



3/15/20

New York City Department of Environmental Protection FY21 Regulatory Agenda

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. 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 the 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 2021

I. Agency Contact:

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

2. 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 2021

I. Agency Contact:

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

3. 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:

4Q FY 2021

I. Agency Contact:

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

4. Water Shortage Rules

A. Description

Amendment of existing rules to apply in all situations of water shortage (including those caused by natural hydrological conditions as well as other circumstances, such as planned or unplanned infrastructure outages or repairs) 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 water shortage caused by natural hydrological conditions and/or other circumstances, such as planned or unplanned infrastructure outages or repairs.

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:

1Q FY 2021

I. Agency Contact:

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

5. Watershed - Revocable Land Use Permits

A. Description

Rules for the issuance of revocable land use permits for City-owned land in nine upstate counties.

B. Reasons

Update the 2012 rules to amend the insurance requirements for revocable land use permits and to allow for other programmatic changes.

C. Anticipated contents

The rules will revise the 2012 rules' insurance requirement section to make any insurance or indemnity requirements more accessible to applicants while also continuing to protect the interests of the City. The proposed changes will also revise sections of the 2012 rules for clarity.

D. Objectives

Allow for the use of City-owned land in nine upstate counties in NYC watershed.

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

NYC Charter Chapter 57, Section 1403; NYC Administrative Code Section 24-315.



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 2021

I. Agency Contact:

Caitlin O’Leary, DEP Legal Affairs, 718-595-6543

6. Sewer Use Rules

A. Description

Revisions to “Use of the Public Sewers” rules, establishing performance standards for on-site digestion systems installed by food service and other commercial establishments to manage organic waste ..

B. Reasons

Ensure that discharges from on-site digestion systems do not negatively impact the NYC wastewater system with increased pollutant loadings and volume.

C. Anticipated contents

Modifications to the definition section, standards for the types of on-site digestion systems covered establishments may install.

D. Objectives

Keep the sewer system and Wastewater Resource Recovery Facilities functioning at their best and keep NYC’s surrounding waterways clean.

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:

Covered food service and commercial establishments with on-site digestion systems discharging to the public sewer system.

H. Approximate Schedule:

4Q FY 2021

I. Agency Contact:

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

7. 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 2021

I. Agency Contact:

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

8. 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 FY2021

I. Agency Contact

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

9. Unified Stormwater Rule

A. Description

Expansion of .MS4 Stormwater Rule to the Combined Sewer areas of NYC to provide a consistent stormwater management policy, and update of the DEP Bureau of Water and Sewer Operations (BWSO) peak flow requirements for site/house connection proposals, superseding the 2012 Stormwater Performance Standard.

B. Reasons

Require more on-site stormwater management to improve water quality, reduce urban flooding, lessen the burden on infrastructure and reduce energy demands.

C. Anticipated contents



Revision of Chapter 19.1 to reduce the threshold for soil disturbance that triggers post-construction stormwater controls and expand MS4 stormwater control requirements citywide; revision of Chapter 31 to update release rates and allowable flow.

D. Objectives

The proposed rules are designed to align with the NYC Climate Mobilization Act by increasing green space, to contribute to improved water quality in NYC waterbodies by further managing stormwater runoff, and to streamline the site/house connection permit application, design and review processes.

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

NYC Administrative Code Chapter 5-A § TBD

F. Relevant local laws and rules:

NYC Administrative Code Chapter 5-A § TBD, Title 15 RCNY Chapters 19.1 and 31

G. Individuals and entities affected:

Owners and Developers required to obtain DEP Stormwater Construction/Post-Construction permits and Site/House Connection permits.

H. Approximate Schedule:

4Q FY 2021

I. Agency Contact:

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

10. Water Use Rules

A. Description

Amend rules governing and restricting the use and supply of water in order to clarify language; update references to national standards and local codes; and reflect changes in technology and practice related to the installation, repair, and maintenance of water services and service connections, and to the selection, sizing, and use of water meters.

B. Reasons



The rules are being amended to clarify technical terms, update references, clarify backflow testing requirements, and remove obsolete language to make the rules clearer and more understandable for regulated individuals and entities.

C. Anticipated contents

The proposed rules will include modifications to the definition section, various updates and clarifications

D. Objectives

To make the rules clearer and more understandable.

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

Section 1403 of NYC Charter and section 24-346 of the NYC Administrative Code

F. Relevant local laws and rules:

15 RCNY Chapter 20

G. Individuals and entities affected:

Property owners, plumbers, businesses

H. Approximate Schedule:

1Q FY 2021

I. Agency Contact:

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

11. Design and Construction of Private Sewers

A. Description

Revisions to Chapters 23 and 31 of the Rules of the City of New York, governing construction of private sewers or private drains and house/site connections to the sewer system..

B. Reasons

The proposed amendments will clarify the permit requirements and achieve regulatory consistency.



C. Anticipated contents

The proposed rules will include various revisions to Chapters 23 and 31.

D. Objectives

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

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

NYC Charter Section 1403 and NYC Administrative Code Title 24.

F. Relevant local laws and rules:

NYC Administrative Code Title 24 and RCNY Title 15.

G. Individuals and entities affected:

Any person or entity constructing a private drain or sewer or connections to the City sewer.

H. Approximate Schedule:

4Q FY 2021

I. Agency Contact:

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

12. Denial of Permit for Unpaid Civil Penalties

A. Description

Rules that will allow DEP to deny an application for a permit, license or registration or renewal thereof, or to suspend, terminate or revoke a permit, license or registration, based on failure of applicant, licensee, permittee or registrant to timely pay civil penalties imposed upon it by OATH.

B. Reasons

LL 47 of 2016 directed agencies that issue permits, licenses or registrations and issue summonses returnable to OATH to promulgate rules implementing the authority granted by the Local Law as described in section A above.

C. Anticipated contents



The proposed rules will set forth factors DEP will consider in determining whether to deny suspend, terminate or revoke any permit, license or registration, including the status of an entity's payment of any civil penalties imposed on that entity, the amount of penalties owed and the nature of the underlying violations.

D. Objectives

The proposed rules will increase compliance by entities in their payment of outstanding civil penalties imposed by OATH.

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

Local Law 47 of 2016 amending NYC Charter Chapter 45-A § 1049-b

F. Relevant local laws and rules:

NYC Charter Chapter 45-A § 1049-b, Title 15 RCNY Chapters 19.1 and 31, NYC Water Board Water and Wastewater Rate Schedule.

G. Individuals and entities affected:

Applicants for and holders of DEP permits, licenses or registrations

H. Approximate Schedule:

4Q FY 2021

I. Agency Contact:

Musa Ali, DEP Legal Affairs, (718)595-7030

13. Public Rulemaking Petitions

A. Description

The proposed rule will establish procedures governing the submission, consideration and disposition of public rulemaking petitions.

B. Reasons

Section 1043(g) of the Charter directed agencies to promulgate rules prescribing the procedure for submission, consideration and disposition of public rulemaking petitions.

C. Anticipated contents



The proposed rule will set forth the procedures for submitting petitions and for the agency's consideration of and response to petitions.

D. Objectives

The proposed rule will inform the public as to the procedures for submitting petitions and the agency's procedures for responding to petitions.

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

NYC Charter Chapter 45, § 1043(g)

F. Relevant local laws and rules:

None

G. Individuals and entities affected:

Members of the public wishing to file rulemaking petitions

H. Approximate Schedule:

2Q FY 2021

I. Agency Contact:

Hannah Polakowski, DEP Legal Affairs, (718) 595-6539