

New York City Department of Consumer Affairs

Notice of Public Hearing and Opportunity to Comment on Proposed Rules

What are we proposing? The Department of Consumer Affairs (“DCA” or “Department”) is proposing to add new rules to implement Section 1043(g) of the New York City Charter, which permits any person to petition a city agency to consider the adoption of any rule and requires each agency to have rules creating a procedure for such petitions.

When and where is the hearing? DCA will hold a public hearing on the proposed rule. The public hearing will take place at 10:00 AM on September 14, 2020. The public hearing will be accessible by phone and videoconference.

- To participate in the public hearing via phone, please dial 1 646 558 8656.
 - Meeting Number: 832 9147 1594
- To participate in the public hearing via videoconference, please follow the online link: <https://us02web.zoom.us/j/83291471594>

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

- **Website.** You can submit comments to DCA through the NYC rules website at <http://rules.cityofnewyork.us>.
- **Email.** You can email comments to Rulecomments@dca.nyc.gov.
- **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 (212) 436-0345. You can also sign up on the phone or videoconference before the hearing begins at 10:00 AM on September 14, 2020. You can speak for up to three minutes.

Is there a deadline to submit comments? Yes. You must submit any comments to the proposed rule on or before September 14, 2020.

What if I need assistance to participate in the hearing? You must tell DCA’s External Affairs division if you need a reasonable accommodation of a disability at the hearing. You must tell us if you need a sign language interpreter. You may tell us by telephone at (212) 436-0345 or by email at Rulecomments@dca.nyc.gov. Advance notice is requested to allow sufficient time to arrange the accommodation. Please tell us by September 10, 2020.

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, all comments received by DCA on the proposed rule will be made available to the public online at <http://www1.nyc.gov/site/dca/about/public-hearings-comments.page>.

What authorizes DCA to make this rule? Sections 1043, 2203(f), and 2203(g) of the New York City Charter authorize the Department of Consumer Affairs to make this proposed rule. This proposed rule is included in the Department’s regulatory agenda for this Fiscal Year.

Where can I find DCA's rules? The Department's rules are in Title 6 of the Rules of the City of New York.

What laws govern the rulemaking process? DCA must meet the requirements of Section 1043 of the City Charter when creating or changing rules. This notice is made according to the requirements of Section 1043 of the City Charter.

Statement of Basis and Purpose of Proposed Rule

The Department of Consumer Affairs (“DCA” or “Department”) is proposing to add new rules to implement Section 1043(g) of the New York City Charter, which permits any person to petition a city agency to consider the adoption of any rule and requires each agency to have rules creating a procedure for such petitions.

Specifically, these proposed rules would set forth the procedures that petitioners must follow in petitioning the Department to consider a new rule. These proposed rules would also set forth the procedure the Department must follow in considering and responding to petitions. Additionally, these rules would require the Department to deny or approve petitions within 60 days and would set forth a procedure for rejecting or adopting petitions.

DCA’s authority for this rule is found in Sections 1043, 2203(f), and 2203(g) of the New York City Charter.

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.

Proposed Rule Amendments

Section 1. Chapter 13 of Title 6 of the Rules of the City of New York is added to read as follows:

Chapter 13: Petitions for Rulemaking

§ 13-01 Definitions.

(a) Person. "Person" means a natural person or a business entity, including but not limited to a corporation, trust, estate, partnership, cooperative, association, firm, club or society.

(b) Petition. "Petition" means a request or application for the Department to adopt a Rule.

(c) Petitioner. "Petitioner" means the person who files a Petition.

(d) Rule. "Rule" shall have the meaning set forth in § 1041 of the City Administrative Procedure Act.

§ 13-02 Procedures for Submitting Petitions.

(a) Any Person may petition the Department to consider the adoption of a Rule. The Petition may be denied if it fails to include the following information:

(1) The Rule to be considered, with proposed language for adoption;

(2) Petitioner's arguments in support of adoption of the Rule;

(3) Petitioner's proposal for the time period the Rule should be in effect, if applicable;

(4) Responses to any questions posed on a form provided by the Department for such Petitions;

(5) The name, address, telephone number, and email address of the Petitioner or his or her authorized representative;

(6) The signature of Petitioner or his or her representative.

(b) Any change in the name, address or telephone number of the Petitioner or his or her authorized representative must be reported to the Department.

(c) All Petitions should be typewritten, if possible, but handwritten Petitions will be accepted provided they are legible.

(d) Petitions must be submitted via the email address identified on the Department's website or by mailing or delivering the Petition to the Department's Deputy General Counsel, 42 Broadway, 8th Fl., New York, NY 10004.

§ 13-03 Procedures for Consideration of and Responses to Petitions.

If a Petition is submitted in proper form, the Department will deny or approve the Petition within 60 days from the date it was received. The Department will either deny such Petition in a written statement or state in writing the Department's intention to grant the Petition and to initiate rulemaking by a specified date. The Department is not required to grant the entirety of a Petition and is not bound by the language proposed by Petitioner but may amend or modify such proposed language at the Department's discretion.

**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: Rulemaking Petitions

REFERENCE NUMBER: 2020 RG 075

RULEMAKING AGENCY: Department of Consumer Affairs

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: July 31, 2020

**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: Rulemaking Petitions

REFERENCE NUMBER: DCA-115

RULEMAKING AGENCY: Department of Consumer Affairs

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

July 31, 2020
Date