



NYS Dept of Environmental Conservation

**POST
CERTIFICATE OF COMPLETION
OBLIGATIONS/ RESPONSIBILITIES**

By

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Post COC Obligations

- Filing Notice of COC recorded and indexed pursuant to Article 9 of the RPL, within 30 days of COC issuance or 30 days of acquiring title [ECL 27-1419(8)]
 - Proof of filing submitted to DEC w/30 days
- Compliance with BCA [ECL 27-1419(5)(a)]
- Compliance with the Environmental Easement Conditions, including the SMP.



Post COC Obligations

- Periodic Reviews
- Change in Use
- Tax Law Reporting Requirements
- Transfer of COC
 - One COC and one Periodic Review Report per Site (even if only part of the property is transferred)



Periodic Reviews

- Required Annually – unless another time period set by DEC
- Must be completed by NYS P.E. or other DEC authorized person
- Inst. And Eng. Controls employed are unchanged from previous Cert.
- No change impairing controls or causing a violation



Periodic Reviews

- At non-significant threat sites a certification must include;
 - no new info. that would change assumptions in qualitative exposure assessments, and
 - Every 5 years the remedial party or owner certifies that the assumptions in the qualitative exposure assessments remain valid.
 - The above requirements remain in place unless terminated as set forth in ECL 27-1415(7)(c)



Change in Use

- ECL § 27-1425
- Includes
 - Change of ownership
 - Erection of any structure
 - Creation of a park or other public or private rec. facility
 - Any activity likely to disrupt or expose contamination or increase human exposure
 - Any activity that will or may tend to interfere with ongoing or completed remedial program or the continued ability to implement engineering or institutional controls.



Change in Use

- Requires at least 60 days advance notice to the Department
- No person can engage in any activity at a brownfield site that is not consistent with the restrictions placed on the site...
- Notice must notify the Department of contemplated use, explaining potential impact to remedial program



Change in Use

- For changes in ownership
 - Certification that prospective purchaser has been provided copy of BCA
 - Within 15 days of transfer, notice submitted to the Department providing
 - Name of new owner
 - Contact information
- If the Department determines that a proposed change in use is prohibited, the Department will notify within 45 days in writing.



Transfer of COC

- COC may be transferred to successors and assigns, provided that:
 - Department shall be provided advance notice pursuant to 6 NYCRR 375-1.11(d)
 - Within 30 days of transfer, file the Notice of Transfer and provide the Department proof of the filing
 - Upon filing of the Notice of Transfer, COC shall be deemed issued to successor or assign.
 - Any party transferred a COC is responsible for O&M of any engineering controls and compliance with institutional controls in accordance with the SMP and the EE



Conclusion

- Compliance doesn't end with getting the COC.
- Long-term requirements must be met
- Failure may result in loss of COC/Tax Credits/Liability Protection, etc.

Questions?????

