

RULES OF THE CITY OF NEW YORK
TITLE 43, CHAPTER 14, SUBCHAPTER 3
NEW YORK CITY GREEN PROPERTY CERTIFICATION PROGRAM

§ 43-1428 Purpose.

The New York City green property certification program is established to acknowledge the benefits to public health and the environment of remedial action to property in New York city performed by enrollees in the City voluntary cleanup program and in other government remediation programs that achieve equivalent property remediation.

§ 43-1429 Definitions.

For the purposes of this subchapter, the following terms have the following meanings:

a. **Agreement.** "Agreement" means (1) for the City voluntary cleanup program, the City voluntary cleanup agreement, (2) for the New York state brownfield cleanup program, an agreement between the enrollee and the New York state department of environmental conservation setting forth the enrollee's remedial obligations, or (3) for any other governmental remediation program, the agreements, stipulations, statutory requirements or regulations that govern management of such program.

b. **New York City green property certification.** "New York City green property certification" means formal recognition by the Office that a property in New York city under the City voluntary cleanup program or the New York state brownfield cleanup program, or that a property in New York city that is an equivalent remediation property, has been successfully remediated and that such remediation protects public health and the environment.

c. **Enrollee.** "Enrollee" means an enrollee in the City voluntary cleanup program, as defined in §43-1402 of this chapter, an applicant in the New York state brownfield cleanup program, pursuant to §27-1405 of the environmental conservation law, or a party who has performed an equivalent remediation of a property.

d. **Equivalent remediation property.** "Equivalent remediation property" means a property that the Office has determined to have met the requirements of §43-1430(a)(2).

e. **Office.** "Office" means the office of environmental remediation.

f. **Recipient.** "Recipient" means an Enrollee who is eligible for and has been issued New York City green property certification, as well as such enrollee's successors and assigns.

§ 43-1430 Eligibility.

a. To be eligible for New York City green property certification, a property must be located in the city of New York and (1) be admitted to the City voluntary cleanup program or the New York state brownfield cleanup program or (2) be an equivalent remediation property.

1. A property admitted to the City voluntary cleanup program or the New York state brownfield cleanup program will be eligible if the Enrollee has completed the requirements of the City voluntary cleanup agreement or the state brownfield cleanup agreement and received a notice of completion or certificate of completion from such program.

2. A property will be eligible as an equivalent remediation property if the Office determines that:

A. the property has been the subject of a governmental remediation program, including the New York state voluntary cleanup program, the New York state petroleum spills remediation program, the New York City e-designation or restrictive declaration hazardous materials program, or an equivalent remedial program;

B. the Enrollee has successfully completed the requirements of such governmental remediation program and received a notice of completion or equivalent notification of completion from the appropriate City or state office or agency;

C. for a property where residual contamination will remain after the completion of the remediation, the remedial action required pursuant to such governmental remediation program includes establishment of institutional and engineering controls for the property that are equivalent to those required pursuant to the City voluntary cleanup program, as provided in subchapter one of this chapter, including the maintenance of a site management plan to ensure compliance with institutional and engineering controls;

D. the property is in compliance with such requirements for institutional and engineering controls; and

E. the remedial action required pursuant to such governmental remediation program includes the investigation and remediation of the entire property for which a New York City green property certification is sought and addresses all media deemed appropriate by the Office, such as soil, soil vapor and groundwater, to an equivalent extent as required pursuant to the City voluntary cleanup program, as provided in subchapter one of this chapter.

3. The Office may determine that one or more sub-parcels of a property are eligible as an equivalent remediation property and that one or more other sub-parcels are not eligible as an equivalent remediation property.

b. Properties that have fulfilled the eligibility requirements for New York City green property certification pursuant to this section prior to the effective date of this section will be eligible for such certification.

§ 43-1431 Applications.

- a. No application is required for properties admitted to the City voluntary cleanup program.
- b. An application may be submitted for properties, especially those properties whose remediation is not regulated by the Office, including those that have completed the New York state brownfield cleanup program and those for which eligibility under an equivalent remediation property is sought. The Office may require information and documentation sufficient for the Office to determine whether a property is an equivalent remediation property.

§ 43-1432 Records.

- a. The Office will maintain a public record of all properties certified under the New York City green property certification program. The Office will provide confirmation of such certification to any member of the public upon request.
- b. The Office will provide a certificate and/or make available other symbols of New York City green property certification to the recipient.

§ 43-1433 Rescission and termination.

a. The Office may rescind a New York City green property certification if it determines that a certified property is no longer in compliance with the agreement, the notice of completion or equivalent record of completion, or the site management plan governing institutional and/or engineering controls established within the respective remediation program to which the property is admitted. Compliance for the purpose of this subdivision includes compliance with reporting requirements. The Office may reinstate a New York City green property certification if it determines that the recipient has cured the non-compliance.

1. If the Office seeks to rescind a New York City green property certification, it will provide notice to the recipient by certified mail specifying the basis for the Office's proposed action and facts in support of that action.
2. The recipient will have thirty days after the effective date of the notice to cure the non-compliance and submit proof of cure to the Office or to seek a hearing.
3. If the recipient does not submit proof of cure or seek a hearing within such thirty day period, the New York City green property certification will be rescinded on the thirty-first day.
4. If the Office determines that the non-compliance has been cured, the proposed rescission will be withdrawn.
5. If the Office determines that the recipient has not proven that the non-compliance has been cured, the Office will provide notice to the recipient by certified mail. The recipient will have thirty days after the effective date of the notice to seek a hearing. If the

recipient does not seek a hearing within such thirty day period, the New York City green property certification will be rescinded on the thirty-first day.

6. A hearing pursuant to paragraph two or five of this subdivision will be held before the director of the office of environmental remediation or his or her designee, or in the director's discretion, by the office of administrative trials and hearings. If the matter is referred to the office of administrative trials and hearings, the hearing officer must submit findings of fact and a recommended decision to the director. The director or his or her designee must make a final determination and notify the recipient within a reasonable period of time of such determination.

7. For purposes of this subdivision, the effective date of notice will be two business days after the Office mails such notice by certified mail.

b. The recipient of a New York City green property certification may terminate the certification upon written request to the Office.

§ 43-1434 Miscellaneous.

Certification categories. The Office may establish certification categories, including categories that recognize a cleanup for unrestricted use of the property and categories that recognize the use of sustainable methods for remediation and redevelopment of the property.