

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

**Notice of public hearing and opportunity to comment
on proposed rules concerning drinking water tank inspection penalties**

What are we proposing? The New York City Department of Health and Mental Hygiene (Department) is proposing to amend its rules concerning drinking water tank inspection penalties, which are found in Chapter 31 of Title 24 of the Rules of the City of New York (RCNY). The proposed amendments would create new penalties for failure to comply with requirements in §17-194 of the New York City Administrative Code (Administrative Code) and update current penalties.

When and where is the hearing? The Department will hold a public hearing on the proposed rules. The public hearing will take place from 10AM to 12PM on **Friday, January 6, 2023**.

The hearing will be conducted by video conference accessible via internet or telephone.

- **Internet.** To participate in the public hearing, enter to register at this Webex URL:
<https://nycdohmh.webex.com/nycdohmh/j.php?MTID=m8b0a3a3b5e4996d2ee36e6bf47a142b6>

If prompted to provide an event number or password, please enter the following:

Event number: **2342 702 9433**

Password: **Health** (432584 from phones)

- **Phone:** For access, dial: (408) 418-9388; (646) 992-2010 (New York City) then please enter the following: Access code: **234 270 29433**, Password: **432584**.

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

- **Website.** You can submit comments to the Department through the NYC rules website, at <http://rules.cityofnewyork.us>
- **Email.** You can email comments to resolutioncomments@health.nyc.gov
- **Mail.** You can mail comments to DOHMH at:
New York City Department of Health and Mental Hygiene
Gotham Center, 42-09 28th Street, CN 30
Long Island City, NY 11101-4132
- **Fax.** You can fax written comments to DOHMH at (347) 396-6087.
- **By speaking at the hearing.** Anyone who wants to comment on the proposed rules at the public hearing should sign up to speak. You can sign up before the hearing by calling Svetlana Burdeynik at 347-396-6078 or by emailing at resolutioncomments@health.nyc.gov before the hearing begins at 10AM on January 6, 2023. While you will be given the opportunity during the hearing to indicate that you would like to comment, we prefer that you sign-up in advance. You can speak for up to three minutes.

Is there a deadline to submit written comments? Yes, you must submit written comments by January 6, 2023.

What if I need assistance to participate in the hearing? You must tell the Department's Office of General Counsel if you need a reasonable accommodation of a disability at the hearing, including whether you need a sign language interpreter. You can tell us by e-mail or by mail at the addresses given above. You may also tell us by telephone at 347-396-6078. Advance notice is requested to allow sufficient time to arrange the accommodation. Please tell us by December 23, 2022.

Can I review the comments made on the proposed rules? You may review the online comments submitted on the proposed rules at <https://rules.cityofnewyork.us/proposed-rules/>. All written comments

and a summary of the oral comments received by the Department will be made available to the public within a reasonable period of time after the hearing by the Department's Office of General Counsel.

What authorizes the Department to make these rules? Sections 555(b)(2), 556 and 1043 of the New York City Charter (Charter) and §17-194 of the Administrative Code authorize the Department to make these proposed rules. This proposal was included in the Department's FY2023 regulatory agenda.

Where can I find the Department's rules? The rules of the Department are in Title 24 of the RCNY.

What laws govern the rulemaking process? The Department must meet the requirements of §1043 of the Charter when creating or changing rules. This notice is made according to the requirements of Charter §1043.

Statement of Basis and Purpose

NYC Administrative Code section 17-194 governs drinking water tank inspections. The Department's rules enacted pursuant to section 17-194 are located in Chapter 31 (§§ 31-01 to 31-03) of Title 24 of the Rules of the City of New York. Section 17-194 requires an owner of a building with a water tank that provides potable water to submit documentation of an annual drinking water tank inspection report to the Department. The inspection report must be submitted by the water tank inspector and must state whether all applicable regulations were met at the time of inspection and provide a description of any non-compliance with the requirements.

These proposed amendments to the penalty schedule of section 31-03 of Title 24 reflect amendments to section 17-194 made by Local Laws 85, 86, 87 and 88 of 2019, which added the following requirements: electronic submission of documentation for water tank inspection and cleaning; specific qualifications for persons conducting inspections of drinking water tanks; the maintenance of water tanks and associated structures in safe condition and the reporting by the water tank inspector or owner of any unsafe conditions to the Department of Buildings in writing; and submission of a visual depiction of the interior and exterior of water tanks to the Department. An increase in the penalty fee for failure to submit the annual drinking water tank inspection report is also proposed in light of the importance of this requirement. Ministerial corrections are also made to accurately reflect the Administrative Code citations after Local Law revisions. The proposed penalties are within the range established in section 17-194 of the Administrative Code.

Pursuant to Charter section 1043(d)(4)(ii), these rule changes are exempt from the review required under Charter section 1043(d)(1).

The proposed rule changes are as follows:

Underlined text is new.

Deleted text is in [brackets].

Section 1. Appendix 31-A of Title 24 of the Rules of the City of New York is proposed to be amended by adding the following rows and amending the row relating to "failure to post notice of availability of inspection reports," all to read as follows:

| Citation | Violation Description | Penalty | Default |
|---------------------------------|---|------------------------------------|-------------------------------------|
| 24 RCNY 31-02(a) | Failure to submit report of previous year's inspection results by January 15 | [\$250] <u>\$500</u> | [\$500] <u>\$1000</u> |
| <u>Admin. Code 17-194(b)</u> | <u>Failure to provide documentation that displays visual depiction of the water tank</u> | <u>\$250</u> | <u>\$500</u> |
| <u>Admin. Code 17-194(c)</u> | <u>Drinking water tank inspected by someone other than a water tank inspector</u> | <u>\$500</u> | <u>\$1000</u> |
| <u>Admin. Code 17-194[c](d)</u> | Failure to post notice of availability of inspection reports | <u>\$250</u> | <u>\$250</u> |
| <u>Admin. Code 17-194(g)</u> | <u>Failure to report a water tank's unsafe conditions to the Department of Buildings in writing</u> | <u>\$250</u> | <u>\$500</u> |