



## NEW YORK CITY DEPARTMENT OF HEALTH AND MENTAL HYGIENE

### Notice of Public Hearing and Opportunity to Comment on Proposed Amendments to Title 24 of the Rules of the City of New York

**What are we proposing?** The New York City Department of Health and Mental Hygiene (“Department”) is proposing to add a new Chapter 36 (Needle, Syringe, and Sharps Buyback Pilot Program) to Title 24 of the Rules of the City of New York, the rules governing the creation of a needle, syringe, and sharps buyback pilot program as mandated by subdivision g of section 17-180.1 of the New York City Administrative Code (“Administrative Code”).

**When and where is the hearing?** The Department will hold a public hearing on the proposed rules. The public hearing will take place from **10:00 a.m. to 12 p.m. on March 25, 2024**. The hearing will be conducted by video conference accessible via internet or telephone.

- **Internet.** To participate in the public hearing, please register at this Webex URL: <https://nycdohmh.webex.com/nycdohmh/j.php?MTID=m71fc66d03e99a046ac50e4781b36cbbe>
- If prompted to provide an event number or password, please enter the following:  
Event number: **2334 828 5324**  
Password: **Health (432584)** from phones and video systems)
- **Phone:** For access, dial: **(646) 992-2010** or **(408) 418-9388** then please enter the following Access code: **233 482 85324**  
Password: **Health (432584)** from phones and video systems)

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

- **Website:** You can submit comments to the Department through the NYC Rules website at <http://rules.cityofnewyork.us>.
- **Email:** You can email written comments to the Department: [ResolutionComments@health.nyc.gov](mailto:ResolutionComments@health.nyc.gov)
- **Mail:** You can mail written comments to the Department:  
New York City Department of Health and Mental Hygiene  
Gotham Center, 42-09 28th Street, 14th Floor, CN 30  
Long Island City, NY 11101-4132
- **Fax.** You can fax written comments to the Department at 347-396-6087.
- **Speaking at the hearing.** Anyone who wants to comment on the proposed rules at the public hearing must sign up to speak. You can sign up before the hearing by calling Svetlana Burdeynik at 347-396-6078 or 347-396-6116 or by emailing at [resolutioncomments@health.nyc.gov](mailto:resolutioncomments@health.nyc.gov) before the hearing begins at 10:00 a.m. on March 25, 2024. While you will be given the opportunity during the hearing to indicate that you would like to comment, we prefer that you sign-up in advance. You can speak for up to three minutes.

**Is there a deadline to submit written comments?** Written comments must be received on or before 5:00 p.m. **on March 25, 2024.**

**What if I need assistance to participate in the hearing?** You must tell the Department's Office of General Counsel if you need a reasonable accommodation of a disability at the hearing, including whether you need a sign language interpreter. You can tell us by e-mail or by mail at the addresses given above. You may also tell us by telephone at 347-396-6078. Advance notice is requested to allow sufficient time to arrange the accommodation. Please tell us by **March 11, 2024.**

**Can I review the comments made regarding the proposed rules?** You may review the comments made online on the proposed rules at <https://rules.cityofnewyork.us/proposed-rules/>. All written comments and a summary of the oral comments received by the Department will be made available to the public within a reasonable period of time after the hearing by the Department's Office of General Counsel.

**What authorizes the Department to make this rule?** Section 389(b) of the New York City Charter ("Charter") provides that "heads of mayoral agencies shall have the power to adopt rules to carry out the powers and duties delegated to the agency head or the agency by or pursuant to federal, state or local law." Section 1043(a) of the Charter similarly provides that each "agency is empowered to adopt rules necessary to carry out the powers and duties delegated to it by or pursuant to federal, state or local law." Subdivision g of section 17-180.1 of the Administrative Code requires the Department to establish a needle, syringe, and sharps buyback pilot program. These proposed rules were inadvertently omitted from the Department's 2023 regulatory agenda.

**Where can I find the Department's rules and the New York City Health Code?** The Department's rules and the New York City Health Code ("Health Code") are located in Title 24 of the Rules of the City of New York ("RCNY").

**What laws govern the rulemaking process?** The Department must satisfy the requirements of section 1043 of the Charter when adding or amending rules. This notice is made according to the requirements of section 1043(b) of the Charter.

## Statement of Basis and Purpose

Section 17-180.1 of the Administrative Code contains various measures aimed at addressing the opioid epidemic. Local Law 124 for the year 2022 added subdivision g of section 17-180.1 of the Administrative Code, which requires the Department to establish a pilot program for the buyback of needles, syringes, and sharps. Through such pilot, the Department will offer financial incentives to individuals who collect and return needles, syringes, and sharps that were used for human non-medical drug consumption in order to ameliorate the litter in New York City communities that results from the opioid epidemic. To accomplish this mandate, the Department proposes to establish a new Chapter 36 within Title 24 of the RCNY to implement the pilot program.

As described in Local Law 124, the program is structured as follows: First, the program will be offered in the five highest-need City Council districts in New York City, as determined by the Department. As set forth in section 36-02, buyback locations will be listed on the Department's website. Further, a person participating in the program cannot receive more than twenty cents per needle, syringe, or sharp returned, and cannot earn more than ten dollars per day, as set forth in section 36-04. However, to participate, individuals must meet the criteria set forth in section 36-03. In particular, individuals must be at least eighteen years of age and undergo training on how to handle, transport, and dispose of needles, syringes, and sharps.

The pilot program will run for one year.

The Department's authority for this proposed amendment is found in sections 389, 556, and 1043 of the Charter, and section 17-180.1 of the Administrative Code.

Section 556 of the Charter provides the Department with jurisdiction to protect and promote the health of all persons in the City of New York. Sections 389 and 1043 grant the Department rulemaking authority. Subdivision g of section 17-180.1 of the Administrative Code requires the Department to promulgate rules establishing a needle, syringe, and sharps buyback pilot program.

New material is underlined.

[Deleted material is in brackets.]

“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.

**RESOLVED**, that Title 24 of the Rules of the City of New York is amended by adding a new chapter 36 to read as follows:

### **Chapter 36** **Needle, Syringe, and Sharps Buyback Pilot Program**

#### **§ 36-01. Definitions.**

The term “Pilot Program,” or “Program,” means the needle, syringe, and sharps buyback pilot

program established pursuant to this Chapter.

**§ 36-02. Establishment of a Needle, Syringe, and Sharps Buyback Pilot Program.**

- (a) For one year after commencement of the Pilot Program, the Department will offer the financial incentives set forth in section 36-04 of this Chapter to eligible persons who meet the requirements set forth in section 36-03 of this Chapter, and who collect and return needles, syringes, and sharps previously used for human non-medical drug consumption to specified buyback locations in the manner prescribed herein.
- (b) Buyback locations will be available on the Department's website on or before the date the Program commences. Buyback locations are determined by the Department based on the quantity and public health impact of information received from the public and syringe service providers regarding needle, syringe, and sharps litter as well as the prevalence and location of public drug use on or after the 6 months preceding commencement of the Program, provided, however, that there will be at least one buyback location in each borough.

**§ 36-03. Eligibility for Individual Participation in the Needle, Syringe, and Sharps Buyback Pilot Program.**

To be eligible, individuals must satisfy the following criteria:

- (a) *Enrollment:* An individual must enroll in the Pilot Program on a form prescribed by the Department. Enrollment may include proof of age, an agreement to waive liability for unsafe handling, and an agreement to abide by a code of conduct tailored to ensure the health and safety of program participants, staff, and associated individuals. Enrollment forms will be available on the Department's website on or before commencement of the Program.
- (b) *Age requirement:* Individuals must be eighteen years of age or older. Proof of age may be required.
- (c) *Safe handling:* Individuals must undertake training offered by the Department on the safe handling of needles, syringes, and sharps. Such training will include, but not be limited to, the proper disposal, containment, and transportation of needles, syringes, and sharps. Instructions regarding such training will be posted on the Department's website.

**§ 36-04. Financial Incentives for the Needle, Syringe, and Sharps Buyback Pilot Program.**

- (a) Participants will receive twenty cents for each needle, syringe, or sharp returned to a buyback location. However, the total daily payout for any individual participant will not exceed ten dollars.
- (b) Participants may be denied payment for any of the following reasons, as determined by the Pilot Program:
  - (1) The participant failed to comply with any element of the Pilot Program's code

of conduct.

- (2) The participant attempted to return needles, syringes, or sharps that were not used for human non-medical drug consumption.
- (3) The participant made a material misrepresentation on any of their enrollment forms.
- (4) The participant sought payment for items returned on a day when participant had already met the maximum daily payout maximum.

**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 Rules Relating to Pilot Program for Buyback of Needles, Syringes and Sharps

**REFERENCE NUMBER:** 2023 RG 097

**RULEMAKING AGENCY:** Department of Health and Mental Hygiene

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: February 13, 2024

**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: Amendment of Rules Relating to Pilot Program for Buyback of Needles,  
Syringes and Sharps**

**REFERENCE NUMBER: DOHMH-137**

**RULEMAKING AGENCY: Department of Health and Mental Hygiene**

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

February 14, 2024  
Date