

NEW YORK CITY DEPARTMENT OF BUILDINGS

Notice of Public Hearing and Opportunity to Comment on Proposed Rules

What are we proposing? The Department of Buildings (DOB) is proposing to amend the rules regarding the use of ballast and aggregate in the installation of a solar electric generating system.

When and where is the hearing? DOB will hold a public hearing on the proposed rule. The public hearing will take place at 2pm on 8/8/17. The hearing will be in the 3rd floor conference room at 280 Broadway.

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

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

- **Website.** You can submit comments to DOB through the NYC rules Web site at <http://rules.cityofnewyork.us>.
- **Email.** You can email written comments to dobrules@buildings.nyc.gov.
- **Mail.** You can mail written comments to the New York City Department of Buildings, Office of the General Counsel, 280 Broadway, 7th floor, New York, NY 10007.
- **Fax.** You can fax written comments to the New York City Department of Buildings, Office of the General Counsel, at 212-566-3843.
- **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 212-393-2085. You can also sign up in the hearing room before the hearing begins on 8/8/17. You can speak for up to three minutes.

Is there a deadline to submit written comments? Yes, you must submit any written comments by 8/8/17.

Do you need assistance to participate in the hearing? You must tell the DOB Office of the General Counsel if you need a reasonable accommodation of a disability at the hearing other than the one(s) indicated above. You must tell us if you need a sign language interpreter. You can tell us by mail or email at the addresses given above. You may also tell us by telephone at 212-393-2085. You must tell us by 7/25/17.

Can I review the comments made on the proposed rules? You can review the comments made online on the proposed rules 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 received at the hearing will be available to the public at the Office of the General Counsel.

What authorizes DOB to make this rule? Sections 643 and 1043(a) of the City Charter and Title 4-C of Article 4 of the Real Property Tax Law of New York State authorize DOB to make this proposed rule.

Where can I find DOB's rules? DOB's rules are in Title 1 of the Rules of the City of New York.

What rules govern the rulemaking process? DOB 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(b) of the City Charter.

Statement of Basis and Purpose

The Department of Buildings (DOB) is amending section 105-02 of Title 1 of the Rules of the City of New York relating to tax abatements for solar electric generating systems. These amendments modify the prohibition of ballast for grade-level installations and clarify requirements of the New York City Building Code which apply to ballast systems.

The rule currently prohibits ballast at grade level, which is permitted by the Building Code. The Code also prohibits the use of aggregate as ballast on roofs because New York City is in a hurricane zone. The proposed amendments clarify the usage of ballast and aggregate.

DOB's authority for this rule is found in Section 643 and 1043(a) of the New York City Charter and Title 4-C of Article 4 of the Real Property Tax Law of New York State.

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.

Item (F) of subparagraph (ii) of paragraph (1) of subdivision (e) of Section 105-02 of title 1 of the rules of the city of New York is amended to read as follows:

(F) Drawings showing the foundation and/or anchorage of the solar electric generating system. Ballast [shall be] is prohibited for [grade-level installations and for] installations one hundred (100) feet or higher above grade. For rooftop installations less than one hundred (100) feet above grade, and grade-level installations, ballast [shall] must be fully contained and must comply with the requirements for aggregate in Chapter 15 of the New York City Building Code.

**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: Use of Ballast and Aggregate in Solar Electric Generating Systems

REFERENCE NUMBER: DOB-92

RULEMAKING AGENCY: Department of Buildings

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

June 21, 2017
Date

**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: Use of Ballast and Aggregate in Solar Electric Generating Systems

REFERENCE NUMBER: 2017 RG 053

RULEMAKING AGENCY: Department of Buildings

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

June 20, 2017
Date