

NEW YORK STATE SUPERFUND CLEANUP PROCESS

The process of investigating and remediating inactive hazardous waste disposal sites is similar to that used in the federal superfund program which is formally known as the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA).

While the NYSDEC has the primary responsibility under the state superfund program, the DOH also plays a significant role in site investigation and cleanups. Under the Public Health Law Section 1389, the DOH must independently approve environmental reports generated during the site investigation and remedial process.

Pursuant to 6 NYCRR 375-2.8 (a), the goal of SSF program is to restore a site to pre-disposal conditions, to the extent feasible. At a minimum, the remedy selected shall eliminate or mitigate all significant threats to the public health and to the environment presented by contaminants disposed at the site.

Step 1: Site Characterization

When NYSDEC becomes aware that a site may have been impacted by hazardous wastes, either the agency or a responsible party may perform a Site Characterization (SC). The purpose of the SC is to confirm if hazardous wastes are present at the property and determine the threat posed by the contamination.

Step 2- Significant Threat Determination-

After the SC Report is finalized, the DEC will determine if the site poses a significant threat and should be placed on the state superfund list which is formally known as the Registry of Inactive Hazardous Waste Disposal Sites (Registry”.

Step 3 Remedial Investigation/Feasibility Study (RI/FS)-

A Remedial Investigation (RI) may be performed by NYSDEC or a responsible party to determine the nature and extent of contamination. The RI information is then used to perform a Feasibility Study (FS) that evaluates possible remedies for addressing the contamination and eliminating the threat posed by contaminants at the site.

Step 4 Proposed Remedial Action Plan (PRAP)

After the FS has been completed, a proposed remedial action plan (PRAP) will be prepared which will identify the proposed remedy and summarizes the reasoning for selecting the recommended remedial action. The PRPA will then undergo public comment.

Step 5 Record of Decision

After the completion of the public comment period, NYSDEC will prepared a draft ROD that identifies the selected remedial action, a Responsiveness Summary responding to any comments received during the public comment period and a bibliography of documents that were used to reach the remedial decision. DOH and the public will have an opportunity to comment on the draft ROD before NYSDEC issues the final ROD.

Step 6 Remedial Design (RD) and Remedial Action (RA)–

The RD is the document that provides the specific engineering details of the remedy. The Remedial Action (RA) refers to the actual performance of the selected remedy. The completed remedial project will be documented in a Final Engineering Report (FER) or construction complete report (CCR) if the remedy involves an IRM or only a portion of a site (operable unit).

Upon approval of the FER, the NYSDEC will issue a certificate of completion (COC) which will include a liability release from all claims under statutory or common law for the contamination that was addressed by the approved remedial program. The liability release does not apply to claims for natural resources damages and is subject to certain reopeners or revocation of the COC.

The COC shall apply to future property owners provided they comply with any post-remedial OM&M requirements. However, the COC liability protection does not extend to and cannot be transferred, to a responsible party unless that party was named on the COC.

Step 7 Operation, Maintenance & Monitoring (OM&M)-

When the remedy allows residual contamination to remain at a site and relies on the use of engineering or institutional controls (EC/IC), a Site Management Plan (SMP) will be prepared that will identify the post-remedial OM&M measures that have to be implemented to ensure that the remedy remains effective.

Interim Remedial Measures (IRMs)

An IRM is a discrete set of actions that can be implemented for emergency and non-emergency situations without going through a RI/FS. Sometimes, an IRM can serve as a permanent remedy. When an IRM constitutes the entire remedy, PRAP will proposes no further action based on the IRM.