

**City of New York
Office of Administrative Trials and Hearings**

Notice of Public Hearing and Opportunity to Comment on Proposed Rules

What are we proposing? The Office of Administrative Trials and Hearings' Environmental Control Board (OATH ECB) proposes to amend its Rules in Title 48 of the Rules of the City of New York to delegate to the Commissioner of the Department of Environmental Protection its authority to establish a schedule of civil penalties in accordance with Administrative Code Section 24-346(b); and to repeal its current Water Penalty Schedule. The Department of Environmental Protection is separately proposing a companion rule to implement a Water Penalty Schedule in its own rules in Title 15 of the Rules of the City of New York.

When and where is the Hearing? OATH will hold a public hearing on the proposed rule. The public hearing will take place **from 11:00 a.m. through 12:00 p.m. on March 20, 2025**. The hearing will be conducted by video conference and is accessible by:

- **Internet Video and Audio.** For access, click:
[Proposed Rule Public Hearing Link](#)

When prompted, enter Meeting ID: **256 115 509 530**
Password: **gE3nR9Ub**

- **Phone.** For access, dial: **+1 646-893-7101**
- When prompted, enter Meeting ID: **191 088 954#**

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

- **Website.** You can submit comments to OATH 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, Attention: Leon Dawson, Assistant General Counsel, 66 John Street, 11th Floor, New York, NY 10038.
- **Fax.** You can fax written comments to OATH, Attention: Leon Dawson, Assistant General Counsel, at (212) 436-0713.
- **By Speaking at the Hearing.** Anyone who wants to comment on the proposed rules at the public hearing may speak for up to three minutes. Please access the public hearing by internet video and audio or by telephone using the instructions above. Please note that the hearing is for accepting oral testimony only and is not held in a "Question and Answer" format.

Is there a deadline to submit written comments? You may submit written comments until **5:00 p.m. on March 20, 2025.**

What if I need assistance to participate in the hearing? You must tell us if you need a reasonable accommodation of a disability at the hearing. You must tell us if you need a sign language interpreter. You may contact us by email at ldawson2@oath.nyc.gov or by telephone at (212) 436-0578 to request a reasonable accommodation. Please tell us by **March 13, 2025.**

Can I review the comments made on the proposed rule? You can review the comments that have been submitted online by visiting the NYC rules website at <http://rules.cityofnewyork.us/>. Shortly after the public hearing, a summary of oral comments and copies of all written comments will be available to the public on OATH's website, at <https://www1.nyc.gov/site/oath/about/legal-resources-and-rule-making.page>.

What authorizes OATH to make these rules? Section 1049-a(c)(3) of the New York City Charter. These proposed rules were not included in OATH's regulatory agenda for this Fiscal Year because the necessity of this rule was not anticipated at the time.

Where can I find OATH's rules? OATH's rules are located 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 Section 1043 of the New York City Charter.

Statement of Basis and Purpose of Proposed Rule

The Office of Administrative Trials and Hearings Environmental Control Board (OATH ECB) proposes to amend 48 RCNY § 3-126, the Water Penalty Schedule, to delegate to the Commissioner of the Department of Environmental Protection (DEP) its authority to establish a schedule of civil penalties in accordance with Section 24-346(b) of the Administrative Code of the City of New York ("Administrative Code"). Pursuant to this amendment, OATH ECB will repeal its Water Penalty Schedule, currently found at 48 RCNY § 3-126. At the same time, DEP will enact a penalty schedule within its own rules at Title 15 of the Rules of the City of New York, so that the penalty schedule is relocated to the rules of the agency with primary rulemaking and policymaking jurisdiction over the laws underlying the violations.

The proposed amendment of 48 RCNY § 3-126 continues the effort to repeal penalty schedules from the rules of OATH ECB. Although OATH ECB is empowered to impose penalties under Section 1049-a of the New York City Charter ("City Charter") and Section 24-346 of the Administrative Code, the regulatory and enforcement agencies have the expertise to determine appropriate penalties based on the severity of each violation and its effect on City residents. Moving the Water Penalty Schedule will also make it easier for the public to find the penalties, which will be located within the same title of the RCNY as the rules establishing the violations alleged in the summonses. Finally, the amendment will speed up the rulemaking process by eliminating the need for approval by OATH ECB of proposed or amended penalties for

violations of agency rules that have already gone through the City Administrative Procedure Act rulemaking process. The delegation of authority will not affect the right of the public to comment during the rulemaking process.

Deleted material is in [brackets].
New material is underlined.

“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.

Section 1. Section 3-126 of Subchapter G of Title 48 of the Rules of the City of New York is amended to read as follows:

§ 3-126 Water Penalty Schedule.

The powers granted to the Board under Section 1049-a of the New York City Charter (“City Charter”) and Section 24-346 of the Administrative Code of the City of New York (“Administrative Code”) to establish a Water Penalty Schedule are hereby delegated to the Commissioner of the Department of Environmental Protection. Such authority to establish a Water Penalty Schedule shall be exercised by the Commissioner after consideration of the degree of danger of the violation to the water supply or the water supply system or to public health or to the life or safety of persons, or significance of the violation to the protection or monitoring of the water supply or water supply system. The Water Penalty Schedule shall be consistent with the limitations established by the City Charter, the Administrative Code, and rules and regulations promulgated by the Board.

[WATER PENALTY SCHEDULE

All citations preceded by "A.C." are to the New York City Administrative Code. All other citations are to Title 15 of the Rules of the City of New York.

* If a respondent charged with a violation of 15 RCNY § 20-04(e) submits the annual test report by the first hearing date, the penalty shall be mitigated from \$500 to \$50. For 15 RCNY § 20-04(e), the possibility of such mitigation exists only in connection with the first NOV issued to a given respondent.

Pursuant to 48 RCNY § 3-81(b), a late admit fee of \$30.00 will be added to all the below listed penalties for a failure to submit a payment by mail, as per 48 RCNY § 3-32, within 30 days of the mailing date of the default order issued against respondent.

Section	Description	Penalty	Default
	Stage I Drought Emergency		
Admin. Code § 24-337	Waste of city water (commercial or industrial)	\$400	\$1,000
Admin. Code § 24-337	Waste of city water (residential)	\$250	\$1,000
15 RCNY § 21-06	Failure to post "Save Water" signs	\$100	\$1,000

15 RCNY § 21-07	Failure to post Water-Conserving Irrigation System sign	\$100	\$1,000
15 RCNY § 21-08	Improper use of well water	\$250	\$1,000
15 RCNY § 21-09(a)	Allowing leak or waste of water from faucets, valves, pipes etc.	\$250	\$1,000
15 RCNY § 21-09(b)	Using public water to wash vehicles.	\$250	\$1,000
15 RCNY § 21-09(c)	Using water to spray or wash sidewalk, street	\$250	\$1,000
15 RCNY § 21-09(d)	Using any water for ornamental purposes	\$250	\$1,000
15 RCNY § 21-09(e)	Using water for lawns, golf course, plants, trees	\$250	\$1,000
15 RCNY § 21-09(f)	Illegal use of fire hydrants	\$750	\$1,000
15 RCNY § 21-09(g)	Serving water without request	\$250	\$1,000
15 RCNY § 21-09(h)	Use of public water for pools	\$250	\$1,000
15 RCNY § 21-09(i)	Use of noncompliant showerhead	\$250	\$1,000
	Stage II Drought Emergency		
Admin. Code § 24-337	Waste of city water (commercial or industrial)	\$500	\$1,000
Admin. Code § 24-337	Waste of city water (residential)	\$350	\$1,000
15 RCNY § 21-06	Failure to post "Save Water" signs	\$200	\$1,000
15 RCNY § 21-07	Failure to post Water-Conserving Irrigation System sign	\$200	\$1,000
15 RCNY § 21-08	Improper use of well water	\$350	\$1,000
15 RCNY § 21-10(a)	Allowing leak or waste of water from faucets, valves, pipes etc.	\$350	\$1,000
15 RCNY § 21-10(b)	Using public water to wash vehicles	\$350	\$1,000
15 RCNY § 21-10(c)	Using water to spray or wash sidewalk, street	\$350	\$1,000
15 RCNY § 21-10(d)	Using any water for ornamental purposes	\$350	\$1,000
15 RCNY § 21-10(e)	Using water for lawns, golf course, plants, trees	\$350	\$1,000
15 RCNY § 21-10(f)	Illegal use of fire hydrants	\$750	\$1,000
15 RCNY § 21-10(g)	Serving water without request	\$350	\$1,000
15 RCNY § 21-10(h)	Use of public water for pools	\$350	\$1,000
15 RCNY § 21-10(i)	Use of noncompliant showerhead	\$350	\$1,000
	Stage III Drought Emergency		
Admin. Code § 24-337	Waste of city water (commercial or industrial)	\$600	\$1,000
Admin. Code § 24-337	Waste of city water (residential)	\$450	\$1,000

15 RCNY § 21-06	Failure to post "Save Water" signs	\$300	\$1,000
15 RCNY § 21-07	Failure to post Water-Conserving Irrigation System sign	\$400	\$1,000
15 RCNY § 21-08	Improper use of well water	\$550	\$1,000
15 RCNY § 21-11(a)	Allowing leak or waste of water from faucets, valves, pipes etc.	\$550	\$1,000
15 RCNY § 21-11(b)	Using public water to wash vehicles	\$550	\$1,000
15 RCNY § 21-11(c)	Using water to spray or wash sidewalk, street	\$550	\$1,000
15 RCNY § 21-11(d)	Using any water for ornamental purposes	\$550	\$1,000
15 RCNY § 21-11(e)	Using water for lawns, golf course, plants, trees	\$550	\$1,000
15 RCNY § 21-11(f)	Illegal use of fire hydrants	\$750	\$1,000
15 RCNY § 21-11(g)	Serving water without request	\$550	\$1,000
15 RCNY § 21-11(h)	Use of public water for pools	\$950	\$1,000
15 RCNY § 21-11(i)	Use of noncompliant showerhead	\$450	\$1,000
15 RCNY § 21-11(j)	Use of non-air cooled air conditioning system using public water with temperature below 79 F.	\$550	\$1,000
	Other Water Regulations		
Admin. Code § 24-303.1	Illegal discharge of fracking waste	\$2,500	\$10,000
Admin. Code § 24-308	Illegal Use of Hydrant(s)	\$750	\$1,000
Admin. Code § 24-337	Illegal waste of water (Residential)	\$250	\$1,000
Admin. Code § 24-339	Distribution/Sale/Import/Installation of water wasting plumbing fixtures	\$475	\$1,000
Admin. Code § 24-346(b)	Failed to comply with Commissioner's Order	\$750	\$1,000
15 RCNY § 20-01(b)(1)	Plumbing work w/o permit	\$250	\$1,000
15 RCNY § 20-01(e)	Failed to produce permit on demand	\$150	\$1,000
15 RCNY § 20-01(f)	Failed to obtain/return emergency permit	\$250	\$1,000
15 RCNY § 20-02(b)	Unlawful connection to City main	\$700	\$1,000
15 RCNY § 20-03(k)(4)	Failed to protect curb valve/box from damage	\$250	\$1,000
15 RCNY § 20-03(w)	Failed to replace old service pipes upon establishment of new water service	\$250	\$1,000
15 RCNY § 20-03(x)	Failed to install meter on unmetered property when service pipe is replaced/repared/relaid/installed	\$350	\$1,000

15 RCNY § 20-04(d)	Failed to install a backflow preventer or submit initial test report	\$700	\$1,000
15 RCNY § 20-04(e)	Failed to submit an annual test report for a backflow preventer	\$500 or mitigation penalty of \$50*	\$1,000
15 RCNY § 20-04(i)	Removed / swapped / bypassed backflow device without DEP approval	\$700	\$1,000
15 RCNY § 20-05(a)	No meter in place	\$250	\$1,000
15 RCNY § 20-05(b)(1)	Meter repair/removal w/o permit	\$350	\$1,000
15 RCNY § 20-05(b)(2)	Failed to return meter permit	\$350	\$1,000
15 RCNY § 20-05(d)(5)	No reading receptacle for remote pad	\$250	\$1,000
15 RCNY § 20-05(g)	Improper size/type of meter	\$250	\$1,000
15 RCNY § 20-05(i)(1)	Meter not readily accessible	\$250	\$1,000
15 RCNY § 20-05(i)(2) - (12)	Improper setting of meter	\$250	\$1,000
15 RCNY § 20-05(i)(12)	Failed to design meter setting to ensure electrical continuity	\$150	\$1,000
15 RCNY § 20-05(j)	Prohibited meter bypass	\$500	\$1,000
15 RCNY § 20-05(k)	Improper meter pit / box / vault construction	\$350	\$1,000
15 RCNY § 20-05(m)(1)	Failed to install new meter after unpermitted disconnection of old meter	\$750	\$1,000
15 RCNY § 20-05(n)	Breaking seal on equipment w/o permit	\$500	\$1,000
15 RCNY § 20-05(p)	Inadequate protection of meter/remote receptacle / AMR Transmitter / wiring	\$250	\$1,000
15 RCNY § 20-05(p)(2)	Relocated remote receptacle or AMR transmitter without permit	\$250	\$1,000
15 RCNY § 20-05(t)	Failed to submit photo of meter to DEP	\$350	\$1,000
15 RCNY § 20-06	A.C./refrigeration violation	\$350	\$1,000
15 RCNY § 20-07(c)	Failed to submit self-certification of domestic water service pipe installation	\$250	\$1,000
15 RCNY § 20-08(a)(6)	Lawn / garden watering prohibited time/manner	\$150	\$1,000
15 RCNY § 20-08(a)(7)	Sidewalk flushing prohibited time / manner	\$150	\$1,000

15 RCNY § 20-08(a)(9)	Prohibited use of water for car washing	\$150	\$1,000
15 RCNY § 20-08(b)(4)	Failed to install backflow preventer on hose connected to fire hydrant	\$300	\$600
15 RCNY Chapter 20	Violation of miscellaneous rules regarding use and supply of water	\$150	\$1,000
	Drilling & Excavation Rules		
15 RCNY § 57-03	Drilling or excavating in restricted area without permit	\$900	\$1,000
15 RCNY § 57-05(b)	Violating general condition(s) of drilling / excavation permit	\$900	\$1,000
15 RCNY § 57-05(b)(1)	Failure to notify DEP 30 days prior to commencement of drilling or excavation	\$900	\$1,000
15 RCNY § 57-05(b)(2)	Failure to drill/excavate only to depth specified in permit	\$900	\$1,000
15 RCNY § 57-05(b)(3) and (b)(5)	Failure to abandon and/or seal any unpermitted borehole or well	\$900	\$1,000
15 RCNY § 57-05(b)(4) and (b)(6)	Failure to abandon and/or fill any unpermitted excavation	\$900	\$1,000
15 RCNY § 57-05(b)(7)	Failure to use blowout preventer when required	\$900	\$1,000
15 RCNY § 57-05(b)(10)	Failure to provide required, certified documentation within 30 days of completion of drilling or excavation	\$900	\$1,000
15 RCNY § 57-05(b)(11)	Failure to conduct required deviation survey	\$900	\$1,000

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§ 2. Effective date. This rule takes effect on the same date as a rule entitled Promulgation of Water Penalty Schedule, as published by the Department of Environmental Protection in the City Record, takes effect.

**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 ECB Water Penalty Schedule and Delegation to DEP of Authority to Establish and Amend Water Penalty Schedule

REFERENCE NUMBER: 2024 RG 132

RULEMAKING AGENCY: Office of Administrative Trials and Hearings Environmental Control Board

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
Senior Counsel

Date: January 15, 2025

**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 ECB Water Penalty Schedule and Delegation to DEP of Authority to Establish and Amend Water Penalty Schedule

REFERENCE NUMBER: OATH ECB-120

**RULEMAKING AGENCY: Office of Administrative Trials and Hearings
Environmental Control Board**

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/ Lisa Taapken

Mayor's Office of Operations

January 15, 2025

Date