

## 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 (DEP) is repealing existing rules concerning the registration of emergency generators.

**When and where is the hearing?** The department will hold a public hearing on the proposed rule. The public hearing will take place at 10a.m. on August 31, 2016. The hearing will be held in the 8<sup>th</sup> floor conference room at 59-17 Junction Boulevard, Flushing, New York.

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

- **Website.** You can submit comments to the Department of Environmental Protection through the NYC rules web site 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 rule at the public hearing must sign up to speak. You can sign up before the hearing by calling 718-595-6531. You can also sign up in the hearing room before the hearing begins on August 31, 2016. You can speak for up to three minutes.

**Is there a deadline to submit written comments?** Yes, you must submit written comments by August 31, 2016.

**Do you need assistance to participate in the hearing?** You must tell the 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. You must tell us by August 24, 2016.

**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 Bureau of Legal Affairs.

**What authorizes the department to make this rule?** Section 1043 of the City Charter and sections 24-105, and 24-109 of the City Administrative Code authorize the department to make this proposed rule. This proposed rule was 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 rules govern the rulemaking process?** The department must meet the requirements of Section 1403(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 Rule**

As part of the amendments to the Air Pollution Control Code, which took effect May 6, 2016 (Local Law Number 38 for the year 2015), a definition of emergency generator was added to Administrative Code § 24-104. Additionally, Section 24-109 of the Administrative Code was clarified to expressly require emergency generators to be registered with the Department of Environmental Protection (DEP). These amendments to the Administrative Code have superseded the requirements relating to emergency generators found in Chapter 40 of Title 15 of the Rules of the City of New York, and, along with existing requirement of the State Department of Environmental Conservation contained in 6 NYCRR §200.1(cq) and 6 NYCRR §201-3.2, have made these rules redundant and unnecessary. Accordingly, Chapter 40 of Title 15 is repealed. This repeal does not affect the substantive requirements applicable to emergency generators in New York City.

The Rule is authorized by Section 1043(b) of the Charter and Sections 24-105 and 24-109(a)(6) of the Administrative Code.

The text of the Rule is as follows:

Section 1. Chapter 40 of title 15 of the rules of the city of New York is REPEALED.

**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:** Technical Amendments to Air Pollution Control Code

**REFERENCE NUMBER:** 2016 RG 028

**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  
Acting Corporation Counsel

Date: July 12, 2016

**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: Technical Amendments to Air Pollution Control Code**

**REFERENCE NUMBER: DEP-22**

**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

July 12, 2016  
Date