

**TRANSCRIPT OF THE NEW YORK CITY
OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS (OATH)
PUBLIC HEARING**



DATE OF PUBLIC HEARING: November 16, 2021

TIME: 10:00 AM – 11:00 AM

WebEx Video Conference

1. ***Joy Thompson: Good morning! My name is Joy Thompson, and I***
2. ***am an Assistant General Counsel at the New York City Office of***
3. ***Administrative Trials and Hearings, also known as OATH.***
4. ***Thank you for attending today's hearing.***
5. ***OATH is conducting this hearing in accordance with the***
6. ***requirements of the City Administrative Procedure Act also***
7. ***known as CAPA. The purpose of this hearing is to receive comments***
8. ***from the public on OATH's proposed rule amending OATH's Water***
9. ***Penalty Schedule. OATH's Water Penalty Schedule is located in***
10. ***Section 3-126 of Title 48 of the Rules of the City of New York.***
11. ***OATH is proposing to update penalties for violations of Title 24,***
12. ***Chapter 3 of the Administrative Code, also known as the***
13. ***Water Supply Law. It is also updating penalties for Title 15, Chapter***
14. ***20 of the Rules of the City of New York, pertaining to backflow***
15. ***devices; and Title 15 Chapter 57 of the Rules of the City of New York***
16. ***-The Drilling and Excavation Rules recently adopted by the***
17. ***Department of Environmental Protection.***
18. ***The proposed rule would do the following:***
19. ***Add a penalty for a violation of Section 24-303.1 of the Administrative***
20. ***Code, a recent addition that prohibits the illegal discharge of***
21. ***fracking waste. The penalty of \$2,500 and the default penalty of***
22. ***\$10,000 are provided for in the statute.***
23. ***It would amend the description for a violation of Section 20-04(d)***

24. of Title 15 of the Rules of the City of New York to include the failure
25. to submit an initial test report for a backflow prevention device, in
26. addition to a failure to install. This reflects the description that is
27. generally used on summonses.

28. It would add a penalty for a violation of Section 20-04(i) of Title 15
29. of the Rules of the City of New York, which is a newly added
30. provision that prohibits the removal, swapping, or bypassing of
31. a backflow prevention device without the Department of
32. Environmental Protection's approval. The proposed penalty of \$700
33. is the same as that for failing to install a backflow device.

34. This rule would add a penalty for a violation of Section 20-05(t) of
35. Title 15 of the Rules of the City of New York, which is a newly added
36. provision that requires the plumber who removes a water meter to
37. submit a photograph of the meter to the Department of
38. Environmental Protection. The proposed penalty of \$350 is in line
39. with the existing penalty for meter removal without a permit.

40. It would add a penalty for a violation of Section 15 . . . I'm sorry . . .
41. Section 20-08(b)(4) of Title 15 of the Rules of the City of New York,
42. which requires the installation of a backflow device on connections
43. to fire hydrants.

44. While this is not a new rule, it is being added to the penalty schedule
45. as it is cited somewhat frequently and should, therefore, have its
46. own penalty instead of being under a miscellaneous provision. The

47. proposed penalty of \$300 is a greater incentive to comply than the
48. miscellaneous penalty of \$150.

49. It would add penalties for violations of the Drilling and Excavation
50. Rules. These rules, which recently went into effect and are found in
51. Chapter 57 of Title 15 of the Rules of the City of New York, include
52. requirements for drilling and excavation activities conducted in
53. areas where the Department of Environmental Protection has under-
54. ground infrastructure, such as water tunnels, in order to prevent
55. the possible damage to such infrastructure. The proposed penalty of
56. \$900 is nearly as high as possible since the legal maximum is \$1,000
57. while still allowing for a higher default penalty, as violations of these
58. rules would be issued to property owners and real estate developers,
59. and the penalty needs to be as much of a deterrent as possible in
60. order to avoid the possibility of very costly damage to the
61. Department of Environment Protection infrastructure.

62. This proposed rule was published in The City Record on
63. October 13, 2021. OATH also e-mailed the rule to the Speaker of the
64. City Council; every Member of the City Council; all community board
65. managers; the news media; as well as civic organizations. In
66. addition, OATH posted the rule on OATH's website; the
67. New York City Rules website; and the City Records online website.
68. OATH has been accepting written comments on the proposed rule
69. since the date it was published in The City Record and will

70. continue to accept written comments through the close of business
71. today.

72. At this hearing, you may present an oral statement concerning
73. this proposed rule. Before you begin speaking:
74. Please state your name and affiliation, whether you are with an
75. agency, the media, etc.

76. Speak slowly and clearly, so that your statement can be accurately
77. recorded. Please limit your statement to no more than three
78. minutes.

79. Shortly after today's hearing, copies of all written comments
80. received by OATH, concerning this proposed rule, and a
81. summary of the statements given today, will be made
82. available to the public on OATH's website at the following address.
83. I have also added it to the chat. I will read it to those who have
84. joined by phone. That website address is:
85. <https://www1.nyc.gov/site/oath/about/legal-resources-and-rule-making.page>
86. Again, I have added this website information to the Chat section of
87. this WebEx meeting.

88. Before issuing its Final Rule, OATH will carefully consider the
89. statements presented at today's hearing, as well as all written
90. comments received by the close of business today. Thank you
91. for attending this hearing. At this time, the floor is open for
92. comments.

93. Again, before you begin speaking:
94. Please state your name and affiliation. Speak slowly and clearly,

94. and please limit your statement to no more than three minutes.

95. Are there any comments today? It is 10:12. I know that we

96. have a sparse attendance hearing this morning.

97. I will allow it for one more minute. If someone is gathering

98. their thoughts. It is 10:13 AM.

99. As there are no comments at this hearing on OATH's proposed rule

100. amending OATH's Water Penalty Schedule, this meeting is now

101. adjourned at 10:13. Thank you for attending and please be safe

102. and well.

CERTIFICATION

This is to certify that I have typed the above record by listening to the Webex video conference in the State of New York and that to the best of my knowledge and belief the above record that is typed by me is a true and accurate record of the Webex video.

Elizabeth Nolan

Elizabeth Nolan

Date Transcribed: December 1, 2021