



**Department of
Environmental
Conservation**

MVEDD - Brownfield Basics Seminar

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Department of Environmental Conservation - Region 6**

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DISCLAIMER

The views expressed by the speaker are her opinions alone and do not necessarily represent the position of the NYSDEC or the State of New York.

Presentation Goals

Introduction

Demystify the Brownfield Cleanup Program

Preview the DEC, Spill Fund, County, and Land Bank
Agreements



DEC – BCP Program Brief Overview

DEC BCP

BCA ENB CPP

RIWP RI IRM RAR RAWP DD

Complete the Cleanup

EE IC/ECs SMP

COC



De-coder Slide

DEC Department of Environmental Conservation

BCP Brownfield Cleanup Program - BCA Brownfield Cleanup Agreement

RI Remedial Investigation - RIWP Remedial Investigation Work Plan

IRM Interim Remedial Measure

RA Remedial Action - RAWP Remedial Action Work Plan

DD Decision Document

Complete the Remediation

EE Environmental Easement

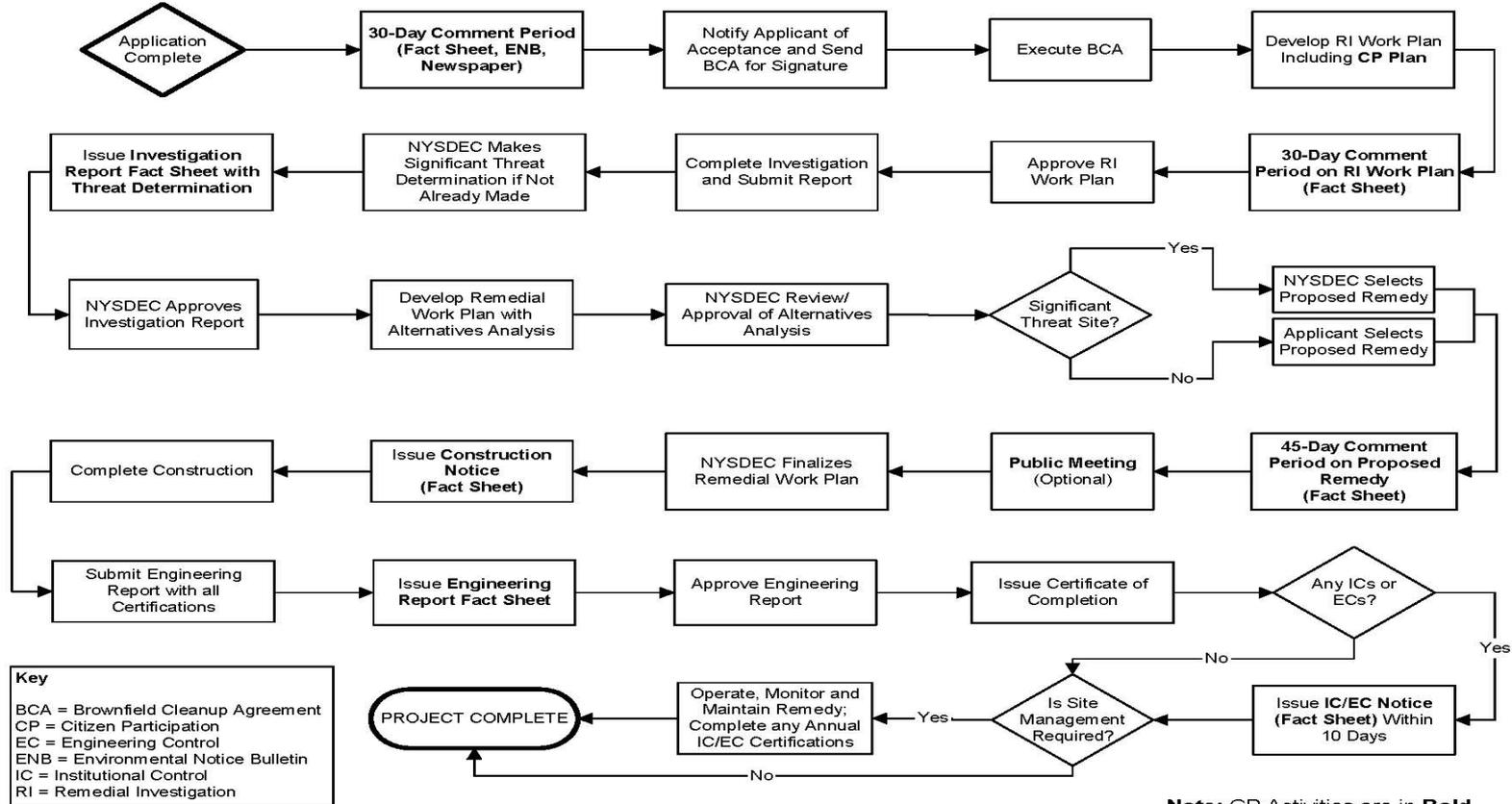
IC/ECs Institutional Controls/Engineering Controls

SMP Site Management Plan

COC Certificate of Completion



Appendix E – Brownfield Cleanup Program Process



Applying to the Brownfield Cleanup Program

Contact DEC

Complete a Pre-application Worksheet

Attend a Pre-app meeting

Submit a BCP Application (will require evidence of exceedances of soil cleanup objectives or some other health based environmental standard)

More specific information can be found in the DEC's Division of Remediation Program Policy titled - DER-32 BCP Applications and Agreements



DEC, Spill Fund, County, and Land Bank Agreements for Municipalities

Issue: Municipalities generally have a list of properties with issues that they are not foreclosing on.

Known contamination – abandoned because of contamination

Potential contamination – old gas stations

Abandoned - owner passed away or the corporate owner has been dissolved or is inactive



Purpose & Main Components

Shared interest in ensuring that environmental issues do not interfere with the return of properties to the tax rolls and to productive use. Agreements create opportunities to protect the public health and the environment while reducing blight. Three main components:

- Information Sharing/Cooperation
- Covenant Not to Sue/Cost-sharing
- Path to Cleanup and Redevelopment



Covenant Not to Sue

- DEC/Oil Spill Fund covenant-not-to-sue or seek payment as RP under CERCLA, State Superfund, Navigation Law, with caveats:
 - County/Land Bank in chain of title to a property pursuant to its *sovereign functions* (taxes, abandonment) – cannot be purchased under business purpose
 - CANNOT own/operate/manage during *disposal, release, discharge or spill*
 - CANNOT cause or contribute release or threat of release
 - Must exercise “appropriate care” with respect to existing contamination (stop continuing release/passive migration, prevent exposure)
 - County/Landbank does not need to remediate previously released contamination during brief ownership



Cost Sharing

Upon sale of property to a new buyer/developer:

1) All parties split proportionally from net proceeds of a sale based on costs incurred by each party

- DEC – guaranteed \$1,000 (if expend funds)
- OSC - guaranteed \$1,000 (if expend funds)
- Land Bank/County keeps remainder (if seller)

2) DEC/OSC will not seek recovery of past costs against County/Land Bank

3) Successors in title (new buyer) remain liable for costs incurred by State



Path to Cleanup and Redevelopment

Foreclosing Governmental Unit develops a target list as part of the Agreement.

Forecloses on property, resells, investigates and resells or remediates.

New owner will enter remedial program with DEC (likely brownfield cleanup program) and will provide an environmental easement, if required by DEC.

- If all goes well, the property is back on the tax roll and is soon available for its best use.

Thank You

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