

NEW YORK CITY DEPARTMENT OF BUILDINGS

Notice of Public Hearing and Opportunity to Comment on Proposed Rules

What are we proposing? The Department of Buildings (“DOB” or “Department”) is proposing to add a new section 103-18 of Chapter 100 of Title 1 of the Rules of the City of New York to establish procedures for required reporting of lighting upgrades and the installation of sub-meters in certain buildings for compliance with Article 310 and Article 311 of Chapter 3 of Title 28 of the New York City Administrative Code.

- **When and where is the hearing?** DOB will hold a public hearing on the proposed rule online. The public hearing will take place at 11:00 AM on 10/26/2023.
- Join through Internet-Desktop app:

To join the hearing via your browser either click on the following URL link or copy and paste it into your browser’s address bar. Then follow the prompts to either continue using the browser or download/open the Teams desktop app.

<https://tinyurl.com/LL88proceduresMeeting>

Enter your name when prompted and click the “**Join now**” button. If you don’t have computer audio or prefer to phone in for audio, select “**Phone audio**” under “**Other join options**” then click the “**Join now**” button. You will first be placed in a waiting status in the virtual lobby, then be admitted when the hearing begins. If you are using phone audio then follow the dial-in instructions when prompted.

If you have low bandwidth or inconsistent Internet connection, we suggest you use the Phone audio option for the hearing. This will reduce the possibility of dropped audio and stutters.

- Join through Internet-Smartphone app:

To join using the Microsoft Teams app on your smartphone, click on the following URL link from your phone to automatically open the Teams app. Note that the Microsoft Teams app must already be installed on your smartphone. It is available for free both in the Apple Store and Google Play.

<https://tinyurl.com/LL88proceduresMeeting>

When prompted select “**Join meeting**”. Type your name and then select “**Join meeting**” again. You will first be placed in a waiting status in the virtual lobby, then be admitted when the hearing begins.

Alternatively, open the Teams app and select “**Join a meeting**”. Signing in with an account is not required. Type your name, the following Meeting ID and Passcode, then select “**Join meeting**”.

Meeting ID: 249 662 174 316
Passcode: 9sJxJy (Code is case Sensitive)

- Join via phone only:

To join the meeting only by phone, use the following information to connect:

Phone: 1 (646) 893-7101
Phone conference ID: 532 336 285#

You will first be placed in a waiting status in the virtual lobby, then be admitted when the hearing begins.

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

- **Website.** You can submit comments to the DOB through the NYC rules website at <http://rules.cityofnewyork.us>.
- **Email.** You can email comments to dobrules@buildings.nyc.gov.
- **Mail.** You can mail comments to the New York City Department of Buildings, Office of the General Counsel, 280 Broadway, 7th floor, New York, NY 10007.
- **Fax.** You can fax comments to the New York City Department of Buildings, Office of the General Counsel, at 212-566-3843.
- **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 by emailing dobrules@buildings.nyc.gov by 10/19/2023 and including your name and affiliation. While you will be given the opportunity during the hearing to indicate that you would like to provide comments, we prefer that you sign up in advance. You can speak for up to three minutes.

Is there a deadline to submit comments? Yes, you must submit comments by 10/26/2023.

What if I need assistance to participate in the hearing? You must tell the Office of the General Counsel if you need a reasonable accommodation of a disability at the hearing. You can tell us by email at dobrules@buildings.nyc.gov. Advance notice is requested to allow sufficient time to arrange the accommodation. You must tell us by 10/21/2023.

This location has the following accessibility option(s) available: Simultaneous transcription for people who are hearing impaired, and audio only access for those who are visually impaired.

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/>. Copies of all comments submitted online, copies of all written comments and a summary of oral

comments concerning the proposed rule will be available to the public at the Office of the General Counsel and may be requested by email at dobrules@buildings.nyc.gov.

What authorizes DOB to make this rule? Sections 643 and 1043(a) of the New York City Charter and Article 310 and Article 311 of Chapter 3 of Title 28 of the Administrative Code of the City of New York authorize DOB to make this proposed rule. This proposed rule was included in DOB's regulatory agenda for this Fiscal Year.

Where can I find DOB's rules? DOB's rules are in Title 1 of the Rules of the City of New York.

What rules govern the rulemaking process? DOB 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.

The Department of Buildings ("DOB" or "Department") is amending section 103-14 to establish penalties for noncompliance with Article 320 of Chapter 3 of Title 28 of the New York City Administrative Code requiring annual greenhouse gas (GHG) emissions limits for buildings.

Statement of Basis and Purpose

Local Law No. 88 of 2009 (“Local Law No. 88” or the “Law”) was enacted on December 28, 2009, to require buildings greater than 50,000 square feet to upgrade lighting systems and install electrical sub-meters in tenant spaces by January 1, 2025, to promote energy efficiency in buildings. The law was subsequently amended to include buildings that are 25,000 square feet and larger.

This proposed rule addresses compliance with the Law, including the following:

- Details on how to report compliance with required lighting upgrades
- Penalties for failing to report compliance with required lighting upgrades
- Details on how to report compliance with sub-meter installation in tenant spaces
- Penalties for failing to report and failing to comply with sub-meter installation in tenant spaces

The Department’s authority for these rules is found in sections 643 and 1043(a) of the New York City Charter and Article 310 and 311 of Chapter 3 of Title 28 of the New York City Administrative Code.

New material is underlined.

[Deleted material is in brackets.]

Asterisks (***) indicate ellipses, i.e., unamended text.

“Shall” and “must” denote mandatory requirements and may be used interchangeably in the rules of the Department, unless otherwise specified or unless the context clearly indicates otherwise.

Section 1. Subchapter C of Chapter 100 of Title 1 of the Rules of the City of New York is amended by adding a new section 103-18 to read as follows:

§ 103-18 Upgrades of lighting systems and installation of electrical sub-meters in tenant spaces.

(a) *Definitions.* Terms defined in Article 310 and 311 of Title 28 of the Administrative Code have the same meanings in this section.

(b) *Report for required upgrades of lighting systems.* No later than May 1, 2025, the owner of a covered building must submit a report, in a form and manner determined by the Department, in accordance with section 28-310.3 of the Administrative Code. Such report must include an attestation by a registered design professional, a licensed master electrician, or a licensed special electrician certifying that the lighting system of the entire building has been inspected and upgrades have been implemented, pursuant to lighting power allowances and controls requirements for each of the spaces, in compliance with the New York City Energy Conservation

Code that was in effect at the time of such implementation, provided that the lighting system must comply with a version of the New York City Energy Conservation Code in effect on or after July 1, 2010.

(c) Penalty for failure to file a lighting upgrade report. An owner of a covered building shall be liable for a civil penalty in the amount of \$1,500 for failing to file a report in accordance with section 28-310.3 of the Administrative Code and subdivision (b) of this section. Such penalty will be assessed annually until the compliance report is filed.

(d) Report for required installation of electrical sub-meters in tenant spaces. No later than May 1, 2025, the owner of a covered building must submit a report, in a form and manner determined by the Department, in accordance with section 28-311.5 of the Administrative Code. Such report must include:

(1) A list of all covered tenant spaces in such covered building; and

(2) An attestation by a registered design professional, a licensed master electrician, or a licensed special electrician certifying that sub-meters have been installed for all covered tenant spaces in accordance with Article 311 of Title 28 of the Administrative Code; and

(3) A sample monthly statement in accordance with section 28-311.4 of the Administrative Code.

(e) Penalty for failure to demonstrate installation of electrical sub-meters in tenant spaces.

(1) An owner of a covered building shall be liable for a civil penalty in the amount of \$1,500 for failing to file a report in accordance with section 28-311.5 of the Administrative Code and subdivision (d) of this section. Such penalty will be assessed annually until the compliance report is filed.

(2) Failing to install a sub-meter in a covered tenant space in accordance with section 28-311.3 of the Administrative Code and subdivision (d) of this section shall be classified as a lesser violation. An owner of a covered building shall be liable for a civil penalty for such violation. Such penalty will be in the amount of \$500 for each covered tenant space where a sub-meter has not been installed as required and will be assessed annually until all required sub-meters are installed.

(f) Procedures for penalties imposed under this section.

(1) Where a civil penalty is imposed for failure to file a report required by subdivision (b) or (d) of this section, the owner may request review of such determination by the department. A request for such review shall be submitted in writing within 30 days in a form and manner determined by the Department. The Department shall review such request and provide a response within 60 days.

(2) A civil penalty imposed for failing to install a sub-meter pursuant to paragraph (2) of subdivision (e) of this section will be processed in accordance with section 102-01.

§ 2. Table 1 of subdivision (k) of section 102-01 of the Rules of the City of New York is amended by adding a new line in numerical order to read as follows:

Section of Law	Classification	Violation Description	Cure	Stipulation	Standard Penalty	Mitigated Penalty	Default Penalty	Aggravated I Penalty	Aggravated I Default Penalty	Aggravated II Penalty	Aggravated II Default — Max Penalty
<u>1 RCNY 103-18(e)(2)</u>	<u>Class 3</u>	<u>Failure to install a sub-meter</u>	<u>Yes</u>	<u>Yes</u>	<u>\$500</u>	<u>Yes</u>	<u>\$500</u>	<u>\$500</u>	<u>\$500</u>	<u>\$500</u>	<u>\$500</u>

**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: Reporting of Lighting Upgrades and Sub-Meters in Certain Buildings

REFERENCE NUMBER: DOB-168

RULEMAKING AGENCY: Department of Buildings

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) A cure period is not practicable under the circumstances.

/s/ Francisco X. Navarro
Mayor's Office of Operations

September 5, 2023
Date

**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: Reporting of Lighting Upgrades and Sub-Meters in Certain Buildings

REFERENCE NUMBER: 2023 RG 049

RULEMAKING AGENCY: Department of Buildings

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

Date: September 11, 2023