line using permanent white or black paint, whichever color is most visible given the color of the boat.

(7) An appropriately dated Boat Tag shall be completed in permanent ink and affixed to the exterior port-side bow. Boat Tag completion shall include: writing the boat owner's Access Permit number in the appropriate field; writing the reservoir prefix, if any, and boat number in the appropriate field; and punching out the appropriate [water supply] Water Supply location abbreviation.

(8) [The boat owner shall receive from NYCDEP at] At the processing appointment the boat owner shall receive the following information [including]: a copy of the current rules, if the boat owner does not already have one[;], a current *Watershed Recreation* newsletter, if desired[;], a map and/or directions to the designated Boat Storage Area for their boat[;], a verbal summary of important rules and conditions, including the Boat Tag expiration and renewal process, boat storage requirements, and the procedures for boat removal and disposal.

(9) Upon completion of the boat cleaning and processing appointment, the boat owner shall immediately place the registered boat on the appropriate water body or at the assigned Boat Storage Area without storing or placing the boat in any other location or water body.

(f) **Eligible Boats.** Boats eligible for Boat Tags shall be aluminum or metal-alloy row boats, except boats on record as having had valid Boat Tags that were issued initially prior to March 31, 2006 may be wooden or fiberglass row boats. Only rowboats that are a minimum of 11'6" in length and 42" in width and are a maximum of 16' in length are permitted on City Property. Other vessels, including but not limited to sailboats, motorized boats, canoes, kayaks, sculls, inflatable boats and collapsible boats are prohibited, except as provided in §16-07 of these rules.

(i) **Display.** Boat Tags shall be affixed to the upper port-side exterior bow (top left outside front) of the corresponding registered boat. It shall be the Boat Tag holder's responsibility to keep a Boat Tag affixed and clearly legible at all times. It shall also be the responsibility of the boat owner to ensure the boat numbers are clearly legible and visible. Boats with missing or illegible Boat Tags and/or boat numbers are subject to removal by NYCDEP.

(k) **Renewal.** A renewal Boat Tag application shall be sent via electronic or USPS mail to the address on file for each valid boat owner generally in the spring of the Boat Tag expiration year. Content of the renewal Boat Tag application shall include confirmation of boat owner and boat information on file, as well as any angler survey questions. Renewed Boat Tags shall be [mailed] sent to the address on file for the boat owner generally within two weeks of application receipt.

(n) **Boat Storage Area.** Each registered boat shall be assigned to a Boat Storage Area. The boat must be stored in the assigned Boat Storage Area when not in use on the water [, except that during the months from April through September the boat may be temporarily stored at any other Boat Storage Area on the same reservoir or lake for convenience of Fishing, provided there is storage space available as determined by NYCDEP]. NYCDEP may limit the number and location of boats assigned to any particular Boat Storage Area. Information about Boat Storage Areas closed to additional boats shall be available from NYCDEP and, when applicable, on the NYCDEP website. Requests to place a boat at high-demand Boat Storage Areas shall be handled in the order they are received. [Boat Tags on boats] Boats not stored within their assigned Boat Storage Areas [during the months of October through March], or [on boats stored] in Boat Storage Areas that have been closed by NYCDEP, [and/]or to which they were not assigned, shall be [invalid] subject to removal by NYCDEP. Boat owners may request a change of assigned Boat Storage Area for their boat on the same water body once per calendar year by contacting NYCDEP. NYCDEP shall grant a change of assigned Boat Storage Area provided that the requested area is open to additional boats.

(p) **Boat Placement and Securing.** To prevent the creation of insect breeding grounds in water-filled boats, boats shall be stored hull-up (upside down) at all times. Boat owners may store on site such fishing equipment as may be secured under their overturned, stored boat. Equipment or items left on City Property and not secured under boats shall be subject to confiscation and disposal. Boat owners are encouraged to secure their stored boats to reduce the possibility of theft and scattering. Boats shall be secured to manufactured hitches provided by NYCDEP, where [these are] available. [Where NYCDEP has provided such securing resources, boats shall not be secured to trees. Where no securing resources are provided by NYCDEP, boats may] Boats shall not be secured to trees unless there is no space available on the hitches or no securing resources are provided by NYCDEP. Boats secured to trees shall [not] be [tightly bound to trees, but shall be] loosely secured so as not to damage the trees. NYCDEP reserves the right to remove and store boats that are too tightly secured to any tree.

(q) **Owner Removal of a Boat.** Boat owners may remove their boats from City Property at any time. Boat owners shall notify the local NYCDEP Office prior to removing their boat from City Property. NYCDEP shall document the owner removal activity. Upon removal of a boat from

City Property, its Boat Tag shall be immediately rendered invalid. Boat owners wishing to return a once-registered, removed boat to a City reservoir or lake shall make a registration and processing appointment with the local NYCDEP Office, or designee, where available, as listed on the NYCDEP website.

(r) **Change of [Boat Storage Area Location] Reservoir or Lake.** Boat owners may change the location of their boat from one reservoir or lake in the Water Supply system to another, but such change shall be treated the way a new boat would be treated. This shall require an application, boat processing appointment, and a new Boat Tag. It is prohibited for a boat owner to move their boat away from the assigned reservoir or lake without first notifying NYCDEP. It is prohibited for a boat owner to place any boat on a reservoir or lake without a valid Boat Tag for that location.

(s) **NYCDEP Removal of Boats.** Any boat left in the water unattended[;], found on land outside of the boat's assigned Boat Storage Area[;], found in a closed Boat Storage Area to which it was not assigned[;], found without a valid Boat Tag or with a Boat Tag with illegible boat numbers, found on City Property after expiration, suspension or revocation of the owner's Boat Tag or Access Permit[;], or found in a restricted area is subject to removal and storage by NYCDEP at the owner's expense of $120.00 for removal and $1.00 per day for storage, not to exceed $210.00. While boats without valid Boat Tags may be removed from City Property, confiscated, and stored by NYCDEP at any time, such boat removal shall generally commence on October 1 of each year and be completed before March 15 of the following year. NYCDEP shall attempt to contact the owner of an invalid or removed boat at least once during the removal process or the three-month storage period in order to notify them of their boat's status. This contact shall be documented by NYCDEP and may be by USPS mail, telephone, or electronic mail [for] using the contact information on file for the boat[, and the attempt as well as its outcome shall be documented].

(t) **Storage of NYCDEP-Removed Boats.** NYCDEP shall store removed boats in designated storage yards on NYCDEP properties until the removed boats are claimed by their owners or until three months have passed since the date of NYCDEP's [initial attempt to contact the owner] removal. If a boat remains unclaimed three months from the date of NYCDEP's [initial attempt to locate the owner] removal, it will be deemed the property of NYCDEP and will be disposed of at NYCDEP's discretion. By accepting a NYCDEP Boat Tag, the owner of the subject boat acknowledges and accepts NYCDEP's right to remove, store and/or dispose of the boat in accordance with this section in lieu of any other procedure for the storage and disposition of abandoned property required or permitted by law, and waives any right to assert a claim against NYCDEP pursuant to the provisions of the New York State Personal Property Law, Abandoned Property Law or by any such other procedure. NYCDEP is not liable to the owner under any circumstances for damage to or loss of a boat during its removal, storage or disposition.

(u) **Owner Claim of Stored Boats.** Boats removed and stored by NYCDEP shall be available for claim and pick up within the three month storage period by the boat owner of record by appointment with NYCDEP. NYCDEP staff shall confirm that the person claiming the boat is the boat owner of record. Any accumulated removal and storage fees shall be paid to NYCDEP

by certified check, bank check, or money order made out to "NYCDEP" in order for the boat to be released. Owners shall pay any accumulated fees and remove their claimed boat at the same appointment. NYCDEP shall not hold claimed boats nor allow deferred payment. NYCDEP may, in extreme circumstances such as death of a boat owner resulting in the lapse of a Boat Tag's validity and ultimate NYCDEP removal of the boat, waive any accumulated fees.

§7. Subdivisions (a), (d), and (f) of section 16-06 of Title 15 of the Rules of the City of New York and amended to read as follows:

(a) **Relationship to Fishing and Fishing Area Rules.** All Fishing and Fishing Area rules set forth in §16-04 of these rules shall [also] apply to all Fishing by boat.

(d) **Season.** On the Amawalk, Bog Brook, Boyds Corner, Cross River, Croton Falls, Diverting, East Branch, Kensico, Middle Branch, Muscoot, New Croton, Titicus, and West Branch Reservoirs, and on Lake Gilead and Lake Gleneida, boats with valid Boat Tags may be placed on the water during any ice free period. On all other New York City Reservoirs, boats with valid Boat Tags may be placed on the water between April 1st and November 30th of each year during any ice free period.

(f) **Safety.** Every boat used on City Property shall have at least one U.S. Coast Guard approved wearable personal flotation device in good condition for each person on board. Each person on board who is under the age of 12 must wear a securely fastened U.S. Coast Guard approved wearable flotation device of an appropriate size. All boaters shall comply with U.S. Coast Guard, New York State, and any other applicable laws and regulations regarding personal flotation device use.

§8. The first unnumbered paragraph and subdivisions (b), (d), (f), (g), (h) and (k) of section 16-07 of Title 15 of the Rules of the City of New York are amended to read as follows:

§16-07 **Recreational Boating Areas.**

NYCDEP may, in its discretion, designate portions of, or entire City reservoirs and controlled lakes as Recreational Boating Areas [which] that may be entered and used for boating by persons with valid Access Permits [for boating]. Such Recreational Boating Areas allow, but do not require, boat occupants to be plausibly engaged in the activity of Fishing. For purposes of this section, individuals shall comply with all provisions of this Chapter with the exception of §16-05 and §16-06. Recreational Boating Areas and launch sites shall be designated by NYCDEP on sign postings, on the NYCDEP website, on Public Maps, and/or in other publications and notices available from NYCDEP and at local sporting outfitters. In compliance with both the State Environmental Quality Review Act and the City Environmental Quality Review requirements, NYCDEP will undertake environmental reviews for each reservoir it proposes to designate a Recreational Boating Area on prior to making such designation, including a review of any cumulative impact of such designation in the watershed.

(b) **Recreational Boat Tags.** Due to the threat of Water Supply contamination by organisms such as zebra mussel larvae that may be introduced to City waters by boats previously used in contaminated waters, all boats used in Recreational Boating Areas shall be registered and steam cleaned by [NYCDEP or its designee] NYDCEP's designees, as listed on NYCDEP's website, and must have a valid Recreational Boat Tag affixed to the upper port side exterior bow. If no NYCDEP designees are available, the NYCDEP website will advise Recreational Boat Tag applicants whom to contact to have their boats processed.

(1) Eligibility. Boats eligible for Recreational Boat Tags include canoes, sculls, small sailboats with removable center/dagger boards and jonboats that measure no less than eleven feet five inches (11′ 5″) in length and kayaks that measure no less than nine feet (9″) in length. Inflatable boats, collapsible boats and motorized boats are prohibited. NYCDEP may, at its discretion, add to or delete from the list of boats eligible for Recreational Boat Tags. Changes to the list shall be designated by NYCDEP on sign postings, on the NYCDEP website, on Public Maps, and/or in other publications and notices available from NYCDEP and at local sporting outfitters.

(2) Term. At the option of the applicant, Recreational Boat Tags shall be valid for one of the following terms: (i) one through seven days ("temporary"); or (ii) from sunrise on the Friday immediately preceding Memorial Day weekend through sunset on Columbus Day ("season") unless revoked or suspended pursuant to §16-19(e). Recreational Boat Tags shall only remain valid so long as the boat owner's Access Permit is valid. If an Access Permit holder's Access Permit and/or Recreational Boat Tag is suspended or revoked, he or she must remove the boat within 24 hours of the suspension date in the company of a NYCDEP representative.

(3) Application. Recreational Boat Tag applications shall be available at the same locations as Access Permit applications, including instantly on the NYCDEP website, and may also be available at local hotels, motels, B&Bs, sporting outfitters and other merchants designated by NYCDEP for processing [certain] boats for use in Recreational Boating Areas. [No application fee is required.]

(4) Required Information. A Recreational Boat Tag application shall require the following information:

(i) Applicant's valid Access Permit number;

(ii) Applicant's name, mailing address, phone number, electronic mail address, if available, and date of birth;

(iii) Boat make, model, color, width, length, material, and hull shape and, if known, serial number;

(iv) Term of Recreational Boat Tag;

(v) Acknowledgement of risk and waiver of liability;

(vi) Applicant signature and date of signature; and

(vii) Parent or legal guardian signature and date of signature if applicant is under 18.

(5) Boat Processing, Registration, Steam Cleaning and Recreational Boat Tag Issuance. Recreational Boat Tag applications may be completed in advance of submission, except for the portions which need to be completed [by NYCDEP or its designee] when the boat is registered, steam cleaned and placed on the reservoir. Prior to entering Recreational Boating Areas, all boats shall be steam cleaned by [NYCDEP or its designee] one of NYCDEP's designees at the appropriate office as listed on the NYCDEP website. [Boat owners applying for temporary Recreational Boat Tags may have their boats processed, registered, steam cleaned and receive their Recreational Boat Tags without an appointment at local merchants designated by NYCDEP. Boat Owners applying for season Recreational Boat Tags must have their boats processed by appointment with NYCDEP at the Downsville Office. Appointments for processing at NYCDEP's Downsville office may be made by contacting the Downsville office, which can be made by contacting the Downsville office at the number listed on NYCDEP's website.]

(d) **Boat Storage Areas and Boat Storage.** [NYCDEP] NYCDEP's designee will assign a Boat Storage Area to boats with season Recreational Boat Tags. Boats with temporary or season Recreational Boat Tags may not be stored in shoreline buffer zones, which are generally within ten (10) feet of the shoreline, but may be more or less than ten (10) feet as designated. Boats shall not be stored on or against other stored boats. Boats stored in Boat Storage Areas within Recreational Boating Areas shall not be secured to dead trees or trees marked with blue paint by NYCDEP for removal. Boats with temporary Recreational Boat Tags may be stored, at the owner's risk, in the vicinity of the Recreational Boating Area's launch sites above the high water mark back from the shoreline so as not to obstruct access to the water and in a hull up position so as not to collect water.

(f) **NYCDEP Removal of Boats.** Any boat left in the water unattended[;], found on land outside of the boat's assigned Boat Storage Area[;], found in a closed Boat Storage Area to which it was not assigned[;], found without a valid Recreational Boat Tag or found on City Property after expiration, suspension or revocation of the owner's Recreational Boat Tag or Access Permit[;], or found in a restricted area is subject to removal and storage by NYCDEP at the owner's expense of $120.00 for removal and $1.00 per day for storage, not to exceed $210.00. While boats without valid Recreational Boat Tags may be removed from City Property, confiscated, and stored by NYCDEP at any time, such boat removal shall generally commence on the day after Columbus Day of each year and be completed before the day before Memorial Day the following year. NYCDEP shall attempt to contact the owner of an invalid or removed boat at least once during the removal process or the three-month storage period in order to notify them of their boat's status. This contact may be by USPS mail, telephone, or electronic

mail [for] using the contact information on file for the boat, and [the attempt as well as its outcome] shall be documented.

(g) **Storage of NYCDEP-Removed Boats.** NYCDEP shall store removed boats in designated storage yards on NYCDEP properties until the removed boats are claimed by their owners or until three months have passed since the date of NYCDEP's [initial attempt to contact the owner] removal. If a boat remains unclaimed three months from the date of NYCDEP's [initial attempt to locate the owner] removal of the boat, it will be deemed the property of NYCDEP and will be disposed at NYCDEP's discretion. By accepting a NYCDEP Recreational Boat Tag, the owner of the subject boat acknowledges and accepts NYCDEP's right to remove, store and/or dispose of the boat in accordance with this section in lieu of any other procedure for the storage and disposition of abandoned property required or permitted by law, and waives any right to assert a claim against NYCDEP pursuant to the provisions of the New York State Personal Property Law, Abandoned Property Law or by any such other procedure. NYCDEP is not liable to the owner under any circumstances for damage to or loss of a boat during its removal, storage or disposition.

(h) **Owner Claim of Stored Boats.** Boats removed and stored by NYCDEP shall be available for claim and pick up within the three month storage period by the owner of record by appointment with NYCDEP. NYCDEP staff shall confirm that the person claiming the boat is the owner of record. Any accumulated removal and storage fees shall be paid to NYCDEP by certified check, bank check, or money order made out to "NYCDEP" in order for the boat to be released. Owners shall pay any accumulated fees and remove their claimed boat at the same appointment. NYCDEP shall not hold claimed boats nor allow deferred payment. NYCDEP may, in extreme circumstances such as the death of a boat owner resulting in the lapse of a Recreational Boat Tag's validity and ultimate removal of the boat, waive any accumulated fees.

(k) **Safety.** Every boat used on City Property shall have at least one U.S. Coast Guard approved wearable personal flotation device in good condition for each person on board. Each person on board who is under the age of 12 must wear a securely fastened U.S. Coast Guard approved wearable flotation device of an appropriate size. All boaters shall comply with U.S. Coast Guard, New York State, and any other applicable laws and regulations regarding personal flotation device use.

§9. The first unnumbered paragraph and subdivision (b) section 16-12 of Title 15 of the Rules of the City of New York and amended to read as follows:

§16-12 **Group Access Permit.**

Group Access Permits of limited duration are available for Groups of between [twelve] seven (7) and thirty (30) individuals to conduct such activities as would normally be available to individual Access Permit holders and shall be issued in accordance with NYCDEP policies and procedures.

(b) **Application.** Applicants for a Group Access Permit must fully complete a Group Access Permit application and submit it to the address on the application [or through the NYCDEP website]. Group Access Permit applications and waivers shall be available at the same locations as indicated in §16-03(a) above. No application fee is required.

§10. Section 16-19 of Title 15 of the Rules of the City of New York is amended to read as follows:

§16-19 Permit Suspension and Revocation.

Any violation of these rules by an Access Permit holder or by any person accompanying an Access Permit holder is cause for confiscation, suspension or revocation of such Access Permit and any related Tags. Such violation may also affect issuance of future Access Permits and/or Tags as determined by NYCDEP and may also subject the violator to prosecution to the fullest extent of the law. Any violation of these rules by a person without an Access Permit and/or Tag may affect future eligibility for an Access Permit and/or Tag and may also subject the violator to prosecution to the fullest extent of law.

(a) **Confiscation.** Upon request of a NYCDEP representative or law enforcement officer, an Access Permit holder or Guest Pass holder shall surrender his or her Access Permit and/or Guest Pass and/or any related Tag to the requestor and must immediately leave the City Property. Such NYCDEP representative or law enforcement officer shall submit the confiscated items within ten (10) days to the NYCDEP office in Kingston along with the following information:

(1) Date and location of alleged violation;

(2) Confiscating personnel name, title and contact information;

(3) Name, Access Permit number, address, telephone number, and driver's license or non-driver's identification number and state of alleged violator, as applicable;

(4) Nature and description of the alleged violation;

(5) Nature and description of any NYCDEP enforcement action taken, including identification number(s) and description(s) of any [tickets] summonses issued or arrests made.

(b) [**Initial Appeal.** The Access Permit holder may provide the NYCDEP office in Kingston with a written explanation of the alleged violation within fifteen (15) days of the confiscation. NYCDEP will consider the written explanation before notifying the Access Permit holder of a decision.

(c)] **Notification Procedure.** Upon examination of the circumstances, NYCDEP will suspend, revoke or return the Access Permit, Guest Pass, and/or Tag, and will notify the person in writing of its determination generally within forty-five (45) days of the alleged violation or receipt of the

written explanation, whichever is later. NYCDEP shall send a letter of suspension, revocation, or reinstatement via USPS or electronic mail to the individual's address on file. This letter shall specify the following:

(1) Date, location, and nature of the alleged infraction;

(2) The alleged violator's name, address, and Access Permit or Tag number(s), as applicable;

(3) Citation of the alleged violation as per these rules;

(4) Notification of [any] penalty imposed and Access Permit or Tag status;

(5) Notification of the opportunity and timeline for appeal.

[(d)](c) **Suspension.** If NYCDEP determines that the Access Permit and/or Tag should be suspended, a letter including the basis for the suspension, the period of suspension and the expiration date of the suspension period shall be sent to the Access Permit holder at the address on file. The person may not enter upon City Property until the period of suspension has ended and NYCDEP returns the Access Permit and related Tags, as applicable. Depending on the severity of the violation and record of previous violations, Access Permit/Tag suspension may be from [three] two months to five years from the date of the violation.

[(e)](d) **Revocation.** If NYCDEP determines that the Access Permit and/or Tag should be revoked due to significant, repeated, or egregious violations, a letter including the basis for revocation shall be sent to the former Access Permit holder. Revocation is effective immediately upon issuance of such letter. The former Access Permit holder may not apply for a new Access Permit and/or Tag until the date specified in the letter, if any.

(e) **Penalty Schedule.** First offenses of the rules shall result in a suspension that has a duration of one-third the maximum suspension duration for the specific violation. Second offenses shall result in a suspension that has a duration of one-half the maximum suspension period for the specific violation, and third offenses shall result in a suspension that has the maximum suspension period for the specific violation. Violations of multiple sections of the rules during a single incident will result in the maximum penalty for the single most egregious violation. In addition, certain violations of the rules can result in the issuance of a summons for trespass and/or arrest.

The maximum penalty for violation of the rules is a three (3) year suspension for holders of Access Permits or a three (3) year suspension from applying for an Access Permit, except for those infractions listed in the following table:

Applicable Rules Section	Violations Subsection	Access Permit Suspension Term
16-08, 16-11, 16-18	Tree stands (§16-08, §16-18(a)(1)); Hunting	2-6 months

	Blinds (§16-08(h)); Shooting lanes (§16-18(a)(1)); Vehicle Tags (§16-11(c))	
16-04, 16-05, 16-07, 16-08, 16-09, 16-10, 16-17, 16-18	Season (§16-04(e),§16-06(d), §16-07(a), §16-08(c), (h), §16-09(d), §16-13(e), §16-14(c)); Means (§16-04(f)); Equipment (§16-04(h), (i), §16-05(p), §16-06(f), §16-07(k), §16-08(k), §16-13(a), §16-17(g), §16-18(a)(1),(b),(e)); Litter (§16-04(i), §16-17(a)); Entrails (§16-04(j), §16-08(g)); Ice Fishing (§16-04(d),(h)(2),(3), (5)); Boat Tag (§16-05(i),(q),(r),(s), §16-07(d),(f)); Boat Storage (§16-05(n),(o),(p),(s), §16-07(d),(f)); Boat Condition (§16-06(e),§16-07(m)); Unsafe Operation (§16-06(e),(f),(g),§16-07(k),(l),(m)); Restricted Areas (§16-05(s), §16-07(f), §16-15)	4 Months-1 year
16-13, 16-14	Public Access Areas (§16-13(a), (b), (e)); Designated Use Areas (§16-14(b), (c))	1-3 years or Revocation
16-15, 16-17, 16-18	Restricted Areas (§16-15); Camping (§16-17(d)); Fires (§16-17(e)); Motorized Equipment (§16-04(h)(5), §16-13(a)(2), §16-17(g)); Natural Resources (§16-18(a)); Trapping (§16-18(g))	20 months-5 years

Individuals who have committed four or more offenses within a five-year period, or who have seriously threatened public safety, water supply safety or security, or the personal safety of individuals through means not specifically enumerated in this penalty schedule will be subject to the revocation of all public access privileges as recommended by the Chief of Watershed Lands and Community Planning.

(f) **Appeals.** Individuals may appeal the suspension or revocation of their public access privileges and/or ability to apply for public access privileges by submitting a request in writing explaining why the penalty should be changed to NYCDEP within thirty (30) days of the date of the letter of suspension or revocation. In support of an appeal, an individual should submit:

(1) an explanation as to why the penalty imposed is not justified by the circumstances presented;

(2) a statement indicating his or her commitment to abide by all rules, policies, and conditions in the future.

NYCDEP shall respond to all appeal requests in writing within thirty (30) days of receipt. In response to a written appeal, NYCDEP may reduce the duration of suspension or revocation period. Factors NYCDEP shall consider in determining whether to grant or deny an appeal request include whether the individual has committed any rule infractions within the previous five years and whether the infraction at issue threatened or compromised water supply quality or security, public safety or led to property damage or injury to any individual. Individuals dissatisfied with the first appeal response may elect to submit a final written appeal to the NYCDEP [Deputy Commissioner of the Bureau of Water Supply,] Chief of Watershed Lands and Community Planning for a final determination.

(g) **Reinstatement.** Upon conclusion of the suspension period, NYCDEP shall send notification of reinstatement via USPS [mail] or electronic mail to the individual at the address on file. This notification shall include the return of any confiscated Access Permit or Tag that is still valid or an application for a replacement.

(h) **Group Infractions.** Any violation of these rules and/or the Group Access Permit conditions by a Group Member may result in:

(1) Removal of the Group and/or Group [Members] Member from the property;

(2) Revocation of the Group Access Permit;

(3) Loss of general privileges to access Water Supply lands including loss of eligibility to apply for an Access Permit, suspension or revocation of Access Permits; and

(4) Arrest and prosecution to the full extent of the law of the Group Members, Group Leader, and/or organization sponsoring the Group and/or which the Group represents.

(i) **Public Access Area and Designated Use Area Infractions.** Failure to comply with these rules, postings or notices in a Public Access Area or a Designated Use Area may result in, but [will] may not be limited to, one or more of the following measures:

(1) Removal from the property;

(2) Suspension or revocation of Access Permit privileges, if violator is an Access Permit holder;

(3) Suspension from applying for an Access Permit;

(4) Suspension from access to some, any or all City property;

(5) Arrest and prosecution to the [full] fullest extent of the law.

STATEMENT OF BASIS AND PURPOSE

The rules have a number of purposes. First, the rules make the definition of "group" consistent with the number of people eligible to receive a Group Access Permit. Second, the rules prohibit certain fishing equipment due to the threat of invasive species from such equipment. Third, the rules establish a maximum amount that NYCDEP can charge to retrieve a boat that has been removed from the water and stored by NYCDEP and limit boaters' abilities to change Boat Storage Areas to facilitate NYCDEP's management of Boat Storage Areas. Fourth, the rules expand year-round boating to the Kensico and New Croton reservoirs and, when available, enable all boaters to use steam cleaning facilities belonging to non-NYCDEP entities. Fifth, the rules establish a penalty schedule for violation of the rules.

The proposed rules are derived from historical recreational uses of the lands that are recognized in the New York City Watershed Memorandum of Agreement dated January 21, 1997, and are not intended to establish supervised recreational activities on these lands.