

NEW YORK CITY DEPARTMENT OF ENVIRONMENTAL PROTECTION

Notice of Public Hearing and Opportunity to Comment on Amended Rules

What are we proposing? The Department of Environmental Protection is amending its rules. This change would amend DEP's Rules to include a larger universe of those individuals who are permitted to be a qualified combustion tester as well as delete the term qualified combustion tuner as that group is otherwise incorporated elsewhere in the rule. The remainder of the paragraphs within the section have been renumbered.

When and where is the hearing? The department will hold a public hearing on the proposed rule. The public hearing will take place at 10 a.m. on November 26, 2014. The hearing will be held in the 6th 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.
- **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 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 November 26, 2014. You can speak for up to three minutes.

Is there a deadline to submit written comments? Yes, you must submit written comments by November 26, 2014.

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 November 21, 2014.

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 1403(c) of the City Charter and sections 24-105, 24-109, 24-122, and 24-125 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 1043 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

Section 1403(c) of the New York City Charter and Section 24-105 of the City Administrative Code authorize the commissioner to regulate and control the emission of harmful air pollutants into the open air.

Sections 24-109, 24-122, and 24-125 of the Administrative Code respectively authorize the commissioner

- 1) To regulate and control emission sources other than those located in one or two family dwellings and motor vehicles by requiring a registration to be filed with the department; and
- 2) Set forth general requirements for applications for work permits, certificates of operation, and renewal of certificates of operation; and provide standards for granting work permits.

Chapter 2 of title 15 provides performance standards and other engineering criteria for oil-burning boilers. The rules were revised earlier this year, after not having been revised since their original promulgation in 1970.

After this year’s revision, DEP received a number of comments from the regulated community. In response, the rule is being amended to expand the universe of individuals who are permitted to be a qualified combustion tester as well as deleting the term qualified combustion tuner, as the term is not used in the rule. The remainder of the paragraphs within the definitions section have been renumbered.

“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.

New text is underlined; deleted material is in [brackets].

Section 1. Subdivision (56) of Section 2-02 of Chapter 2 of Title 15 of the Rules of the City of New York is amended to read as follows:

(56) Qualified combustion tester. “Qualified combustion tester” means (i) a licensed New York City Class A and B oil burner equipment installer, [or] (ii) a professional engineer or registered architect licensed pursuant to Education Law section 7202 or 7302[.],(iii) a New York City Licensed Master Plumber, (iv) employees working under the supervision of those licensees listed in (i), (ii), or (iii) of this paragraph, or (v) persons who demonstrate to the satisfaction of the Commissioner that their experience (a minimum of two years in related boiler work), qualifications, and references makes them qualified to perform a combustion test.

§ 2. Subdivision (57) of Section 2-02 of Chapter 2 of Title 15 of the Rules of the City of New York, relating to the definition of “qualified combustion tuner,” is repealed, and subdivisions (58), (59), (60), (61), (62), (63), (64), (65), and (66) are renumbered respectively as (57), (58), (59), (60), (61), (62), (63), (64), and (65).

**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 Engineering Standards for Fossil Fuel Boilers and Water Heaters

REFERENCE NUMBER: 2014 RG 076

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: October 2, 2014

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS
253 BROADWAY, 10th FLOOR
NEW YORK, NY 10007
212-788-1400**

**CERTIFICATION / ANALYSIS
PURSUANT TO CHARTER SECTION 1043(d)**

RULE TITLE: Amendment of Engineering Standards for Fossil Fuel Boilers and Water Heaters

REFERENCE NUMBER: DEP-16

RULEMAKING AGENCY: Department of Environmental Protection (DEP)

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/ [Stephen Narloch]
Mayor's Office of Operations

[October 3, 2014]
Date