

NOTICE OF ADOPTION OF FINAL RULE

NEW YORK CITY DEPARTMENT OF ENVIRONMENTAL PROTECTION

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED IN THE COMMISSIONER OF THE DEPARTMENT OF ENVIRONMENTAL PROTECTION by Section 1403(c) of the New York City Charter and Sections 24-204, 24-219 and 24-222 of the New York City Administrative Code, that the Department of Environmental Protection (“Department” or “DEP”) is adopting a rule to amend the Citywide Construction Noise Mitigation Rules codified in Chapter 28 of Title 15 of the Rules of the City of New York, by adding a new requirement that certain construction sites that will be in operation after hours must have a noise monitor.

A public hearing was held on the proposed rule on November 12, 2025. Most of the comments supported adoption of the rule, while there were a small number of comments suggesting certain clarifications. In response to these comments, minor changes have been made to clarify that the rule applies to projects lasting 30 days or longer whether or not the 30 days are consecutive, that the term “square footage” is the same as the gross floor area of the project as defined in the Building Code, and that monitoring must take place continuously for the duration of the project. A provision was also added to make the effective date of the rule 120 days from the date of final publication, in order to give the regulated community adequate time to prepare for compliance, and to promulgate a rule making necessary additions to the Noise Code Penalty Schedule.

Statement of Basis and Purpose

On December 29, 2005, Local Law 113 for the year 2005 became effective. The law amended the Administrative Code of the City of New York in relation to the Noise Control Code. Specifically, the law established standards and procedures to reduce noise from construction, and established sound level standards and procedures for specific noise sources. Pursuant to section 24-219 of the Noise Code, in 2007, DEP promulgated rules that prescribe the methods, procedures, and strategies that must be used whenever there is a construction site that will utilize certain construction devices or activities.

For after-hours construction, section 24-221 of the Noise Code authorizes the Commissioner to grant an approval for an alternative noise mitigation plan if the alternative noise mitigation strategies, methods, procedures or equipment proposed are consistent with the purposes and policies of the Noise Code. The amendment requires the use of noise monitoring devices as part of such a plan in order to help regulate construction noise.

Specifically, this amendment requires the use of noise monitoring devices at construction sites of 200,000 or more square feet that are located within 50 feet of a residential receptor and that will have ongoing after-hours construction for 30 days or longer.

The City's 311 system received over 20,000 complaints for after-hours construction noise in 2023. This rule requires the party responsible for a construction site to perform noise monitoring of the site. The data collected will identify any times when the sound levels exceeded those allowed by the Noise Code and the Alternative Noise Mitigation Plan (ANMP). This data will inform whether additional mitigation strategies are needed, or whether the hours that the work is permitted should be reduced or changed. Monitoring will also enable DEP to better advise the responsible party about what needs to be done to stay within prescribed noise levels. Appropriate noise attenuation is expected to reduce noise complaints.

The rule is authorized by section 1043 of the Charter of the City of New York as well as sections 24-204, 24-219 and 24-221, of the Administrative Code of the City of New York.

The text of the rule follows. New matter is underlined.

Section 1. Subdivision o of section 28-101 of chapter 28 of Title 15 of the Rules of the City of New York is relettered as subdivision s, and new subdivisions o, p, q and r are added, to read as follows:

o. Noise Monitoring at Construction Sites

1. When a new building construction project requires an Alternative Noise Mitigation Plan (ANMP) pursuant to Section 24-221, the duration of that ANMP is for 30 days (consecutive or non-consecutive) or longer. The building's gross floor area, as defined in section 202 of the Building Code, is 200,000 square feet or more, and the work site is within 50 feet of a residential receptor; at least one noise monitoring device must be placed facing the nearest sensitive receptors, as defined in 15 RCNY § 28-101(i), or the nearest residential receptor, whichever is closer. The application for the ANMP shall include a map identifying the sensitive and residential receptors within a 75 foot radius of the site that are shown on the Department of City Planning's ZoLa Map, which can be accessed at ZoLa | NYC's Zoning & Land Use Map¹, and the map shall show the proposed location of the noise monitoring device(s). The ANMP application shall also provide the number and locations of monitoring devices, and the responsible party's name and contact information.

2. The noise monitoring device(s) must be installed on the construction site and collect data for the duration of the project, until the construction activities taking place at the site are limited to minimal noise impact construction activities, as set forth in 15 RCNY § 30-102, and interior renovation work, as defined in 15 RCNY § 28-110.

3. Readings must be measured in A-scale and must be taken 24 hours a day for the duration of the project. The responsible party must transmit the data collected by the monitoring device(s) to DEP via the designated public API endpoint using the required API payload specifications. The data provided must include the location of the

¹ <https://zola.planning.nyc.gov/about#9.72/40.7125/-73.733>.

monitoring device, whether indicated by GPS coordinates or by an address entered manually; the recorded decibel level in A scale; the date and time of the reading; and the Lmax as defined in section 24-203 of the Noise Code, across a 5 minute sampling interval for the duration of the project. Such data must be transmitted at a minimum of once every hour for the duration of the project.

p. Noise Monitoring device installation and maintenance is required as follows:

1. Noise monitoring devices must be mounted approximately 8-10 feet off of the ground, either on a wall or on a pole. Each device must be equipped with an outdoor microphone with wind and rain protection that is at least a class 2 type microphone and conforms to IEC 61672-1. If wall-mounted, the device must be installed with the outdoor microphone at least one foot away from the nearest surface to avoid sound reflection.
2. The windscreens on each monitoring device must be checked at least once a month and replaced if there is any damage to the foam surface or other defect.
3. Noise monitoring devices can be powered via an external source or a rechargeable solar platform.

q. Subdivisions o and p of this section do not apply to:

1. the construction of a building in which all of the dwelling units will be affordable housing units as defined in section 26-2201 of the Administrative Code; or
2. emergency work as defined in section 24-223(e)(1) of the Administrative Code.

r. DEP may maintain an "Approved Devices" list in order to facilitate compliance with this rule. In order for a noise monitoring device to be added to the list, the device must satisfy the criteria set forth in subdivision o of this section. A device may be removed from the Approved Devices list at any time if the department determines that it does not meet such criteria. The Approved Devices list shall be posted on the department's website.

§ 2. This rule takes effect 120 days after publication in the City Record.

