

**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 Fire Penalty Schedule, found in Section 3-106 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 Fire Department (FDNY) for violations of Title 3 of the RCNY and Titles 15, 28, and 29 of the New York City Administrative Code. FDNY promulgated a rule adding the Fire Penalty Schedule to its rules.

The proposed rule was published in The City Record on July 14, 2017, and a public hearing was held on August 15, 2017. No one attended the public hearing and OATH ECB did not receive any written comments concerning this rule.

Statement of Basis and Purpose

The Office of Administrative Trials and Hearings' Environmental Control Board (OATH ECB) repeals its Fire Penalty Schedule rule, which consists of Fire Penalty Schedule I and Fire Penalty Schedule II. This schedule is found in 48 RCNY § 3-106, and contains penalties for violations of provisions in Titles 15, 28, and 29 of the New York City Administrative Code, and Title 3 of the Rules of the City of New York. At the same time, FDNY enacts a Fire Penalty Schedule within its own rules, which is located in 3 RCNY § 109-03. OATH ECB is 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 rulemaking and policymaking jurisdiction over the laws underlying the violations.

Although OATH ECB is empowered to impose penalties under the New York City Charter and has until now promulgated penalty schedules, the regulatory and enforcement agencies have the necessary expertise to determine appropriate penalties for violation of the rules and of the laws within their jurisdiction based on the severity of each violation and its effect on City residents. Moving the penalty schedule also 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 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 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. The Fire Penalty Schedule, which consists of Fire Penalty Schedules I and II and is found in Section 3-106 of Subchapter G of Chapter 3 of Title 48 of the Rules of the City of New York, is REPEALED.