

REBNY Testimony | November 12, 2025

# **The Real Estate Board of New York to The Department of Environmental Protection on Construction Noise Monitoring Rule**

The Real Estate Board of New York (REBNY) is the City's leading real estate trade association representing commercial, residential, and institutional property owners, builders, managers, investors, brokers, salespeople, and other organizations and individuals active in New York City real estate. REBNY appreciates this opportunity to submit comments on the Department of Environmental Protection's (DEP) draft rule regarding monitoring and submitting data on construction noise at certain large construction sites.

This proposed rule would require new building construction sites that are 200,000 square feet or more, that are within 50 feet of a residential receptor and that require an Alternative Noise Mitigation Plan (ANMP) for 30 days or more, to monitor construction noise and submit noise data directly to the DEP. For these sites, at least one noise monitoring device must be installed proximately to the nearest sensitive or residential receptor in a manner proscribed by the rule. Data will be collected every minute throughout the project and transmitted to the DEP every hour. The rule does not apply to buildings with 100% affordable units nor emergency work.

ANMPs are applied for and can be granted when activities or devices cannot strictly comply with noise mitigation regulations. Although ANMPs do not exclusively apply to after-hours work (before 7 AM, after 6 PM, and on weekends and holidays), the "Statement of Basis and Purpose" for the rule references after-hours construction, and it cites after-hours noise complaints as the basis for the rule. It also states that data collected and submitted would be used to determine if additional mitigation measures are needed or if the hours that work is presently permitted should be adjusted.

REBNY appreciates that noise, and in particular after-hours noise, is both an inherent part of undertaking construction in a dense urban environment and an issue that results in a high number of 311 complaints from the public. Balancing these two realities is a complicated and critical need. We appreciate DEP's efforts in trying to achieve that balance. REBNY also appreciates that collecting data on this issue could clarify noise-related matters. With that said, REBNY has several specific comments on the rule as follows:

- The rule is unclear when monitoring needs to be done. As stated above, the purpose of the rule seems to be to collect data on and adjust sources of after-hours noise at certain construction sites. However, the rule itself references projects with ANMPs and does not specify that monitoring would only apply to after-hours noise. If the rule will only apply to after-hours noise, would the trigger be

30 days of continuous after-hours construction, or would it be a total of 30 days for the duration of the project? The final rule should clarify these matters.

- In addition, the rule should be clear about ownership of the data collected. REBNY would ask that DEP use this data internally and to determine if additional mitigation might be explored. The data should not be public and should not be used to assess violations. The final rule should make these matters clear.
- Given that this is a new effort, it might be prudent to limit the number of sites undertaking this monitoring by adjusting the thresholds under which the monitoring is triggered. For example, the rule could apply to sites of 500,000 square feet and that are undertaking after-hours work for 60 or 90 days or more.
- REBNY is also concerned about “false positives.” Given the many causes of noise in the city, including from sources such as emergency sirens, monitors may capture noise data that is unrelated to construction activities. In addition, there have been instances of projects receiving violations that were later shown to be related to noise from other, nearby construction sites. It is not clear whether outside noise would impact data collection.
- The rule calls for monitoring and submitting data until “construction activities taking place at the site are limited to minimal noise impact construction activities.” Who determines when this threshold has been achieved: the DEP of the project owner?
- The rule needs to address vesting, as it will add additional planning, equipment, and costs. There should be at least a year between when the rule goes into effect and when projects need to comply. This will allow for the necessary planning relating to these complicated construction projects.
- REBNY appreciates that the rule excludes 100% affordable housing. However, given the severe housing shortage, especially on the affordable side, that exclusion should be expanded to cover buildings with less than 100% affordable units. Buildings with at least 25% affordable units should also receive this exemption.

Thank you for the consideration of these comments.

**CONTACT:**

**Daniel Avery**

*Director of Policy*  
Real Estate Board of New York  
davery@rebny.com