



# Revised New York City Department of Environmental Protection FY 12 Regulatory Agenda

(revised as of January 3, 2011 and replacing a version published in the December 23, 2011 of *The City Record*.)

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In compliance with section 1042 of the New York City Charter, the following is the regulatory agenda for rules that the Department of Environmental Protection (DEP) anticipates it may promulgate during the fiscal year beginning July 1, 2011 and ending June 30, 2012. An approximate schedule for adopting the proposed rules and the name and telephone number of a DEP official knowledgeable about each subject area involved are listed below each section.

## **1. Construction Noise Mitigation Rules**

When the New York City Noise Control Code was revised in 2004, it regulated construction noise through enforcement of “construction noise mitigation plans” that contractors are required to complete prior to beginning work. The specific requirements of the plans are set forth by rules that DEP promulgated in 2005. DEP seeks to update the rules regarding noise mitigation practices and requirements for street plates, jackhammers, and noise barriers. The amendments could include additional insulating material between street plates and the ground to further reduce noise, additional noise barriers for structures over 20 feet, and include additional technologies for mitigation of jackhammer noise during night construction. Builders and contractors are the persons most likely to be affected by these amendments.

Reference: 15 RCNY §28-100 et seq.; NYC Administrative Code §24-219, Noise Mitigation Rules of the Noise Control Code and 34 RCNY §2-11(10) (e), Street Openings and Excavations.

Anticipated Schedule: to be promulgated in calendar 2012

Contact: Russ Pecunies (718) 595-6546 or Christy Bitet (718) 595-6614, DEP Legal Affairs

## **2. Governing and restricting the use of perchloroethylene at dry cleaning facilities**



The amendments under consideration would require facility owners to post a notice in a conspicuous location in the dry cleaning facility to inform building tenants and/or customers of the chemical substances used in the pretreatment and dry cleaning process and the potential health effects associated with exposure to the chemical substance. The owners, managers and staff of dry cleaning facilities are the persons most likely to be affected by these amendments.

The amendments to Sections 12-02, 12-04, 12-08, and 12-18 reflect detailed requirements as to the operation and maintenance requirements for perchloroethylene.

Reference: 15 RCNY §12-01 et seq.; authorized by Section 1043 and Subsection 1403(c) of the Charter of the City of New York and Sections 24-102 and 24-105 of the Administrative Code of the City of New York 6 NYCRR §232.18; 40 CFR Parts 61 and 63 (NESHAPS)

Anticipated Schedule: to be promulgated in calendar 2011  
Contact: Russ Pecunies, DEP Legal Affairs (718) 595-6531

### **3. Best Available Retrofit Technology for City Motor Vehicles**

The amendments under consideration would modify Chapter 15 of Title 15 of the Rules of the City of New York Concerning the Use of Ultra-Low Sulfur Fuel and Emissions Control Technology on City Motor Vehicles. The purpose of the amendments is to provide a best available retrofit technology (BART) definition for model engine years of 1994 or earlier. Local Law 39 of 2005 requires that the list of determinations as to BART to be used for each type of diesel fuel-powered motor vehicle to which this section applies shall be reviewed and revised, as needed, on a regular basis. The persons most likely to be affected by these amendments are City fleet purchasers and managers as manufacturers and dealers who sell vehicles to New York City.

Reference: NYC Administrative Code Title 24, chapter 1, 24-163.4; Local Law 39 of 2005, 15 RCNY 15-01 et seq.

Anticipated Schedule: to be promulgated before June 30, 2012  
Contact: Alyssa Preston, Bureau of Environmental Compliance (718) 595-3497

### **4. Revision of rules pertaining to revocable land use permits**

New York City owns land in New York State's Delaware, Dutchess, Greene, Orange, Putnam, Schoharie, Sullivan, Ulster, Westchester, and Orange Counties. The City's reservoirs and water supply infrastructure are located on these lands. Where consistent with watershed protection needs, DEP may allow local businesses, not-for-profit organizations, and government agencies to use watershed lands for a variety of purposes including for utilities and water quality improvement projects, ingress and egress to and from private property over City property for



various reasons such as driveways and temporary access, road repairs, and fund-raising events. DEP issues revocable land use permits for these activities. The purposes of the proposed repeal and re-promulgation of the Rules for the Issuance of Revocable Land Use Permits for the Occupancy or Use of City Property include a new, user-friendly format, a clearer application process, definitions of permit terms and renewals, the provision of for fee waivers and surety bonds, notices of revocation, a fee structure that differentiates between commercial and non-commercial activities, and cost of living adjustments. The persons most likely to be affected by these revisions are those who hold revocable land use permits from DEP in its watershed and those who wish to secure such permits in the future.

Reference: 15 RCNY Ch. 17

Anticipated Schedule: 2012 promulgation

Contact: Melissa Siegel, DEP Legal Affairs (718) 595-7418

#### **5. Connections to the Sewer System and the Rate of Stormwater Flow from Developments**

In order to better regulate the construction, permitting, and inspection of the construction and inspection of sewer connections to the City sewer system, DEP is amending Chapter 31 of Title 15 of the Rules of the City of New York to slow the flow of stormwater from sites, which will retain capacity in the sewer system over time as the number of new developments grows within a drainage area, and reduce expected combined sewer overflow (CSO) to receiving waters. The persons most likely to be affected these amendments include architects, engineers, contractors, builders and property owners.

Amendments to Sections 31-01 and 31-02 define and establish a stormwater release rate for developments and enlargements and the designs required; amendments to Section 31-04 establish material standards for the installation of sewer connections.

Reference: 15 RCNY §31-01et seq.; authorized by Section 1043 of the Charter of the City of New York; 8 E.C.L. §17-0808; 33 U.S.C. §1251 §305(b)

Anticipated Schedule: to be promulgated in calendar 2012

Contact: Russ Pecunies, DEP Legal Affairs (718) 595-6531

#### **6. Promulgation of rule governing emergency generators**

The proposed rule would add a new Chapter 40 of Title 15 of the Rules of the City of New York to regulate the air permitting requirements for emergency generators in order to define and register emergency generators consistent with New York State requirements. DEP would be



authorized to issue registrations for equipment that emits an air contaminant and to require certain information on a permit. In order to better clarify the type of permit and requirements for emergency generators, DEP proposes to enact standards that better regulate and control the emission of air contaminants. The stakeholders most likely to be affected by these amendments include hospitals and wastewater treatment plants.

Reference: 15 RCNY §40-01. et seq.

Anticipated Schedule: to be promulgated in calendar 2012  
Contact: Russ Pecunies, DEP Legal Affairs (718) 595-6531

#### **7. Fuel Oil Burning Equipment - Field Verification**

The amendments under consideration would amend section 2-06 of Chapter 2 of Title 15 of the Rules of the City of New York Concerning the inspection process boilers for boilers that require a certificate of operation. The amendment would increase the present regulatory limits from 2.8 million BTU to a gross input or output of 4.2 million BTU while still allowing the Department to retain the ability to inspect boilers that are below the increased threshold value. The persons most likely to be affected are large building owners and industrial facilities.

Reference: 15 RCNY §2-06 et seq.

Anticipated Schedule: to be promulgated in calendar 2012  
Contact: Russ Pecunies, DEP Legal Affairs (718) 595-6531

#### **8. Fuel Burning Equipment - Acceptance Program**

The amendments under consideration would amend section 2-0303 of chapter 2 of Title 15 of the Rules of the City of New York Concerning the Application for Certificate of Operation in order to better clarify and update the types of detailed technical information on various types of combustion equipment. This modification to the present regulation will better enable the Department to decide which new boilers and burners should be accepted as meeting certain specifications before such equipment can be considered for a Work Permit and eventual Certificate of Operation. The persons most likely to be affected are boiler inspectors, real estate developers and property owners.

Reference: 15 RCNY §2-03 et seq.

Anticipated Schedule: to be promulgated in calendar 2012  
Contact: Russ Pecunies, DEP Legal Affairs (718) 595-6531