

## 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 is proposing to amend its rules to define what constitutes a processing device for the purposes of the idling provision on 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 March 2, 2022. To participate in the public hearing, please follow these instructions:

Microsoft Teams meeting

**Join on your computer or mobile app:**

[Click here to join the meeting](#)

**Or call in (audio only):**

[+1 347-921-5612,,339046364#](tel:+13479215612339046364)

Phone Conference ID: 339 046 364#

**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](mailto:nycrules@dep.nyc.gov).
- **Mail.** You can mail written comments to the Department of Environmental Protection, Bureau of Legal Affairs, 59-17 Junction Boulevard, 19<sup>th</sup> 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 March 2, 2022.

**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 February 23, 2022.

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?** Section 1043(a) and subdivision (c) of section 1403 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.

**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 Subdivision (b) of 1043 of the Charter.

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

The proposed rule amends Chapter 39 of Title 15 of the Rules of the City of New York to add a new definition to section 39-01 to clarify what constitutes a processing device as it relates to vehicle idling in section 24-163 of the Administrative Code.

Section 24-163 states that the engine of a motor vehicle may not idle for longer than three minutes or one minute if adjacent to a school, unless the engine is used to operate a loading, unloading, or processing device. The proposed rule defines the term "processing device" for purposes of section 24-163. It provides that a "processing device" is a device that is necessary to accomplish the vehicle's designed purpose (e.g., a cement mixer), or a temperature control system for food or other temperature-sensitive items.

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. Section 39-01 of Title 15 of the Rules of the City of New York is amended by adding a definition of "processing device" to read as follows:

Processing Device. For purposes of section 24-163 of the administrative code, the term “processing device” shall mean:

- (1) a device necessary to accomplish the work for which the vehicle or equipment was designed, other than transporting goods or people, including operating a lift, crane, pump, drill, hoist, mixer or other auxiliary equipment other than a heater or air conditioner; or
- (2) a system designed to control the environment of temperature-sensitive cargo or substances, including but not limited to food.

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS**

**253 BROADWAY, 10<sup>th</sup> FLOOR**

**NEW YORK, NY 10007**

**212-788-1400**

**CERTIFICATION / ANALYSIS**

**PURSUANT TO CHARTER SECTION 1043(d)**

**RULE TITLE: Amendment of Idling Rules**

**REFERENCE NUMBER: DEP-88**

**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

January 18, 2022

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 Idling Rules

**REFERENCE NUMBER:** 2021 RG 102

**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: January 18, 2022

Acting Corporation Counsel