

CHAPTER 37
PETITIONING THE DEPARTMENT TO
COMMENCE RULEMAKING

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§ 37.01 Definitions.

- (a) *Department* means the New York City Department of Health and Mental Hygiene.
- (b) *Petition* means a request or application by a member of the public for the Department to create, amend or repeal a rule promulgated by the Department.
- (c) *Petitioner* means the person who submits a petition.
- (d) *Rule* shall have the meaning set forth in § 1041(5) of the New York City Charter (“Charter”) and, for the purposes of this Chapter, means only those provisions of law contained in, or to be contained in, Title 24 of the Rules of the City of New York with numerical Chapter headings and also known as Commissioner of Health Regulations (“Commissioner Regulations”). For the purposes of this Chapter, rule does not include any provision of the New York City Health Code.

§ 37.03 Scope.

This Chapter governs the procedures by which the public may petition the Department to commence rulemaking of Commissioner Regulations pursuant to § 1043(g) of the Charter.

§ 37.05 Procedures for Submitting Petitions; Responses to Petitions.

- (a) Any person may petition the Department to consider the adoption, amendment or repeal of a rule. The petition must be in writing and must contain the following information:
 - (1) The rule to be considered, including proposed language for adoption;
 - (2) A statement as to the purpose of the rule, amendment or repeal and the Department's authority to promulgate the rule;
 - (3) Petitioner's argument(s) in support of adoption of the rule, amendment or repeal.
 - (4) The period of time the rule should be in effect, if applicable;
 - (5) Whether the person submitting the petition represents another individual or an organization;
 - (6) The name, address and telephone number of the petitioner or his or her authorized representative;
 - (7) The signature of petitioner or their representative.
- (b) Illegible petitions will not be accepted.
- (c) All petitions must be delivered to the office of the Secretary to the Department by mail, courier, facsimile, electronic mail or online.
- (d) The petitioner must promptly communicate any changes in the information required by this section in writing to the office of the Secretary to the Department.
- (e) Upon receipt of a petition submitted in the proper form, the Secretary to the Department will stamp the petition with the date it was received and assign the petition a number and a date-stamped receipt with the petition number shall be sent to the petitioner. The Secretary will forward the petition to the Commissioner and appropriate staff of the Department for their review.

- (f) Within sixty (60) days from the date the petition is properly received by the Secretary to the Department, the Commissioner will either deny such petition in a written statement to the petitioner containing the reasons for denial, or state in writing to the petitioner the intention to grant the petition and to initiate rulemaking on the subject matter by a specified date. In all cases where the Commissioner has granted a petition to initiate rulemaking, the Department is not bound by any specific language proposed by the petitioner.
- (g) The Commissioner's decision to grant or deny a petition will be a final decision which is not subject to judicial review pursuant to § 1043(g) of the Charter.