

**DEPARTMENT OF ENVIRONMENTAL PROTECTION
NOTICE OF ADOPTION OF RULES CONCERNING
MINIMAL NOISE IMPACT CONSTRUCTION ACTIVITIES**

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED IN THE Department of Environmental Protection by section 1043 of the New York City Charter and Section 24-223(e) (4) of the Administrative Code of the City of New York, and after a duly advertised public hearing on July 31, 2007, after first publication in the *City Record* on June 20, 2007, that the Department of Environmental Protection has promulgated rules concerning construction activities with minimal noise impact.

Statement of Basis and Purpose

On December 29th, 2005, Mayor Bloomberg signed Local Law 113 for the year 2005. 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. The law also mandated, in section 24-223(e)(4) of the Administrative Code, the adoption of rules setting forth a list of construction activities with minimal noise impact and specific noise mitigation measures applicable to such activities. Pursuant to that section, these rules set forth such a list and prescribe the methods and procedures that shall be used whenever any one or more of the construction activities with minimal noise impact are employed or performed.

The rules are authorized by section 1043 of the Charter of the City of New York as well as section 24-223(e) (4) of the Administrative Code of the City of New York.

The text of the rules follow. New matter is underlined.

Title 15 of the Rules of the City of New York is amended by adding a new Chapter 30 to read as follows:

Chapter 30

Minimal Noise Impact Construction Activities

§ 30-101 Definitions

§ 30-102 Minimal Noise Impact Construction Activities

§ 30-103 Noise Complaint Procedure

§ 30-104 Undue Hardship

§ 30-101 Definitions

- (a) “DEP” shall mean the New York City Department of Environmental Preservation.
- (b) “Power Tools” shall mean all tools other than those powered solely by the person using them, including pneumatic tools.
- (c) “Responsible Party” shall mean, with respect to any activity regulated or covered by this chapter, the owner of the premises on or where such activity occurs, and any agent of the owner engaged in such activity or any participant in such activity, including contractors and subcontractors. Any agency of the City of New York may also be a responsible party.

§ 30-102 Minimal Noise Impact Construction Activities

- (a) Pursuant to §24-223(e) (4) of the New York City Administrative Code, the activities listed in this section shall constitute the list of construction activities with minimal noise impact and the mitigation measures applicable to such activities. The activities listed herein are not intended to impede or supersede the authority for Department of Buildings and Department of Transportation authorization that otherwise exists in the New York City Administrative Code.
- (b) For the purpose of this chapter, the use of power tools within twenty-five feet of a legal residential unit within the building or abutting location is prohibited.
- (c) The following interior construction activities within a structure before window placement are classified as creating a minimal noise impact:
 - 1. Taping of dry wall without the use of power tools.
 - 2. Paint application without power tools and without removal of existing material from the surface.

3. Caulking, without removal of existing material from the surface and without the use of power tools.
4. Interior plastering or spackling without removal of existing material from the surface.
5. Carpeting without the use of power tools.
6. Flash patching walls and floors without removal of existing material from the surface and without the use of power tools for the J3 occupancy group only.
7. Gluing interior moldings without the use of power tools.
8. Landscaping within the premise property line and without power tools and as further restricted pursuant to §24-242 of the New York City Administrative Code.
9. Interior cleanup without power tools and without removing attached surface and wall material.

(d) The following exterior construction activities are classified as creating a minimal noise impact before window placement:

1. Installation of roofing membrane without the use of power tools; and
2. Insulation of non-structural and non-demolition activities without the use of power tools.

(e) Interior activities within a structure, after window placement, in new vacant and existing vacant buildings, are classified as creating a minimal noise impact so long as the following conditions are met:

1. All windows and doors shall be tightly sealed; and
2. Any openings to the outdoors that allow the external emission of noise are prohibited; and
3. Such work entails only non-structural and non-demolition construction activities as those activities are defined by the Department of Buildings or the Department of Transportation, as applicable.

(f) Interior construction activities within a structure, after window placement, in non-vacant buildings, are classified as creating a minimal noise impact so long as the following conditions are met:

1. Windows and doors shall be tightly sealed and;
 2. Any openings to the outdoors that allow the external emission of noise are prohibited; and
 3. Such work entails only non-structural and non-demolition construction activities as those activities are defined by applicable authorizing agencies; and
 4. Such activities take place where the floors directly below and above the floor are unoccupied; and
 5. Notice has been given, to the maximum extent possible, to all residents regarding the time, place and nature of the construction activities.
- (g) All work performed pursuant to this section where power tools are permitted can only be performed when the responsible party, acting in good faith, selects and uses the quietest tools reasonably available for such work

§ 30-103 Noise Complaint Procedure

If DEP receives noise complaints, determined to be valid after inspection, regarding any construction activities performed pursuant to this section, DEP, after consultation with the responsible party, can require said party to make modifications to the construction activities or seek from the responsible party certain noise mitigation methods, including but not limited to, changing of truck routes, providing mitigation barriers, using different devices, or other mitigation techniques that shall be employed at the site so that said activities can continue after hours. The failure to comply with the modifications required by DEP may result in DEP issuing noise-related violations pursuant to this chapter and/or requesting that any City permits be suspended, revoked or denied renewal. Responsible parties shall be on notice that section 24-223(d) of the New York City Administrative Code is not applicable to the activities listed in this chapter.

§ 30-104 Undue Hardship

After complying with the procedures outlined in §24-223(e)(5) of the New York City Administrative Code, responsible parties may seek authorization from the Department of Buildings or the Department of Transportation for after hours construction work.