

## **Notice of Adoption of Rule**

### **NEW YORK CITY DEPARTMENT OF ENVIRONMENTAL PROTECTION**

Pursuant to the authority vested in the Commissioner of the Department of Environmental Protection (“Department” or “DEP”) by Section 1043 of the New York City Charter, the Department is adopting 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.

#### **Statement of Basis and Purpose of Rule**

The Department of Environmental Protection (“DEP” or “Department”) is adding 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 rules set forth the procedures that petitioners must follow in petitioning the Department to consider a new rule. These rules would also set forth the procedure the Department must follow in considering and responding to petitions. Additionally, these rules require the Department to deny or approve petitions within 60 days and set forth a procedure for rejecting or adopting petitions.

A public hearing on the proposed rule was held on November 24, 2021. Two comments were received. In response to these comments, the final rule now specifies the email address to which petitions may be submitted, and provides that the Department “must” (instead of “will”) respond to the petition.

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.

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 by email to nycrules@dep.nyc.gov or by mailing or delivering the Petition to the DEP Bureau of Legal Affairs, 59-17 Junction Boulevard 19<sup>th</sup> 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 must 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.