

NEW YORK CITY DEPARTMENT OF ENVIRONMENTAL PROTECTION

Notice of Public Hearing and Opportunity to Comment on Proposed Rules

What are we proposing? The Department of Environmental Protection is promulgating rules that would establish specific time frames for inspections in response to after hours noise complaints.

When and where is the hearing? The Department of Environmental Protection will hold a public hearing on the proposed rule. The public hearing will take place at 10 a.m. on July 23, 2018. The hearing will be in the Department's 11th floor hearing room at 59-17 Junction Boulevard, Flushing NY 11373.

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

- **Website.** You can submit comments to the Department of Environmental Protection through the NYC rules website at <http://rules.cityofnewyork.us>.
- **Email.** You can email comments to nycrules@dep.nyc.gov. Attention: Rule Making Attorney.
- **Mail.** You can mail comments to Department of Environmental Protection, Bureau of Legal Affairs, 59-17 Junction Boulevard, 19th Floor, Flushing, NY 11373.
- **Fax.** You can fax comments to the Department of Environmental Protection, Bureau of Legal Affairs, at 718-595-6543.
- **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 718-595-6531. You can also sign up in the hearing room before the hearing begins on July 23, 2018. You can speak for up to three minutes.

Is there a deadline to submit comments? Yes, you must submit written comments by July 23, 2018.

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 718-595-6531. Advance notice is required to allow sufficient time to arrange the accommodation. Please tell us by July 16th, 2018.

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

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 concerning the proposed rule will be available to the public at a few days after the hearing, a transcript of the hearing and copies of the written comments will be available to the public at the Bureau of Legal Affairs, 59-17 Junction Boulevard, Flushing, NY, 11373.

What authorizes the Department of Environmental Protection (DEP) to make this rule? Sections 1043 of the City Charter and Sections 24-205 and 24-207(e) of the Administrative Code authorize DEP to make this proposed rule. This proposed rule was included in DEP's regulatory agenda for this Fiscal Year.

Where can I find the DEP's rules? The DEP's rules are in Title 15 of the Rules of the City of New York.

What laws govern the rulemaking process? DEP must meet the requirements of Section 1043(c) 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 of Proposed Rule

Local Law 53 of 2018 added a new subdivision (e) to Section 24-207 of the Administrative Code. This new subdivision requires the commissioner to prescribe specific time frames for inspections in response to after hours noise complaints received by the department to ensure that inspections are most likely to occur at a time that the alleged noise is continued from the time of such complaint, or at a time when the alleged noise is likely to be repeated.

DEP is proposing these rules, as required by section 24-207(e), to establish the method and strategy to inspect afterhours complaints when the noise will still be continuing and/or likely to be repeated.

Consistent with the above, DEP will promulgate the following rule as a new Chapter 52 in Title 15 of the Rules of the City of New York.

The rule is authorized by Section 1043 of the Charter and sections 24-205 and 24-207(e) of the Administrative Code.

The text of the rule follows.

Section 1. Title 15 of the Rules of the City of New York is amended by adding a new Chapter 52 to read as follows:

Chapter 52: After Hours Noise Complaints

§ 52-01 After Hours Response Time at Building Sites.

(a)(1) When a complaint is reported to the Department of Environmental Protection (DEP) concerning after hours noise at a building location, which would require an after hours variance from the Department of Buildings (DOB), DEP staff will check the DOB website. If there is no variance, an inspection will be conducted the same day if the complaint is received during likely working hours. If the complaint is not received during likely working hours, the inspection will be conducted the next weekend day or overnight period, as applicable.

(2) For the locations with a variance, an inspection will be conducted the next weekend or overnight period for which the variance has been granted.

(b) For the locations with a variance, DEP will prioritize inspections based upon the number of complaints received per location.

(c) DEP staff should also monitor complaints using existing resources to determine if complaints are close in proximity to one another and, if feasible, conduct the inspection for the after hours complaint on the same day or night for locations with or without a variance.

§ 52-02 After Hours Response Time for Street Work

(a) When a complaint is reported to DEP concerning after hours noise from street construction, which would require an after hours variance from the Department of Transportation (DOT), DEP staff will check the DOT website. If there is no variance, or a variance only for that one day, an inspection will be conducted that day or night. If it is unclear from the website if there is a variance, or if there is a variance within the first three days of receiving such complaint, DEP will conduct an inspection to ascertain if there is a DOT permit and to monitor for noise. DEP staff should inspect 75% of all street construction complaints within three days or less. The remainder of the 25% of complaints should be inspected by the fourth day.

(b) DEP staff will also monitor complaints using existing resources to determine if complaints are close in proximity to one another and, if feasible, conduct the inspection for the after hours complaint on the same day or night.

**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 rules establishing specific time frames for inspections in response to after hours noise complaints.

REFERENCE NUMBER: 2018 RG 064

RULEMAKING AGENCY: Department of Environmental Protection

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: 6/8/2018

**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 rules establishing specific time frames for inspections in response to after hours noise complaints.

REFERENCE NUMBER: DEP-51

RULEMAKING AGENCY: Department of Environmental Protection

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/ Joss Milloz

Mayor's Office of Operations

June 8, 2018

Date