

MEMO

New York State's Brownfield Cleanup Program Changes to Protect Children and Seniors

Date: May 4, 2026 revised August 20, 2026

To: Assembly Member Jeffrey Dinowitz

From: BCEQ, Karen Argenti (646-529-1990)

Re: NYS Brownfield Cleanup Program (BCP) Changes Needed to Protect Sensitive Populations

1. SUMMARY

The numeric Soil Cleanup Objectives (SCOs) found in Subpart 375-6 of the 6 NYCRR Part 375 regulations determine the required level of cleanliness for a site, depending on how the land will be used. The only choice for apartments, condominiums, and/or cooperatives is Track 2 which is NOT the highest level of protection, that is, does not allow food gardening. (Track 1 is for single family homes.) This must be changed as it is harming our sensitive populations and is a public health risk for children and seniors. **The choice should be the best management policy to protect the public's health.**

2. EXISTING LAW

[6 NYCRR Part 375](#) and [NYSDEC DER-10 §4.3](#) are the core regulations and technical guidance governing the investigation and remediation of contaminated sites in New York State, including Brownfields, State Superfund, and Environmental Restoration Programs. [\[1, 2, 3, 4\]](#) As of December 31, 2025, NYSDEC has adopted revised 6 NYCRR Part 375 regulations to conform with 2015 and 2022 legislative amendments, enhancing requirements for remediation programs. [\[1\]](#)

3. SECTIONS

- **Subpart 375-3:** Brownfield Cleanup Program (BCP), including eligibility, tracking, and tax credits.
- **Subpart 375-6:** Soil Cleanup Objectives (SCOs). This section establishes the numerical cleanup standards for different land uses (unrestricted, residential, commercial, industrial).

4. KEY LINKS & DOCUMENTS

- [6 NYCRR Part 375 Revised Regulations \(Effective Dec 31, 2025\)](#)
- [DER-10 Technical Guidance \(PDF\)](#)
- [Summary of Amendments to 6 NYCRR Part 375 \[1, 2, 3, 4\]](#)

Note: The DEC continues to update DER-10 and templates to align with the revised Part 375 regulations. [\[1\]](#)

Background **not supplied in this brief discussion:**

Part 375 shows wording that needs changing: Track 1 in section [375-3.7\(d\) Application of the Soil Contamination Objectives](#) which is highlighted with a comment. Section [375-1.8\(g\)\(2\) Use of a Site](#) needs change as well.

Also see the SCO tables, which lists Lead at 400 ppm for Track 2 – higher than the EPA standard of 200 ppm. If multiple housing were in Track 1, it would be 63, not 400. Children have higher exposure per body weight (they breathe more air, drink more water relative to size); and have frequent contact with soil/dust (hand-to-mouth behavior); and are sensitive to neurotoxins (e.g., lead, VOCs). On the other hand, seniors have prevalence of chronic conditions (asthma, cardiovascular disease); Reduced detoxification capacity; Increased susceptibility to airborne particulates and chemical exposure; and spend more time indoors (indoor vapor intrusion risk).

EPA study. Finally, when evaluating a BCP site the critical questions are: Will the cleanup meet restricted residential or unrestricted use standards? Are children's play areas included on-site? Are senior housing units planned? What are the long-term maintenance obligations, and who enforces them? Is there a vapor intrusion mitigation system, and how is it monitored?

End