NEW YORK STATE | Department of Environmental Conservation

# BROWNFIELD CLEANUP PROGRAM

# Certificate of Completion Process

April 16, 2026

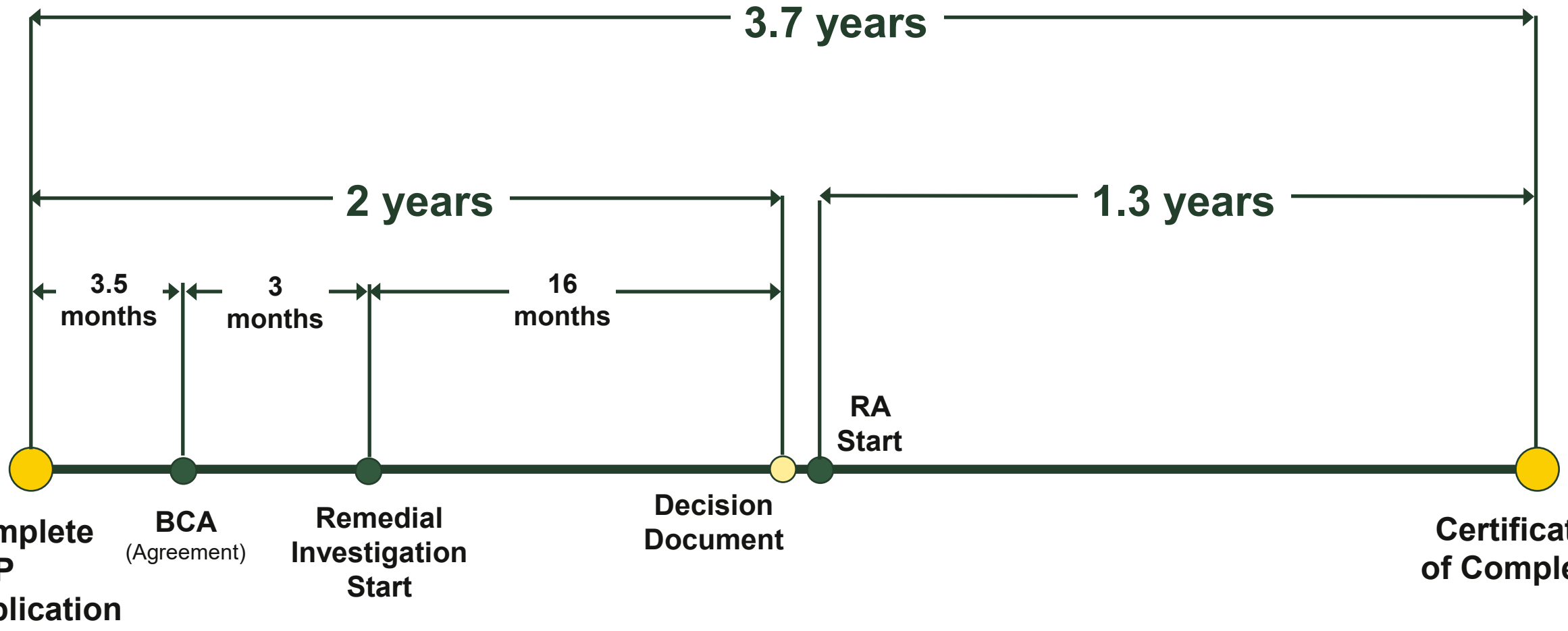
# AGENDA

- Statistics
- COC Process and Milestones
- Do’s and Don’ts
- BCA Amendments
- Environmental Easements
- 2026 COC Season
- Additional Items

# Statistics

# BCP Process – Median Timeframes

## Life Cycle – Application to COC




*Data taken from past 10 years / ~500 sites*

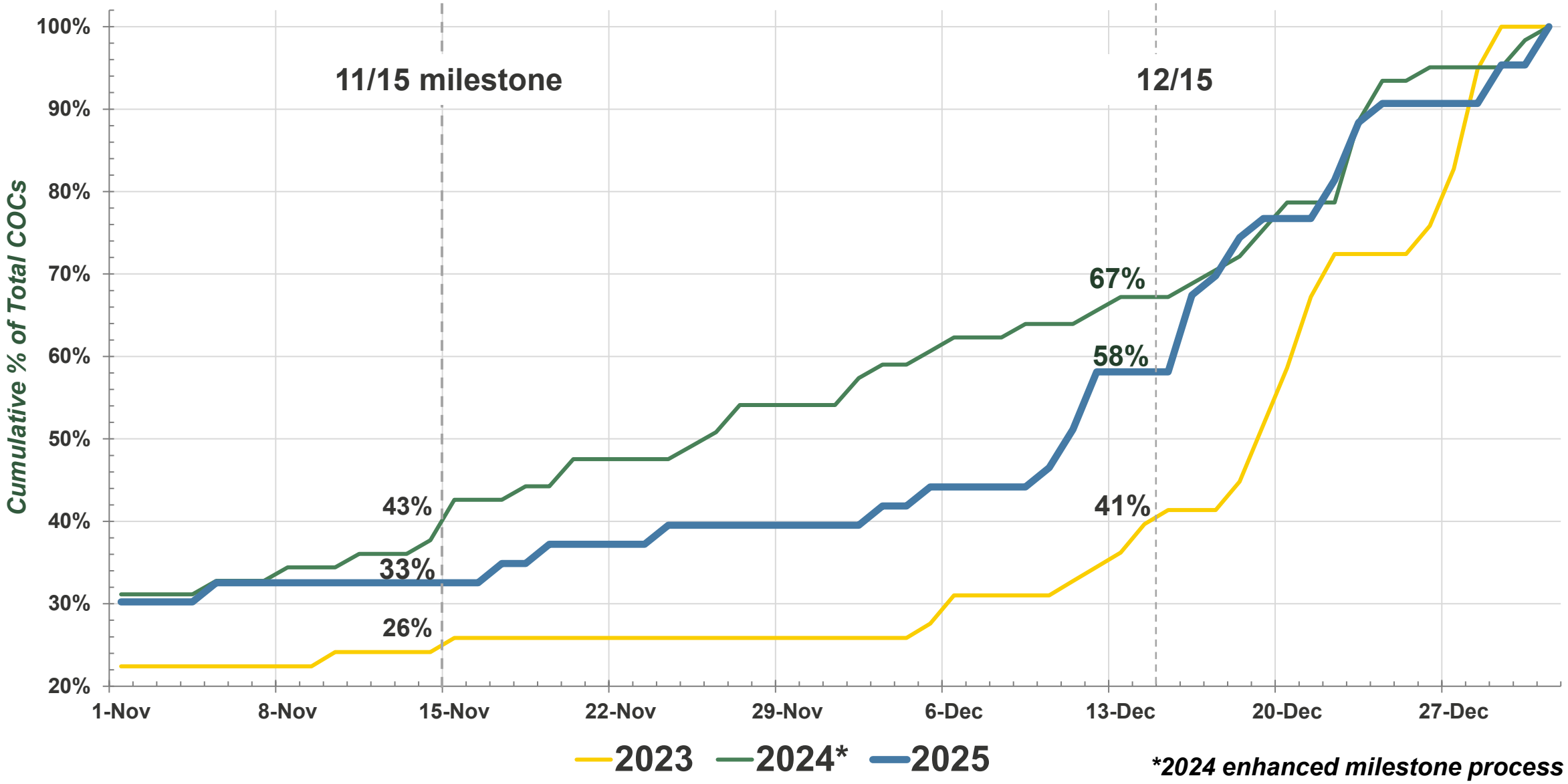
# 2025 COCs AT A GLANCE

| | |
|---|---|
| **43** | Total COCs issued |
| **20** | Planned affordable housing projects |
| **25%** | Track 1 / Conditional Track 1 |
| Over **two-thirds** of COCs issued to Region 2 sites | |
| **4.2** | Median years from BCA to COC |

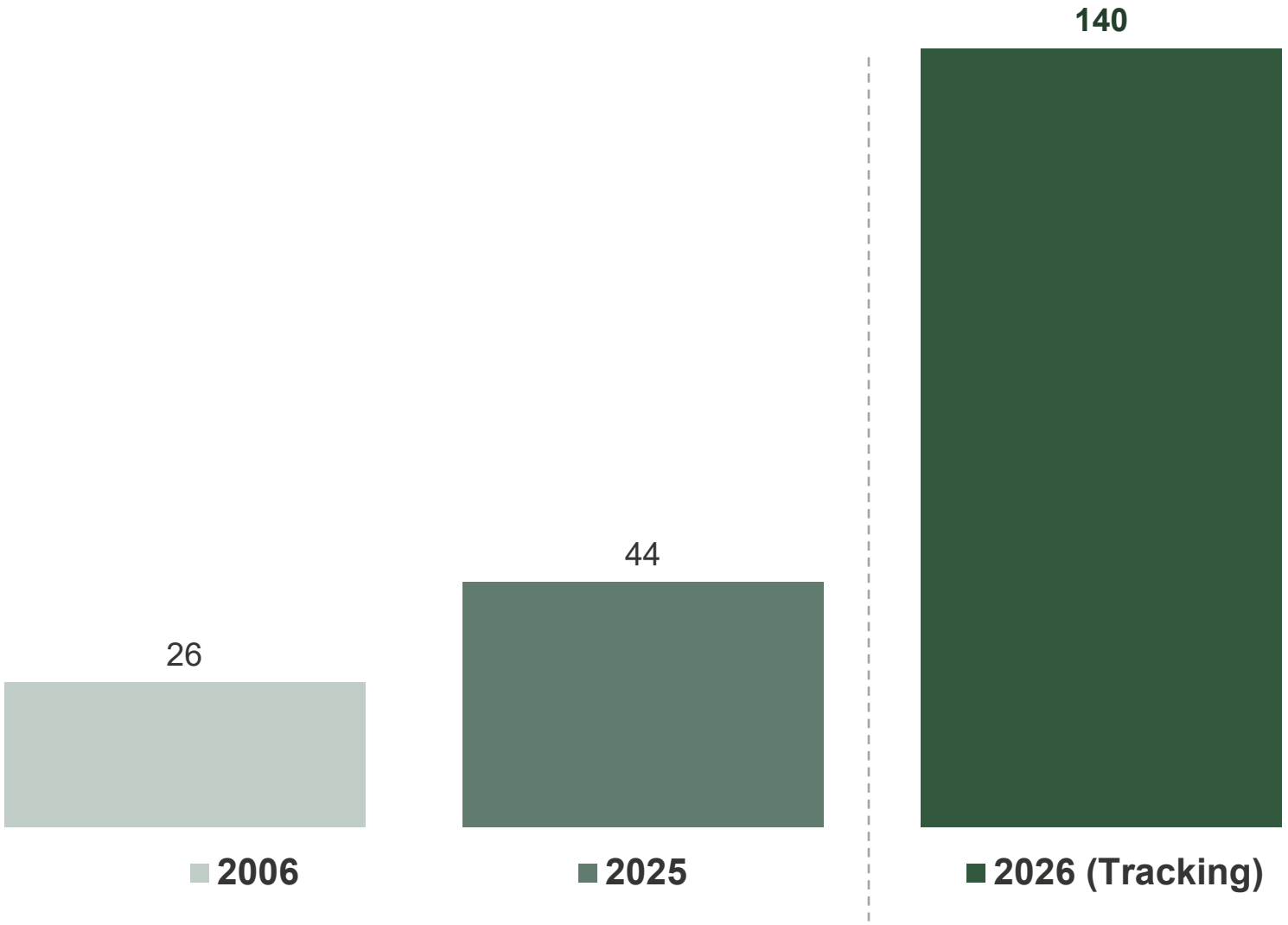
# 2025 MILESTONE DATE STATISTICS

- Draft SMP – due August 1st
  - **87% received on time!** Only 5 after deadline
- Final SMP – due October 1st
  - 10 received on time, **28 after deadline (73%)**
- Draft FER – due October 1st
  - **88% received on time!** Only 5 after deadline
- Approvable FER – due November 15th
  - 15 received on time, **28 after deadline (65%)**

# Submission of final FERs – Cumulative %



# 2026 COCs – Currently Tracking




- Tracking **~100 more** than last year

# NEW BCP SITES VERSUS COMPLETED SITES

- On average, there are ~ **25 more new sites each year** than sites completed
- Cumulative affect: In the past 7 years, **170 more sites** have come into the program than have left
- Approximate time from Agreement to COC is **less than 4 years**
- **100 COCs in one year is likely not far off**

# 2025 OBSERVATIONS AND CONCLUSIONS

**Fewer COCs in 2025 likely means more in 2026**

- Last low year (2018) was followed by a sharp increase
  - 32 COCs in 2018 followed by 59 COCs in 2019
- **Over 170 active BCP sites with ongoing Remedial Action**
- Median time from RA Start to COC is **1.3 years**

# 2025 OBSERVATIONS AND CONCLUSIONS

- Increased adherence to milestones made for a better process
  - Most draft reports (SMP and FER) submitted on time
  - More than half of the final reports were submitted late
- Room for improvement
- **Good quality draft documents are needed**
- **COCs will only increase – imperative that milestones are met by Applicant teams**

# COC Process & Milestones

# GUIDE TO THE COC PROCESS

Critical path and schedule of deliverables. Submittals after the established dates:

- Will jeopardize the issuance of the COC by December 31st
- Will affect the timing of any tax credits

# GUIDE TO THE COC PROCESS

Project deliverables should be developed on parallel tracks

However, the sequence of **approvals** is as follows:

- Environmental Easement documents are approved;
- Site Management Plan is approved;
- Environmental Easement is executed and recorded;
- Final Engineering Report is “approvable” (all comments have been addressed and it is certified);
- The COC is issued and FER officially approved.

# Milestones for Receipt of a Certificate of Completion by End of Calendar Year

| Action | Last Date For Action |
|---|---|
| Environment Easement (EE) Package, to include:<br>• Completed Checklist/Certification<br>• Title Report or Title Docs<br>• Site Survey<br>• Tax Form(s) (Wet-ink Original)<br>• Remainder of docs outlined in Checklist | **May 1:** If changes to EE language are requested, a draft must be submitted with a letter detailing the changes and reasons.<br><br>**June 1:** If EE follows the template. |
| Draft Site Management Plan (SMP) submitted | **August 1** |
| - Construction completed<br>- Approvable Final SMP *<br>- Submittal of electronic data in EQuIS format<br>- Environment Easement executed<br>- Draft Final Engineering Report (FER) submitted | **October 1** |
| Environmental Easement recorded and Notices provided | **November 1** |
| FER submitted in final form | **November 15** |

**SMP finalized and approved once recorded EE is appended to it*

# GUIDE TO THE COC PROCESS

## Issues Identified in Recent Years

- **Unknown financing deadlines that don't align with BCP requirements**
- Easement packages can be problematic
- Last minute amendments – changes are Applicant's responsibility!
- Extremely late final SMP and FER submittals
- Incomplete SMP and FER submittals
- Electronic Data Deliverables – Don't Forget!
- Professional Engineering Issues

# ELECTRONIC DATA DELIVERABLES (EDDs)

- EDDs should be submitted as the data becomes available
- Allow up to two weeks for processing of EDDs and correction of errors. Don't wait until the last minute!
- Verify that sample location coordinates are accurate
- FER data appropriate for EDDs
  - Post-excavation sampling data
  - Confirmation sampling – Confirms that goals have been met
  - Documentation sampling – Documents remaining contamination if excavation is limited
  - Baseline groundwater monitoring data
  - Soil vapor intrusion data

# PROFESSIONAL ENGINEERING ISSUES

- Individual currently licensed and registered in NYS
- Firm authorized by NYSED (except sole proprietorship)
- Direct contract with client
- Direct responsibility / supervision
- Review certification language early & carefully
- Details & links – Search “Professional Engineering” http://www.dec.ny.gov/regulations/90487.html

# Do’s and Don’ts

# ☑ Do's

- Communicate!
- Account for BCP requirements and procedures in development schedules.
- Hire competent and experienced consultants, contractors, legal representation.
- Treat staff professionally and respectfully.
- Bring issues to your project manager and DER employees first, before elevating

# ☑ Do's

- **Submit good quality documents**, using current templates
- Always submit "tracked changes" (red line/strikeout) of revised documents
- Include a letter responding to DEC/DOH comments
- Allows for efficient review by DEC/DOH
- Minimizes revision iterations and saves time
- Fully address DEC/DOH comments in a timely manner

# ☒ Don’ts

- Submit incomplete documents (missing appendices, sections, tables figures)
  - Will NOT be considered as achieving milestone
  - Will NOT be reviewed by DEC/DOH. Complete submittals will be prioritized
- Call staff to check on status days after a submittal
  - Per 6NYCRR Part 375-3.6(b) - Staff will use best efforts to complete review within 45 days

# ☒ Don’ts

- Put the responsibility of meeting external financing deadlines on DEC/DOH.
- Argue with staff on BCP requirements.
- Use DEC as an extension of the environmental consultant or as your QA/QC.

# REMINDERS

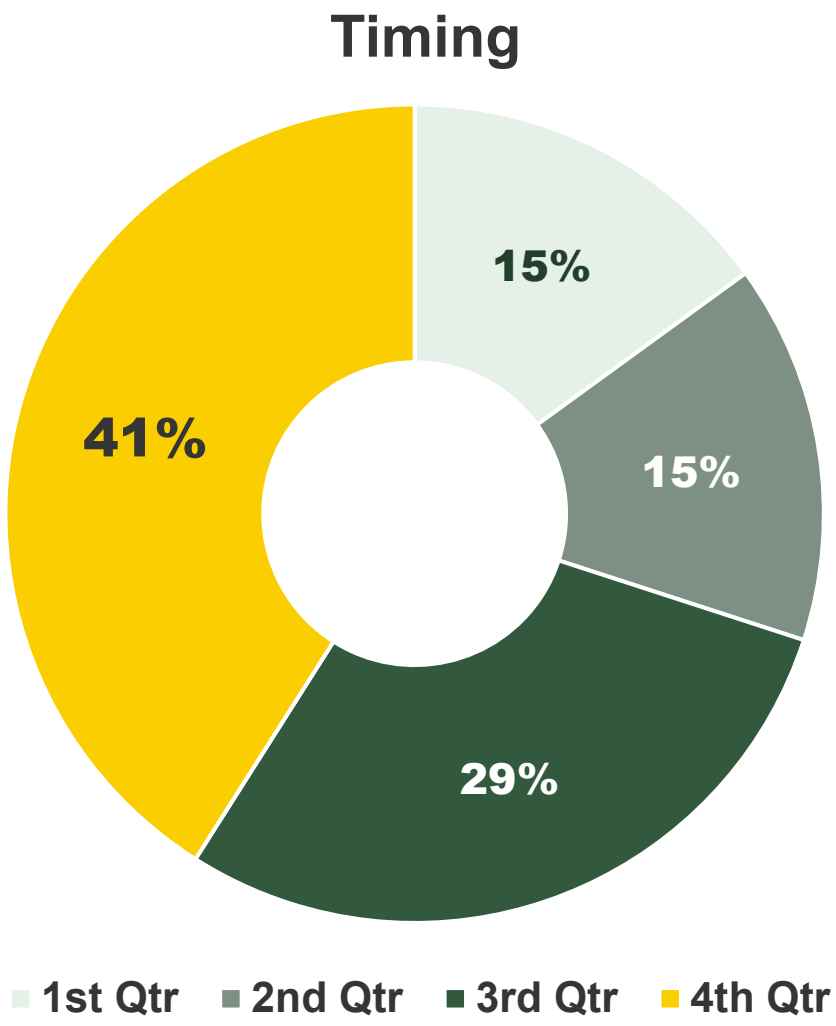
- Schedules should include financing deadlines and be continually updated.
- PMs and staff want you to receive your COC too!
- DEC and DOH have a very prescriptive internal COC process and are tracking the status of your COC. We will NOT “forget” about it.
- We are not the Dept. of Tax and Finance.
- Only tax credit “bump ups” calculated at time of COC issuance: En-Zone (5%) and Track 1 (5%). All others, including Affordable Housing, are determined by T&F.

# BCA Amendments

# AMENDMENTS

- 75 Amendments executed in 2025

- **Applicant's** responsibility to notify DEC of any changes




**Amendments take up many DEC resources:**

- Site Control
- OGC PA
- OGC Section Chief
- Project Manager
- Section Chief
- Bureau Director
- ADD
- DD
- Admin Staff

# AMENDMENTS

- Counsel should discuss planned and potential changes with Applicant, and when an amendment is required.
- Start **lot apportionments/mergers** well ahead of EE/COC to allow adequate time for municipality to finalize and maps to be updated
- If DEC makes a mistake on COC, we will fix and reissue.
- If error is due to oversights on the Applicant's end, DEC will not reissue the COC.
- End of year amendments for sites not seeking a 2026 COC and that are not a priority will be **held until January 2027**.

# MOST COMMON LAST-MINUTE AMENDMENTS

- **Ownership** – all beneficial owners and long-term lessees must appear as owners on the COC
- **Tax Lots** – mergers, subdivisions, re-numbering
  - ***Address*** – Tax lot changes may also result in an **address change**, which also requires an amendment. Do both changes via one Amendment!
- **Size**
  - Minor change – check if an Amendment is needed early
  - Major changes (e.g. adding a new parcel) require a new application and will go through eligibility
- Table of every change that needs an Amendment:

  https://extapps.dec.ny.gov/docs/remediation_hudson_pdf/bcaamendsum.pdf

*

# BCP COC SITE INFORMATION CONFIRMATION

- Sent with EE request letter and **again in September**
- Verify Site Information – **inquire with necessary parties!**
  - Site Name
  - Site Address
  - Applicant(s)
  - Owner(s)
  - Contact Info
  - Tax Parcel IDs
  - Acreage
  - EnZone %
  - TPC Eligibility
  - Representatives
- Check appropriate box, make corrections, return to email address on form.
- PRINT CORRECTIONS NEATLY!
- AVOID LAST MINUTE AMENDMENTS!

# Environmental Easements

# ENVIRONMENTAL EASEMENTS

**Needed for all:**

- Track 2 sites – not needed for Residential use unless there is a need for an SMP (e.g. SSDS, indoor air sampling post-COC, groundwater monitoring)
- Track 4 sites

# ENVIRONMENTAL EASEMENTS

## ECL §71-3603. Definition.

- An interest in real property, which contains a use restriction and/or a prohibition on the use of the land in a manner inconsistent with engineering controls.

**§71-3605.** Environmental easements; certain common law rules not applicable. Granted by the title owners of the relevant real estate

- Title owner shall furnish abstracts of title and other documents sufficient to enable the department to determine that the easements shall be enforceable.

# ENVIRONMENTAL EASEMENT: COMMON ISSUES

- Checklist – Read Carefully
- Title
  - Multiple Owners, Beneficial Owner, Long-term Lessee, or Multiple Deeds to a Single Owner
  - Quitclaim or Bargain and Sale Deed (Requires chain of title back 30 years)
- Survey
  - Missing Checklist Items – deed description that differs from EE area, missing meters scale, EE area not delineated on drawing, missing acreage, etc.
  - Missing signature/stamp/not original (No copies accepted)
  - Existing Easements that allow for disturbing the soil – sewer easements, underground utility easements, etc.

# EE: COMMON ISSUES, CONTINUED

- Deed Description does not match Survey measurements
- Missing multiple Track boundary and descriptions on Survey
- Lot Subdivision or Merger not identified in title docs
- BCA Amendment not submitted (subdivision or merger, ownership change, change in site boundary, etc.) – cannot complete EE until approved
- Easement Language Revisions
  - General small edits to standard language must be noted
  - Delineating obligations of owner/responsible party (RP) not permitted
  - Multiple Tracks must be identified and require additional language

# EASEMENT SUBMITTAL

June 1, 2026* - Applicant Submits Complete Easement Package

- Survey conforming to Checklist Requirements
- Include Stub Search or Title Report/Docs
- Include completed Checklist and Certification
- Include wet-ink original Transfer Tax form(s) (Ex: TP-584, TP-584NYC, NYCRPT)

*Earlier if special circumstances (Quit Claim deed, multiple owners, paper streets, lands under water, etc.)

# EASEMENT MILESTONES

Applicant Executes Environmental Easement prepared by DEC

- October 1, 2026

DEC accepts easement

Environmental Easement Recorded and notices provided

- November 1, 2026

# 2026 COC Season

# 2026 COC SEASON

- **Currently tracking ~140 COCs for 2026**
- Christmas falls on a Friday
- Only 4 business days after Christmas
- Many staff, including DEC, DOH and Applicant’s team, out of office
- Cannot process 100+ COCs in 4 days – DEC does not have the resources

# 2026 COC PROCESS

## Continued communication from DEC

- ✓ COC kickoff meeting with regulated community
- COC Site Information form – early September
- Missed milestones notices
- Incomplete submittals notices
- No longer tracking for 2026 notice

# 2026 PROCEDURES

- **BCP Applications received in November and December won't be acted on until January 2027**
  - Completeness reviews will progress routinely
  - No internal eligibility meeting in December – two in January
- **Non-urgent Amendments will be placed on hold until January**

# Additional Items

# EN-ZONE

- A new census data layer was issued in 2023
- Sites that were not in an En-Zone at the time of Application (pre-2023) may fall into an En-Zone via the new layer
- Applicant is responsible for identifying
- An **Amendment** must be submitted and executed to receive:
  - **TPC eligibility (Region 2)**
  - **5% TPC bump up (all regions)**

https://dec.ny.gov/environmental-protection/site-cleanup/database-search/nys-en-zone-boundaries-downloadable-gis-files

# BCP APPLICATION AND AMENDMENTS

- Latest **Application** revision was **October 2025** – be sure you are using the Application at the link below, labeled "**Revision 17**"
  - Schedule required at time of Application which **includes any financing in deadlines**
- **Amendment** Application and instructions revised **June 2025**
- https://dec.ny.gov/environmental-protection/site-cleanup/brownfield-and-state-superfund-programs/brownfield

# REMEDIAL DESIGN DOCUMENTS

- All Remedial Design work requires DEC-approved work plan – pilot tests, pre-design investigations, bench scale studies, full-scale/final design and treatment documents
- RD docs can be submitted as soon as Decision Document is signed
- Need DEC/DOH review and approval
- **Submit them early**, ideally first quarter
- RD docs should not be outstanding when the SMP comes due! (8/1)
- **Planned new 2027 milestone** – Designs will be **due 6/1**. Plan accordingly for any work that must be completed for the design, e.g. pilot tests and pre-design investigation.

# MISUSE OF INTERIM REMEDIAL MEASURES

## IRMs are at the discretion of DEC and meant to:

- Address **immediate threats** to public health or the environment;
- Address **source areas** that are threatening resources and where it needs to be addressed in a timely fashion (e.g., water main or UST leak, septic system found to be a source while the RI is still underway, etc.)

## IRMs are not for:

- Historical fill type scenarios;
- To simply keep in line with desired redevelopment construction schedules;
- Often implemented concurrently with final remedies causing confusion and significant extraneous work with multiple document reviews/scheduling challenges. DEC/DOH staff can’t accommodate.
- If IRM/final remedy will be overlapping/concurrent, DEC will look for all work to be incorporated into standard RWP/DD process, without any IRMs.

# PART 375 REVISIONS

- **Revisions effective December 31, 2025**
  - https://dec.ny.gov/regulatory/regulations/proposed-emergency-recently-adopted-regulations/environmental-remediation-revisions
- **Final Part 375** – https://dec.ny.gov/sites/default/files/2025-12/6nycrrpart375final.pdf
- **Updated soil cleanup objective tables**

# PART 375 REVISIONS

- **Conditional Track 1** cleanups in progress (DD signed) prior to 1/1 shall continue as such, including a Conditional Track 1 COC.
- Post 1/1 DDs will be for Track 1 with contingency for Track 2
- If RAOs for all media are not met prior to COC (including soil vapor intrusion evaluation), a Track 2 COC will be issued.
- If UUSCOs achieved at the time of COC issuance and groundwater and/or soil vapor RAOs are achieved within 5 years of COC issuance, the Applicant may petition NYSDEC to receive a Track 1 COC.
- Additional guidance forthcoming.

# PART 375 REVISIONS – 375-3.8(b)(2)(i)

**Volunteer requirements for off-site sampling**

- **Not a new obligation,** revisions provide clarifying language
- Required to complete a **qualitative exposure assessment**, including whether contamination is migrating off-site. This is not a request to determine full nature and extent of contamination off-site!
- This can sometimes be determined from on-site data, but other times some off-site data may need to be collected. e.g. need **soil vapor*** samples collected under the adjacent sidewalk or across the street
- If contamination is migrating off-site, **DEC will conduct the off-site investigation** for nature and extent

**soil vapor sampling is **not** the same as soil vapor intrusion sampling*

# CP-51: Soil Cleanup Guidance

- **CP-51** will be revised based on comments received.
- Release of the revised policy will need to be coordinated with the 2026 rulemaking to add PFOA and PFOS to the SCO's in Part 375.
- The revised policy will also incorporate new risk analysis by NYSDOH, resulting in updates to Table 1.

# HELPFUL LINKS

**SMP Template[1]:** https://extapps.dec.ny.gov/fs/programs/der/templates/smptemplate1.docx

**SMP, IC only Template:** https://extapps.dec.ny.gov/fs/programs/der/templates/smptemplate2.docx

**FER Template[2]:** https://extapps.dec.ny.gov/fs/programs/der/templates/fertemplate.docx

**COC Process:** https://dec.ny.gov/environmental-protection/site-cleanup/brownfield-and-state-superfund-programs/finalizing-remedial-projects

**Amendments:** https://www.dec.ny.gov/docs/remediation_hudson_pdf/bcaamendsum.pdf

**This Presentation[3]:** https://dec.ny.gov/environmental-protection/site-cleanup/brownfield-and-state-superfund-programs/finalizing-remedial-projects/bcp-certificate-of-completion-information-session-presentations

*[1] – Updated June 2025*

*[2] – Updated October 2023*

*[3] – Recording and PDF will be available in the coming weeks*

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NEW YORK STATE

Department of Environmental Conservation