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2012 Technical Manual  
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## LIST OF FACILITIES, ACTIVITIES, OR CONDITIONS REQUIRING ASSESSMENT

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1. A facility, on or adjacent to a tax lot, which generates (including small quantity generators), stores, treats, or disposes of hazardous waste, as defined by RCRA and regulated by EPA and/or DEC.
2. A facility, on or adjacent to a tax lot, which manufactures, produces, prepares, compounds, processes uses, repackages or disposes of hazardous chemicals, as defined under New York City's Community Right-to-Know Law, N.Y.C. Admin. Code tit. 24, Ch. 7 (1992).
3. A facility, on or adjacent to a tax lot, which is included on the following list:
  - Adhesives and sealants manufacture
  - Advertising displays manufacture
  - Agricultural machinery manufacture (including repairs)
  - Aluminum manufacture or aluminum produces manufacture
  - Aircraft manufacture (including parts)
  - Airports Appliance (electrical) manufacture
  - Art goods manufacturer
  - Asphalt or asphalt products manufacture
  - Athletic equipment manufacture
  - Automobile and other laundries
  - Automobile manufacture
  - Automobile rental establishments
  - Automobile wrecking establishments
  - Automobile service stations
  - Battery manufacture
  - Bicycle manufacture
  - Blacksmith shops
  - Boat repair
  - Boat fuel sales
  - Boat storage
  - Business machine manufacture
  - Camera manufacture
  - Canvas or canvas products manufacture
  - Carpet cleaning establishments
  - Carpet manufacture
  - Cement manufacture
  - Ceramic products manufacture
  - Charcoal manufacture
  - Chemical compounding or packaging
  - Chemical manufacture
  - Cleaning or cleaning and dyeing establishments
  - Clock manufacture
  - Clothing manufacture
  - Coal products manufacture
  - Coal sales or storage
  - Coke products manufacture
  - Coil coating
  - College, university, trade school laboratories
  - Construction machinery manufacture
  - Copper forming or copper products manufacture
  - Cosmetics or toiletries manufacture
  - Dental instruments manufacture
  - Dental laboratories
  - Disinfectant manufacture
  - Drafting instruments manufacture
  - Dry cleaning establishments
  - Dumps
  - Electric power or steam generating plants
  - Electric power substations
  - Electric and electronic components manufacture
  - Electric appliance manufacture

## HAZARDOUS MATERIALS APPENDIX

- Electric supplies manufacture
- Electroplating or stereotyping
- Engraving or photo-engraving
- Exterminators
- Explosives manufacture
- Felt products manufacture
- Felt products bulk processing, washing or curing
- Fertilizer manufacture
- Filling stations
- Film manufacture
- Fire stations
- Foundries ferrous or non-ferrous
- Fuel sales
- Fungicides manufacture
- Fur tanning, curing, finishing or dyeing
- Furniture manufacture
- Garbage incineration, storage or reduction
- Gas manufacture, storage
- Gasoline service stations
- Generating plants, electric or steam
- Glass manufacture
- Glue manufacture
- Golf courses
- Graphite or graphite products manufacture
- Gum and wood chemicals manufacture or processing
- Hair products manufacture
- Hardware manufacture
- Heliports
- Incineration or garbage reduction
- Ink or ink ribbon manufacture
- Insecticides manufacture
- Inorganic chemicals manufacture
- Iron and steel manufacture
- Jewelry manufacture
- Junk yards
- Laboratories, medical, dental, research, experimental
- Leather tanning, curing, finishing or dyeing
- Linoleum manufacture
- Luggage manufacture
- Lumber processing
- Machine shops including tool, die, or pattern making
- Machine tools manufacture
- Machinery manufacture or repair
- Mechanical products manufacture
- Medical appliance manufacture
- Medical instruments manufacture
- Medical laboratories
- Metals manufacture including alloys or foil
- Metal casting or foundry products
- Metal finishing, plating, grinding, polishing, cleaning, rust-proofing, heat treatment
- Metal ores reduction or refining
- Metal product treatment or processing
- Metal reduction, refining, smelting or alloying
- Metal treatment or processing
- Mining machinery manufacture
- Mirror silvering shops
- Motorcycle manufacturer
- Motor freight stations musical instruments manufacture
- Newspaper publishing
- Non-ferrous metals manufacture
- Office equipment or machinery repair shops
- Oil, public utility stations for metering or regulating oil sales
- Oil storage
- Optical equipment manufacture
- Organic chemicals manufacture
- Orthopedic appliance manufacture

## HAZARDOUS MATERIALS APPENDIX

- Ore mining
- Paint and ink manufacture
- Paper and pulp mills
- Paper products manufacture
- Pesticides manufacture
- Petroleum or petroleum products refining
- Petroleum or petroleum products storage and handling
- Pharmaceutical products manufacture or preparation
- Photographic equipment and supplies manufacture
- Plastics and synthetic products manufacture and processing
- Plastics raw manufacture
- Plumbing equipment manufacture
- Porcelain enameling
- Precision instruments manufacture
- Printing and publishing
- Pumping stations, sewage
- Radioactive waste disposal services
- Railroad equipment manufacture
- Railroad rights-of-ways, substations
- Railroad freight terminals, yards or appurtenances
- Refrigerating plants
- Rubber processing of manufacture
- Rubber products manufacture
- Sewage disposal plants, pumping stations
- Ship or boat building repair yards
- Shipping waterfront
- Shoes manufacture
- Sign painting shops
- Silver-plating shops
- Silverware manufacture, plate or sterling
- Slag piles
- Soap and detergent manufacture
- Soldering shops
- Solvent extraction
- Steam electric power plants
- Steel products manufacture
- Tar products manufacture
- Textiles bleaching, products manufacture or dyeing
- Textile mills
- Thermometer manufacture or assembly
- Tile manufacture
- Timber products manufacture
- Tool or hardware manufacture
- Toys manufacture
- Trailer manufacture
- Transit substations
- Truck manufacture
- Trucking terminal or motor freight stations
- Turpentine manufacture
- Varnish manufacture
- Vehicles manufacture
- Venetian blind manufacture
- Welding shops
- Wood distillation

## DOCUMENTS DESCRIBING NEW YORK STATE AND FEDERAL ANALYTICAL METHODOLOGY

The NYSDEC Analytical Services Protocol (ASP) was last updated in July 2005. The reports documenting the latest version of ASP can be obtained from NYSDEC Division of Water Assessment and Management within the Division of Water. (518) 402-8156 or <http://www.dec.ny.gov/chemical/23850.html>.

The NYSDEC Division of Environmental Remediation provides guidance on sampling, analysis and quality assurance in its Draft DER-10 Technical Guidance for Site Investigation and Remediation in Chapter 2. The guidance can be obtained from the NYSDEC Division of Environmental Remediation. <http://www.dec.ny.gov/regulations/2393.html>.

Guidance on soil cleanup objectives are provided by the NYSDEC in Part 375 Remedial Program Soil Cleanup Objectives. The Soil Cleanup Object guidance can be found at the following web page: <http://www.dec.ny.gov/regs/15507.html>.

Guidance on ambient water quality standards are provided by the NYSDEC in Technical & Operational Guidance Series (TOGS). The TOGS guidance can be found at the following web page: <http://www.dec.ny.gov/regulations/2652.html>.

Guidance on soil vapor and vapor intrusion is provided New York State Department of Health (NYSDOH), Center for Environmental Health, Bureau of Environmental Exposure Investigation. "Final Guidance for Evaluating Soil Vapor Intrusion in the State of New York." October 2006. The guidance can be found at the following webpage: [http://www.health.state.ny.us/environmental/indoors/vapor\\_intrusion/](http://www.health.state.ny.us/environmental/indoors/vapor_intrusion/)

The analytical methods of solid matrices are published in US EPA SW-846: Test Methods for Evaluating Solid Waste: Physical/Chemical Methods, 3rd edition, 4 volumes. Information for obtaining official printed copy of SW-846 Manual, to obtain CD-ROM, to view the manual and its updates are available at <http://www.epa.gov/epawaste/hazard/testmethods/sw846/online/index.htm>.

Wastewater and drinking water analytical methods are provided by the US EPA Office of Water. Regulations and guidance are available from: <http://www.epa.gov/safewater/regs.html> and <http://www.epa.gov/safewater/methods/analyticalmethods.html>.

The analytical methods for collection and analysis of environmental vapor samples are published in US EPA Center for Environmental Research Information, Office of Research and Development. "Compendium Method TO-15: Determination of Volatile Organic Compounds (VOCs) In Air Collected In Specially-Prepared Canisters And Analyzed By Gas Chromatography/Mass Spectrometry (GC/MS)." January 1999. The guidance can be found at the following webpage: [http://www.epa.gov/ttnamti1/files/ambient/airtox/to\\_15r.pdf](http://www.epa.gov/ttnamti1/files/ambient/airtox/to_15r.pdf).

Guidance Documents for the Preparation of a Quality Assurance Project Plan (QAPP) is available from US EPA's Quality System for Environmental Data and Technology. Guidance is available at <http://www.epa.gov/quality/qapps.html>.

**Examples of the Required Level of Effort for Phase II ESAs at Typical Sites**

Recognized Environmental Concerns	Contaminant of Concern	Geophysical Survey (GPR) recommended	Waste & Surface Samples	Soil Sampling			Groundwater Sampling			
				Preferred Method	# of Probes	Suggested Depths	Groundwater Sampling	Preferred Method	Comments	Estimated Range of Phase II Costs
Single UST	Product Stored	Yes	Soils/Sediments near line and remote or direct fill port	Soil Probes	2 per tank (minimum of)	Into water table or 10 ft below tank bottom	Yes – variable depths	Temporary well points-upgradient and downgradient	1	Low
Multiple USTs	Product Stored	Yes	Soils/Sediments near lines and remote or direct fill port(s)	Soil Probes	2 per tank or tank cluster (minimum of)	Into water table or 10 ft below tank bottom	Yes-variable depths	Temporary well points-upgradient and downgradient	1	Medium
Former Drum Storage Area	Product Stored	Yes	Surface soils, stained soils	Soil Probes	1 per ten drums stored or 1 per 0.25 acre	3 depths ( 1 ft bgs, 5 ft bgs, and water table)	Yes-variable depths	Temporary well points	1.2	Medium
Area of Suspect Fill Material	Various	Yes – If Phase I shows UST/AST history	Surface soils/waste piles	Soil Probes	1 per 0.25 acre	2 depths (surface and 5 feet into native or natural material including)	Yes-variable depths	Temporary well points for small sites, wells for large sites	3	Medium depending on size of area
Drywells/ Leachpools	Products Used on Site	Yes – for on-site drains/sumps	Bottom sediments	Soil Probes	1 per suspect location	3 depths ( bottom, 5 feet below bottom & water table	Yes	Temporary well points adjacent to leachpool/drywell		Low
Former Drycleaners	VOC's	No	Surface soils, stained soils	Soils Probes or borings	As above per suspect location	As above per condition	Yes	Temporary well point		Medium to High depending on site conditions
Former Gasoline Stations	VOC's, SVOC's, metals	Yes	Surface soils, stained soils	Soil Probes	As above per suspect location	As above per condition	Yes-variable depths	Temporary well point - upgradient and downgradient	1.2, 4	Medium to High depending on site conditions
Junk Yard/ Automobile Salvage	VOC's, SVOC's, metals	Yes	Surface soils, stained soils	Soil Probes	1 per suspect location, areas of stained soils	Surface soils proposed excavation depths	Yes-variable depths	Temporary well point- upgradient and downgradient	4	Medium depending on size of area
Metal Plating/ Finishing	Metals, cyanide, VOC's, SVOC's	Yes	Surface soils, stained soils, ACM	Soil Probes/ borings	1 per suspect location	Surface soils proposed excavation depths, watertable	Yes-variable depths	Minimum of one upgradient and two downgradient temporary well points	4	High
Small Industrial Sites (1 to 2 acres)	Various-Products Used	Yes	Surface soils, stained soils, ACM	Soil Probes/ borings	1 per suspect location	Surface soils proposed excavation depths, watertable	Yes	Additional temporary well points at potential One upgradient and two downgradient well points		High
Large Industrial Sites (2+ acres)	Various-Products Used	Yes	Surface soils, stained soils, ACM	Soil Probes & borings	1 per suspect location	Surface soils proposed excavation depths, watertable	Yes	Minimum of one upgradient and two downgradient temporary well points Additional well points at potential recommended	4	Very High
<b>Comments:</b> Monitoring Wells needed if free products is found Nearby catchbasins and drywells should also be examined Fill materials should be adequately characterized for disposal Fuel oil, waste oil tanks and any drywells should be investigated				<b>Key to Estimated Phase II Costs:</b> Low- \$1,000 to \$15,000 Medium-\$15,000 to \$30,000 High-\$30,000 to \$50,000 Very High- \$50,000 plus Note this is only a guide to potential costs. If significant contamination is found the costs to determine the nature and extent of the contamination rise dramatically.						

## TITLE 15, CHAPTER 24 OF THE RULES OF THE CITY OF NEW YORK

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### §24-01 AUTHORITY

These rules are promulgated pursuant to §1403 of the Charter of the City of New York and in accordance with §11-15(c), the Zoning Resolution of the City of New York.

### §24-02 APPLICABILITY

These rules shall apply in connection with the environmental review pursuant to City Environmental Quality Review (CEQR) of any Zoning Map Amendment subject to review and approval pursuant to §§197-c and 197-d of the New York City Charter where one or more tax lots in the area subject to the Zoning Map Amendment and not under the control or ownership of the person seeking such Zoning Map Amendment, have been identified by the Lead Agency as likely to be developed as a direct consequence of the action. These rules shall not apply to the environmental review by the City of a Zoning Map Amendment as it affects property under the control or ownership of such person, which shall be conducted in accordance with CEQR requirements governing the review of potential hazardous material contamination or noise or air quality impacts for such property.

### §24-03 DEFINITIONS

The following definitions shall apply to this rule, §24-01 et seq., unless the text specifically indicates otherwise.

**CEQR.** "CEQR" shall mean the City Environmental Quality Review, Chapter 5 of Title 62 of the Rules of the City of New York.

**CEQR TECHNICAL MANUAL.** "CEQR Technical Manual" shall mean the City Environmental Quality Review Technical Manual issued by OEC in December 1993 together with any updates, supplements and revisions thereto.

**CITY.** "City" shall mean the City of New York.

**CONTAMINATION.** "Contamination," "Contaminated," or "to Contaminate" shall mean the effect(s) on a tax lot(s) from hazardous materials, hazardous substances, hazardous wastes and/or petroleum.

**DAY.** "Day" shall mean a business day.

**DCP.** "DCP" shall mean the New York City Department of City Planning.

**DEC.** "DEC" shall mean the New York State Department of Environmental Conservation.

**DEPARTMENT.** "Department" shall mean the New York City Department of Environmental Protection.

**DEVELOPMENT.** "Development", or "Develop" shall mean a change of use and/or any work on a tax lot(s) that involves soil disturbance, including, but not limited to demolition, grading, or excavation related to the construction, enlargement, and/or extension of a new or existing structure(s) on a tax lot(s).

**DEVELOPMENT SITE.** "Development Site" shall mean a tax lot(s) located within the area of a proposed Zoning Map Amendment which is not under the control or ownership of the applicant for such Zoning Map Amendment and which the Lead Agency has identified pursuant to CEQR as likely to be developed as a direct consequence of the Zoning Map Amendment.

**DOB.** "DOB" shall mean the New York City Department of Buildings.

**(E) DESIGNATION.** "(E) Designation" shall mean the designation of an "E" on the Zoning Map pursuant to §11-15 of the Zoning Resolution of the City of New York.

**EPA.** "EPA" shall mean the United States Environmental Protection Agency.

**HAZARDOUS MATERIAL.** "Hazardous Material" shall mean any material, substance, chemical, element, compound, mixture, solution, product, solid, gas, liquid, waste, byproduct, pollutant, or contaminant which when released into the



environment may present a substantial danger to the public health or welfare or the environment, including, but not limited to those classified or regulated as "hazardous" or "toxic" pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C.A. §9601 (1995) et seq., the Resource Conservation and Recovery Act (RCRA) 42 U.S.C.A. §6901 (1995) et seq., the Clean Water Act (CWA), 33 U.S.C.A. §1251 (1986) et seq., the Clean Air Act (CAA) 42 U.S.C.A. §7401 (1995) et seq., Toxic Substances Control Act (TSCA), 15 U.S.C.A. §2601 (1998) et seq., Transportation of Hazardous Materials Act, 49 U.S.C.A. §5101 (1997) et seq., the Hazardous Substances Emergency Response Regulations, 15 RCNY Chap. 11, and/or the List of Hazardous Substances, 6 NYCRR Part 597.

**HAZARDOUS WASTE.** "Hazardous Waste" shall mean any waste, solid waste or combination of waste and solid waste listed or regulated as a hazardous waste or characteristic hazardous waste pursuant to RCRA, 42 U.S.C.A. §6901 (1995), et seq. and/or Identification and Listing of Hazardous Wastes, 6 NYCRR Part 371, et seq.

**LEAD AGENCY.** "Lead Agency" shall mean the agency responsible under CEQR for the conduct of environmental review in connection with a Zoning Map Amendment.

**NOTICE OF SATISFACTION.** "Notice of Satisfaction" shall mean a written notice issued by the Department pursuant to §24-07 of this rule documenting completion of all applicable (E) Designation requirements under this rule.

**OEC.** "OEC" shall mean the New York City Mayor's Office of Environmental Coordination.

**OWNER.** "Owner" shall mean the person, including his or her successors or assigns, who is the recorded title holder of a tax lot(s).

**PARTIES-IN-INTEREST.** "Parties-in-Interest" shall mean any person with an enforceable property interest in a tax lot(s).

**PE COMPLETION CONFIRMATION.** "PE Completion Confirmation" shall mean a written notice of completion of a Department approved remediation plan from a Professional Engineer, in a form acceptable to the Department.

**PERSON.** "Person" shall mean any individual, trust, firm, corporation, joint stock company, association, partnership, consortium, joint venture, commercial entity or governmental entity.

**PETROLEUM.** "Petroleum" shall mean oil or petroleum of any kind and in any form, including, but not limited to oil, petroleum, fuel oil, oil sludge, oil refuse, oil mixed with other waste, crude oil, gasoline and kerosene.

**PROJECT SITE.** "Project Site" shall mean a tax lot(s) that is under the control or ownership of the applicant for the removal of an (E) Designation from the Zoning Map and is subject to proposed development by such applicant.

**RESTRICTIVE DECLARATION.** "Restrictive Declaration" shall mean an instrument recorded against a tax lot(s) in the county office of land records and executed by all Parties-in-Interest to such tax lot(s), setting forth restrictions and enforcement provisions with respect to implementation of a Remediation Plan pursuant to §24-07 of these rules.

**TAX LOT.** "Tax Lot" shall mean a tax lot identified by parcel number on the official tax maps of the City of New York.

**ZONING MAP.** "Zoning Map" shall have the meaning set forth in §12-10 of the Zoning Resolution of the City of New York.

**ZONING MAP AMENDMENT.** "Zoning Map Amendment" shall mean a proposed amendment to the Zoning Map subject to review and approval pursuant to §§197-c and 197-d of the New York City Charter.

**§24-04 PRELIMINARY SCREENING**

a. The Lead Agency may prepare or may cause to be prepared a preliminary screening assessment consisting of visual or historical documentation of any of the following past or current uses at a Development Site, and/or other tax lot(s) that might have affected or be affecting a Development Site.

- (1) Incinerators;
- (2) Underground and/or above ground storage tanks;
- (3) Active solid waste landfills;
- (4) Permitted hazardous waste management facilities;



- (5) Inactive hazardous waste facilities;
  - (6) Suspected hazardous waste sites;
  - (7) Hazardous substance spill locations;
  - (8) Areas known to contain fill material;
  - (9) Petroleum spill locations;
  - (10) Any past use identified in Appendix A.
- b. Based on the visual or historical documentation prepared under subsection (a), the Lead Agency may determine that an (E) Designation should be placed on the Zoning Map for the tax lot(s) identified under subsection (a) in connection with adoption of the Zoning Map Amendment. In making such determination, the Lead Agency may consult with the Department.
- c. A Phase I Environmental Site Assessment pursuant to §24-05 shall not be required prior to placement of an (E) Designation on the Zoning Map pursuant to this Section.

**§24-05 PHASE I ENVIRONMENTAL SITE ASSESSMENT**

- d. For any Development Site that has not received an (E) Designation following review of visual or historical documentation pursuant to §24-04, the Lead Agency shall conduct, or shall cause to be conducted, a Phase I Environmental Site Assessment (Phase I ESA).
- e. The Phase I ESA may be limited to:
- (1) Historical land use review;
  - (2) Regulatory agency list review; and
  - (3) Site and surrounding area reconnaissance visit.
- f. A report entitled "Phase I ESA Report" and any supplements thereto, summarizing the Phase I ESA shall be prepared by or for the Lead Agency and a copy of such report shall be provided to the Department. The Phase I ESA Report shall include any information discovered in the Phase I ESA. The Department may provide the Lead Agency with any additional information it deems relevant together with any comments regarding the contents of the Phase I ESA and any supplements thereto within twenty (20) days of receipt of the Phase I ESA Report.
- g. The Lead Agency shall respond to the Department's comments and any additional information either by placing or causing DCP to place an (E) on the Zoning Map for the relevant tax lot(s) or by issuing a Final Phase I ESA Report that addresses any such comments and/or additional information. The Lead Agency shall inform the Department of such determination.

**§24-06 PHASE II ENVIRONMENTAL SITE ASSESSMENT**

- h. Before an applicant may seek any building permit for development from DOB with respect to a tax lot(s) subject to an (E) Designation, the applicant shall:
- (1) Complete a Phase II Environmental Site Assessment (Phase II ESA) in accordance with this section to determine the level and extent of contamination at the proposed Project Site; or
  - (2) Submit to the Department historical, regulatory or other evidence that a Phase II ESA is not required for the proposed Project Site, which the Department shall review in accordance with §24-09.
- i. The applicant shall prepare and submit to the Department a Work Plan to undertake the Phase II ESA, prepared in accordance with the CEQR Technical Manual. Such Work Plan shall also include:



- (1) A detailed description of the proposed Project Site;
  - (2) A detailed description of the proposed development at the Project Site;
  - (3) A description of the projected time frame for development at the Project Site;
  - (4) A description of the proposed use of the Project Site;
  - (5) Copies of reports of any previous investigations related to the presence or suspected presence of contamination on the Project Site.
- j. Where applicable and at a minimum, the following procedures or requirements shall be implemented in the Phase II ESA for all sampling techniques and methods:
- (1) All samples shall be analyzed by a laboratory accredited by the New York State Department of Health Environmental Laboratory Approval Program (ELAP);
  - (2) Samples from sites on the DEC Registry of Inactive Hazardous Waste Sites shall use a laboratory certified under EPA's Contract Laboratory Program or DEC's Analytical Services Program (ASP);
  - (3) EPA SW-846, 40 C.F.R. 261, which delineates the EPA Target Compound List/Target Analyte List, or an EPA approved successor method shall be used;
  - (4) Toxicity Characteristic Leaching Procedure, Method 1311, as delineated in EPA SW-846, 40 C.F.R. 261, or an EPA approved successor method shall be used.
- k. The Department will review the Work Plan in accordance with §24-09.
- l. The applicant shall undertake the Work Plan as approved by the Department.
- m. Upon completion of the Phase II ESA, a report entitled "Phase II ESA Report" summarizing the Phase II ESA shall be submitted to the Department. The Phase II ESA Report shall include:
- (1) A summary of the findings of all the studies and/or investigations performed;
  - (2) A description of all assessment reconnaissance techniques in accordance with applicable Federal and State laws and Department guidelines;
  - (3) Sampling Results, which shall be presented in summary tables and compared to all relevant State and Federal guidance values, standards and regulations;
  - (4) Maps of the tax lots (1"=50') including but not limited to: USGS quadrangle map, name of quad and North arrow, on which the following is clearly indicated:
    - (i) All physical site characteristics with location of all soil borings, soil gas points, groundwater monitoring wells, USTs, vent lines, fill lines, and other pertinent information;
    - (ii) Where relevant based on the conditions of the Project Site, a depiction of groundwater elevation and flow direction;
    - (iii) Where relevant based on the conditions of the Project Site, a soil-gas concentration map with contours; and
    - (iv) All identified sources of releases and the extent and concentrations of contaminant plumes in all media.
  - (5) Appendices, which shall include:
    - (i) All raw data,
    - (ii) Laboratory methods,



- (iii) Chain-of-custody forms,
  - (iv) QA/QC plan,
  - (v) Field notes,
  - (vi) Soil boring/monitoring well logs,
  - (vii) As-built well construction details,
  - (viii) Modeling programs used,
  - (ix) Calculations and formulas, and
  - (x) Physical/chemical properties of chemical compounds of concern.
- (6) An assessment, based on findings of the Phase II ESA, of whether or not a Remediation Plan is required for the Project Site.
- n. The applicant may submit a Remediation Plan with the Phase II ESA Report.
- o. The Department will review the Phase II ESA Report in accordance with §24-09.
- p. Upon completion of its review of the Phase II ESA Report, the Department will determine whether a Remediation Plan is required.
- (1) If the Department determines that a Remediation Plan is not required, the Department will issue a Notice of Satisfaction letter to DOB;
  - (2) If a Remediation Plan has been submitted, the Department will review it in accordance with §§24-07 and 24-09;
  - (3) If the Department determines that a Remediation Plan is required and a Remediation Plan has not already been submitted by the applicant, the applicant shall submit a Remediation Plan for review by the Department in accordance with §§24-07 and 24-09.

#### §24-07 REMEDIATION PLAN

- q. Preparation of the Remediation Plan.
- (1) Before an applicant may seek any building permits from DOB with respect to a tax lot(s) subject to an (E) Designation, where the Department has determined that Remediation Plan is required pursuant to §24-06, the applicant shall prepare a Remediation Plan. The Remediation Plan shall address all aspects of contamination, actual and/or potential, identified in the Phase II ESA Report, including, but not limited to:
    - (i) Elevated levels of contaminants pursuant to applicable law and/or DEC guidelines;
    - (ii) The sources of contamination;
    - (iii) The exposure pathways for contamination;
    - (iv) Environmental exposure to contamination;
    - (v) Human health exposure to contamination;
    - (vi) Proposed cleanup criteria;
    - (vii) Health and Safety of construction workers on the tax lot(s); and
    - (viii) Health and Safety of the public and future users of the tax lot(s) within the constraints of technical feasibility, remedial technology, and monitoring requirements.



- (2) In preparing a Remediation Plan, the applicant shall consider all applicable remediation techniques, including, but not limited to, those set forth in the CEQR Technical Manual. The Remediation Plan shall include a list of all techniques considered and an explanation for the acceptance or rejection of those techniques.
- (3) The Department shall review the Remediation Plan in accordance with §24-09.
- (4) In conjunction with its review of the Remediation Plan, the Department may require execution of a Restrictive Declaration by the owner, or the owner's designee approved by the Department, for the tax lot(s) subject to the (E) Designation.
  - (i) The Restrictive Declaration shall bind the owner, or the owner's designee approved by the Department, to performance of the Remediation Plan in accordance with its terms, and shall include restrictions upon development of the subject tax lot(s);
  - (ii) In accordance with the Remediation Plan, the Restrictive Declaration may require monitoring or other measures that extend beyond the issuance of a Temporary Certificate of Occupancy or a Certificate of Occupancy for the Project Site;
  - (iii) The Restrictive Declaration shall include a procedure for Department review of satisfaction of any requirements contained in the Restrictive Declaration pursuant to this subsection and release therefrom; and
  - (iv) The Restrictive Declaration shall be executed by all Parties-in-Interest to such tax lot(s) and shall be recorded against such tax lot(s) in the applicable county office of land records.

r. Implementation of the Remediation Plan.

- (1) Prior to implementation of the Remediation Plan, the applicant shall:
  - (i) Provide the Department with ten (10) days written notice of such planned implementation; and
  - (ii) A copy of the recorded Restrictive Declaration, if such was required by the Department.
- (2) After the Department has reviewed and approved the Remediation Plan in accordance with §24-09 and a Restrictive Declaration, if required by the Department, has been completed in accordance with paragraph (4) of subsection a. of this section, the Department may recommend to DOB issuance of such building permit or permits as are necessary to undertake the approved Remediation. In no event, however, shall the applicant seek or accept from DOB a Temporary Certificate of Occupancy or a Certificate of Occupancy until the Department issues a Notice of Satisfaction pursuant to paragraph (2) of subsection (c) of this section.
- (3) If implementation of a Department-approved Remediation Plan does not commence within one year of the date of the Department's approval thereof, such approval shall expire.
  - (i) The applicant may request in writing to extend a Department approval for a Remediation Plan not less than thirty (30) days prior to the expiration of such Department approval.
    - (a) Any written request for an extension shall explain the circumstances for the delay in implementation of the Remediation Plan and document that the Remediation Plan remains valid.



- (b) The Department shall review a written request for an extension by the applicant in accordance with §24-09.
- (ii) If an approval for a Remediation Plan expires, the Applicant shall:
  - (a) Submit a new Remediation Plan for Department review in accordance with §24-09; or
  - (b) Submit a written request for a renewed approval of the expired Remediation Plan.
    - (1) Any written request for a renewed approval shall explain the circumstances for the delay in implementation of the Remediation Plan and document that the Remediation Plan remains valid.
    - (2) The Department will review a written request for an extension by the Applicant in accordance with §24-09.
    - (3) The Department shall have the right to inspect any tax lot(s) subject to remediation pursuant to this rule with respect to the remediation, consistent with applicable health and safety regulations, and the applicant shall allow any such inspection by the Department.
- s. Completion of the Remediation Plan.
  - (1) Upon the completion of the Department-approved Remediation Plan or written confirmation of completion of a substantially equivalent remediation from New York State, the applicant shall deliver to the Department, a PE Completion Confirmation in a form satisfactory to the Department.
    - (i) Requirements for monitoring or other measures in the Remediation Plan that extend beyond the issuance of a Temporary Certificate of Occupancy or a Certificate of Occupancy for the Project Site and are included in a Restrictive Declaration in accordance with paragraph (4) of subsection a of this section, shall not preclude the issuance of a PE Completion Confirmation.
  - (2) Upon the Department's review and approval of the PE Completion Confirmation, the Department shall issue a Notice of Satisfaction to the applicant, OEC, DOB and DCP within ten (10) days.
    - (i) The Notice of Satisfaction shall specify that the environmental requirements relating to the (E) Designation have been satisfied and if applicable, a summary of any requirements for monitoring or other measures in the Remediation Plan that extend beyond the issuance of a Temporary Certificate of Occupancy or a Certificate of Occupancy for the Project Site that have been included in a Restrictive Declaration in accordance with paragraph (4) of subsection a of this section.

**§24-08 SATISFACTION OF (E) DESIGNATION REQUIREMENTS**

- t. Issuance of the Notice of Satisfaction by the Department constitutes the Department's report specifying that the environmental requirements relating to the (E) Designation have been satisfied.
- u. The owner of any tax lot(s) subject to an (E) Designation may file a copy of a Notice of Satisfaction with the Department of City Planning. Upon receipt of such Notice of Satisfaction, DCP shall indicate such satisfaction as to the affected tax lot(s) on the listing of (E) Designations appended to the Zoning Map.



- v. When DCP has received Notices of Satisfaction for all tax lot(s) specified in the CEQR declaration with respect to the placement of an (E) Designation on the Zoning Map, it shall administratively remove such (E) Designation from the Zoning Map.
- w. DCP shall notify DOB, OEC and DEP in writing of the satisfaction of (E) Designation requirements for a tax lot(s) or of the removal of an (E) Designation from a Zoning Map.

**§24-09 DEPARTMENT REVIEW AND APPROVAL PROCEDURE**

- a. At the written request of the applicant, the Department will conduct a pre-submission conference with the applicant regarding the required contents of any submission required pursuant to §§24-06 and 24-07 of this rule and the schedule for proceeding with such submission.
- b. Upon initial receipt of a submission required pursuant to this rule, the Department will review such submission and provide written comments within thirty (30) days of receipt of such initial submission.
- c. If the Department requests additional information or a revised submission, the applicant shall resubmit the submission for review.
  - 1. Revised submissions will be reviewed by the Department as expeditiously as possible;
  - 2. Upon receipt of all information requested, the Department shall issue comments in writing with respect to the submission within thirty (30) days.
- d. If the applicant disagrees with the Department's comments, the applicant shall have thirty (30) days, or such time as agreed upon by the Department and the applicant, to respond.
- e. Upon receipt and review of all required submissions, the Department will issue its determination either approving or disapproving the submission within thirty (30) days.
- f. If at any point in its review of a submission by the applicant, the Department requires more than the specified time period for the review, the Department will notify the applicant in writing of the necessity of such additional time.
- g. If at any time the Department fails to provide written comments within a time period specified under this section, or such time as agreed upon by the Department and the applicant, and fails to provide written notice of the necessity of additional time, the applicant may submit a written notification to the Department requesting that any comments be provided within thirty (30) days.

**§24-10 NOTIFICATION**

- a. Discovery of a petroleum spill or discharge on a tax lot(s) by the Department and/or the applicant must be reported in accordance with applicable Federal, State or local laws.
- b. Discovery of evidence of "reportable quantities" of hazardous materials or hazardous wastes by the Department and/or the applicant on a tax lot(s) that pose a potential or actual significant threat to public health or the environment under Federal, State or local guidelines, must be reported in accordance with applicable Federal, State or local laws.

**§24-11 LEAD AGENCY RECORDS/AGENCY CONSULTATION**

- a. The Lead Agency shall maintain a single file containing copies of all Phase I ESA Reports issued pursuant to §24-05 of this rule, together with the relevant Environmental Assessment Statement, Environmental Impact Statement, or other CEQR determinations made in connection therewith.
- b. The Department, DCP, and OEC shall meet and confer on a periodic basis concerning the implementation of this rule.