

## DEPARTMENT OF ENVIRONMENTAL PROTECTION

### NOTICE OF ADOPTION OF AMENDMENTS TO THE CITY'S ENVIRONMENTAL REMEDiation RULES

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED in the Department of Environmental Protection (“DEP”) by Section 1403(e) of the City Charter and by authority vested in the Office of Environmental Remediation (“OER”) by sections 15(e)(5) and (8) and Section 1043 of the City Charter, that DEP and OER have jointly promulgated and adopted amendments to rules relating to (E) Designations.

The rules were proposed and published in the City Record on June 14, 2017. A public hearing was held on July 17, 2017. No comments on the proposed rule amendments were received from the public prior to, during or after the hearing. Following the public hearing and upon further internal review by City agencies, a limited portion of the text of the rule was re-drafted to more accurately describe the requirements for removing (E) Designations from tax lots. This revision is reflected in lines 5-7 of § 24-08(a), set forth below.

#### **STATEMENT OF BASIS AND PURPOSE**

DEP has revised the rule governing (E) Designations, which are placed on a tax lot or lots pursuant to Section 11-15 of the New York City Zoning Resolution (“ZR”) to provide notice that environmental requirements must be met before the property can be redeveloped. The amended rule accomplishes the following:

1) It authorizes OER to approve final cleanups without site management at properties that achieve a level of remediation that does not rely on institutional or engineering controls. Site management is not required in these instances because the activities that a site owner would otherwise monitor under a site management plan are already prohibited by the City. ZR Section 11-15 allows hazardous materials (E) Designations to be removed by the Department of City Planning upon receipt of a duly issued Notice from OER stating that no further testing, remediation or ongoing site management is required for hazardous materials contamination. OER has been issuing said Notices once a site achieves a complete site cleanup, also known as a Track 1 cleanup. For consistency of implementation, DEP has amended the (E) Designation rule to also allow for the removal of hazardous materials (E) Designations from properties that achieve a cleanup without reliance on engineering or institutional controls.

2) It allows for the removal of an (E) Designation for noise and/or air quality under specified circumstances. The amended rule allows for (E) Designations related to air quality and noise to be removed from a tax lot upon notice from OER that the environmental requirements for noise or air quality have been completed. The rule clarifies that where a development project with an (E) Designation for noise and/or air quality has been built out to its full development potential according to zoning, and installation reports demonstrate that the noise or air quality requirements have been fully completed, the (E) Designations for air quality and noise can be removed from a tax lot consistent with Section 11-15 (d)(1) of the Zoning Resolution of the City

of New York.

New text is underlined; deleted material is in [brackets].

Section 1. Subdivision a of section 24-08 of Chapter 24 of Title 15 of the Rules of the City of New York is amended to read as follows:

**§24-08 Removal of (E) Designation Requirements.**

\* \* \*

a. OER will issue a final notice of satisfaction when OER determines that the environmental requirements relating to the (E) Designation or the Environmental Restrictive Declaration have been completely satisfied for a specific block and lot(s). A tax lot with an (E) Designation for hazardous materials or an Environmental Restrictive Declaration [that achieves a DEC Track 1 cleanup qualifies] will qualify for a final notice of satisfaction if the remediation is completed, does not require engineering or institutional controls and is protective of public health and the environment for any allowable use, as determined by OER. A tax lot with an (E) Designation for air quality or noise may also qualify for a final notice of satisfaction if OER determines that the source of air emissions or noise which resulted in the (E) Designation has been permanently eliminated or that the environmental requirements related to an (E) designation for air quality or noise have been completed. Completion of air and noise requirements occur when a development project has been built out to its full development potential according to zoning, and installation reports demonstrate that air and noise requirements have been satisfied. OER will send the final notice of satisfaction to [both] DEP, DOB and DCP within ten (10) days.