

NEW YORK CITY 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” or the “Department”) is proposing a rule to amend the penalty schedule for violations of Title 24, Chapter 2 of the New York City Administrative Code, also known as the Noise Control Code (Noise Code).

When and where is the hearing? The Department will hold a public hearing on the proposed rule. The public hearing will take place at 11 a.m. on August 22, 2018. The hearing will be held in the 11th floor conference room at 59-17 Junction Boulevard, Flushing, New York.

This location has the following accessibility option(s) available: wheelchair accessibility.

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

- **Website.** You can submit comments to the Department of Environmental Protection through the NYC Rules web site at <http://rules.cityofnewyork.us>.
- **Email.** You can email written comments to nycrules@dep.nyc.gov.
- **Mail.** You can mail written comments to the Department of Environmental Protection, Bureau of Legal Affairs, 59-17 Junction Boulevard, 19th Floor, Flushing, NY 11373.
- **Fax.** You can fax written comments to the Department of Environmental Protection, Bureau of Legal Affairs, at 718-595-6543.
- **By speaking at the hearing.** Anyone who wants to comment on the proposed rule at the public hearing must sign up to speak. You can sign up before the hearing by calling 718-595-6531. You can also sign up in the hearing room before the hearing begins on August 22, 2018. You can speak for up to three minutes.

Is there a deadline to submit written comments? Yes, you must submit written comments by August 22, 2018.

Do you need assistance to participate in the hearing? You must tell the Bureau of Legal Affairs if you need a reasonable accommodation of a disability at the hearing other than the one indicated above. You must tell us if you need a sign language interpreter. You can tell us by mail at the address given above. You may also tell us by telephone at 718-595-6531. You must tell us by August 15, 2018.

Can I review the comments made on the proposed rules? You can review the comments made online on the proposed rule by going to the website at <http://rules.cityofnewyork.us/>. A few days after the hearing, a transcript of the hearing and copies of the written comments will be available to the public at the Bureau of Legal Affairs.

What authorizes the Department to make this rule? Section 1043 of the City Charter and sections 24-257 and 24-204 of the Administrative Code authorize the Department to make this proposed rule. This proposed rule was included in the Department’s regulatory agenda for this fiscal year.

Where can I find the Department’s rules? The Department’s rules are in title 15 of the Rules of the City of New York.

What rules govern the rulemaking process? The Department must meet the requirements of Section 1043(c) of the City Charter when creating or changing rules. This notice is made according to the requirements of Section 1043(b) of the City Charter.

Statement of Basis and Purpose of Proposed Rule

DEP is proposing a rule to amend Chapter 47 of Title 15 of the Rules of the City of New York (RCNY), to establish new penalties for violations of Title 24, Chapter 2 of the New York City Administrative Code, also known as the Noise Control Code (Noise Code), as amended by Local Law 53 of 2018 (LL 53). The proposed rule is authorized by section 1043 of the Charter of the City of New York and sections 24-204 and 24-257 of the Noise Code, and is exempt from review under section 1043(d) of the Charter pursuant to section 1043(d)(4)(iii).

LL 53, which takes effect on July 16, 2018, amends subdivision (d) of section 24-223 of the Noise Code to set enforceable decibel limitations from construction noise. Prior to the enactment of LL 53, violations were not authorized for exceedances of a decibel level unless the responsible party failed to confer with the Department concerning mitigation measures that can be used to reduce noise. In addition, LL 53 authorizes the Department to issue a stop work order if the Department finds that work is being performed in violation of sections 24-223 or 24-228 of the Noise Code, or any rules promulgated thereunder.

Consistent with the above, DEP proposes the following amendment.

New material is underlined.

[Deleted material is in brackets.]

Section 1. Section 47-02 of Title 15 of the Rules of the City of New York is amended to read as follows:

§47-02 Noise Code Penalty Schedule.

24-223(d) <u>(1)</u>	[Failure to respond to request for conference or to amend noise mitigation plan]	[Respond to request forthwith.] <u>Stop operation of</u>	1st	[875] <u>560</u>	[3500] <u>875</u>	Y
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	<u>Excessive noise as measured from a residential receiving property above 8dB(A).</u>	<u>device causing exceedance.</u>				
			<u>2nd</u>	[1750] <u>1120</u>	[7000] <u>1750</u>	N
			<u>3rd</u>	[2625] <u>1680</u>	[10500] <u>2625</u>	N
<u>24-223(d) (2)</u>	<u>Noise from a construction site in excess of 85 dB(A) that is not within 200 feet of a residential receptor.</u>	<u>Stop operation of device causing exceedance.</u>	<u>1st</u>	<u>560</u>	<u>875</u>	<u>Y</u>
			<u>2nd</u>	<u>1120</u>	<u>1750</u>	<u>N</u>
			<u>3rd</u>	<u>1680</u>	<u>2625</u>	<u>N</u>
<u>24-223(d)(3)</u>	<u>Noise from a construction site in excess of 80 dB(A) within 200 feet of a residential receptor.</u>	<u>Stop operation of device causing exceedance.</u>	<u>1st</u>	<u>560</u>	<u>875</u>	<u>Y</u>
			<u>2nd</u>	<u>1120</u>	<u>1750</u>	<u>N</u>
			<u>3rd</u>	<u>1680</u>	<u>2625</u>	<u>N</u>
<u>24-223 (d)(4)</u>	<u>Noise from street construction work in excess of 85 dB(A).</u>	<u>Stop operation of device causing exceedance.</u>	<u>1st</u>	<u>560</u>	<u>875</u>	<u>Y</u>
			<u>2nd</u>	<u>1120</u>	<u>1750</u>	<u>N</u>
			<u>3rd</u>	<u>1680</u>	<u>2625</u>	<u>N</u>
<u>24-223.1 (d)</u>	<u>Violation of Stop Work Order.</u>	<u>Stop work and/or operation of device that is the cause of the stop work order.</u>	<u>1st</u>	<u>560</u>	<u>875</u>	<u>Y</u>
			<u>2nd</u>	<u>1120</u>	<u>1750</u>	<u>N</u>
			<u>3rd</u>	<u>1680</u>	<u>2625</u>	<u>N</u>