



**NEW YORK CITY DEPARTMENT OF HEALTH AND MENTAL HYGIENE  
BOARD OF HEALTH**

**Notice of Public Hearing and Opportunity to Comment on Proposed Rules**

**What are we proposing?** The New York City Department of Health and Mental Hygiene is proposing that the Board of Health amend Article 141 of the Health Code to require building owners to demonstrate that the annual inspections of drinking water tanks as mandated by the New York City Health Code and the Administrative Code of the City of New York have been completed, and to authorize the Department to publish rules dictating the manner and form for submitting that documentation.

**When and where is the Hearing?** The New York City Department of Health and Mental Hygiene will hold a public hearing on the proposed rule. The public hearing will take place at 2:00 PM until 4:00 PM on April 21, 2014. The hearing will be at the offices of the New York City Department of Health and Mental Hygiene at 42-09 28<sup>th</sup> Street, 3<sup>rd</sup> Floor, Room 3-32, Long Island City, NY 11101-4132.

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

- **Website.** You can submit comments to the New York City Department of Health and Mental Hygiene through the NYC rules Web site at <http://rules.cityofnewyork.us>.
- **Email.** You can email written comments to [resolutioncomments@health.nyc.gov](mailto:resolutioncomments@health.nyc.gov).
- **Mail.** You can mail written comments to:  
New York City Department of Health and Mental Hygiene  
Board of Health  
42-09 28th Street, 14th Floor, CN31  
Long Island City, NY 11101-4132
- **Fax.** You can fax written comments to New York City Department of Health and Mental Hygiene at (347) 396-6088.
- **By Speaking 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 Svetlana Burdeynik at (347) 396-6078. You can also sign up in the hearing room before the hearing begins on April 21, 2014. You can speak for up to five minutes.

**Is there a deadline to submit written comments?** Comments submitted or postmarked by 5:00 PM on April 21, 2014 will be considered.

**Do you need assistance to participate in the Hearing?** You must tell the Department's Office of the General Counsel if you need a reasonable accommodation of a disability at 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 (347) 396-6078. You must tell us by April 7, 2014.

**Can I review the comments made on the proposed rules?** You can review the comments made online on <http://rules.cityofnewyork.us/> on the proposed rules by going to the website at <http://rules.cityofnewyork.us/>. All written comments and a summary of the oral comments received by DOHMH will be made available to the public within a reasonable period of time by the DOHMH Office of the General Counsel.

**What authorizes the New York City Board of Health to make this rule?** Sections 556, 558 and 1043 of the City Charter authorize the New York City Board of Health to make this proposed rule. This rule was not included in the Department's Fiscal Year 2014 Regulatory Agenda as it is in response to recent analysis.

**Where can I find the New York City Health Code?** The New York City Health Code is located in title 24 of the Rules of the City of New York.

**What rules govern the rulemaking process?** The New York City Board of Health must meet the requirements of Section 1043 of the City Charter when creating or changing rules. This notice is made according to the requirements of Section 1043 of the City Charter.

## STATEMENT OF BASIS AND PURPOSE

Article 141 of the New York City Health Code (the “Health Code”) concerns the maintenance of the purity and sanitary condition of the City’s potable water supply. Water for thousands of New York City buildings is kept in water storage tanks. Health Code section 141.07 (“Building Drinking Water Storage Tanks”) requires that these tanks be inspected annually and that the person in control of a building serviced by a water storage tank keep copies of the inspection records and make them available to the New York City Department of Health and Mental Hygiene (the “Department”) upon request.

This proposed amendment would require building owners to document annually with the Department that their drinking water tanks have been inspected as required by section 141.07 of the Health Code and section 17-194 of the Administrative Code of the City of New York. The Department would be authorized to indicate by rule the manner and form in which building owners would submit such documentation.

This amendment requires owners of buildings with water tanks to report annually to the Department on the fact that the tanks have been inspected as required by the Health Code. The amendment authorizes the Department to issue rules dictating the manner and form of these reports. Requiring annual reporting would promote building owner compliance with the inspection mandate and facilitate the Department’s ability to monitor compliance. Data from these reports submitted to the Department will be made publically available.

The proposal is as follows:

“Shall” and “must” denote mandatory requirements and may be used interchangeably in the rules of this department, unless otherwise specified or unless the context clearly indicates otherwise.

New material is underlined.

[Deleted material is in brackets]

**RESOLVED**, that subdivisions (c) and (f) of Section 141.07 of Article 141 of the New York City Health Code, as set forth in Title 24 of the Rules of the City of New York, subdivision (c) as added by resolution on June 30, 2009 and subdivision (f) as amended by resolution on September 21, 2011, be and the same hereby is amended to be printed together with explanatory notes to read as follows:

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(c) *Reporting and Record Keeping*. [A written report documenting the results of such] The annual inspection required by subdivision (b) of this section shall be maintained by the owner, agent or other person in control of a building for at least 5 (five) years from the date of the inspection and such reports shall be made available to the Department upon request within 5 (five) business days. Effective January 1, 2015, documentation of such annual inspection is required to be submitted to the Department in a form and manner prescribed by the

Department. The inspection report shall state whether or not all applicable requirements were met at the time of inspection and provide a description of any non-compliance with those requirements.

(f) *Enforcement.* If an inspection report required by subdivision (b) of this section is not submitted to the Department when requested, or documentation of such report is not submitted annually in accordance with rules issued by the Department pursuant to this section, such failure to submit shall be considered prima facie evidence that no inspection was conducted for the time period in question. A separate violation shall be issued for each year for which a required inspection report was not submitted.

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*Notes: The Department proposes that the Board of Health amend subdivisions (c) and (f) of §141.07 of Article 141 of the Health Code to require building owners who use water tanks to store potable water that is distributed as part of the building's drinking water supply system to submit documentation of required annual drinking water tank inspections in a manner prescribed by the Department.*

**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:** Annual Submission of Drinking Water Tank Inspection Reports (Health Code Article 141)

**REFERENCE NUMBER:** 2014 RG 012

**RULEMAKING AGENCY:** Department of Health and Mental Hygiene

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: March 5, 2014

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS  
253 BROADWAY, 10<sup>th</sup> FLOOR  
NEW YORK, NY 10007  
212-788-1400**

**CERTIFICATION / ANALYSIS  
PURSUANT TO CHARTER SECTION 1043(d)**

**RULE TITLE:** Annual Submission of Drinking Water Tank Inspection Reports (Health Code Article 141)

**REFERENCE NUMBER:** DOHMH-39

**RULEMAKING AGENCY:** Department of Health and Mental Hygiene

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/ Geraldine Sweeney  
Mayor's Office of Operations

March 5, 2014  
Date