

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) is proposing to amend sections 102-04, 103-01 and 103-05 of Chapter 100 of Title 1 of the Rules of the City of New York regarding waiver of civil penalties for work without a permit and failure to file annual low pressure and high pressure boiler reports with respect to small businesses.

When and where is the hearing? DOB will hold a public hearing on the proposed rule online. The public hearing will take place at 11am on 9/12/24.

- 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://events.gcc.teams.microsoft.com/event/d455d576-9653-4d8f-a7e9-a02c566514a3@32f56fc7-5f81-4e22-a95b-15da66513bef>

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://events.gcc.teams.microsoft.com/event/d455d576-9653-4d8f-a7e9-a02c566514a3@32f56fc7-5f81-4e22-a95b-15da66513bef>

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: 230 305 236 579

Passcode: cuXL2i (Code is case sensitive)

- Join via phone only:

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

Phone: 646-893-7101

Phone Conference ID: 674491048

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 9/5/24 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. Please note that the hearing is for accepting oral testimony and is not held in a “Question and Answer” format.

Is there a deadline to submit comments? Yes, you must submit comments by 9/12/24.

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 8/29/24.

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 City Charter, and Articles 213 and 303 of Title 28 of the New York City Administrative Code authorize DOB to make

this proposed rule. This proposed rule was not included in DOB's regulatory agenda for this Fiscal Year because it was not contemplated when DOB published the agenda.

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.

STATEMENT OF BASIS AND PURPOSE OF PROPOSED RULE

The Department is proposing to amend its rules regarding waiver of civil penalties for work without a permit and failure to file low and high pressure boiler reports with respect to small businesses. The definition and waiver provisions are being amended to provide clarity to the public as to who is eligible for the small business waivers.

The Department of Buildings' authority for these rules is found in sections 643 and 1043 of the New York City Charter and Articles 213 and 303 of Title 28 of the New York City Administrative Code.

New material is underlined.

[Deleted material is in brackets.]

Asterisks (***) indicate unamended text.

Section 1. Paragraph (10) of subdivision (d) of Section 102-04 of Chapter 100 of Title 1 of the Rules of the City of New York is amended to read as follows:

(d) Waiver of civil penalty for work without a permit. Notwithstanding any penalty waiver, a permit must be obtained for the unpermitted work. The Department may waive a civil penalty for work without a permit in the following instances:

* * *

(10) Where an owner of a business that employs fewer than one hundred employees (small business) has been issued a violation for unpermitted work and [such owner has demonstrated, in a form and manner determined by the Department, that they are the owner of the business, except that such waiver does not apply to a sidewalk shed that was installed without a permit or installed with a valid permit and the permit has expired] all of the following conditions are met:

- (i) The violation for which the waiver is requested was not issued for a sidewalk shed installed without a permit or a sidewalk shed installed with a valid permit and the permit has expired;

- (ii) The applicant demonstrates, in a form and manner determined by the Department, that the individual or entity requesting the waiver is the owner of the small business;
- (iii) The business provides goods or services onsite;
- (iv) The work without a permit violation was issued on or after November 20, 2022;
- (v) The applicant demonstrates, in a form and manner determined the by the Department, that the space in which the unpermitted work was performed is occupied exclusively by the small business;
- (vi) A small business waiver was not previously granted to the small business owner for unpermitted work performed on behalf of or for the benefit of such business; and
- (vii) The sole or primary purpose of the business is not filing representative or expeditor services, real estate, real estate development, property management, construction or other related services as determined by the Department.

§2. Paragraph (8) of subdivision (c) of Section 103-01 of Chapter 100 of Title 1 of the Rules of the City of New York is amended to read as follows:

(8) Small business. A business that employs fewer than one hundred persons and provides goods or services onsite.

§3. Clause (D) of subparagraph (i) of paragraph (6) of subdivision (f) of Section 103-01 of Chapter 100 of Title 1 of the Rules of the City of New York is amended to read as follows:

(D) Small business. An owner of a small business may be granted a [first-time] one-time waiver of [penalties where the owner has demonstrated, in a form and manner determined by the Department, that they are the owner of the business] the civil penalty for a violation issued for failure to file an annual boiler inspection report where all of the following conditions are met:

1. The applicant demonstrates, in a form and manner determined by the Department, that the individual or entity requesting the waiver is the owner of the small business;
2. The failure to file for which the violation was issued occurred on or after November 20, 2022;
3. The applicant demonstrates, in a form and manner determined by the Department, that the owner of the small business owns or has responsibility for the boiler and such boiler exclusively serves the space occupied by the small business;
4. A small business waiver was not previously granted to the small business owner for any boiler at the subject building that is owned by the small business or for which the small business is responsible;
5. A small business waiver was not previously granted to any small business for the boiler for which the waiver is being requested; and

6. The sole or primary purpose of the business is not filing representative or expeditor services, real estate, real estate development, property management, construction or other related services as determined by the Department.

§4. Paragraph (12) of subdivision (c) of Section 103-05 of Chapter 100 of Title 1 of the Rules of the City of New York is amended to read as follows:

(12) Small business. A business that employs fewer than one hundred persons and provides goods or services onsite.

§5. Clause (D) of subparagraph (i) of paragraph (6) of subdivision (i) of Section 103-05 of Chapter 100 of Title 1 of the Rules of the City of New York is amended to read as follows:

(D) Small business. An owner of a small business may be granted a [first-time] one-time waiver of [penalties where the owner has demonstrated, in a form and manner determined by the Department, that they are the owner of the business] the civil penalty for a violation issued for failure to file an annual boiler inspection report where all of the following conditions are met:

1. The applicant demonstrates, in a form and manner determined by the Department, that the individual or entity requesting the waiver is the owner of the small business;
2. The failure to file for which the violation was issued occurred on or after November 20, 2022;
3. The applicant demonstrates, in a form and manner determined by the Department, that the owner of the small business owns or has responsibility for the boiler and such boiler exclusively serves the space occupied by the small business;
4. A small business waiver was not previously granted to the small business owner for any boiler at the subject building that is owned by the small business or for which the small business is responsible;
5. A small business waiver was not previously granted to any small business for the boiler for which the waiver is being requested; and
6. The sole or primary purpose of the business is not filing representative or expeditor services, real estate, real estate development, property management, construction or other related services as determined by the Department.

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 Permitting Requirements for Small Businesses

REFERENCE NUMBER: DOB-181

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) Does not provide a cure period because the rule provides penalty waivers.

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

August 1, 2024
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: Amendment of Permitting Requirements for Small Businesses

REFERENCE NUMBER: 2024 RG 076

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
Senior Counsel

Date: July 31, 2024