

**City of New York
Department of Environmental Protection**

Notice of Public Hearing and Opportunity to Comment on Proposed Rules

What are we proposing? The Department of Environmental Protection (DEP) proposes to promulgate rules to establish a Water Penalty Schedule for violations of the Water Supply Code (Title 24, Chapter 3 of the Administrative Code) and rules promulgated thereunder, including the Water Shortage Regulations. The Office of Administrative Trials and Hearings' Environmental Control Board (OATH ECB) is proposing a companion rule removing the Water Penalty Schedule from Title 48 of the Rules of the City of New York (RCNY).

When and where is the Hearing? DEP 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 [Month Day, Year]. The hearing will be conducted by video conference and is accessible by:

(Insert Teams meeting info)

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

- **Website.** You can submit comments to DEP through the NYC rules website at <http://rules.cityofnewyork.us/>.
- **Email.** You can email written comments to nycrules@dep.nyc.gov.
- **Mail.** You can mail written comments to DEP Bureau of Legal Affairs, 59-17 Junction Boulevard, 19th Floor, Flushing NY 11373.
- **Fax.** You can fax written comments to the DEP Bureau of Legal Affairs at (718) 595-6543.
- **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 [Month Day, Year of Public Hearing].

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 nycrules@dep.nyc.gov or by telephone at (718) 595-6531 to request a reasonable accommodation. Please tell us by [Month Day, Year before Day of Public Hearing].

Can I review the comments made on the proposed rules? 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 DEP's website.

What authorizes DEP to make these rules? Section 1403 of the New York City Charter. These proposed rules were included in DEP's regulatory agenda for this Fiscal Year.

Where can I find DEP's rules? DEP's rules are located in Title 15 of the Rules of the City of New York.

What laws govern the rulemaking process? 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

On December 5, 2024, the Office of Administrative Trials and Hearings Environmental Control Board (OATH ECB) passed a resolution to provide for the delegation of its authority to establish a schedule of civil penalties in accordance with Administrative Code Section 24-346(b) to the Commissioner of the Department of Environmental Protection (DEP). Pursuant to this resolution, OATH ECB will repeal its Water Penalty Schedule, currently found at 48 RCNY § 3-126. Concurrently, DEP will enact a penalty schedule within its own rules in Title 15.

The proposed rule continues the effort to repeal penalty schedules from OATH ECB's rules. Although OATH ECB is empowered to impose penalties under Section 1049-a of the New York City Charter and Section 24-346 of the Administrative Code of the City of New York, the regulatory and enforcement agencies have the expertise to recommend 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, since the Water Penalty Schedule will now be located within the same title as the rules supporting 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 DEP 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.

The proposed rule will be the same as the Water Penalty Schedule currently found in OATH ECB's rules except that several of the section numbers for the Drought (now Water Shortage) Regulations will be changed to reflect renumbering which occurred when such regulations were amended in 2022. No substantive changes are being made to any of the penalties in the existing Water Penalty Schedule.

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. Title 15 of the Rules of the City of New York is amended by adding a new Chapter 66 to read as follows:

Chapter 66. Water Penalty Schedule

§ 66-01 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 summons issued to a given respondent.

Pursuant to 48 RCNY § 3-17, 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 § 6-09(a), within 30 days of the mailing date of the default order issued against respondent.

<u>Section</u>	<u>Description</u>	<u>Penalty</u>	<u>Default</u>
-	<u>Stage I Water Shortage Emergency</u>	-	-
<u>Admin. Code § 24-337</u>	<u>Waste of city water (commercial or industrial)</u>	<u>\$400</u>	<u>\$1,000</u>
<u>Admin. Code § 24-337</u>	<u>Waste of city water (residential)</u>	<u>\$250</u>	<u>\$1,000</u>
<u>15 RCNY § 21-06</u>	<u>Failure to post "Save Water" signs</u>	<u>\$100</u>	<u>\$1,000</u>
<u>15 RCNY § 21-07</u>	<u>Failure to post Water-Conserving Irrigation System sign</u>	<u>\$100</u>	<u>\$1,000</u>
<u>15 RCNY § 21-08</u>	<u>Improper use of well water</u>	<u>\$250</u>	<u>\$1,000</u>
<u>15 RCNY § 21-09(a)(1)</u>	<u>Allowing leak or waste of water from faucets, valves, pipes etc.</u>	<u>\$250</u>	<u>\$1,000</u>
<u>15 RCNY § 21-09(a)(2)</u>	<u>Using public water to wash vehicles.</u>	<u>\$250</u>	<u>\$1,000</u>
<u>15 RCNY § 21-09(a)(3)</u>	<u>Using water to spray or wash sidewalk, street</u>	<u>\$250</u>	<u>\$1,000</u>
<u>15 RCNY § 21-09(a)(4)</u>	<u>Using any water for ornamental purposes</u>	<u>\$250</u>	<u>\$1,000</u>
<u>15 RCNY § 21-09(a)(5)</u>	<u>Using water for lawns, golf course, plants, trees</u>	<u>\$250</u>	<u>\$1,000</u>
<u>15 RCNY § 21-09(a)(6)</u>	<u>Illegal use of fire hydrants</u>	<u>\$750</u>	<u>\$1,000</u>
<u>15 RCNY § 21-09(a)(7)</u>	<u>Serving water without request</u>	<u>\$250</u>	<u>\$1,000</u>

<u>15 RCNY § 21-09(a)(8)</u>	<u>Use of public water for pools</u>	<u>\$250</u>	<u>\$1,000</u>
-	<u>Stage II Water Shortage Emergency</u>	-	-
<u>Admin. Code § 24-337</u>	<u>Waste of city water (commercial or industrial)</u>	<u>\$500</u>	<u>\$1,000</u>
<u>Admin. Code § 24-337</u>	<u>Waste of city water (residential)</u>	<u>\$350</u>	<u>\$1,000</u>
<u>15 RCNY § 21-06</u>	<u>Failure to post "Save Water" signs</u>	<u>\$200</u>	<u>\$1,000</u>
<u>15 RCNY § 21-07</u>	<u>Failure to post Water-Conserving Irrigation System sign</u>	<u>\$200</u>	<u>\$1,000</u>
<u>15 RCNY § 21-08</u>	<u>Improper use of well water</u>	<u>\$350</u>	<u>\$1,000</u>
<u>15 RCNY § 21-10(a)(1)</u>	<u>Allowing leak or waste of water from faucets, valves, pipes etc.</u>	<u>\$350</u>	<u>\$1,000</u>
<u>15 RCNY § 21-10(a)(2)</u>	<u>Using public water to wash vehicles</u>	<u>\$350</u>	<u>\$1,000</u>
<u>15 RCNY § 21-10(a)(3)</u>	<u>Using water to spray or wash sidewalk, street</u>	<u>\$350</u>	<u>\$1,000</u>
<u>15 RCNY § 21-10(a)(4)</u>	<u>Using any water for ornamental purposes</u>	<u>\$350</u>	<u>\$1,000</u>
<u>15 RCNY § 21-10(a)(5)</u>	<u>Using water for lawns, golf course, plants, trees</u>	<u>\$350</u>	<u>\$1,000</u>
<u>15 RCNY § 21-10(a)(6)</u>	<u>Illegal use of fire hydrants</u>	<u>\$750</u>	<u>\$1,000</u>
<u>15 RCNY § 21-10(a)(7)</u>	<u>Serving water without request</u>	<u>\$350</u>	<u>\$1,000</u>
<u>15 RCNY § 21-10(a)(8)</u>	<u>Use of public water for pools</u>	<u>\$350</u>	<u>\$1,000</u>
	<u>Stage III Water Shortage Emergency</u>	-	-
<u>Admin. Code § 24-337</u>	<u>Waste of city water (commercial or industrial)</u>	<u>\$600</u>	<u>\$1,000</u>
<u>Admin. Code § 24-337</u>	<u>Waste of city water (residential)</u>	<u>\$450</u>	<u>\$1,000</u>
<u>15 RCNY § 21-06</u>	<u>Failure to post "Save Water" signs</u>	<u>\$300</u>	<u>\$1,000</u>
<u>15 RCNY § 21-07</u>	<u>Failure to post Water-Conserving Irrigation System sign</u>	<u>\$400</u>	<u>\$1,000</u>
<u>15 RCNY § 21-08</u>	<u>Improper use of well water</u>	<u>\$550</u>	<u>\$1,000</u>
<u>15 RCNY § 21-11(a)(1)</u>	<u>Allowing leak or waste of water from faucets, valves, pipes etc.</u>	<u>\$550</u>	<u>\$1,000</u>
<u>15 RCNY § 21-11(a)(2)</u>	<u>Using public water to wash vehicles</u>	<u>\$550</u>	<u>\$1,000</u>
<u>15 RCNY § 21-11(a)(3)</u>	<u>Using water to spray or wash sidewalk, street</u>	<u>\$550</u>	<u>\$1,000</u>
<u>15 RCNY § 21-11(a)(4)</u>	<u>Using any water for ornamental purposes</u>	<u>\$550</u>	<u>\$1,000</u>
<u>15 RCNY § 21-11(a)(5)</u>	<u>Using water for lawns, golf course, plants, trees</u>	<u>\$550</u>	<u>\$1,000</u>
<u>15 RCNY § 21-11(a)(6)</u>	<u>Illegal use of fire hydrants</u>	<u>\$750</u>	<u>\$1,000</u>
<u>15 RCNY § 21-11(a)(7)</u>	<u>Serving water without request</u>	<u>\$550</u>	<u>\$1,000</u>

<u>15 RCNY § 21-11(a)(8)</u>	<u>Use of public water for pools</u>	<u>\$950</u>	<u>\$1,000</u>
<u>15 RCNY § 21-11(a)(9)</u>	<u>Use of non-air cooled air conditioning system using public water with temperature below 79 F.</u>	<u>\$550</u>	<u>\$1,000</u>
-	<u>Other Water Regulations</u>	-	-
<u>Admin. Code § 24-303.1</u>	<u>Illegal discharge of fracking waste</u>	<u>\$2,500</u>	<u>\$10,000</u>
<u>Admin. Code § 24-308</u>	<u>Illegal Use of Hydrant(s)</u>	<u>\$750</u>	<u>\$1,000</u>
<u>Admin. Code § 24-337</u>	<u>Illegal waste of water (Residential)</u>	<u>\$250</u>	<u>\$1,000</u>
<u>Admin. Code § 24-339</u>	<u>Distribution/Sale/Import/Installation of water wasting plumbing fixtures</u>	<u>\$475</u>	<u>\$1,000</u>
<u>Admin. Code § 24-346(b)</u>	<u>Failed to comply with Commissioner's Order</u>	<u>\$750</u>	<u>\$1,000</u>
<u>15 RCNY § 20-01(b)(1)</u>	<u>Plumbing work w/o permit</u>	<u>\$250</u>	<u>\$1,000</u>
<u>15 RCNY § 20-01(e)</u>	<u>Failed to produce permit on demand</u>	<u>\$150</u>	<u>\$1,000</u>
<u>15 RCNY § 20-01(f)</u>	<u>Failed to obtain/return emergency permit</u>	<u>\$250</u>	<u>\$1,000</u>
<u>15 RCNY § 20-02(b)</u>	<u>Unlawful connection to City main</u>	<u>\$700</u>	<u>\$1,000</u>
<u>15 RCNY § 20-03(k)(4)</u>	<u>Failed to protect curb valve/box from damage</u>	<u>\$250</u>	<u>\$1,000</u>
<u>15 RCNY § 20-03(w)</u>	<u>Failed to replace old service pipes upon establishment of new water service</u>	<u>\$250</u>	<u>\$1,000</u>
<u>15 RCNY § 20-03(x)</u>	<u>Failed to install meter on unmetered property when service pipe is replaced/repared/relaid/installed</u>	<u>\$350</u>	<u>\$1,000</u>
<u>15 RCNY § 20-04(d)</u>	<u>Failed to install a backflow preventer or submit initial test report</u>	<u>\$700</u>	<u>\$1,000</u>
<u>15 RCNY § 20-04(e)</u>	<u>Failed to submit an annual test report for a backflow preventer</u>	<u>\$500 or mitigation penalty of \$50*</u>	<u>\$1,000</u>
<u>15 RCNY § 20-04(i)</u>	<u>Removed / swapped / bypassed backflow device without DEP approval</u>	<u>\$700</u>	<u>\$1,000</u>
<u>15 RCNY § 20-05(a)</u>	<u>No meter in place</u>	<u>\$250</u>	<u>\$1,000</u>
<u>15 RCNY § 20-05(b)(1)</u>	<u>Meter repair/removal w/o permit</u>	<u>\$350</u>	<u>\$1,000</u>
<u>15 RCNY § 20-05(b)(2)</u>	<u>Failed to return meter permit</u>	<u>\$350</u>	<u>\$1,000</u>
<u>15 RCNY § 20-05(d)(5)</u>	<u>No reading receptacle for remote pad</u>	<u>\$250</u>	<u>\$1,000</u>
<u>15 RCNY § 20-05(g)</u>	<u>Improper size/type of meter</u>	<u>\$250</u>	<u>\$1,000</u>
<u>15 RCNY § 20-05(i)(1)</u>	<u>Meter not readily accessible</u>	<u>\$250</u>	<u>\$1,000</u>

<u>15 RCNY § 20-05(i)(2) - (12)</u>	<u>Improper setting of meter</u>	<u>\$250</u>	<u>\$1,000</u>
<u>15 RCNY § 20-05(i)(12)</u>	<u>Failed to design meter setting to ensure electrical continuity</u>	<u>\$150</u>	<u>\$1,000</u>
<u>15 RCNY § 20-05(j)</u>	<u>Prohibited meter bypass</u>	<u>\$500</u>	<u>\$1,000</u>
<u>15 RCNY § 20-05(k)</u>	<u>Improper meter pit / box / vault construction</u>	<u>\$350</u>	<u>\$1,000</u>
<u>15 RCNY § 20-05(m)(1)</u>	<u>Failed to install new meter after unpermitted disconnection of old meter</u>	<u>\$750</u>	<u>\$1,000</u>
<u>15 RCNY § 20-05(n)</u>	<u>Breaking seal on equipment w/o permit</u>	<u>\$500</u>	<u>\$1,000</u>
<u>15 RCNY § 20-05(p)</u>	<u>Inadequate protection of meter/remote receptacle / AMR Transmitter / wiring</u>	<u>\$250</u>	<u>\$1,000</u>
<u>15 RCNY § 20-05(p)(2)</u>	<u>Relocated remote receptacle or AMR transmitter without permit</u>	<u>\$250</u>	<u>\$1,000</u>
<u>15 RCNY § 20-05(t)</u>	<u>Failed to submit photo of meter to DEP</u>	<u>\$350</u>	<u>\$1,000</u>
<u>15 RCNY § 20-06</u>	<u>A.C./refrigeration violation</u>	<u>\$350</u>	<u>\$1,000</u>
<u>15 RCNY § 20-07(c)</u>	<u>Failed to submit self-certification of domestic water service pipe installation</u>	<u>\$250</u>	<u>\$1,000</u>
<u>15 RCNY § 20-08(a)(6)</u>	<u>Lawn / garden watering prohibited time/manner</u>	<u>\$150</u>	<u>\$1,000</u>
<u>15 RCNY § 20-08(a)(7)</u>	<u>Sidewalk flushing prohibited time / manner</u>	<u>\$150</u>	<u>\$1,000</u>
<u>15 RCNY § 20-08(a)(9)</u>	<u>Prohibited use of water for car washing</u>	<u>\$150</u>	<u>\$1,000</u>
<u>15 RCNY § 20-08(b)(4)</u>	<u>Failed to install backflow preventer on hose connected to fire hydrant</u>	<u>\$300</u>	<u>\$600</u>
<u>15 RCNY Chapter 20</u>	<u>Violation of miscellaneous rules regarding use and supply of water</u>	<u>\$150</u>	<u>\$1,000</u>
-	<u>Drilling & Excavation Rules</u>	-	-
<u>15 RCNY § 57-03</u>	<u>Drilling or excavating in restricted area without permit</u>	<u>\$900</u>	<u>\$1,000</u>
<u>15 RCNY § 57-05(b)</u>	<u>Violating general condition(s) of drilling / excavation permit</u>	<u>\$900</u>	<u>\$1,000</u>
<u>15 RCNY § 57-05(b)(1)</u>	<u>Failure to notify DEP 30 days prior to commencement of drilling or excavation</u>	<u>\$900</u>	<u>\$1,000</u>
<u>15 RCNY § 57-05(b)(2)</u>	<u>Failure to drill/excavate only to depth specified in permit</u>	<u>\$900</u>	<u>\$1,000</u>

<u>15 RCNY § 57-05(b)(3) and (b)(5)</u>	<u>Failure to abandon and/or seal any unpermitted borehole or well</u>	<u>\$900</u>	<u>\$1,000</u>
<u>15 RCNY § 57-05(b)(4) and (b)(6)</u>	<u>Failure to abandon and/or fill any unpermitted excavation</u>	<u>\$900</u>	<u>\$1,000</u>
<u>15 RCNY § 57-05(b)(7)</u>	<u>Failure to use blowout preventer when required</u>	<u>\$900</u>	<u>\$1,000</u>
<u>15 RCNY § 57-05(b)(10)</u>	<u>Failure to provide required, certified documentation within 30 days of completion of drilling or excavation</u>	<u>\$900</u>	<u>\$1,000</u>
<u>15 RCNY § 57-05(b)(11)</u>	<u>Failure to conduct required deviation survey</u>	<u>\$900</u>	<u>\$1,000</u>