

## NEW YORK CITY DEPARTMENT OF BUILDINGS

### Notice of Public Hearing and Opportunity to Comment on Proposed Rule

**What are we proposing?** The Department of Buildings (DOB) is proposing to amend its rule regarding individual private on-site sewage disposal systems to clarify its scope.

**When and where is the hearing?** DOB will hold a public hearing on the proposed rule. The public hearing will take place at 10am on 12/6/18. The hearing will be in Spector Hall at 22 Reade Street.

**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](mailto:dobrules@buildings.nyc.gov).
- **Mail.** You can mail comments to the New York City Department of Buildings, Office of the General Counsel, 280 Broadway, 7<sup>th</sup> 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 in the hearing room before the hearing begins on 12/6/18. You can speak for up to three minutes.

**Is there a deadline to submit comments?** Yes, you must submit comments by 12/6/18.

**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 must tell us if you need a sign language interpreter. You can tell us by mail or email at the addresses given above. You may also tell us by telephone at 212-393-2085. Advance notice is requested to allow sufficient time to arrange the accommodation. Please tell us by 11/21/18.

This location has the following accessibility option(s) available: Wheelchair accessibility.

**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, 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.

**What authorizes DOB to make this rule?** Sections 643 and 1043(a) of the City Charter and section 104.1 of the New York City Plumbing 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 laws 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 proposed rule amendment clarifies the scope of 1 RCNY § 8001-01(a). The rule currently prohibits the Department of Buildings (DOB) from issuing a permit for an onsite private sewage disposal system in connection with commercial and manufacturing uses that is discharging sewage without the admixture of certain industrial and other wastes and has a daily flow of less than 1,000 gallons per day, unless a permit from the New York State Department of Environmental Conservation (DEC) is presented.

The amendment makes clear that a DEC permit is only required if the sewage contains industrial or other wastes or if the total discharge is 1,000 gallons or more per day.

DOB's authority for this rule is found in sections 643 and 1043 of the New York City Charter and section 104.1 of the New York City Plumbing Code.

New material is underlined.

[Deleted material is in brackets.]

Section 1. Subdivision (a) of Section 8001-01 of Chapter 8000 of Title 1 of the Rules of the City of New York is amended to read as follows:

(a) Applicability and scope. This rule governs the construction and installation of new individual private on-site sewage disposal systems and alteration and maintenance of existing individual private on-site sewage disposal systems. This rule applies to on-site wastewater treatment systems serving residential (one- and two-family) and non-residential (other than one- and two-family) properties receiving less than 1,000 gallons of sewage per day [not mixed with] which does not include industrial wastes or other wastes as defined in the Code of Federal Regulations, the Clean Water Act, the Safe Drinking Water Act, the Insecticide, Fungicide and Rodenticide Act, the Toxic Substances Control Act, the New York State Environmental Conservation Law and the New York Code of Rules and Regulations.

Exception: Pursuant to ECL § 17-0803 and 6 NYCRR 750-1.4, the New York State Department of Environmental Conservation (DEC) has the authority to issue permits for a new or modified disposal system [for a commercial or manufacturing use] discharging any amount of sewage with the presence of such industrial waste or other wastes, or for a residential or non-residential use whose total discharge of sewage is 1,000 gallons or more per day. DOB will not issue a permit to construct and use [a new or modified disposal system for a commercial or

manufacturing use discharging any amount of sewage or for a residential use whose total discharge of sewage is 1,000 gallons or more per day] any such system until a DEC State Pollutant Discharge Elimination System (SPDES) permit is provided to the department.

PROPOSED

**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 regarding individual private on-site sewage disposal systems.

**REFERENCE NUMBER:** 2018 RG 120

**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  
Acting Corporation Counsel

Date: 10/24/18

**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 regarding individual private on-site sewage disposal systems.**

**REFERENCE NUMBER: DOB-116**

**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 it does not establish a violation, modification of a violation, or modification of the penalties associated with a violation.

/s/ Brady Hamed  
Mayor's Office of Operations

October 24, 2018  
Date