

NYSDEC Proposes Amendments to Cleanup Program Regulations

by [David J. Freeman](#) and [Matthew J. Sinkman](#) · March 25, 2024

The New York State Department of Environmental Conservation (NYSDEC) has [proposed amendments](#) to regulations governing the [Brownfield Cleanup Program \(BCP\)](#), the state Superfund program, and other [remedial programs](#). The proposals would affect many important aspects of NYSDEC's cleanup programs.

NYSDEC's proposed amendments include the following:

- Limiting the costs of a “cover system or site cover” that are eligible for tax credits
- Requiring BCP “volunteers” to perform additional tasks, including sampling, off site
- Requiring applicants to conduct searches for potentially responsible parties prior to admission to the BCP
- Eliminating conditional “Track 1” remedies where a site has long-term institutional or engineering controls (thus reducing the availability of higher tax credits applicable to Track 1 sites)
- Defining what constitutes a “renewable energy facility site,” in order to address new tax incentives for such sites in New York City and across the state.

There is a public comment period for NYSDEC's proposals, which ends on May 21, 2024. Companies whose projects are potentially affected by these proposals should review them and consider submitting comments directly to Jennifer Dawson, NYSDEC – Division of Environmental Remediation, 625 Broadway, Albany, NY 12233-7012, (518) 402-9542 or derweb@dec.ny.gov.