

New York City Department of Environmental Protection

Notice of Public Hearing and Opportunity to Comment on Proposed Rule

What are we proposing? The Department of Environmental Protection (“DEP” or “Department”) is proposing to amend its rules to define any motor vehicle that is an authorized emergency vehicle as defined by § 101 of the Vehicle and Traffic Law and any bus being used as a mobile cooling center to be an authorized emergency motor vehicle for purposes of the idling provision in section 24-163 of the Administrative Code.

When and where is the hearing? DEP will hold a public hearing on the proposed rule online. The public hearing will take place at 11 am on June 23, 2021. To participate in the public hearing, please follow these instructions:

call in (audio only)

[+1 347-921-5612,,944088963#](tel:+13479215612944088963)

Phone Conference ID: 944 088 963#

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

- **Website.** You can submit comments to the Department through the NYC rules website at <http://rules.cityofnewyork.us>.
- **Email.** You can email written comments to nycrules@dep.nyc.gov.
- **Mail.** You can mail written comments to the Department of Environmental Protection, Bureau of Legal Affairs, 59-17 Junction Boulevard, 19th Floor, Flushing, NY 11373.
- **Fax.** You can fax written 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 rules at the public hearing must sign up to speak. You can sign up before the hearing by calling 718-595-6531. You can speak for up to three minutes.

Is there a deadline to submit written comments? Yes, you must submit written comments by June 23, 2021.

What if I need assistance to participate in the hearing? You must tell the Department’s Bureau 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 June 16, 2021.

This location has the following accessibility option(s) available: Not applicable

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, a transcript of the hearing and copies of the written comments will be available to the public at the Department's Bureau of Legal Affairs.

What authorizes the Department to make these rules? Sections 1043(a) and 1403(c) of the New York City Charter ("Charter") and section 24-105 of the Administrative Code of the City of New York 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 anticipated at the time the Agenda was published.

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

What laws govern the rulemaking process? The Department must meet the requirements of Section 1043 of the Charter when creating or changing rules. This notice is made according to the requirements of Section 1043(b) of the Charter.

Statement of Basis and Purpose

The proposed rule amends Chapter 39 of Title 15 of the Rules of the City of New York to add new definitions to section 39-01 to clarify that any motor vehicle that is an authorized emergency vehicle as defined by § 101 of the Vehicle and Traffic Law and any bus being operated as a cooling center by, or pursuant to a contract with, the City of New York is not subject to the restrictions on vehicle idling in section 24-163 of the Administrative Code.

Section 24-163 states that the engine of a motor vehicle may not be idled for more than three minutes (or one minute if the vehicle is adjacent to a school), subject to certain exceptions, one of which applies to any "legally authorized emergency motor vehicle." The proposed rule provides that any motor vehicle that is an authorized emergency vehicle as defined by § 101 of the Vehicle and Traffic Law and any bus operated by, or under a contract with, the City as a mobile cooling center is a "legally authorized emergency motor vehicle" for purposes of section 24-163.

The proposed rule also amends Chapter 39's title to provide that the chapter contains rules concerning vehicle idling in general, not just adjacent to schools.

Sections 1043(a) and 1403(c) of the New York City Charter and section 24-105 of the Administrative Code authorize the Department to issue this proposed rule.

New material is underlined.

[Deleted material is bracketed]

Section 1. The title of Chapter 39 of Title 15 of the Rules of the City of New York is amended to read as follows:

Chapter 39. Engine Idling [Adjacent To Any Public or Non-Public School]

§ 2. Section 39-01 of Chapter 39 of Title 15 of the Rules of the City of New York is amended to read as follows:

§ 39-01 **Definitions.**

Legally authorized emergency motor vehicle. For purposes of § 24-163 of the Administrative Code, the term “legally authorized emergency motor vehicle” shall mean

- (1) a motor vehicle that is an authorized emergency vehicle as defined by § 101 of the Vehicle and Traffic Law; or
- (2) any bus being operated as a cooling center by, or pursuant to a contract with, the city of New York.

Marginal Street. "Marginal street" shall have the meaning set forth in §4-01 of Title 34 of the Rules for the City of New York.

Street. "Street" shall have the meaning set forth in subdivision 13 of § 1-112 of the Administrative Code of the City of New York, except that for the purposes of this rule "street" shall include "marginal streets["]..”

**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 Engine Idling Rules

REFERENCE NUMBER: DEP-76

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

May 4, 2021

Mayor's Office of Operations

Date

**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 Engine Idling Rules

REFERENCE NUMBER: 2021 RG 023

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

Date: May 4, 2021

Acting Corporation Counsel