



Department of
Environmental
Conservation

Certificates of Completion (COC) and post-COC Obligations

May 22, 2019

COC Issuance

- Issued to the applicant(s) on the BCA, as amended
- Covers site acreage and parcel(s) on the BCA, as amended
- One COC issued per site
- No partial or interim COC
- No COC prior to completion of all remedial elements
- COC entitles holder(s) to liability release and tax credits

Disclaimer

- DEC makes no warranties, expressed or implied, regarding your ability to obtain tax credits
- NYS Dept. of Tax and Finance can answer tax questions

3rd Generation COCs

- For NYC sites – need to meet one of the eligibility criteria for tangible property tax credits prior to issuance of the COC
- Need to submit documentation of affordable housing, upside down (need appraisal at time of application), underutilized (need to ask at time of application); En-zone should already be set
- COC will have additional language regarding tangible property tax credit eligibility

Post COC issues

- Property is subdivided with multiple owners: Who is responsible for site management?
- Add parties: transfer and record Notice of Transfer of COC
 - COC can only be transferred to a party who has a real property interest; in all or part of the site
 - Cannot be transferred to a responsible party
 - Department does not “approve” transfer of COC
- Failure to record Notice of COC: grounds for revocation
- Implementation of SMP, submission of PRRs
- Changes of Use

Change in Use

ECL § 27-1425

- Change of ownership (Very important if applicant does not own the site!)
- Erection of any structure
- Creation of a park or other public or private recreational facility
- Any activity likely to disrupt or expose contamination (i.e. digging) or increase human exposure
- Any activity that will or may tend to interfere with an ongoing or completed remedial program or the continued ability to implement site controls

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
**60-Day Advance Notification of Site Change of Use, Transfer of
 Certificate of Completion, and/or Ownership**



(to be submitted to: Chief, Site Control Section, New York State Department of Environmental Conservation, Division of Environmental Remediation, 625 Broadway, Albany, NY 12233-7020; at least 60 days prior to any change of use, transfer of a Certificate of Completion, or change in ownership of a site as required by 6NYCRR Part 375-1.11(d) and 375-1.9(f))

I. Site Name: _____ **DEC Site ID No.** _____

II. Contact Information of Person Submitting Notification:

Name: _____

Address 1: _____

Address 2: _____

Phone: _____ E-mail: _____

III. Type of Change and Date: Indicate the Type of Change(s) (check all that apply):

Change in Ownership or Change in Remedial Party(ies)

Transfer of Certificate of Completion (CoC)

Other (e.g., any physical alteration or other change of use)

Proposed Date of Change (mm/dd/yyyy): _____

IV. Description: Describe proposed change(s) indicated above. Provide maps, drawings, and/or parcel information as applicable. If "Other," explain how such change may affect the site's proposed, ongoing, or completed remedial program (attach additional sheets if needed).

V. Certification Statement: Where the change of use results in a change in ownership or in responsibility for the proposed, ongoing, or completed remedial program for the site, the following certification must be completed (by owner or designated representative; see §375-1.11(d)(3)(i)):

I hereby certify that the prospective purchaser and/or remedial party has been provided a copy of any order, agreement, Site Management Plan, or State Assistance Contract regarding the Site's remedial program as well as a copy of all approved remedial work plans and reports.

Name: _____ (Signature) _____ (Date)

 (Print Name)

Address 1: _____

Address 2: _____

Phone: _____ E-mail: _____

Change in Use: Ownership

- Certification that prospective purchaser has been provided a copy of BCA
- Within 15 days of transfer, notice submitted to the Department providing
 - Name of new owner
 - Contact information
- Filing change of use for change in ownership does not relieve you of need for a BCA amendment (if pre-COC)

Transfer of COC

COC may be transferred to successors and assigns with a real property interest at the site, provided that:

- Department shall be provided advance notice pursuant to Change of Use regulations (6 NYCRR 375-1.11(d))
- Within 30 days of transfer, file the Notice of Transfer and provide the Department with 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

Site Management . . . Forever

- Obligations do not cease once a COC is issued
 - Payment of costs continues (for participants)
- DEC needs to know who is responsible for reporting, maintaining cover systems, running SVE systems
 - Transfer of COC
- Failure to perform ongoing responsibilities
 - Revocation of the COC
 - Revocation notice: 30 days to cure

Conclusion

- Address BCA, Amendments, & COC issues as early as possible
- Compliance doesn't end with getting the COC
- Long-term requirements must be met
- Failure may result in penalties or loss of COC/Tax Credits/Liability Protection, etc.

Thank You

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