

New York City Department of Consumer and Worker Protection

Notice of Public Hearing and Opportunity to Comment on Proposed Rules

What are we proposing? The Department of Consumer and Worker Protection (“DCWP” or “Department”) is proposing to add new rules to implement a recent state law that amended provisions of the New York City Charter (“Charter”) relating to the docketing of judgments in certain enforcement proceedings brought by the Department.

When and where is the hearing? DCWP will hold a public hearing on the proposed rule. The public hearing will take place at 11:00 AM on May 14, 2021. The public hearing will be accessible by phone and videoconference.

- To participate in the public hearing via phone, please dial 646 558 8656
 - Meeting Code: 886 2262 6377
- To participate in the public hearing via videoconference, please follow the online link: <https://us02web.zoom.us/j/88622626377>

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

- **Website.** You can submit comments to DCWP 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 emailing Rulescomments@dca.nyc.gov. You can also sign up on the phone or videoconference before the hearing begins at 11:00 AM on May 14, 2021. 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 11:59 PM on May 14, 2021.

What if I need assistance to participate in the hearing? You must tell DCWP’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 email at Rulecomments@dca.nyc.gov. We request that you provide us advance notice so that we have sufficient time to arrange the accommodation. Please tell us by May 10, 2021.

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 DCWP 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 DCWP to make this rule? Sections 1043 and 2203(f) of the Charter and Section 20-104(e) of the New York City Administrative Code authorize the Department to make these proposed rules. These proposed rules were not included in the Department’s regulatory agenda for this Fiscal Year because they were not contemplated when the Department published the agenda.

Where can I find DCWP’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? DCWP must meet the requirements of Section 1043 of the Charter when promulgating or changing rules. This notice is made according to the requirements of Section 1043 of the Charter.

Statement of Basis and Purpose of Proposed Rules

The Department of Consumer and Worker Protection (“Department”) proposes to add new rules to implement a recent state law amending provisions of the New York City Charter (“Charter”) relating to the docketing of final decisions or orders and of default judgments in certain enforcement proceedings brought by the Department.

The state law, Chapter 205 of the Laws of 2020, amended Section 2203(h) of the Charter to allow the Department to docket final decisions and orders in civil court. This change allows final decisions and orders to be enforced without additional court proceedings, in the same manner as money judgments entered and docketed in civil lawsuits. The state law also allows a consumer or worker to request that the Department assign to him or her a final decision or order awarding him or her monetary damages, restitution, or other equitable relief. This assignment would allow the consumer or worker, rather than the Department, to docket and enforce the final decision or order.

The state law also allows a respondent who receives notice of a default judgment in certain enforcement proceedings brought by the Department to avoid the docketing of that judgment, by both requesting a stay of the default judgment for good cause shown and either requesting a new hearing or pleading guilty to the charges in the default judgment.

These proposed rules would implement the state law by:

- Creating a procedure to allow a consumer or worker to request the assignment of a final decision or order; and
- Creating a procedure to allow a respondent who receives notice of a default judgment in certain enforcement proceedings brought by the Department to avoid the docketing of that judgment, by both requesting a stay of the default judgment for good cause shown and either requesting a new hearing or pleading guilty to the charges in the default judgment.

Sections 1043 and 2203(f) of the Charter and Section 20-104(e) of the New York City Administrative Code authorize the Department to make this proposed rule.

New material is underlined.

[Deleted material is in brackets.]

“Shall” and “must” denote mandatory requirements and may be used interchangeably in the rules of the Department, unless otherwise specified or unless the context clearly indicates otherwise.

Proposed Rule Amendments

Section 1. Subchapter A of Chapter 6 of Title 6 of the Rules of the City of New York is amended by adding two new sections 6-06 and 6-07 to read as follows:

§ 6-06 Assigning and Docketing Final Decisions or Orders.

If a final decision or order authorizes restitution, imposes an award of monetary damages, or provides equitable relief to a consumer or worker, the consumer or worker may request that the Department assign the final decision or order, or the portion of it that awards such restitution, monetary damages, or equitable relief, to the consumer or worker. To make such a request, the consumer or worker must complete the form available on the Department’s website and submit the form to the Department by mail or email within 180 days of the date on which the final decision or order was issued; provided, however, that the deadline to submit such a request shall be tolled while a judicial proceeding challenging the final decision or order is pending.

§ 6-07 Default Judgments.

A Respondent may, within 30 days of receiving notice from the Department that a final default judgment has been issued against the Respondent and that the Department intends to enter and docket that judgment, both (a) request a stay of the default judgment for good cause shown, and (b) either request a new hearing at OATH or plead guilty to the charges in the default judgment. To make such a request, the Respondent must complete the form available on the Department's website and submit the form to the Department by mail or email. Before submitting such a request, however, the Respondent must first move to vacate the default judgment at OATH pursuant to section 1-45 or section 6-21 of title 48 of the Rules of the City of New York, or any successor rule thereto.

**NEW YORK CITY LAW DEPARTMENT
DIVISION OF LEGAL COUNSEL
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212-356-4028**

**CERTIFICATION PURSUANT TO
CHARTER §1043(d)**

RULE TITLE: Amendment of Rules Relating to Decisions, Orders and Judgments of Department

REFERENCE NUMBER: 2020 RG 100

RULEMAKING AGENCY: Department of Consumer and Worker 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: March 12, 2021

**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 Relating to Decisions, Orders and Judgments of Department

REFERENCE NUMBER: DCA-120

RULEMAKING AGENCY: Department of Consumer and Worker 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

April 6, 2021
Date