

## **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 requiring that mobile food vending unit engines with an input of less than 50 horsepower must to be registered with the Department.

**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 December 20, 2017. The hearing will be in the Department's 8<sup>th</sup> 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](mailto:nycrules@dep.nyc.gov).
- **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 December 20, 2017. You can speak for up to three minutes.

**Is there a deadline to submit comments? Yes, you must submit written comments by December 20, 2017.**

**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 requested to allow sufficient time to arrange the accommodation. Please tell us by December 13, 2017.

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 and of the City Charter and Sections 24-109(a)(17) and 24-163.12 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 Number 38 for the year 2015 amends Title 24 of the Administrative Code of the City of New York by authorizing the department to promulgate rules that will require emission sources or activities not listed in section 24-109(a)(1-16) to be registered with DEP

DEP is proposing these rules, as authorized by Section 24-109(a)(17) to reduce emissions, from mobile food vending units used to power a process device, which in the case of mobile vending units is used to preserve food.

This rulemaking reflects DEP's determination that engines in mobile food vending units with an input of less than 50 horsepower are an emission source that must be registered with DEP.

Consistent with the above, DEP promulgates the following new Rule, to be found at 15 RCNY Chapter 50.

DEP's authority for these rules is found in sections of the New York City Charter section 1043 and sections 24-109(a)17 and 24-163.12 of the New York City Administrative Code.

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.

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 50, to read as follows:

Chapter 50

Registration of Other Emission Sources or Activities

§50-01 Engines in Mobile Food Vending Units

No person shall cause or permit the installation, use, or operation of any engine in a mobile food vending unit with an input of less than 50 horsepower unless he or she has first registered the engine with the Department in accordance with the requirements of section 24-109 of the Administrative Code.

**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:** Registration of Certain Mobile Food Vending Unit Engines

**REFERENCE NUMBER:** 2017 RG 072

**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: October 30, 2017

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS  
253 BROADWAY, 10<sup>th</sup> FLOOR  
NEW YORK, NY 10007  
212-788-1400**

**CERTIFICATION / ANALYSIS  
PURSUANT TO CHARTER SECTION 1043(d)**

**RULE TITLE: Registration of Certain Mobil Food Vending Unit Engines**

**REFERENCE NUMBER: DEP-39**

**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/ Francisco X. Navarro  
Mayor's Office of Operations

October 30, 2017  
Date