

New York City Department of Sanitation

Notice of Public Hearing and Opportunity to Comment on Proposed Rules

What are we proposing? The New York City Department of Sanitation (“DSNY”) is proposing a rule that would amend a definition relating to the criteria used in the siting of solid waste transfer stations.

When and where is the hearing? DSNY will hold a public hearing on the proposed rule. The public hearing will take place from 9AM to 10:30 AM on October 19, 2017. The hearing will be in Room 819 at 125 Worth Street, New York, NY 10013 (DSNY Headquarters).

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

- **Website.** You can submit comments to DSNY through the NYC rules website at <http://rules.cityofnewyork.us>.
- **Email.** You can email comments to nycrules@dsny.nyc.gov.
- **Mail.** You can mail comments to DSNY, Bureau of Legal Affairs, 125 Worth Street, Room 710, New York, NY 10013.
- **Fax.** You can fax comments to DSNY at 212-788-3876.
- **By speaking at the hearing.** Anyone who wants to comment on the proposed rule at the public hearing can sign up in the hearing room before the hearing begins on October 19, 2017.

Is there a deadline to submit comments? Comments will be due to the Department of Sanitation by 5:00 P.M. on October 19, 2017.

What if I need assistance to participate in the hearing? You must tell the Office of Legal Affairs if you need a reasonable accommodation of a disability at the hearing. 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 646-885-5006. Advance notice is requested to allow sufficient time to arrange the accommodation. Please tell us by October 12, 2017.

This location has the following accessibility option(s) available: Wheelchair Accessible and Sign Language Interpretation.

Can I review the comments made on the proposed rule? 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, copies of all comments submitted online, copies of all written comments, and a summary of oral comments concerning the proposed rule will be available to the public on DSNY’s website.

What authorizes DSNY to make this rule? Sections 1043 and 753 of the New York City Charter and sections 16-130, 16-131, 16-131.1 and 16-131.2 of the New York City Administrative Code authorize DSNY to make this proposed rule. This proposed rule was not included in DSNY's regulatory agenda for this Fiscal Year because it was not contemplated when DSNY published the agenda.

Where can I find the DSNY's rules? DSNY's rules are in title 16 of the Rules of the City of New York.

What laws govern the rulemaking process? DSNY must meet the requirements of Section 1043 of the City Charter when creating or changing rules. This notice is made according to the requirements of Section 1043 of the City Charter.

Statement of Basis and Purpose of Proposed Rule

The Department of Sanitation is proposing a rule that would amend its rules relating to the criteria used in the siting of solid waste transfer stations. Specifically, this rule would amend the definition of "public park" to exclude Bronx River Parkway lands abutting an active railroad line.

This amendment is very narrowly tailored to clarify the Department's siting rules and will facilitate the siting of a single non-putrescible solid waste transfer station in an industrially zoned area of the northern Bronx that currently does not have any solid waste transfer stations. The proposed transfer station site is within 400 feet of the Bronx River Parkway. A certain strip of the Parkway lands within such 400 feet (Block 5130 Lot 125) is New York City parkland that adjoins the Parkway roadbed that is located in Yonkers. This strip of Parkway land is within the jurisdiction of the Department of Parks and Recreation. The strip is traversed by the Bronx River but has no street or way across it. The strip abuts the Metro North Harlem River Line railroad corridor that includes rail tracks.

The proposed amendment would be consistent with the intent of the transfer station siting rules to avoid the siting of new transfer stations—with a certain potential for noise and truck traffic—within 400 feet of sensitive land uses such as residences and parks. A Bronx River Parkway lot that is adjacent to a busy arterial roadway and abuts an active railroad line is not a noise-sensitive location for this purpose, and therefore does not warrant a minimum 400-foot buffer distance to a non-putrescible transfer station.

DSNY's authority for these rules is found in sections 753 and 1043 of the New York City Charter, and sections 16-130, 16-131, 16-131.1 and 16-131.2 of the New York City Administrative Code.

New material is underlined.
[Deleted material is in brackets.]

“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.

The definition of “Public park” as set forth in section 4-31 of Title 16 of the Rules of the City of New York is amended to read as follows:

§4-31 Definitions

Public park. "Public park" shall mean any publicly-owned park, playground, beach, parkway, or roadway within the jurisdiction and control of the Commissioner of Parks and Recreation of the City of New York, except for Bronx River Parkway lands abutting an active railroad line and Park strips or malls in a street the roadways of which are not within the jurisdiction and control of the Commissioner of Parks and Recreation, or any publicly-owned park or beach within the jurisdiction and control of the federal or New York State government.

**NEW YORK CITY LAW DEPARTMENT
DIVISION OF LEGAL COUNSEL
100 CHURCH STREET
NEW YORK, NY 10007
212-356-4028**

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

RULE TITLE: Amendment of Solid Waste Transfer Station Rules

REFERENCE NUMBER: 2016 RG 107

RULEMAKING AGENCY: Department of Sanitation

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: August 28, 2017

NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS
253 BROADWAY, 10th FLOOR
NEW YORK, NY 10007
212-788-1400

CERTIFICATION / ANALYSIS
PURSUANT TO CHARTER SECTION 1043(d)

RULE TITLE: Amendment of Solid Waste Transfer Station Rules

REFERENCE NUMBER: DSNY-15

RULEMAKING AGENCY: Department of Sanitation

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/ Francisco X. Navarro
Mayor's Office of Operations

August 28, 2017
Date