

OFFICE OF ENVIRONMENTAL REMEDIATION

Notice of Public Hearing and Opportunity to Comment on Proposed Rules

What are we proposing? The Mayor's Office of Environmental Remediation ("OER") proposes a fee to cover its costs in certifying properties in the New York City Voluntary Cleanup Program so they can receive an exemption from the state hazardous waste program fee.

When and where is the Hearing? OER will hold a public hearing, at which the public and interested parties are invited to submit comments and testimony on the proposed rule from 10 AM to 11:30 AM on April 24, 2015. This hearing will be held in the Prospect Park Room at 100 Gold Street, 2nd floor, NY, NY 10038.

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

- **Mail.** You can mail written comments to OER, 100 Gold Street, 2nd floor, New York, NY 10038.
- **Fax.** You can fax written comments to OER at 212-788-2941.
- **Website.** You can submit comments to OER through the NYC rules Website at www.nyc.gov/nycrules.
- **By 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 before the hearing by calling (212) 788-3015. You can also sign up in the hearing room before the session begins on April 24, 2015. You can speak for up to three minutes.

Is there a deadline to submit written comments? Yes, you must submit written comments by April 24, 2015.

Do you need assistance to participate in the Hearing? You must tell OER 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 at the address given above. You may also tell us by telephone at (212) 788-3015. You must tell us by April 17, 2015.

Can I review the comments made on the proposed rules? A few days after the hearing, copies of the written comments will be available to the public at OER.

What authorizes OER to make this rule? Sections 15(e)(17) of the City Charter authorize OER to make this proposed rule. This proposed rule was not included in OER's regulatory agenda for this Fiscal Year because the need for it was not contemplated when OER published the agenda.

Where can I find OER's rules? OER's rules are in Title 43 of the Rules of the City of New York.

What rules govern the rulemaking process? OER 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

The Office of Environmental Remediation (“Office” or “OER”) administers the New York City Voluntary Cleanup Program (“VCP”) which directs developers to remediate light to moderately contaminated sites in New York City. OER and the New York State Department of Environmental Conservation (“DEC”) executed a Memorandum of Agreement (“MOA”) in July 2014 through which DEC recognizes the city Voluntary Cleanup Program and coordinates with OER in setting remedies for sites in the city cleanup program.

In the course of remediating sites, developers often must excavate and dispose of hazardous waste that had been previously buried at their properties. New York State Environmental Conservation Law (“ECL”) § 72-0402 requires parties that generate hazardous waste, including owners of city VCP sites, to pay DEC \$130 for each ton of hazardous waste they generate. On November 17, 2014, DEC agreed to exempt city VCP sites from paying the state hazardous waste program fee in an amendment to the MOA.

OER was established by Local Law No. 27 of 2009, and Charter § 15(e)(17) authorizes its Director to establish fees for programs administered by the office. To implement the amendment to the MOA, OER must certify to DEC each VCP site that generates hazardous waste to DEC. This work requires OER to conduct site inspections, work closely with a site’s representatives and certify to DEC that removal of hazardous waste from a site in the city program was proper and complied with all applicable laws and regulations.

The fee established by this proposed rule will cover OER’s costs in making certifications to DEC that each city VCP site with hazardous waste is worthy of an exemption from the state hazardous waste program fee. OER seeks to recover its costs in providing the service to VCP sites and to provide sufficient income over time for the office to expand its staff to manage the program as more city redevelopment projects seek to benefit from it.

The proposed rule assesses a fee of \$8.00 for each ton of hazardous waste that a city Voluntary Cleanup Program site generates.

“Shall” and “must” denote mandatory requirements and may be used interchangeably in the rules of this office, unless otherwise specified or unless the context clearly indicates otherwise.

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

§ 1. Chapter 14 of the Rules of the City of New York is amended by adding a new Subchapter 6 to read as follows:

Subchapter 6: Fee for state hazardous waste program fee exemption.

§ 43-1460: Fee for hazardous waste program fee exemption.

The office shall assess a fee for assisting properties in the city voluntary cleanup program obtain an exemption from the state hazardous waste program fee established by ECL § 72-0402. The fee is as follows:

- no fee will be charged for sites that generate fewer than 15 tons of hazardous waste per year; and
- sites that generate at least 15 tons of hazardous waste per year will be charged a fee of \$8.00 for each ton of hazardous waste generated.