



New York City Department of Environmental Protection

FY15 Regulatory Agenda

In compliance with section 1042 of the New York City Charter, the following is the regulatory agenda for rules that the Department of Environmental Protection (DEP) anticipates it may promulgate during the fiscal year beginning July 1, 2014 and ending June 30, 2015. An approximate schedule for adopting the proposed rules and the name and telephone number of a DEP official knowledgeable about each subject area involved are listed below each section.

1. Construction Noise Mitigation Rules

When the New York City Noise Control Code was revised in 2004, it regulated construction noise through enforcement of “construction noise mitigation plans” that contractors are required to complete prior to beginning work. The specific requirements of the plans are set forth by rules that DEP promulgated in 2005. DEP seeks to update the rules regarding noise mitigation practices and requirements for street plates, jackhammers, and noise barriers. The amendments could include additional insulating material between street plates and the ground to further reduce noise, additional noise barriers for structures over 20 feet, and include additional technologies for mitigation of jackhammer noise during nighttime construction activities. Builders and contractors are the persons most likely to be affected by these amendments.

Reference: 15 RCNY §28-100 et seq.; NYC Administrative Code §24-219, Noise Mitigation Rules of the Noise Control Code and 34 RCNY §2-11(10) (e), Street Openings and Excavations.
Anticipated Schedule: to be promulgated in FY 2015
Contact: Russ Pecunies, DEP Legal Affairs (718) 595-6531

2. Air Code-related Rules

The upcoming revision of the Air Pollution Control Code may require DEP to promulgate rules that would give DEP flexibility in accommodating new and evolving technologies for reducing the emission of air contaminants. The potential rules could affect property owners, business owners, contractors, and equipment manufacturers and suppliers.



Reference: NYC Administrative Code Title 24, Chapter 1.
Anticipated Schedule: to be promulgated in FY 2015
Contact: Russ Pecunies, DEP Legal Affairs (718) 595-6531

3. Drilling and Excavation

In order to guarantee and protect the integrity of New York City's water supply and facilities, the New York City Department of Environmental Protection must set forth uniform standards for the application for and permitting of all drilling and/or excavation in close proximity to a Facility or shaft. Existing provisions of the Administrative Code mandate that the Commissioner of the Department of Environmental Protection protect New York City's water supply in general terms; this Rule would provide explicit protections. It will likely prescribe the specific standards for the application for and permitting of drilling and/or excavation in close proximity to a Facility or shaft. The persons most likely to be affected are those who conduct drilling and/or excavation to a depth greater than 50' from ground surface within each of the lots located within blocks delineated by the Department of Environmental Protection.

Reference: 15 RCNY [New chapter]; authorized by Section 1043 and subsection (b) of section 1403 of the New York City Charter and pursuant to Section 24-302 of the Administrative Code of the City of New York.

Anticipated Schedule: to be promulgated in FY 2015
Contact: Melinda Sherer, DEP Legal Affairs (718) 595-6613

4. Water Shortage Rules

Because of the age of the New York City water supply infrastructure and the need to have an adequate water supply during periods of weather-related drought and/or large conveyance infrastructure repair and/or failure, the Department of Environmental Protection has recognized the need to amend the Drought Emergency Rules, including the title of the rules. The rules will be amended to apply in all situations of water shortage (rather than only in drought situations), to further clarify the implementation of an emergency rate and to update the existing prohibitions to reflect our current conservation studies and understanding of water use by consumers. The persons most likely to be affected are all consumers of New York City water.

Reference: 15 RCNY, Chapter 21

Anticipated Schedule: to be promulgated in FY 2015
Contact: Joya Cohen, DEP Legal Affairs (718) 595-6539

5. Asbestos Rules



In light of its recent experience in enforcing these rules and in light of feedback from the regulated community regarding how certain provisions are affecting their operations, the Department of Environmental Protection proposes to amend these rules to refine current provisions and to clarify that the rules have as their primary purpose protection of air quality. Affected parties include asbestos abatement contractors, air monitoring companies, and property owners.

Reference: 15 RCNY, Chapter 1

Anticipated Schedule: to be promulgated in FY 2015
Contact: Russ Pecunies, DEP Legal Affairs (718) 595-6531

6. Design and Construction of Private Water Mains

The Department of Environmental Protection is proposing to adopt rules to correspond to rules for private sewers, and will require builders or developers who construct private water mains in mapped streets at their own expense (and connect such water mains to City water mains or other private water mains) to transfer ownership of such mains to the City within a prescribed period of time. Affected parties include builders and developers.

Reference: 15 RCNY (new chapter)
Anticipated Schedule: to be promulgated in FY 2015
Contact: Russ Pecunies, DEP Legal Affairs (718) 595-6531

7. Master Environmental Hazard Remediation Technician

Local Law 3 of 2014 establishes the Master Environmental Hazard Remediation Technician certificate program, under which the Department of Environmental Protection will issue certificates to individuals who qualify by establishing that they have completed training in asbestos, lead, hazardous materials, and related fields. The law requires DEP to promulgate rules establishing fees for registration and renewal of registration, as well as the forms needed to register for the program. Affected parties include environmental contractors and prospective applicants.

Reference: NYC Administrative Code Title 24 Chapter 10
Anticipated Schedule: to be promulgated in FY 2015
Contact: Russ Pecunies, DEP Legal Affairs (718) 595-6531

8. Hazardous Materials Storage



Local Law 143 of 2013 amended the Community Right-to-Know Law to require that facilities which store hazardous substances now notify the City if such substances are located in a special flood hazard area or hurricane evacuation zone. The law requires the Department of Environmental Protection to promulgate storage rules which take into consideration all safety issues including fire, flooding, storm surge and earthquake. Affected parties include all property owners who store hazardous materials.

Reference: NYC Administrative Code Title 24 Chapter 7
Anticipated Schedule: to be promulgated in FY 2015
Contact: Russ Pecunies, DEP Legal Affairs (718) 595-6531

9. Best Available Technology Rule

The Department of Environmental Protection is proposing to amend the existing rule governing Best Available Technology for emissions control in non-road vehicles to include filters that comply with the Swiss Ordinance on Air Pollution Control (OAPC). OAPC testing is increasingly common in Europe instead of VERT testing, which is included in the existing rule. Affected parties include manufacturers and users of non-road vehicles.

Reference: 15 RCNY 14-02
Anticipated Schedule: to be promulgated in FY 2015
Contact: Alyssa Preston, Bureau of Environmental Compliance (718) 595-3497

10. Green Infrastructure Grant Program

The Department of Environmental Protection is proposing to establish the Green Infrastructure Grant Program to provide funding for the design and construction of green infrastructure to manage stormwater runoff in New York City. The program is available to private property owners within the five boroughs whose property is served by a combined sewer. DEP seeks to promulgate rules regarding the program, which will include, *inter alia*, applicant eligibility and requirements of the program.

Reference: 15 RCNY (new chapter)
Anticipated Schedule: to be promulgated in FY 2015
Contact: Alison Gilgore, DEP Legal Affairs (718) 595-6542

11. Watershed - Revocable Land Use Permits

The Department of Environmental Protection is proposing to amend 15 RCNY Chapter 17, which governs the issuance of revocable land use permits for NYC-owned land in nine upstate counties. The amendment will revise the insurance provisions in order to give DEP greater



discretion to allow acceptable activities on City-owned land without imposition of unduly burdensome insurance requirements.

Reference: 15 RCNY, Chapter 17
Anticipated Schedule: to be promulgated in FY 2015
Contact: May Chin, DEP Legal Affairs (845) 340-7204

12. Watershed – Rules for the Recreational Use of Water Supply Lands and Waters

The Department of Environmental Protection is proposing to amend 15 RCNY Chapter 16, which governs public use of certain water supply property owned by the City of New York and includes the issuance of permits and permissions for certain commercial activities and additional uses. These amended rules will emphasize new recreational uses and management strategies to manage natural resources, and will further align property designations with beneficial use principles.

Reference: 15 RCNY, Chapter 16
Anticipated Schedule: to be promulgated in FY 2015
Contact: Paul Lenz, DEP BWS and Joya Cohen, DEP Legal Affairs (718) 595-6539

13. Watershed – Watershed Regulations

The Department of Environmental Protection is proposing to update certain wastewater sections of the *Rules and Regulations for the Protection from Contamination, Degradation and Pollution of the New York City Water Supply and Its Sources* (Watershed Regulations). Many of the proposed Watershed Regulation changes are made pursuant to the revisions made by the New York State Department of Environmental Conservation (DEC) to the Design Standards for Intermediate-Sized Wastewater Treatment Systems (effective March 5, 2014), and the New York State Department of Health Appendix 75-A revisions effective February 2, 2010. DEP must update the Watershed Regulations to reference the updated version of the most recent state regulations. DEP will be adding enhancements for water supply protection based on some of the revisions to these state regulations and based on the past 17 years of implementation of the Watershed Regulations.

Reference: 15 NYCRR, Chapter 18
Anticipated Schedule: to be promulgated in FY 2015
Contact: Brenda Drake, DEP BWS (845-340-7215)

14. Community Right-to-Know Rules

The Department of Environmental Protection is planning to update and revise the Community Right-To-Know Regulations, which are found at 15 RCNY Chapter 41. These rules have not



been updated since they were promulgated almost 25 years ago and contain many outdated and obsolete references. The Hazardous Substances List, which is part of these Rules, must be revised to conform to the current federal and state lists. Affected parties include owners of facilities where hazardous substances are stored.

Reference: 15 RCNY, Chapter 41

Anticipated Schedule: to be promulgated in FY 2015

Contact: Russell Pecunies, DEP Legal Affairs (718) 595-6531