

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 rules to implement Local Law 151 of 2023, which amended penalties for certain violations of the Department’s laws and rules.

When and where is the hearing? DCWP will hold a public hearing on the proposed rule. The public hearing will take place at 11AM on Wednesday, May 8, 2024. The public hearing will be accessible by phone and videoconference.

- To participate in the public hearing via phone, please dial +1 646-893-7101.
- To participate in the public hearing via videoconference, please follow the online link:
 - <https://tinyurl.com/4hvyvs4p>
 - Meeting ID: 251 397 109 212
 - Passcode: YEXVgH

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@dcwp.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 email at Rulecomments@dcwp.nyc.gov. You can also sign up on the phone or videoconference before the hearing begins at 11AM on May 8, 2024. You can speak for up to three minutes. Please note that the hearing is for accepting oral testimony only and is not held in a “Question and Answer” format.

Is there a deadline to submit comments? Yes. You must submit any comments to the proposed rule on or before May 8, 2024.

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@dcwp.nyc.gov. Advance notice is requested to allow sufficient time to arrange the accommodation. Please tell us by May 1, 2024.

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, 2203(f) and 2203(h)(1) of the New York City Charter and section 20-104 of the New York City Administrative Code authorize the Department of Consumer and Worker Protection to make these proposed rules. This proposed rule was not included in DCWP’s regulatory agenda for this Fiscal Year.

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 City Charter when creating or changing rules. This notice is made according to those requirements.

Statement of Basis and Purpose of Proposed Rule

The Department of Consumer and Worker Protection (“DCWP” or “Department”) is proposing to add rules to implement Local Law 151 of 2023 (“LL 151”).

LL 151 provides civil penalty relief for small businesses from violations issued by the Department. The law modifies certain fixed penalty amounts, and either eliminates the initial civil penalty or provides a cure period for first-time violations issued for particular business categories. LL 151 also repeals several subchapters within the Department’s Consumer Protection Law that are no longer relevant.

To implement LL 151, this rule amends the Perishable Foods Penalty Schedule and the Air Conditioning System Penalty Schedule to modify penalties as set forth in the law. The rule also updates the list of violations in the Department’s rules for which the opportunity to cure a first-time violation is available to include an additional curable violation. Finally, the rule repeals the Availability for Sale of Advertised Merchandise Penalty Schedule because the related subchapter is repealed by LL 151.

Pursuant to section 1043(d)(4)(ii), this rule is exempt from review under Charter section 1043(d).

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. The table in paragraph (5) of subdivision (b) of section 6-03 of subchapter A of chapter 6 of Title 6 of the Rules of the City of New York is amended by adding the following row in the appropriate numerical order:

<u>6 RCNY § 2-433</u>	<u>requiring that car washes maintain a log documenting complaints of damage to vehicles</u>
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§2. The Perishable Foods Penalty Schedule contained in section 6-45 of subchapter B of chapter 6 of Title 6 of the Rules of the City of New York is amended to read as follows:

Citation	Violation Description	First Violation	First Default	Second Violation	Second Default	Third [and Subsequent] Violation	Third [and Subsequent] Default	Fourth and Subsequent Violation	Fourth and Subsequent Default
Admin. Code § 20-685	Failure to meet the requirement(s) for the sale of perishable food	[\$100] <u>\$0</u>	[\$100] <u>\$0</u>	[\$175] <u>\$131</u>	\$175	[\$225] <u>\$202</u>	\$225	<u>\$225</u>	<u>\$225</u>
6 RCNY § 4-112	Failure to meet the requirement(s) for display	[\$100] <u>\$0</u>	[\$100] <u>\$0</u>	[\$175] <u>\$131</u>	\$175	[\$225] <u>\$202</u>	\$225	<u>\$225</u>	<u>\$225</u>
6 RCNY § 4-113	Failure to meet requirement(s) for labeling of perishable foods	[\$100] <u>\$0</u>	[\$100] <u>\$0</u>	[\$175] <u>\$131</u>	\$175	[\$225] <u>\$202</u>	\$225	<u>\$225</u>	<u>\$225</u>

§3. The Availability for Sale of Advertised Merchandise Penalty Schedule contained in section 6-51 of subchapter B of chapter 6 of Title 6 of the Rules of the City of New York is REPEALED.

§4. The Air Conditioning System Penalty Schedule contained in section 6-63 of subchapter B of chapter 6 of Title 6 of the Rules of the City of New York is amended to read as follows:

Citation	Violation Description	First Violation	First Default	Second Violation	Second Default	Third [and Subsequent] Violation	Third [and Subsequent] Default	Fourth and Subsequent Violation	Fourth and Subsequent Default
Admin. Code § 20-910(b)	Business keeps door or window open while using air conditioner to cool the area adjacent to the door or window	[\$250] <u>\$0</u>	[\$250] <u>\$0</u>	[\$500] <u>\$375</u>	\$500	[\$500] <u>\$450</u>	\$500	<u>\$500</u>	<u>\$500</u>
Admin. Code § 20-910(b)	Chain store keeps door or window open while using air conditioner to cool the area adjacent to the door or window	[\$500] <u>\$375</u>	\$500	[\$1,000] <u>\$900</u>	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000
Admin. Code § 20-910(f)	Failure to post open door or window complaint sign	\$375	\$500	\$450	\$500	\$500	\$500	<u>\$500</u>	<u>\$500</u>