

# New York State Department of Environmental Conservation

## Division of Environmental Remediation

Remedial Bureau E, 12th Floor

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Joe Martens  
Commissioner

August 26, 2013

[REDACTED]  
Project Manager  
USACE-Buffalo District  
1776 Niagara Street  
Buffalo, New York 14207

RE: Applicable or Relevant and Appropriate Requirements (ARARs) for the  
Former Lake Ontario Ordnance Works. NYSDEC Site No. 932061

Dear [REDACTED]:

The New York State Department of Environmental Conservation (the “Department”) has received your request dated July 31, 2013 on the above subject. As part of the CERCLA remedial process, ARARs are to be taken into account as part of the remedy selection process. As the primary New York State environmental regulatory agency, the Department offers the following New York State laws, regulations, policies and guidance:

#### Applicable Laws:

- ECL Article 27, Title 13 State Superfund Program (SSF)
- ECL Article 27, Title 14 Brownfield Cleanup Program (BCP)
- ECL Article 56, Title 5 Environmental Restoration Program (ERP)
- ECL Article 52, Title 3 Hazardous Waste Site Remediation Projects
- ECL Article 15, Title 31 Groundwater Protection and Remediation Programs
- ECL Article 27 Collection, Treatment and Disposal of Refuse and Other Solid Waste
- Navigation Law Article 12 - Oil Spill Prevention, Control, and Compensation
- ECL Article 17, Title 17(43) Reporting of Spills of Liquid Stored In Bulk
- ECL Article 17, Title 5 Water Pollution Control - Prohibitions
- ECL Article 17, Title 8 State Pollutant Discharge Elimination System
- ECL Article 19, (Air Pollution Control)

#### Applicable Regulations:

- 6 NYCRR Parts 370 – 373: Regulations and requirements for the generation, management and disposal requirement for hazardous waste
- 6 NYCRR Part 360: Regulations and requirements for the generation, management and disposal requirement for solid waste
- 6 NYCRR Part 375: Environmental Remediation Programs

- 6 NYCRR Part 380: Prevention and Control of Environmental Pollution by Radioactive Materials
- 6 NYCRR Part 611: Environmental Priorities and Procedures in Petroleum Cleanup and Removal
- 6 NYCRR Parts 700-706: Water Quality Standards
- 6 NYCRR Part 211: General Prohibitions
- 6 NYCRR Part 257: Air Quality Standards
- 6 NYCRR Subpart 374-2: Standards for the Management of Used Oil

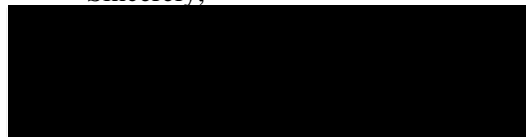
Applicable Policies and Guidance:


- CP-43: Groundwater Monitoring Well Decommissioning Policy - Issued November 3, 2009; Effective December 18, 2009. This Commissioner Policy addresses groundwater monitoring wells being properly decommissioned when they are no longer needed and reuse by another program is not an option, or when their integrity is suspect or compromised.
- CP-51: Soil Cleanup Guidance Policy - Issued October 21, 2010; Effective December 3, 2010. This Commissioner Policy provides a uniform and consistent process for the selection of soil cleanup levels appropriate for each of the remedial programs in DEC. This policy is intended for the use and guidance of both DEC staff and remedial parties, and it is used in conjunction with applicable statutes, regulations and guidance.
- DER-2: Making Changes to Selected Remedies - Revised April 1, 2008.
- DER-10: Technical Guidance for Site Investigation and Remediation - Issued May 3, 2010; Effective June 18, 2010. This Program Policy provides an overview of the site investigation and remediation process for the Inactive Hazardous Waste Disposal Site Remedial Program, known as State Superfund Program; Brownfield Cleanup Program; Environmental Restoration Program; and Voluntary Cleanup Program; and for certain petroleum releases.
- DER-13: Strategy For Prioritizing Vapor Intrusion Evaluations at Remedial Sites in New York - Issued October 18, 2006
- DER-15: Presumptive/Proven Remedial Technologies - Issued February 27, 2007
- DER-24: Assistance for Contaminated Water Supplies - Issued July 15, 2008
- DER-31: Green Remediation - Issued August 11, 2010; Effective September 17, 2010. This Program Policy establishes a preference for remediating sites in the most sustainable manner while still meeting all legal, regulatory and program requirements. This guidance applies to all phases of the site cleanup process, from investigation through completion of remediation, for sites in the Spill Response Program, Inactive Hazardous Waste Disposal Site Remedial Program (State Superfund Program), Environmental Restoration Program, Brownfield Cleanup Program, Voluntary Cleanup Program, and Resource Conservation and Recovery Act Program.
- DER-33: Institutional Controls - A Guide to Drafting and Recording Institutional Controls - Issued December 3, 2010; Effective January 14, 2011. This Program Policy provides an overview of the drafting and recording of Institutional Controls (ICs) for remedial programs in DEC's Division of Environmental Remediation. This guidance applies to sites in the Inactive Hazardous Waste Disposal Site Remedial Program (State Superfund Program), Brownfield Cleanup Program, Voluntary Cleanup Program, Environmental Restoration Program, Spill Response Program, and Resource Conservation and Recovery Act Program.
- Requirements for Licensed Professional Engineers Certifying Submissions to DEC's Division of Environmental Remediation - Requirements for certifying Professional Engineers as required by the New York State Education Law.

- Technical Guidance for Site Investigation and Remediation (DER-10) - DER-10 provides an overview of the site investigation and remediation process for the DEC's remedial programs administered by the Division of Environmental Remediation
- Index of Standards, Criteria and Guidance (SCGs) for Investigation and Remediation of Inactive Hazardous Waste Disposal Sites - List of state and federal guidance documents and regulations relating to the investigation and remediation of inactive hazardous waste disposal sites
- Making Changes To Selected Remedies (DER-2) - This Program Policy defines the procedures to propose and document changes to remedies previously selected in a Record of Decision (ROD).
- Management Of Coal Tar Waste and Coal Tar Contaminated Soils and Sediment (DER-4) - This page contains information regarding the Management of Coal Tar Waste and Coal tar Contaminated Soils and Sediment From Former Manufactured Gas Plants ("MGP"s)
- Early Design Strategy (TAGM - 4051) - Strategy for Early Design of Contaminated Site Remediation in New York
- Requirements For Submittal of Electronic Documents - Effective October 3, 2005, documents submitted to the DER must include an electronic version that conforms with the following guidelines.
- Vapor Intrusion Guidance - The Division of Environmental Remediation will evaluate vapor intrusion at all contaminated sites in New York State.
- TOGS 1.1.1 - Ambient Water Quality Standards & Guidance Values
- TOGS 1.1.2 - Groundwater Effluent Limitations
- Air Guide 1 - Guidelines for the Control of Toxic Ambient Air Contaminants

The Department looks forward to working with the USACE on addressing the remedial challenges at the former LOOW. If you have any questions on this matter, please contact me.

Sincerely,



  
Senior Engineering Geologist  
Remedial Section B, Remedial Bureau E  
Division of Environmental Remediation

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