

Redeveloping Brownfields into Community Assets: New York State Brownfield Programs



TAB
Technical Assistance to
Brownfield Communities



Office of Planning
and Development



Department of
Environmental
Conservation

- Everyone except speakers will be muted during presentation.
- If you're having technical difficulties, please contact Sean Vroom at svroom@njit.edu.
- Please submit questions via the Q&A pane and address to "Everyone."
- A recording of the webinar along with the slides will be available after the webinar at the NJIT TAB website, <https://www.njit.edu/tab/>.



What are brownfields?

- The what, where, and why
- How to identify brownfields in your community



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BOA Program

- What is the NYS Brownfield Opportunity Area Program?
- What does a Brownfield Opportunity Area designation do for your community?
- How to apply



Office of Planning
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DEC Programs

- Brownfield Cleanup Program 2022
- Environmental Restoration Program
- 6 NYCRR Part 375 Update



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Transforming Brownfields into Community Assets

**Cailyn Bruno, PG, LSRP
Project Manager, NJIT TAB**

November 16, 2022

NJIT

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Brownfield

“Real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.” EPA



Negative Impacts of Brownfields



Advantages of Having a Brownfield Site



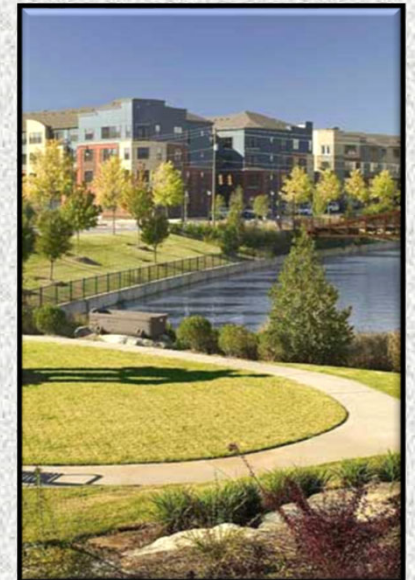
Advantages of Having a Brownfield Site



Environment

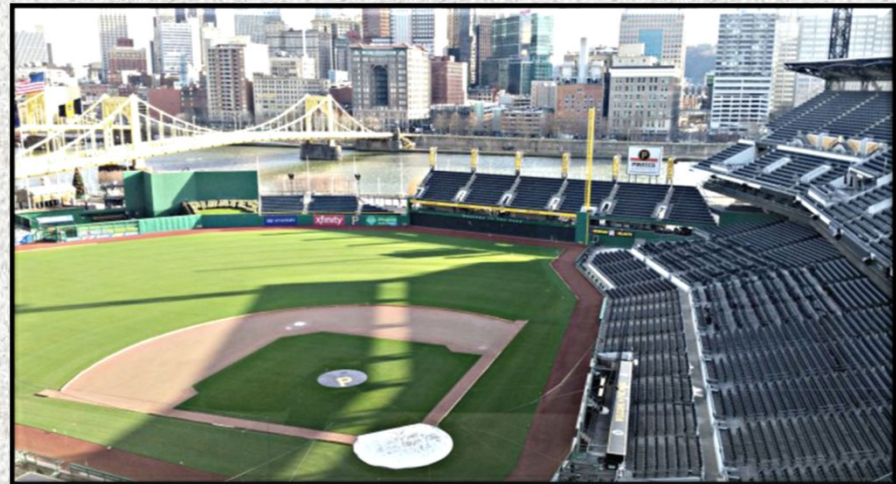
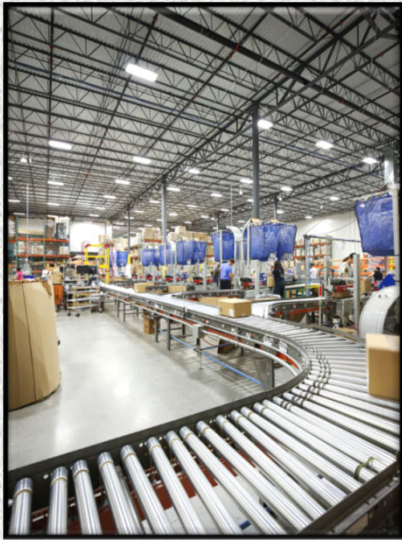


- ❖ Removal of contaminants and pollutants
- ❖ Improved air quality, water quality, natural habitats
- ❖ Resilience to climate change



Economy

- ❖ Spurs economic development
- ❖ Creates jobs
- ❖ Increases tax revenues
- ❖ Provides diverse economic base



Social Equity

- ❖ Removes health and safety hazards
- ❖ Removes eye sore; improves community appearances
- ❖ Alleviates community fears and worries



Community Needed Land Uses:

- ❖ a variety of housing options
- ❖ recreation and open space
- ❖ commercial and retail space; employment options
- ❖ schools
- ❖ health care facilities





**Cleaned up and
redeveloped
brownfields**



**can contribute to creating economically, environmentally, and socially equitable,
sustainable and resilient communities.**





**Office of Planning
and Development**

Brownfield Opportunity Areas Program

Lesley Zlatev, Revitalization Specialist

An Office of New York Department of State

November 21, 2022

Brownfield Opportunity Areas Program (BOA)

Program provides assistance to communities to develop area-wide community-based plans to redevelop brownfields and abandoned sites, transforming them into catalytic properties that revitalize the area.



BOA Program Empowers Communities

- To address a range of problems posed by multiple known or suspected brownfield sites;
- To build community consensus on the future uses for the area with an emphasis on strategic sites that are known or suspected brownfields;
- To establish sustainable goals and objectives for area-wide revitalization and for redevelopment of strategic sites;
- To identify and establish the multi-agency and private-sector partnerships necessary to leverage assistance and investments to revitalize downtowns, neighborhoods, and communities;
- To address environmental justice concerns and promote environmental equity in areas that may be burdened by negative environmental consequences; and
- To engage in activities to implement the community's vision after BOA designation by Department of State.

Brownfield Opportunity Area Program

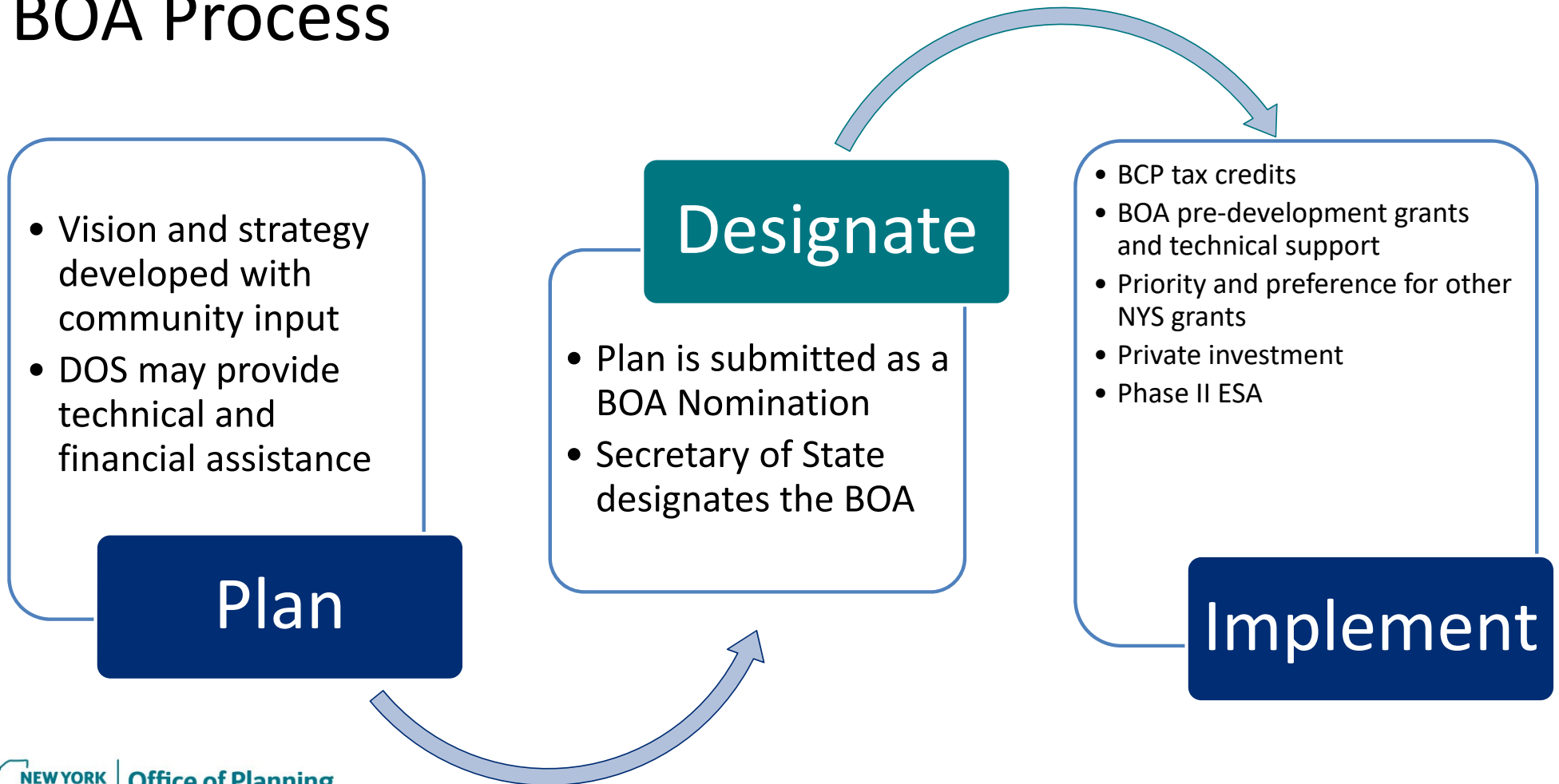


Brownfield Opportunity Areas Program

Provides communities with tools to revitalize neighborhoods affected by known or suspected brownfields



BOA Process



Eligible Applicants

Municipalities

- Towns/Villages
- Counties
- Local Public Authorities
- Public Benefit Corps
- School Districts
- Special Improvement Districts
- Indian Nations/Tribes

Community-Based Organizations

Not-For-Profit

- 501(c)(3)
- Mission to promote reuse of brownfield sites or community revitalization
- At least 25% of Board of Directors reside in area
- Community has demonstrated financial need

Community Boards

Defined and described in Section 2800 of the New York City Charter.

Applicants are encouraged to work in partnership & jointly apply for funding

BOA Eligible Grant Activities

Develop BOA Plan

Develop a community-supported plan for revitalization culminating in designation by the Secretary of State

Predevelopment Activities

Targeted activities that help move projects from concept to completion in State-Designated Brownfield Opportunity Areas.

Phase II Environmental Site Assessments

Formal assessment of a property's environmental condition in order to guide future land use decisions under the BOA Program within a State-Designated BOA.

Developing a BOA Plan

BOA Plan:

- Build community consensus around a vision for revitalization
- Provide a roadmap to return dormant brownfield sites back to productive use
- Identify key redevelopment opportunities
- Offer predictability for the development community and direction for public investment
- Culminates in a BOA Nomination for Designation

Guidance describing requirements for BOA Designation is available at:

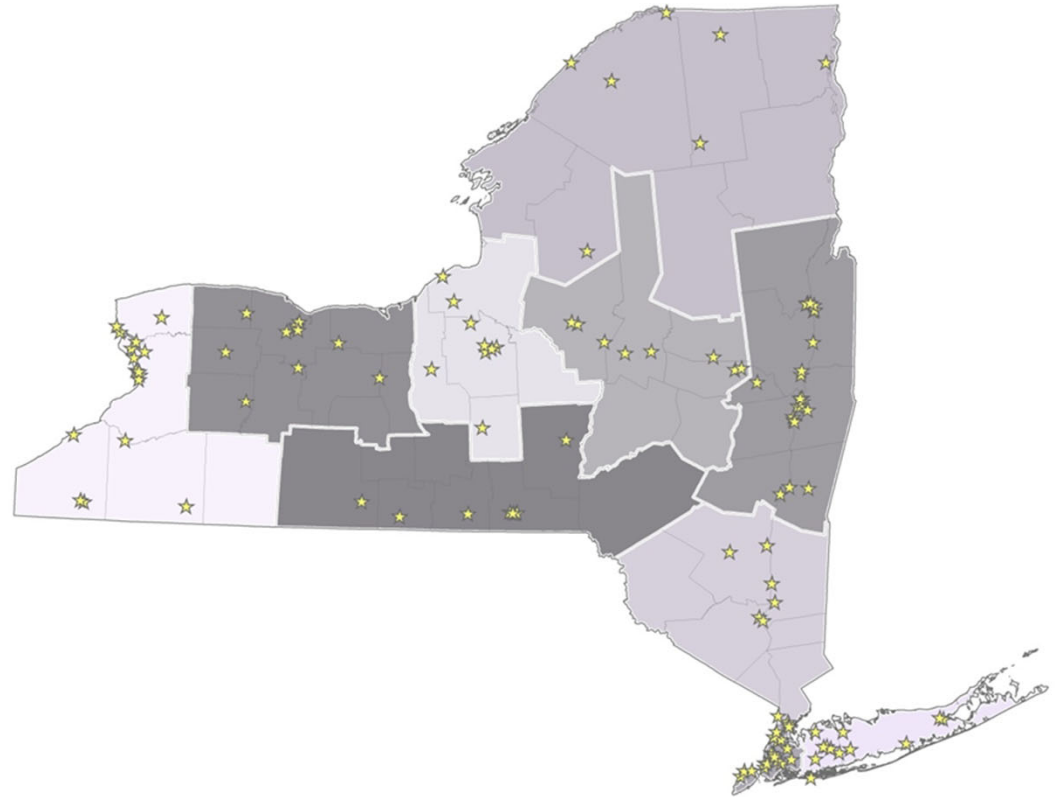
https://www.dos.ny.gov/opd/programs/pdfs/BOA/BOA_Designation_Guidance.pdf



BOA Designation

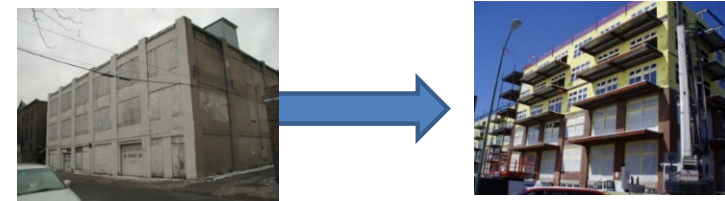
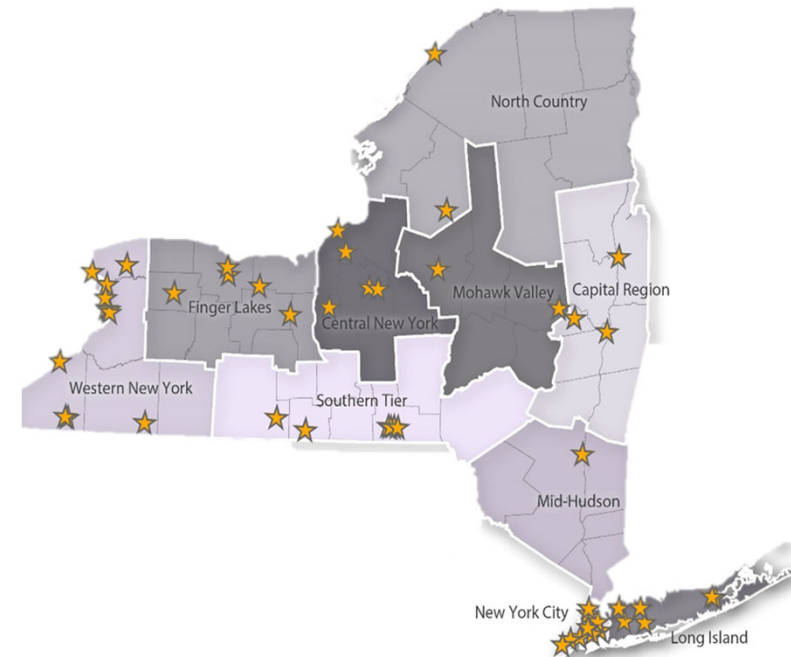
Benefits of BOA Designation

- Priority and preference for other grant programs
- Eligibility for BOA Predevelopment activities and Site assessment Funding
- DOS technical support
- Brownfield remediation tax credits



Predevelopment Activities*

- Development and implementation of marketing strategies
- Development of plans and specifications
- Real estate services
- Building condition studies
- Infrastructure analyses
- Zoning and regulatory updates; Environmental, housing and economic studies, analyses and reports
- Public outreach
- Renewable energy feasibility studies
- Legal and financial services



* Projects *must* be located within a State-Designated BOA. A list of designated BOAs is available at: <https://dos.ny.gov/brownfield-redevelopment>

Phase II Environmental Site Assessments (SA)*

- Site is one or more areas of environmental concern and may include more than one contiguous tax parcel.
- Site must have definitive and identifiable boundaries.
- Must meet the criteria and conditions stated in the *BOA Site Assessments: Guidance for Applicants*.
- SA must advance the goals and priorities for revitalization and redevelopment of the BOA area.



* Projects must be located within a State-Designated BOA. A list of designated BOAs is available at: <https://dos.ny.gov/brownfield-redevelopment>

Annual CFA BOA Award

- Approximately \$2-4 Million is awarded annually for the BOA Program through the Consolidated Funding Application (CFA)
- Anticipated Maximum grant award for 2023:
 - BOA Plan- \$500,000
 - BOA Predevelopment Activities or Phase II ESA- \$500,000
(You must have a designated BOA in order to apply for Predevelopment Activities within an area)
 - No minimum State grant request or award.
- Communities can apply for more than one award.
- CFA Released in early May.
- CFA Applications Due late July
- State assistance awarded and paid to a grant recipient will not exceed 90% of the total eligible project cost. Local Match is 10% of total project cost.

Wyandanch Rising (LI)



New York's First BOA/BCP Tax Credit Project

River's Edge Development, North Tonawanda, Niagara County



- Former Tonawanda Iron Works site on the Niagara River
- Remediated under BCP
- Redeveloped for mixed uses

An Office of New York Department of State

Thank you!

Please Email Questions to: BOA@dos.ny.gov

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Department of
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Conservation

NYS Regulatory Programs

Division of Environmental Remediation

- State Superfund (SSF) created in 1979 (Title 13 of Article 27) of the Environmental Conservation Law
- Mission:
 - Identify and characterize suspected inactive hazardous waste disposal sites
 - Investigate and remediate sites that pose significant threat to public health/environment

- SSF is an enforcement program
- DER attempts to identify potentially responsible parties (PRPs) to do the work once the site is designated a Class 2 (significant threat)
- PRPs asked to execute an Order on Consent for remedial work and recovery of state costs
- If PRP(s) declines/does not respond, DEC's Office of General Counsel refers site to DER to perform work under the SSF

- BCP created by Superfund/Brownfield Law in 2003
- Mission: Enhance private-sector cleanup and redevelopment
- Goal: Remediate sites to protect public health and environment for intended use
- Provides liability relief and tax incentives to developers

- The Environmental Restoration Program was authorized under the 1996 Clean Water/Clean Air Bond Act.
- The ERP authorizes the State to provide eligible municipalities reimbursement for the investigation and remediation of eligible sites.



Department of
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2022 Brownfield Cleanup Program Statutory Changes

November 16, 2022

What Happened?

- As part of the Fiscal Year 2023 Executive Budget, Governor Kathy Hochul proposed changes to the Brownfield Cleanup Program (BCP)
- After negotiations with the Legislature, Governor Hochul signed BCP changes into law on 04/09/2022

What Changed?

- Definitions
- Additional Gateways
- New Program Fee
- Tax Law Changes
- Program extended



Remington Rand BCP Site - Tonawanda, NY.

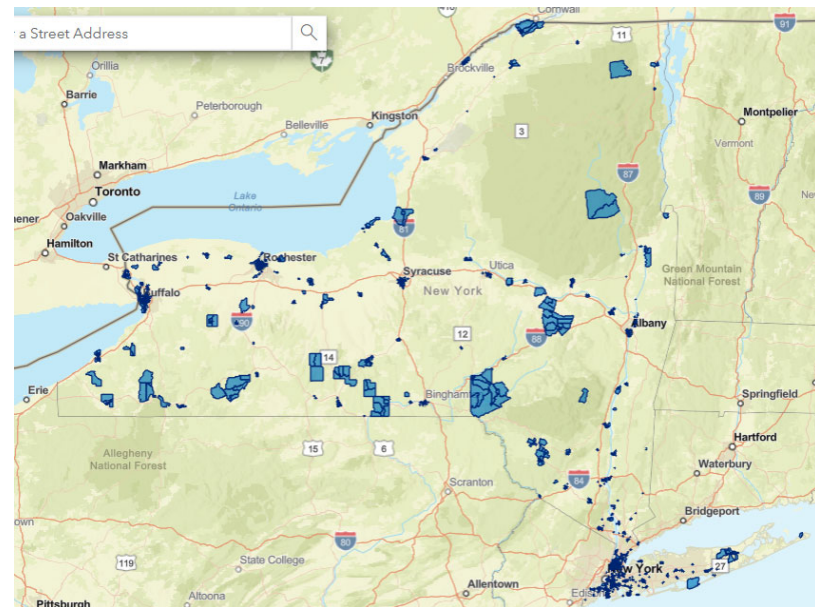
Definition Changes and Additions

Affordable Housing

- Prior definition remains (site is subject to gov't housing program, regulatory agreement, or other legally binding restriction)
- Added new category of projects to include that the project is conferred a “benefit” including, but not limited to:
 - Tax benefits, tax credits
 - Property tax exemptions
 - Bond financing, subsidy financing
 - Zoning variances or waivers
- Must present a certificate of compliance or other evidence of eligibility

Disadvantaged Community (DAC)

- Cross references the definition in the Climate Leadership and Community Protection Act (CLCPA)
- Draft DAC criteria and map released for public comment on 03/09/22



<https://www.nysed.gov/ny/disadvantaged-communities>

Renewable Energy

- Includes two parts:
 - Real property used for a renewable energy system as defined in § 66-P of NYS Public Service Law; or
 - Any co-located storage system storing energy from a renewable energy system prior to bulk transmission or distribution



*Steel Winds BCP site (Former Bethlehem Steel)
Lackawanna, NY*

NYC Tangible Property Credit (TPC) Gateways

Additional NYC Gateways

1. The project is:
 - within a DAC, and
 - within a designated Brownfield Opportunity Area (BOA), and
 - meets BOA conformance determination
2. The project is developed as a renewable energy site

Program Fee

Program Fee

- Along with the Brownfield Cleanup Agreement the Department will collect a non-refundable program fee of \$50,000
- Fee is waivable upon demonstration of financial hardship
 - But for the fee, the project is not viable
 - The Department will consider factors such as:
 - ✓ Waiver of tax credits
 - ✓ Location in disadvantaged community
 - ✓ Affordable Housing
 - ✓ Applicant's assets and income

Tax Changes

New “Bump Ups”

- 5% - Disadvantaged Community
- 5% - Renewable Energy Facility

Extension of the Program

10-Year Extension

- Sites will be accepted into the program until 12/31/32
- Sites must receive a Certificate of Completion by 12/31/36

Thank you

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New York State Environmental Restoration Program

November 2022

Environmental Restoration Program

- The Environmental Restoration Program was authorized under the 1996 Clean Water/Clean Air Bond Act.
- The ERP authorizes the State to provide eligible municipalities reimbursement for the investigation and remediation of eligible sites.

Environmental Restoration Program

- The investigation and remediation are typically carried out by the municipality under State oversight. However, municipalities can request the State to take the lead.
- Parties to the ERP contract receive an indemnification from the State for all contamination that existed on the site prior to being accepted into the ERP.

Environmental Restoration Program

- Grants for municipally owned sites (not responsible for contamination)
- Very successful for Upstate large/small communities
- Provides up to 90% of cost to investigate and clean up site
- Due to lack of funding, DEC had not been accepting new ERP applications until around 2015
- 2015/16 Budget included up to \$10M/year in HWCA funding

Environmental Restoration Program



(7-11 Johnes Street Site in 2013. Accepted under 2021 ERP)

- Offered in 2018, 2019 and 2021 for sites with Records of Decisions (RODs) that required cleanup.
- Expect to offer in 2023 for sites requiring Remedial Investigation in addition to those with existing RODs

Environmental Restoration Program



Former Jared Holt Manufacturing - City of Albany -
Site Number [B00005](#)

Participation in DEC's Environmental Restoration Program allowed the City of Albany to complete an important phase of its South End Revitalization Project.

Overview: This property has a history of industrial use. The cleanup was performed by the City of Albany Industrial Development Agency with oversight from DEC. After the site was cleaned up, the City constructed townhouses that not only reclaim the site but retain the look of historic Albany architecture, meeting National Historic District guidelines.

Environmental Restoration Program



[Transition to SFS | Grants Management \(ny.gov\)](https://www.ny.gov/grants-management/transition-to-sfs)



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NYSDEC Remedial Program Updates

November 16, 2022

Presentation Overview

- Proposed Regulatory Revisions
 - 6 NYCRR Parts 375, 613, and 597/598
- Emerging Contaminants
 - SCOs and Technical and Operations Guidance Series (TOGS) have been updated
 - NYS public health law now lists 23 ECs
 - Drinking Water Quality Council
- 2022-23 State Budget/Statute BCP Provisions

Proposed Regulatory Revisions

Part 375 Revisions: Released on 12/22/2021

- Incorporate Changes, Clarifications, and Modifications Based on 15+ years of Implementing the BCP
- Revisions Increase Consistency Across Remedial Programs:
 - State Superfund Program (SSF)
 - Brownfield Cleanup Program (BCP)
 - Environmental Restoration Program (ERP)

Part 375 Revisions, cont.

- Revisions make needed updates to SCO contaminant tables, including new information on emerging contaminants
- Public comment period ended 4/21/22
- Currently compiling public comments
- Substantive changes are anticipated following public comment review
- Revised rule-making to be filed in 2023

Part 613: Petroleum Bulk Storage (PBS) & Part 597/598: Chemical Bulk Storage (CBS)

- Rulemakings are aimed at harmonizing State requirements with federal requirements in 40 CFR Parts 280 and 302
- Clarify requirements between PBS and CBS programs
- Require 5-year re-testing of Class A & B Operators to reduce spills
- Update Hazardous Substance Tables in CBS Part 597
- Currently assessing public comments
- Likely route for adoption in early 2023.

Emerging Contaminant State Actions

New York State's Response

- DEC has completed the Emerging Contaminant (EC) Sampling Initiative that began in 2018.
- Sampled >1400 remedial (Superfund, Brownfield & RCRA) sites for PFAS & 1,4-dioxane

EC Guidance

- 2019 Guidance (updated in June 2021) requires all new sites in any DER program must include EC sampling for all media. Will be updated shortly to reflect an expanded analyte list and the use of EPA Method 1633
- ECs identified as contaminants of concern:
 - Must be assessed as part of the remedy selection process
 - Must be included as part of the Site Management Plan monitoring program
- All imported soil to a DEC remedial site must be sampled for ECs

NYSDEC Division of Water: Technical and Operational Guidance Series (TOGS)

- October 2021: Division of Water released new water quality guidance values (GVs) for PFOA, PFOS, and 1,4-Dioxane
- GVs set below the Department of Health's MCLs
- Impacts remedial programs

Chemical	DOH - Finished Drinking Water	DEC - Raw Water Source		
	Adopted MCLs	Human Health	Aquatic Life	
			Chronic	Acute
PFOA	10 ppt	6.7 ppt	N/A	N/A
PFOS	10 ppt	2.7 ppt	160,000 ppt (fresh) 41,000 ppt (saline)	710,000 ppt (fresh) 190,000 ppt (saline)
1,4-Dioxane	1 ppb	0.35 ppb	18,000 ppb (fresh) 7,000 ppb (saline)	160,000 ppb (fresh) 63,000 ppb (saline)



Impact on Soil Cleanup Objectives

- New SCOs for emerging contaminants: These groundwater guidance values result in the protection of groundwater SCOs being revised lower:
 - PFOS: from 3.7 ppb to 1.0 ppb
 - PFOA: from 1.1 ppb to 0.8 ppb
- SCOs are subject to change due to continued research on emerging contaminants

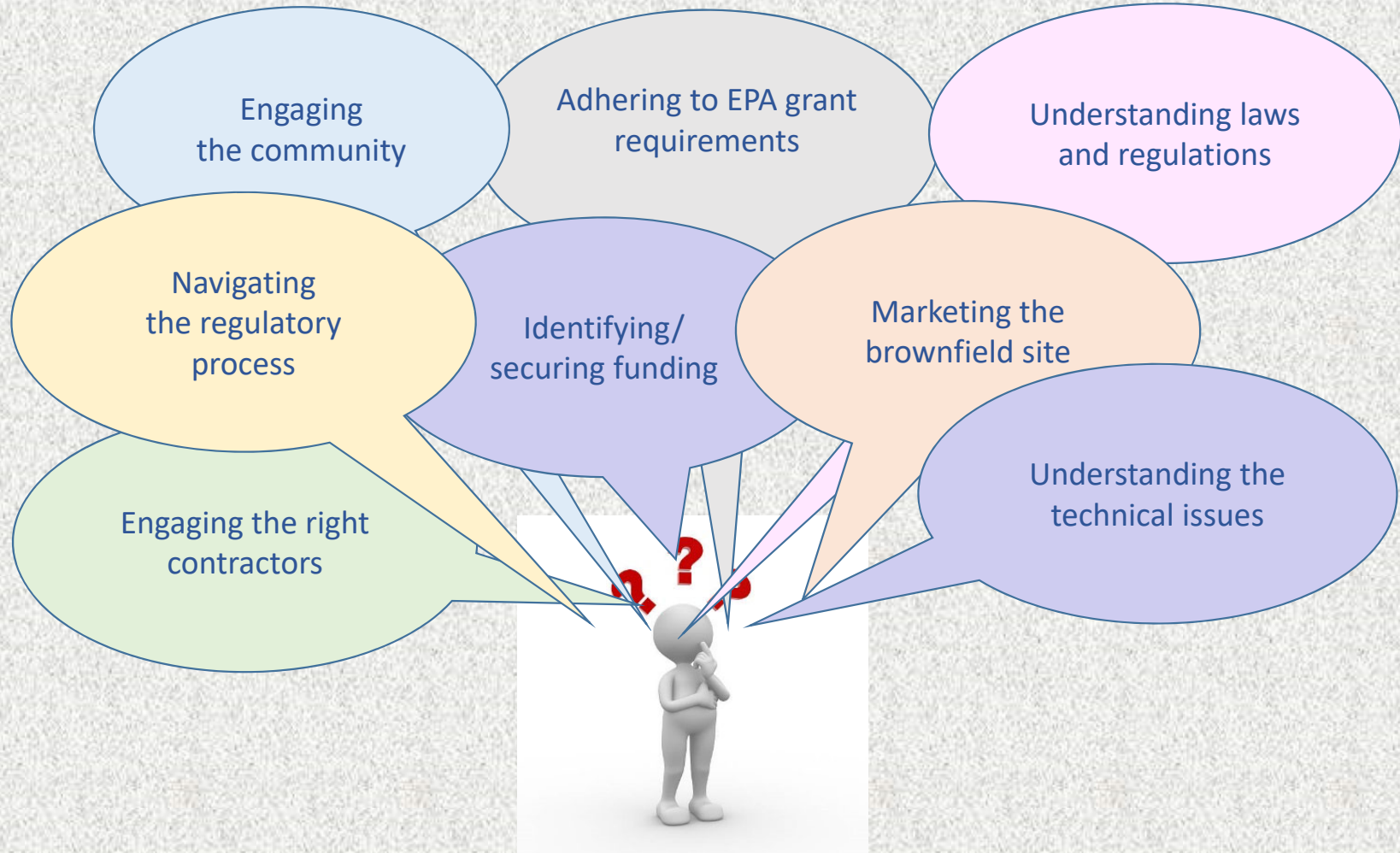
NYS Department of Health (DOH)

- In December 2021, legislation was signed to create a new list of emerging contaminants
- 23 emerging contaminants included
- DOH will update the list and add new potential contaminants every three years
- Public must be informed if contaminant exceeds safe levels in drinking water

Drinking Water Quality Council (DWQC)

- Established in 2017 by NY Public Health Law, consists of twelve representatives from the public, academia, and government, including DEC and DOH
- December 22, 2021 meeting: Reviewed 7 additional PFAS contaminants named as a priority at October 5th meeting
- March 10, 2022 meeting: Discussed next steps for addressing EC monitoring and public notification following December 2021 legislation
- May 2022 meeting proposed developing MCLs for the 4 most common long-chain PFAS and notifications for other PFAS.

HELP!



NJIT TAB – EPA REGION 2

NJIT has served as an
EPA designated
technical assistance provider
since 2008

NJIT TAB serves as an independent resources to: state, territory, regional, county, tribal, and local government entities, and nonprofits attempting to learn about, identify, assess, cleanup and redevelop brownfields.

➤ **Assistance is *free!***



NJIT TAB ASSISTANCE

Assistance is provided through...

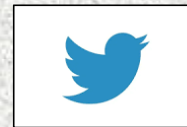
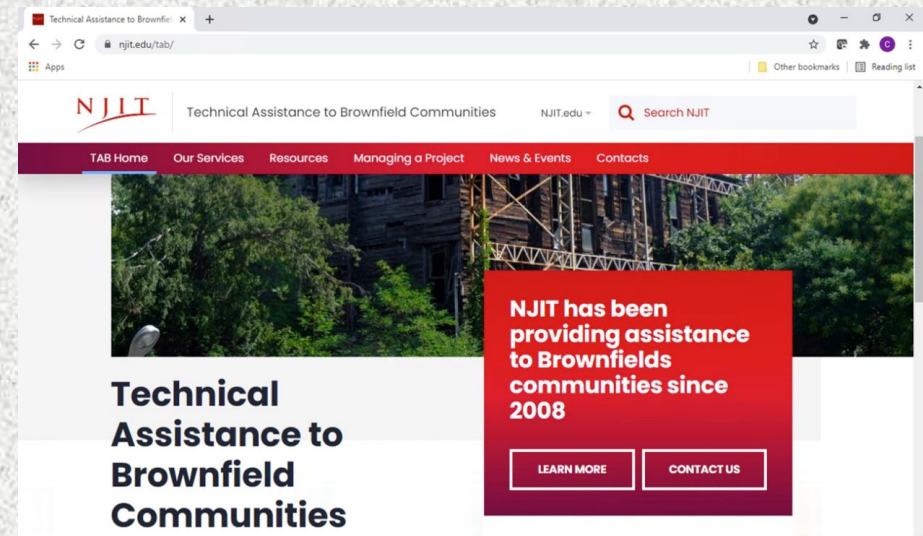
- ❖ Resource Center
- ❖ Brownfield Educational Forums
- ❖ One-on-one Technical Assistance



NJIT TAB Resource Center

www.njit.edu/tab

- ❖ info on all aspects of assessing and cleaning up a brownfield site
- ❖ news and upcoming events
- ❖ Federal and state funding sources
- ❖ EPA and state contacts
- ❖ previously recorded webinars
- ❖ downloads of workshop and seminar presentations
- ❖ success stories
- ❖ how-to videos
- ❖ successful grant applications
- ❖ Infill development, resilience, OZs, etc.



@NjitTab



NJIT TAB Hotline
973-642-4165

Email: tab@njit.edu

NJIT TAB Brownfield Educational Forums

Conferences: pre-conference workshops, learning labs, panel sessions, office hours

Workshops: 2 to 4 hour interactive sessions on brownfield related topics

Brownfield Boot Camps: 4 to 7 hour more intensive, deep dive into specific brownfield related topics

Webinars: various brownfield related topics

All-Grantee Meetings: work with state agencies and EPA

COVID-appropriate virtual events



NJIT TAB One-on-One Technical Assistance

Tailored to your specific needs...

Identify funding sources

Guidance on developing brownfield inventories

Review draft grant applications

Create project prioritization processes

Develop redevelopment strategy

Participate in the consultant solicitation process

Develop strategies on marketing brownfields sites

Explain the regulatory programs

Develop Assets and Needs Studies

Explain clean-up technologies

Design and conduct community workshops



EPA funding opportunity for FY2023

Grant Type	Maximum Project Period	Maximum Amount Per Grant	Estimated # of Awards	Total Per Grant Type - Bipartisan Infrastructure Law Funds	Total Per Grant Type - Regular Appropriated Funds
Multipurpose	5 years	\$800,000	17		\$14.0 M
Community-wide Assessment Grants for State and Tribes	5 years	\$2,000,000	17	\$35.0 M	
Assessment Coalitions	4 years	\$1,000,000	20		\$20.0 M
Community-wide Assessment - New*	4 years	\$500,000	36		\$18.0 M
Community-wide Assessment - Existing**	4 years	\$500,000	25		\$12.5 M
RLF - New***	5 years	\$1,000,000	10	\$10.0 M	
Cleanup	4 years	\$500,000	40	\$20.0 M	
Cleanup	4 years	\$1,000,000	25	\$25.0 M	
Cleanup	4 years	\$2,000,000	8	\$15.0 M	

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