



Department of  
Environmental  
Conservation

# New York State: Contaminated Site Cleanup & Redevelopment

NYSDEC remedial programs conserve, improve and protect New York's resources and environment.

May 19, 2023

# NYSDEC Contaminated Site Cleanup & Redevelopment Update

- Program Overview and Update
- NYSDEC / USEPA Cooperation
- Emerging Contaminants
  - NYS Legal Framework
  - USEPA Regulatory Impact



# NYSDEC Remediation Programs



# NYS Remedial Programs - 6 NYCRR Part 375

- State Superfund (1979)
  - Enforcement Program – Statutory Obligation
  - Registry – Class 2 Significant Threat Sites
- Environmental Restoration Program (1996)
  - Municipalities
  - Dependent on Funding
- Brownfield Cleanup Program (2003)
  - Voluntary Program
  - Tax Credits

# NYS Remedial Programs 2021-22

PROGRAM	COMPLETED 21-22	COMPLETED LTD	ACTIVE
SUPERFUND	6	1,943	925
BROWNFIELD	41	542	514
ERP	1	140	32

# BCP 2022 Amendments

- New gateways for eligibility for tax credits in NYC:
  - Renewable Energy Facilities
  - Disadvantaged Communities
- Bump ups for tax credits statewide in above categories
- \$50,000 application fee to enter the program
- Extended BCP through December 31, 2026

# Upcoming Part 375 Revisions

- NYSDEC recognizes need for changes, clarifications, and modifications based on 15+ years of implementing the BCP
- Revisions increase consistency across remedial programs:
  - State Superfund Program (SSF)
  - Brownfield Cleanup Program (BCP)
  - Environmental Restoration Program (ERP)

## Part 375 Revisions, cont.

- Revisions make needed updates to Soil Cleanup Objective contaminant tables
- The rulemaking package expired in April 2023
- A new rulemaking package will be released for public comment shortly
- Substantive changes were made to incorporate the 2022 amendments made to the BCP



# NYSDEC – USEPA Cooperation



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# Federal Superfund in NYS

- Hudson River PCBs
  - Lower Hudson
  - Angler Surveys
- Gowanus Canal
  - Upland Sites
  - Natural Resource Damages Process
- Meeker Plume
  - Past NYSDEC Work
  - March 2022 NPL Listing



# Legal Framework for Remediating PFAS



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# Mechanisms for Remediation

- ECL Article 27 Title 13 – The State Superfund Law
- ECL Article 27 Title 14 – The Brownfield Cleanup Program
- ECL Article 27 Title 12 – Drinking Water Contamination Sites
- ECL Article 56 Title 5 – Environmental Restoration Program

## ECL Article 27 Title 12

- Enacted under the 2017 Clean Water Infrastructure Act
- Allows for the “Mitigation of Contaminants in Drinking Water”
- A Contaminant is defined as an “**emerging contaminant**” under Public Health Law § 1112
- Legislature included a list of chemicals that at a minimum should be included



# Re-defined Emerging Contaminants

- February 24, 2022, Governor Hochul signed into law an update to Public Health Law § 1112
- Removed PFOA, PFOS and 1,4-Dioxane as “Emerging Contaminants”
- Added 23 new compounds



# Drinking Water Contamination Sites

## “D” Sites

- Title 12 mitigation/remedial program similar to SSF
- D-Sites limited to Public Water Supplies
- Two D-Sites in NYS
- Sites where DOH needs to take “action to reduce exposure to an emerging contaminant . . . and has determined that the concentration . . . constitutes an actual or potential threat to public health”

# NYS DOH Drinking Water Maximum Contaminant Levels (MCLs)

## Adopted

PFOA : 10 ppt

PFOS: 10 ppt

## Proposed

1. MCLs at 10 ppt for PFHxS, PFHpA, PFNA, PFDA (individual)
2. Notification Levels of 30 ppt for PFDoA, PFUnA, 11Cl-PF3OUdS, 9Cl-PF3ONS, GenX, PFHpS (cumulative)
3. Notification Levels for 100 ppt for PFBS PFHxA, ADONA, 4:2FTS, 6:2FTS, 8:2FTS, NFDHA, PFBA, PFEESA, PFMBA, PFMPA, PFPeA, PFPeS (cumulative)



# Soil Cleanup Guidance Values

Guidance Values for Anticipated Site Use	PFOA (ppb)	PFOS (ppb)
Unrestricted	0.66	0.88
Residential	6.6	8.8
Restricted Residential	33	44
Commercial	500	440
Industrial	600	440
Protection of Groundwater	1.1	3.7

# EPA's Actions and New York



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# PFAS – Proposed CERCLA Hazardous Substances & MCLs

- In 2022, EPA issued a proposal to designate two widely used PFAS as hazardous substances under CERCLA
- In 2023, EPA proposed PFOA and PFOS MCLs at 4 ppt and MCL Goals of 0 ppt

# EPA PFAS Regulatory Impact on NYS

- If finalized this will allow NYS the ability to seek cost recovery for remedial work performed related to PFOS or PFOA contamination
- It will also allow Responsible Parties to seek Contribution claims under CERCLA

# Thank You

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