

NOTICE OF PUBLIC HEARING

Subject: Opportunity to comment on the proposed amendment of Article 141 of the New York City Health Code, related to building drinking water storage tanks

Date / Time: January 25, 2012, 10:00 A.M. – 12:00 P.M.

Location: New York City Department of Health and Mental Hygiene
42-09 28th Street
14th Floor, Room 14-44
Queens, NY 11101

Contact: Rena Bryant, (347) 396-6071
New York City Department of Health and Mental Hygiene
Board of Health
Office of the Secretary to the Board
Attention: Rena Bryant
42-09 28th Street, WS 14-55
Queens, NY 11101

Proposed Rule

The Department of Health and Mental Hygiene is proposing that the Board of Health amend Article 141 of the Health Code to clarify requirements for the maintenance of drinking water tanks and the performance of annual inspections by building owners.

Instructions

- Prior to the hearing, you may submit written comments about the proposed amendment by mail to Rena Bryant at the contact address above or electronically through NYC RULES at www.nyc.gov/nycrules or, by email to resolutioncomments@health.nyc.gov by January 25, 2012.
- If you are interested in pre-registering to speak at the public hearing, please notify Rena Bryant by January 24, 2012. Please include a phone where, if necessary, you may be reached during normal business hours. You can also register at the door; however, preference will be given to those who pre-register. At the public hearing, you can speak for up to five minutes.
- To request a sign language interpreter or other form of reasonable accommodation for a disability at the hearing, please contact Rena Bryant at the phone number shown above by January 11, 2012. Copies of written comments and a summary of oral comments received at

the hearing will be available for public inspection within a reasonable time after the hearing between the hours of 9:00 A.M. and 5:00 P.M. at the contact address above.
October 25, 2011, 10:00 A.M. – 12:00 P.M.

Statutory Authority

This amendment to the New York City Health Code (“Health Code”) is promulgated pursuant to Sections 556, 558 and 1043 of the New York City Charter (“Charter”).

- Section 556 of the Charter provides the Department of Health and Mental Hygiene (“Department”) with jurisdiction to regulate all matters affecting health in the City of New York.
 - Section 556(a)(1) states that the Department shall enforce all provisions of law relative to the necessary health supervision of the purity and wholesomeness of the water supply and the sources thereof;
 - Section 556(a)(3) says the Department shall exercise its functions, powers and duties in the area extending over the city, and over the waters adjacent thereto, and,
 - Section 556(c)(7) says that the Department shall supervise and regulate the public health aspects of the water supply and sewage disposal and water pollution.
- Section 558(b) and (c) of the Charter empower the Board of Health (“Board”) to amend the Health Code and to include in the Health Code all matters to which the Department’s authority extends.
- Section 1043 of the Charter grants the Department rulemaking powers.

Statement of Basis and Purpose

The purpose of the proposed rule is to clarify requirements for the maintenance of drinking water tanks and the performance of annual inspections by building owners.

Article 141 of the Health Code concerns the maintenance of the purity and sanitary condition of the City’s potable water supply. Thousands of New York City buildings keep their water supply in water storage tanks. Section 141.07 (“Building Drinking Water Storage Tanks”) requires that an owner, agent or whoever is in control of a building with one or more water tanks used to store potable drinking water must inspect the tanks each year and maintain inspection records for the Department’s review upon request.

This amendment seeks to ensure that inspections of water tanks are conducted in a manner sufficient to adequately determine the condition and integrity of the water tank – namely, is the water tank actually functional and appropriate for use. At the same time, the amendment seeks

to allow greater flexibility in exercising professional judgment regarding how the inspection should be conducted, in order to cover a broad range of tank configurations and varying site conditions.

The proposal is as follows:

Matter in [brackets] is deleted.

Matter underlined is new.

RESOLVED, that subdivision (b) 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, as last amended by resolution on June 30, 2009, is amended to clarify water tank inspection requirements for building owners, to be printed together with explanatory notes to read as follows:

**ARTICLE 141
WATER SUPPLY SAFETY STANDARDS**

§141.07 Building Drinking Water Storage Tanks

(b) **Inspection Requirements.** The owner, agent or other person in control of a building shall have the water tank inspected at least once annually. The inspection shall include the examination of the general condition and integrity of the tank, including but not limited to the condition of overflow pipes, access ladders, air vents, roof access hatches and screens. The [interior and exterior of the] water tank [and its sealed edges and seams] shall be inspected for evidence of pitting, scaling, blistering or chalking, rusting, corrosion and leakage. Inspection of sanitary conditions, including the presence of sediment, biological growth, floatable debris and insects in the tank and rodent or bird activity on and around the tank, shall be performed. The inspection shall include sampling of the water in the water tank to verify the bacteriological quality of the water supply in compliance with Subpart 5-1 of the State Sanitary Code. Sample results shall be reported by a State certified laboratory equipped to analyze drinking water, in accordance with the latest edition of the Standard Methods for the Examination of Water and Wastewater, published jointly by the APHA, the AWWA and the WEF.

Notes: The Department proposes that the Board of Health amend subdivision (b) of §141.07 of Article 141 of the Health Code to clarify maintenance and inspection requirements for drinking water tanks by building owners.

**NEW YORK CITY LAW DEPARTMENT
100 CHURCH STREET
NEW YORK, NY 10007
212-788-1087**

**CERTIFICATION PURSUANT TO
CHARTER §1043(d)**

RULE TITLE: Amendment of Rules Governing Drinking Water Tanks

REFERENCE NUMBER: 2011 RG 105

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: December 5, 2011

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS
253 BROADWAY, 10th FLOOR
NEW YORK, NY 10007
212-788-1526**

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

RULE TITLE: Amendment of Rules Governing Drinking Water Tanks (Health Code Article 141)

REFERENCE NUMBER: DOHMH-10

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/ Ruby B. Choi
Mayor's Office of Operations

12/5/2011
Date