



3/15/18

# New York City Department of Environmental Protection FY20 Regulatory Agenda

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In compliance with section 1042 of the New York City Charter, the following is the regulatory agenda for rules that the New York City Department of Environment of Protection (DEP) anticipates it may promulgate during the fiscal year beginning July 1, 2019 and ending June 30, 2020. Listed below each section are an approximate schedule for adopting the proposed rules and the name and telephone number of a DEP official knowledgeable about each subject area involved.

## **1. Construction Noise Mitigation Rules**

### **A. Description**

Rules regarding noise mitigation practices including requirements for street plates, jackhammers, and noise barriers.

### **B. Reasons**

Update 2005 rules that set forth specific requirements for “construction noise mitigation plans” contractors must complete prior to starting work.

### **C. Anticipated contents**

The rule will establish additional requirements for the use of insulation between street plates and the ground, additional noise barriers for structures over 20 feet, and additional technologies for mitigation of jackhammer noise during nighttime construction activities.

### **D. Objectives**

To reduce further the noise created during construction activities.



E. Legal basis:

NYC Charter Section 1403

F. Relevant local laws and rules:

NYC Administrative Code §24-219, 15 RCNY §28-100 et seq., 34 RCNY §2-11

G. Individuals and entities affected:

Builders and Contractors

H. Approximate Schedule:

4Q FY 2020

I. Agency Contact:

Russ Pecunies, DEP Legal Affairs, (718) 595-6531

## **2. Work Permit Exceptions**

A. Description

Rule will define certain equipment that the department may exempt from requirements for a work permit under the Air Pollution Control Code.

B. Reasons

Certain equipment, which is not explicitly exempted from the work permit requirement in section 24-121 of the Air Code, does not need a work permit for various reasons including how DEC classifies certain sources. DEP seeks to clarify and expand the existing list of sources for which a registration or exemption from filing is acceptable instead of a work permit.

C. Anticipated contents

The rule will set forth the equipment or apparatus that the department may exempt from requirements for a work permit.

D. Objectives



Simplify compliance requirements and streamline permitting.

E. Legal basis:

NYC Charter Section 1403

F. Relevant local laws and rules:

NYC Administrative Code Section 24-121(a)(21)

G. Individuals and entities affected:

Engineers, architects, and those who file in the regulated community.

H. Approximate Schedule:

2Q FY 2020

I. Agency Contact:

Russ Pecunies, DEP Legal Affairs, (718) 595-6531

### **3. Fee Rule Amendment**

A. Description

Rule will establish a fee for variances from the Air Pollution Control Code.

B. Reasons

The department receives requests for variances from the Air Code, which require a review by engineers and other staff. The department needs a fee to cover its costs for reviewing these applications.

C. Anticipated contents

The rule will establish a fee for review of applications for a variance from the Air Code.

D. Objectives

Ensure sufficient receipt of revenue to review and evaluate variances.



E. Legal basis:

NYC Charter Section 1403

F. Relevant local laws and rules:

NYC Administrative Code Section 24-105 (c)

G. Individuals and entities affected:

Those who seek a variance from the Air Code.

H. Approximate Schedule:

3Q FY 2020

I. Agency Contact:

Russ Pecunies, DEP Legal Affairs, (718) 595-6531

#### **4. Penalty Schedule Amendments**

A. Description

Rules that will amend the penalty schedule for the Air Code, Noise Code, Asbestos Rules, and Water Code.

B. Reasons

Recent or pending changes will require the amendment of penalty schedules related to summonses issued by DEP.

C. Anticipated contents

Addition and deletion of affected provisions from current penalty schedules.

D. Objectives

Update penalty schedules to be consistent with current laws and rules.

E. Provide a summary of the legal basis for the proposed rule.

NYC Charter Section 1403



F. Relevant local laws and rules:

NYC Administrative Code § 24-223, 24-223.1(d), 24-154, 24-178, 24-105, 24-204, 24-257, 24-346 and 15 RCNY Chapter 1.

G. Individual and entities affected:

Entities and individuals who receive summonses issued by DEP.

H. Approximate Schedule:

1Q FY 2020

I. Agency Contact:

Russ Pecunies, DEP Legal Affairs, (718) 595-6531

## **5. Drilling and Excavation**

A. Description

Uniform standards for the application for and permitting of all drilling and/or excavation in close proximity to critical infrastructure.

B. Reason

Existing provisions of the Administrative Code mandate in general terms that the DEP Commissioner protect New York City's water supply; this rule would provide explicit protections.

C. Anticipated contents

The rule will set forth specific standards for the application for and permitting of drilling and/or excavation in close proximity to critical infrastructure

D. Objectives

To guarantee and protect the integrity of New York City's water supply and facilities.

E. Provide a summary of the legal basis for the proposed rule.



NYC Charter Section 1403

F. Relevant local laws and rules:

NYC Administrative Code §24-302; 15 RCNY Chapter 34

G. Individuals and entities affected:

Engineers and contractors whose projects include drilling and/or excavation within the five boroughs of NYC

H. Approximate Schedule:

1Q FY 2020

I. Agency Contact:

Melinda Sherer, DEP Legal Affairs, (718) 595-6613

## **6. Water Shortage Rules**

A. Description

Amendment of existing rules to apply in all situations of water shortage (including drought situations) and to update the existing prohibitions.

B. Reasons

Update the existing prohibitions to reflect current conservation studies and understanding of water use by consumers.

C. Anticipated contents

The rule will set forth prohibitions and restrictions on water usage during periods of water shortage.

D. Objectives

Ensure an adequate water supply during periods of weather-related drought and/or large conveyance infrastructure repair and/or failure.

E. Provide a summary of the legal basis for the proposed rule.



NYC Charter Section 1403

F. Relevant local laws and rules:

15 RCNY Chapter 21

G. Individuals and entities affected:

All consumers of New York City water

H. Approximate Schedule:

4Q FY 2020

I. Agency Contact:

Casey McCormack, DEP Legal Affairs (718) 595-6503

## **7. Design and Construction of Private Water Mains**

A. Description

Rules for design and construction of private water mains.

B. Reasons

Establish rules for private water mains that are consistent with rules for private sewers.

C. Anticipated contents

The rules will establish requirements for those 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.

D. Objectives

To ensure that private water mains are constructed to DEP standards and specifications.

E. Provide a summary of the legal basis for the proposed rule.

NYC Charter Section 1403



F. Relevant local laws and rules:

15 RCNY Chapter 23

G. Individuals and entities affected:

Builders and developers

H. Approximate Schedule:

4Q FY 2020

I. Agency Contact:

Susan Gordon, DEP Legal Affairs (718) 595-4260

## **8. Watershed - Revocable Land Use Permits**

A. Description

Rules for issuance of revocable land use permits for NYC-owned land in nine upstate counties

B. Reasons

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

C. Anticipated contents

The rule will remove the requirement for a bond for pump stations and add a new fee category for “lawn mowing or other small-scale uses incidental to residential dwellings.”

D. Objectives

Permit public use of land in the NYC watershed in upstate counties.

E. Provide a summary of the legal basis for the proposed rule.

NYC Charter Section 1403

F. Relevant local laws and rules:



15 RCNY Chapter 17

G. Individuals and entities affected:

Applicants for revocable land use permits for NYC-owned land in nine upstate counties

H. Approximate Schedule:

4Q FY 2020

I. Agency Contact:

May Chin, DEP Legal Affairs (845) 340-7204

## **9. Sewer Use Rules**

A. Description

Revisions to “Use of the Public Sewers” rules, incorporating federal pretreatment standards and requirements, establishing sewer use limits and implementing the federal pretreatment program.

B. Reasons

Provide more clarity and specificity to the regulations in order to avoid confusion, promote higher rates of compliance, and facilitate DEP inspectors’ performance of comprehensive inspections.

C. Anticipated contents

Modifications to the definition section, the Best Management Practices for Non-Residential Direct and Indirect Dischargers of Grease to the Public Sewer System, and the rules regarding groundwater discharge permits.

D. Objectives

Reduce pollutants in stormwater runoff that discharge to the local waterbodies.

E. Provide a summary of the legal basis for the proposed rule.

Section 1403 of NYC Charter and section 24-523(e) of the NYC Administrative Code

F. Relevant local laws and rules:



15 RCNY Chapter 19

G. Individuals and entities affected:

Dischargers to the public sewer system.

H. Approximate Schedule:

4Q FY 2020

I. Agency Contact:

Russ Pecunies, DEP Legal Affairs, (718) 595-6531

## **10. Update to Perchloroethylene Dry Cleaning Facilities**

A. Description

Rules applicable to all dry cleaning facilities in the state that use perchloroethylene (perc) will be amended to reflect changes by the DEC to 6 NYCRR Parts 200 and 232.

B. Reasons

DEC has adopted changes to the regulations that affect the dry cleaning community. Major changes to the dry cleaning industry have taken place since DEC's dry cleaning regulations went into effect in 1997. As a result, many of the requirements in Part 232 have become outdated and in need of revision.

C. Anticipated Contents

Revise the existing regulation and add several new components to improve compliance and program delivery; reduce perc and alternative solvent emissions to the environment; address advancements in technology and changes in the industry regarding the use of alternative dry cleaning solvents; and bring New York's regulation up to date with current federal requirements. This proposal applies to any entity that operates, or proposes to operate, approved alternate solvent or perc dry cleaning machines.

D. Objectives

Reduce exposure to perc from dry cleaning operations and improve air quality.



E. Legal Basis

NYC Charter Section 1403

F. NYC Administrative Code Section 24-105, 15 RCNY 12-01 et seq.

G. Individuals and Entities affected:

Dry Cleaning Facilities

H. Approximate Schedule:

2Q FY 2020

I. Agency Contact:

Russ Pecunies, DEP Legal Affairs, (718)595-6531

## 11. Char broiler and Cook Stove Rules

A. Description

Rule that will establish requirements for restaurants in operation before May 6, 2016 to install emission controls.

B. Reasons

The Air Code requires that DEP promulgate a rule to prescribe emission control technologies required on cook stoves and char broilers installed before May 6, 2016.

C. Anticipated contents

The rule will require similar control technologies as those currently installed on cook stoves and char broilers that came into operation on or after May 6, 2016.

D. Objectives

The installation of emission controls on cook stoves and char broilers will result in a reduction in emissions and odors.



E. Provide a summary of the legal basis for the proposed rule.

NYC Charter Section 1403 and Title 24, Chapter 1 of the Administrative Code.

F. Relevant local laws and rules:

NYC Administrative Code § 24-149.4 and 24-149.5, 24-105

G. Individuals and entities affected:

Restaurants with char broilers or cook stoves installed prior to May 6, 2016.

H. Approximate Schedule:

2Q FY 2020

I. Agency Contact:

Russ Pecunies, DEP Legal Affairs, (718)595-6531

## **12. Basement Apartment Rules**

A. Description

Rules governing vapor intrusion barrier system installations, indoor air and soil vapor sampling, environmental site assessments, and soil testing in connection with a demonstration program in East New York.

B. Reasons

Local Law No. 2019/049 requires DEP to promulgate rules for basement or cellar apartments enrolled in the demonstration program to comply with certain requirements before they may obtain a certificate of occupancy or temporary certificate of occupancy

C. Anticipated Contents

The rule will establish requirements, and where applicable, exemptions, for the installation of vapor intrusion barrier systems, indoor air and soil vapor sampling, environmental site assessments, and soil testing in basement apartments in the East New York demonstration program.



#### D. Objectives

To facilitate the creation and alteration of habitable apartments in basements and cellars of certain one- and two-family dwellings in the East New York demonstration program.

#### E. Legal Basis

§§15(e) and 1043 of the Charter of the City of New York

#### F. Relevant Local Laws & Rules

Local Law No. 2019/049.

#### G. Individuals and entities affected

Owners of certain one- and two-family dwelling in East New York seeking to enroll in the City's demonstration program. Builders/contractors/Qualified Environmental Professionals working on such Owners' properties.

#### H. Approximate Schedule

1Q FY2020

#### I. Agency Contact

Casey McCormack, DEP Legal Affairs (718) 595-6503