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Public Health

§ 1100. Rules and regulations of the department. 1. The department may make rules and regulations for the protection from contamination of any or all public supplies of potable waters and water supplies of the state or United States, institutions, parks, reservations or posts and their sources within the state, and the commissioner of environmental protection of the city of New York and the board of water supply of the city of New York may make such rules and regulations subject to the approval of the department for the protection from contamination of any or all public supplies of potable waters and their sources within the state where the same constitute a part of the source of the public water supply of said city.

2. Every such rule or regulation shall be published at least once in each week for two consecutive weeks, in at least one newspaper of the county where the waters to which it relates are located. The cost of such publication shall be paid by the corporation, municipality, state or United States or state or United States institution, park, reservation or post benefited by the protection of the water supply to which the rule or regulation published relates.

3. The affidavit of the printer, publisher or proprietor of the newspaper in which such rule or regulation is published shall be filed, together with the rule or regulation published, in the county clerk's office of such county, and such affidavit and rule and regulation shall be conclusive evidence of such publication, and of all the facts therein stated in all courts and places.

4. All rules and regulations heretofore duly made and published for the sanitary protection of public water supplies, pursuant to chapter five hundred forty-three of the laws of eighteen hundred eighty-five, and chapter six hundred sixty-one of the laws of eighteen hundred ninety-three, as amended, are hereby legalized, ratified, confirmed and continued in force, until new rules and regulations become operative.

5. This section shall not be construed to repeal or affect any of the provisions of chapter three hundred seventy-eight of the laws of eighteen hundred ninety-seven, or its amendments.

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§ 1102. Violation; injunction and abatement. 1. If any inspection discloses a violation of any rule or regulation promulgated pursuant to section one thousand one hundred of this chapter relating to a temporary or permanent source or act of contamination, the person, officer, board, or commission having the management and control of the potable water supply of the municipality, state or United States institution, park, reservation or post, and in the city of New York, the commissioner of environmental protection, and the board of water supply of the city of New York, or the corporation furnishing such supply shall cause a copy of the rule or regulation violated to be served upon the person violating the same, with a notice of such violation. If the person served does not comply immediately with the rule or regulation violated, such person, officer, board, corporation or commission, except in a case concerning the violation of a rule or regulation relating to a temporary or permanent source or act of contamination affecting the potable water supply of the city of New York, shall notify the department of the violation.

2. (a) Upon being notified of any violation as herein provided, the department shall examine immediately into such violation; and if the department finds such rule or regulation to have been violated, the commissioner shall order the local board of health of the health district wherein the violation or noncompliance occurs, to convene and enforce compliance with such rule or regulation.

(b) If the local board of health of the health district wherein the violation or noncompliance occurs, fails to enforce the order of the commissioner within ten days after its receipt, the corporation furnishing such water supply or the municipality, state, or United States or state or United States institution, park, reservation or post deriving its water supply from the waters to which such rule or regulation relates, or the commissioner, or the local board of health of the health district wherein the water supply protected by these rules is used, or any person interested in the protection of the purity of the water supply, may maintain an action in a court of record which shall be tried in the county where the cause of action arose against such person, for the recovery of the penalties incurred by such violation, and for an injunction restraining the person violating such rule or regulation from the continued violation thereof.

3. (a) If the person served with notice of violation does not comply within five days with the rule or regulation violated, in case such rule or regulation relates to a temporary or permanent source or act of contamination affecting the potable water supply of the city of New York, the commissioner of environmental protection of said city, or the board of water supply of the city of New York, may summarily enforce compliance with such rule or regulation and may summarily abate or remove the cause of the violation of such rule or regulation or the nuisance so created, and to that end may employ such force as may be necessary and proper; provided, however, that no building or improvement shall be removed, disturbed or destroyed by the said commissioner of environmental protection or the said board of water supply until he or they shall cause measurements to be made of the buildings and photographs of the exterior views thereof, which measurements and photographs shall be at the disposition thereafter of the owners or their attorneys, and failure to exercise such right of abatement shall

not be deemed a waiver thereof.

(b) Failure to comply within five days with such rule or regulation shall further entitle the city of New York to maintain an action in any court having jurisdiction thereof for the recovery of the penalties incurred by such violation in an amount authorized by section one thousand one hundred three of this title and for an injunction restraining the person from violating such rule or regulation, or creating or continuing such nuisance. The remedy by abatement herein provided for shall not be construed to be exclusive.

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§ 1103. Violation; penalties. 1. If a person or entity willfully violates any rule or regulation promulgated pursuant to section one thousand one hundred of this title relating to a temporary or permanent source or act of contamination, such person or entity violating such rule or regulation shall be liable to prosecution for a misdemeanor for every such violation, and on conviction thereof shall be punished by a fine not exceeding one thousand dollars, or imprisonment not exceeding one year, or both.

2. If a person or entity violates any rule or regulation promulgated pursuant to section one thousand one hundred of this title relating to a temporary or permanent source or act of contamination, the department may impose a civil penalty for the violation thereof or the noncompliance therewith, not exceeding two hundred dollars for every such violation or noncompliance.

3. For purposes of calculating the applicable civil penalty under this section, each day on which such violation occurred may be considered a separate incident. In addition, a court may order such person or entity to make reparations for any permanent and/or substantial damage caused as a direct result of such violation. For purposes of subdivision one of this section, restitution and reparation may be ordered in accordance with applicable provisions of the criminal procedure law.