

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 is proposing to promulgate a rule to amend the Air Asbestos Penalty Schedule, codified in Chapter 53 of Title 15 of the Rules of the City of New York, to conform to changes made to the Asbestos Control Program Rules.

When and where is the hearing? DEP will hold a public hearing on the proposed rule online. The public hearing will take place at 1130 am on June 4, 2025. To participate in the public hearing, please follow these instructions:

Microsoft Teams

Join the meeting now

Meeting ID: 268 438 427 860 0

Passcode: My9hj3yw

Dial in by phone

+1 347-921-5612, 116718844#

Find a local number

Phone conference ID: 116 718 844#

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

- **Website.** You can submit comments to the DEP 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 DEP Bureau of Legal Affairs, 59-17 Junction Boulevard, 19th Floor, Flushing, NY 11373.
- **Fax.** You can fax written comments to the DEP 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 June 4, 2025.

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, or by email at nycrules@dep.nyc.gov. Advance notice is requested to allow sufficient time to arrange the accommodation. Please tell us by May 28, 2025.

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 at the physical address given above or upon request by email nycrules@dep.nyc.gov.

What authorizes the DEP to make this rule? Section 1049-a of the City Charter and section 24-178 of the Administrative Code authorize DEP to make this proposed rule. This proposed rule was 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 rules govern the rulemaking process? DEP must meet the requirements of Section 1043(c) 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.

Statement of Basis and Purpose of Proposed Rules

On February 15, 2025, amendments to DEP's Asbestos Control Program Rules (15 RCNY Chapter 1) went into effect. Some of these amendments necessitate changes to the Air Asbestos Penalty Schedule (15 RCNY Chapter 53), which sets forth penalties for violations of the Asbestos Control Program Rules. These penalties may be imposed at hearings held at the Office of Administrative Trials & Hearings (OATH).

The proposed rule would make the following changes to the Air Asbestos Penalty Schedule:

- A new penalty would be added to address situations where the contractor applies for a variance but then proceeds with the work without generating an approved variance in violation of section 1-03(a).
- A new penalty would be added for failure to place a project in postponed status while a variance application is pending in violation of section 1-03(j).
- A new penalty would be added for failure to store required records in a manner that minimizes the possibility of water damage in violation of section 1-29(e).
- A new penalty would be added for contractors who proceed with asbestos abatement without an air monitoring technician present or without air monitoring in violation of section 1-32.
- A new penalty would be added for collection of a sample by an unauthorized person or by a person not in the physical presence of the DEP-certified investigator in violation of section 1-38(d).

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

New material is underlined.

Section 1. The table set forth in subdivision (a) of section 53-02 of Chapter 53 of Title 15 of the Rules of the City of New York is amended by adding five additional rows, to be placed in the table in alphanumeric order, to read as follows:

Section	Violation Description	1 st Offense Penalty	1 st Offense Stipulation	2 nd Offense Penalty	2 nd Offense Stipulation
15 RCNY § 1-03(a)	Failed to generate an approved variance (V2 Form)	1200	1000	2400	1500

	<u>by entering start date in</u> <u>ARTS</u>				
<u>15 RCNY §</u> <u>1-03(i)</u>	<u>Failed to place ACP-7 in</u> <u>postponed status in ARTS</u> <u>until variance application</u> <u>approved</u>	<u>1200</u>	<u>1000</u>	<u>2400</u>	<u>1500</u>
<u>15 RCNY §</u> <u>1-29(e)</u>	<u>Failed to store records to</u> <u>minimize possibility of</u> <u>water damage</u>	<u>1200</u>	<u>1000</u>	<u>2400</u>	<u>1500</u>
<u>15 RCNY §</u> <u>1-32</u>	<u>Performed abatement</u> <u>activities without air</u> <u>monitoring</u>	<u>4800</u>	<u>3000</u>	<u>9600</u>	<u>6000</u>
<u>15</u> <u>RCNY §</u> <u>1-38(d)</u>	<u>Sample collected by</u> <u>unauthorized person or</u> <u>outside physical presence of</u> <u>certified asbestos inspector</u>	<u>4800</u>	<u>3000</u>	<u>9600</u>	<u>6000</u>