

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”) is proposing to amend the Air Code Penalty Schedule, set forth in Chapter 43 of Title 15 of the Rules of the City of New York, and the Noise Code Penalty Schedule as set forth in Chapter 47 of Title 15 of the Rules of the City on New York to provide that all violations can be admitted to without going through the stipulation process.

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 October 21, 2024. To participate in the public hearing, please follow these instructions:

Microsoft Teams Need help?

Join the meeting now

Meeting ID: 225 965 609 226

Passcode: wPQLNV

Dial in by phone

+1 347-921-5612,,14449656#

(347) 921-5612,,14449656#

Find a local number

Phone conference ID: 144 496 56#

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

- **Website.** You can submit comments to DEP 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 DEP’s 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. 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 written comments? Yes, you must submit written comments by October 21, 2024.

What if I need assistance to participate in the hearing? You must tell DEP's Bureau of Legal Affairs if you need a reasonable accommodation because 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. Notice must be received by DEP by October 14, 2024 in order to consider your request.

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 from the Bureau of Legal Affairs.

What authorizes the Department to make these rules? Sections 1403(c) of the New York City Charter ("Charter") and sections 24-105, 24-178, 24-204, and 24-257 of the Administrative Code of the City of New York authorize DEP to make these proposed rules. These proposed rules were included in DEP's regulatory agenda for this Fiscal Year.

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

What laws govern the rulemaking process? DEP 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

Chapter 43 of Title 15 of the Rules of the City of New York sets forth the penalties that may be imposed for violations of the Air Pollution Control Code. Chapter 47 of Title 15 of the Rules of the City of New York sets forth the penalties that may be imposed for violations of the Noise Control Code.

Consistent with Chapter 6 of title 48 of the Rules of the City of New York, DEP proposes to amend sections two, three and seven of section 43-01 of title 15 of the Rules of the City of New York and amend the schedule set forth in section 43-02 of such title to provide that respondents may admit to all violations contained in Section 43-02 instead of entering into a stipulation.

Currently, the Department of Environmental Protection ("DEP") makes a stipulation offer on many Air Code violations, in accordance with section 24-183 of the Administrative Code. Acceptance of the stipulation offer entails admitting the violation, paying the stipulated penalty, and promising to correct the violating condition within a prescribed time. The proposed rule, by providing for admissions in addition to stipulations, will allow respondents to admit to violations and pay summonses online through the Office of Administrative Trials & Hearings ("OATH") website, instead of waiting to receive a stipulation offer from DEP. This will expedite the handling of all cases and reduce the administrative burden on DEP and OATH as well as the time required for the respondent.

Subdivision (c) of section 1403 of the New York City Charter and sections 24-105, 24-178, 24-204 and 24-261 of the Administrative Code authorize the Department to issue this proposed rule.

New text is underlined.

The text of the proposed rule follows:

§ 1. Subdivision 7 of section 43-01 of Title 15 of the Rules of the City of New York is amended to read as follows:

7. Each summons [for a violation of section 24-163] shall provide that a respondent may admit to such violation and pay the corresponding penalty amount set forth in section 43-02.

§ 3. The table set forth in section 43-02 of Title 15 of the Rules of the City of New York is amended by changing the column headings as follows:

Section of Law	Violation Description	Compliance	1st Offense Stip. Or Admit (\$)	1st Offense (\$)	Default Penalty (\$)	2nd Offense (\$)	2nd Stip. or Admit (\$)	3rd and Subsq. Offense (\$)	3rd and Subsq. Stip. or Admit (\$)
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§3. The second paragraph of Section 47-02 of Title 15 of the Rules of the City of New York is amended to read as follows:

[A] An admission or stipulation penalty is imposed if there is a "Y" (Yes) in the Stipulation or Admission column in the Penalty Schedule rather than a "N" (No), and if a stipulation is offered and accepted, or the violation is admitted, at a hearing.

§ 5. The table set forth in section 47-02 of Title 15 of the Rules of the City of New York is amended by changing the column headings as follows:

Section of Law	Violation Description	Compliance	Offense Penalty	Default Penalty	Stipulation or Admission
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