

RULES OF THE CITY OF NEW YORK
TITLE 43, CHAPTER 14, SUBCHAPTER 4
NEW YORK CITY CLEAN SOIL BANK AND OTHER MATERIALS EXCHANGE
PROGRAM FOR SUSTAINABILITY AND RESILIENCE

§ 43-1440 Applicability.

The New York City Clean Soil Bank and other types of materials exchange are available for properties that are enrolled in the City voluntary cleanup program, properties with an (E) Designation or a restrictive declaration that are remediating their sites under OER oversight, properties in a remedial program administered by DEC, City-owned, City-financed, or City-subsidized capital construction properties, and other City-supported private development properties.

§ 43-1441 Definitions.

"DEC" means the New York State Department of Environmental Conservation.

"**Eligible materials**" means soil or other materials, such as compost, asphalt millings, mulch, woodchips, concrete aggregate, or topsoil, that meet the requirements of 6 NYCRR Part 360 and 6 NYCRR Part 375 that are applicable and consistent with lawful materials transfer or agreements between the Office and DEC.

"**Generating property**" means a property that the Office admits into the New York City Clean Soil Bank or other materials exchange to dispose of surplus eligible materials.

"**Office**" or "**OER**" means the New York City Office of Environmental Remediation.

"**Receiving property**" means a property that the Office admits into the New York City Clean Soil Bank and other materials exchange to receive eligible materials that will be used for backfill or other beneficial uses on the property.

§ 43-1442 Eligible Properties.

a. The following properties are eligible to participate in the New York City Clean Soil Bank and Other Materials Exchange Program as properties that generate or receive eligible soil materials for exchange:

1. Properties that are enrolled in the City voluntary cleanup program;
2. Properties with an (E) Designation or a restrictive declaration that are remediating their sites under OER oversight;
3. Properties in a remedial program administered by DEC;
4. City-owned, City-financed, or City-subsidized capital construction properties;

5. City-operated or City-financed materials storage or processing facilities; and

6. Other City-supported private development properties.

b. Generating properties that are not in remedial or other programs operated by the Office or DEC must perform equivalent remedial investigation and remedial action under the Office's oversight in order to be eligible.

§ 43-1443 Operation of the New York City Clean Soil Bank and Other Materials Exchange Program.

a. To apply to be a generating property, eligible properties other than City-operated facilities must submit a soil or other materials availability form to the Office. The Office will determine if the soil or other material is eligible for transfer to a receiving property. For soil exchange, this will be done by comparing soil quality to the soil quality required by applicable laws, rules, regulations and agreements between the Office and DEC.

b. To apply to be a receiving property, eligible properties must submit a soil or other materials request form to the Office.

c. If the Office determines that the needs of a receiving property and a generating property may match, the Office will inform each property. In matching eligible properties, the Office will adhere to the following priority order: City-owned or City-financed construction properties first, properties enrolled in City or State remedial programs second, and City-supported private sites not enrolled in a City or State remedial program third.

d. Parties must negotiate terms for the transfer of eligible materials directly with each other, although for City-operated generating properties, these negotiations may be facilitated by OER if an agency requests its assistance. Reaching an agreement on final terms for transfer is the responsibility of the generating and receiving property, and not the responsibility of the Office. However, OER may negotiate terms on behalf of City agencies if an agency requests its assistance.

e. Once a generating property has reached an agreement with a receiving property to transfer eligible materials, the parties must notify the Office.

f. All transfers of soil or other materials must be in compliance with all applicable laws, rules and regulations or with applicable agreements between the Office and DEC.

g. Prior to the transfer of any eligible materials, all private parties participating in the New York City Clean Soil Bank and Other Materials Exchange Program may be required to release the City from any liability and indemnify the City.