



## What you Need to do When Your New York City Development Project Receives an E-Designation

Authors: Robert Jackson, PE, Kevin Williams, AICP and Gene Bove

You worked hard and you scoured the City for a parcel of land that you could develop. You went through all the City Environmental Quality Review (CEQR) requirements and you were able to get your zoning approved and get the local community onboard. You are all set to start developing your new project but you just received an E-Designation from the New York City Office of Environmental Remediation (NYCOER). What happens now? This article examines the three types (air, noise and hazardous waste) of E-designations and what you need to do to satisfy NYC OER requirements to remove these designations and move your project forward.

### WHAT IS AN E-DESIGNATION?

***A property with an E-designation means that, as a consequence of a zoning action, a property has environmental requirements relating to air, noise or hazardous materials that must be investigated and addressed before an owner can obtain a building permit for the property's redevelopment.***





## AIR QUALITY E-DESIGNATION

The standard e-designation for air quality reads:

*Any new residential and/or commercial development on the above-referenced property must exclusively use natural gas as the type of fuel for the heating, ventilating, and air conditioning (HVAC) system and hot water equipment, and ensure the HVAC system and hot water system stack is located at the building's highest tier and at least 118 feet above grade to avoid any potential significant adverse air quality impacts.*

### What you need to do to satisfy NYCOER Requirements for Air Quality E-Designation

Equity works with clients to develop and submit a Remedial Action Plan (RAP) and get it approved by NYCOER. The RAP prepared by Equity will include architectural drawings, elevations and roof plans showing the stack location, mechanical plans and specifications, gas riser diagram, and letters from the owner, architect, and engineer.



## NOISE E-DESIGNATION

The standard e-designation for noise reads:

*In order to ensure an acceptable interior noise environment, future residential/commercial office uses must provide a closed-window condition with a minimum of 31 dBA window/wall attenuation on all facades in order to maintain an interior noise level not greater than 45 dBA for residential uses or not greater than 50 dBA for commercial office uses. To maintain a closed-window condition, an alternate means of ventilation must also be provided. Alternate means of ventilation includes, but is not limited to, air conditioning.*

### What you need to do to satisfy NYCOER Requirements for Noise E-Designation

In order to obtain a notice to proceed (NTP) from NYCOER for the noise portion of the E-Designation, Equity works with clients to develop and submit a Remedial Action Plan (RAP) and get NYC OER approval. The Equity RAP will include architectural drawings, ASTM E-90 Acoustical Test Reports, color coded window elevations, alternative means of ventilation plans and specifications, and letters from the owner, architect, and engineer.

Once building permits are issued and the construction of the building is complete, an Installation Report will be required to be submitted and approved by OER before receiving the final Certificate of Occupancy for the building. The Installation Report typically includes As-Built drawings and photographs certifying all components of the RAP were installed as specified.

Equity typically submits the air and noise RAPs together.



## HAZARDOUS WASTE E-DESIGNATION

The hazardous waste e-designation has numerous action items associated with it. For OER to issue a NTP for Hazardous Materials there are a number of documents and activities to prepare and implement during the course of the project. Each document must be approved by OER before moving to the next phase of work. It is required to use the appropriate OER templates.

### Task 1-Sampling Protocol

*The applicant submits to OER, for review and approval, a Phase I of the site along with soil, groundwater and soil vapor testing protocol, including a description of methods and a site map with all sampling locations clearly and precisely represented. If site sampling is necessary, no sampling should begin until written approval of a protocol is received from OER. The number and location of samples should be selected to adequately characterize the site. specific sources of suspected contamination (i.e., petroleum-based contamination and non-petroleum-based contamination), and the remainder of the site's condition. The characterization should be complete enough to determine what remediation strategy (if any) is necessary after review of sampling data. Guidelines and criteria for selecting sampling locations and collecting samples are provided by OER upon request.*

### What you need to do to satisfy NYCOER Hazardous Waste E-Designations Requirements for Task 1

Phase I Environmental Site Assessment – Equity conducts a historic review of the development and use of a property typically going back to when the property was vacant. We use various resources to determine the property uses over time as well as the use of properties in close proximity. We also search regulatory databases as well as Sanborn Fire Insurance and topographic maps, aerial photographs and city directories. Equity conducts site inspections as required and the information is folded into a Environmental Site Assessment (ESA) Report with recommendations for additional work if necessary.

OER Kick-off Meeting - Equity assists clients with setting up the kick off meeting to review the proposed development and time frames – The project is summarized and submitted to OER prior to holding a project Kick-off meeting. The meeting is used to present the participants, project, schedule and to help the developer understand the process.



## *Task 2-Remediation Determination and Protocol*

*A written report with findings and a summary of the data must be submitted to OER after completion of the testing phase and laboratory analysis. for review and approval. After receiving such results, a determination is made by OER if the results indicate that remediation is necessary. If OER determines that no remediation is necessary, written notice shall be given by OER.*

*If remediation is indicated from test results, a proposed remediation plan must be submitted to OER for review and approval. The applicant must complete such remediation as determined necessary by OER. The applicant should then provide proper documentation that the work has been satisfactorily completed.*

*A construction-related health and safety plan should be submitted to OER and would be implemented during excavation and construction activities to protect workers and the community from potentially significant adverse impacts associated with contaminated soil, groundwater and/or soil vapor. This plan would be submitted to OER prior to implementation.*

## **What you need to do to satisfy NYCOER Hazardous Waste E-Designations Requirements for Task 2**

Remedial Investigation Workplan (RIWP) and implementation – Equity will develop a RIWP should be based on the size of the site and OER's guidance as to the number of soil boring, monitoring wells and soil vapor points. Equity's RIWP will spell out the number of samples to be collected and where, the suite of analytical parameters, and provides a sample location map. This document must be approved by OER prior to its implementation.

Remedial Investigation Report (RIR) – Equity will prepare a RIR based on the findings of the Remedial Investigation (RI). Equity's RIR summarizes the sampling activities and methodologies used to collect the samples, the analytical results, field measurements, and observations made during the investigation. It also includes deviations made during the investigation and recommendations for remedial action, if necessary, based on the future use of the property (*i.e.*, residential, commercial, or industrial).

Remedial Action Workplan (RAWP) and Remedial Design – Equity develops a RAWP to provide details of the proposed remedial action. Equity's RAWP will spell out the plans for items such as soil excavation,

dewatering of the site, the design of remedial systems such as a vapor barrier or sub-slab depressurization system, etc.

Construction/Remediation Oversight – Equity will oversee all aspects of the remediation including: making sure the General Contractor (GC) is conducting the remedial action as proposed, implementing a Community Air Monitoring Program (CAMP), characterizing soil for offsite soil disposal, tracking trucks of soil for disposal and backfill with clean fill, approving backfill source(s), and documenting the installation and testing, if necessary, of the remedial systems. Equity develops progress reports and provide them to OER on a daily, weekly, or monthly basis depending on the level of activity onsite. This requires daily coordination with the GC.

Remedial Action Report (RAR) If a RAWP was necessary then a RAR will be required to document that the remediation was properly completed. Equity's RAR will include as-built figures, deviations to the approved RAWP, etc. The project culminates in the preparation of the RAR. This document needs to capture the implementation of the remedial action, deviations to the RAWP, as-built figures, monitoring data, progress reports, and site management plan. The RAR has to be certified by a New York Professional Engineer (PE) and Qualified Environmental Professional (QEP). Upon approval of the RAR, OER will issue a Notice of Satisfaction to the NYC Dept. of Buildings who will issue a Temporary Certificate of Occupancy (TCO).

## **CONCLUSION**

Receiving an E-designation from NYC OER can be very involved with a lot of moving pieces. Equity has helped dozens of projects satisfy NYC OER requirements and obtain Notice of Satisfaction. We have decades of experience in New York City and have a deep understanding of the City's regulatory landscape.

## **Authors**

**Robert Jackson, PE, Managing Director**  
bob.jackson@equityenvironmental.com

**Kevin Williams, AICP, Managing Director**  
kevin.williams@equityenvironmental.com

**Gene Bove, Project Manager**  
gene.bove@equityenvironmental.com