

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 (“Department” or “DEP”) 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? DEP will hold a public hearing on the proposed rule. The public hearing will take place on November 24, 2021 at 11 am. The hearing will be conducted by video conference and is accessible by:

Microsoft Teams meeting

[Click here to join the meeting](#)

Or call in (audio only)

+1 347-921-5612

Phone Conference ID: 677 872 032#

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 web site 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, Bureau of Legal Affairs, 59-17 Junction Boulevard, 19th Floor, Flushing, NY 11373.
- **Fax.** You can fax written comments to the Department, 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 emailing nycrules@dep.nyc.gov.

Is there a deadline to submit written comments? Yes, you must submit written comments by November 24, 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 postal mail or email to the addresses given above. You may also tell us by telephone at 718-595-6531. You must tell us by November 17, 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, a transcript of the hearing and copies of the written comments will be available to the public at the Bureau of Legal Affairs.

What authorizes the Department to make these rules? Sections 1043(a) and 1043(g) of the New York City Charter ("City Charter") authorize the Department to make these proposed rules which were included in the Department's regulatory agenda for fiscal year 2021.

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 City Charter when creating or changing rules. This notice is made according to the requirements of Section 1043(b) of the City Charter

What laws govern the rulemaking process? The Department 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(g) of the City Charter.

Statement of Basis and Purpose of Proposed Rule

The Department of Environmental Protection ("DEP" 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.

DEP's authority for this rule is found in Sections 1043(a) and (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. Title 15 of the Rules of the City of New York is amended by adding a new chapter 60, to read as follows:

Chapter 60 Rulemaking Petitions

§ 60-01 Scope

These Rules and Regulations govern the procedures by which the public may submit to an Agency Petitions for Rulemaking pursuant to § 1043(g) of the New York City Charter (City Administrative Procedures Act) and the procedures for Agency consideration and disposition of such Petitions.

§ 60-02 Definitions

City Administrative Procedures Act (CAPA). “City Administrative Procedures Act (CAPA)” means the requirements for rulemaking by agencies of the City of New York specified in chapter 45 of the New York City Charter.

Department. “Department” means the Department of Environmental Protection.

Person. “Person” means an individual, partnership, corporation or other legal entity, and any individual or entity acting in a fiduciary or representative capacity.

Petition. “Petition” means a request or application for the Department to adopt a Rule.

Petitioner. “Petitioner” means the person who files a Petition.

Rule. “Rule” has the same meaning as in § 1041(5) of the New York City Charter (City Administrative Procedure Act) (CAPA).

§ 60-03 Procedures for Submitting Petitions

(a) Any Person may petition the Department to consider the adoption of a Rule.
The Petition must include:

- (1) The Rule to be considered, with proposed language for adoption;
- (2) Petitioner's arguments in support of adoption of the Rule;
- (3) The name, address, telephone number, and email address of the Petitioner or his or her authorized representative;

- (4) 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 office to which the Petition was submitted.
- (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 DEP Bureau of Legal Affairs, 59-17 Junction Boulevard 19th Floor, Flushing NY 11373..

§ 60-04 Procedures for Consideration of and Responses to Petitions

When a Petition submitted in proper form is received, within 60 days from the date the Petition was received, the Department will either:

- (a) Deny such Petition in a written statement containing the reasons for denial; or
- (b) Approve the Petition and 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 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: Submission and Processing of Rulemaking Petitions

REFERENCE NUMBER: DEP-74

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 4, 2021

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: Submission and Processing of Rulemaking Petitions

REFERENCE NUMBER: 2020 RG 099

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: September 29, 2021

Acting Corporation Counsel

