

STATE OF NEW YORK

7195

2023-2024 Regular Sessions

IN SENATE

May 18, 2023

Introduced by Sen. KAVANAGH -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to the availability of technical assistance grants in brownfield site remedial programs

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivision 6 of section 27-1405 of the environmental
2 conservation law, as amended by section 2 of part A of chapter 577 of
3 the laws of 2004, is amended to read as follows:

4 6. "[~~Citizen~~] Community participation plan" shall mean the description
5 of [~~citizen~~] community participation activities prepared and carried out
6 pursuant to section 27-1417 of this title.

7 § 2. Paragraph (b) of subdivision 2 and subdivision 9 of section
8 27-1409 of the environmental conservation law, paragraph (b) of subdivi-
9 sion 2 as amended by section 7 of part BB of chapter 56 of the laws of
10 2015, and subdivision 9 as amended by section 4 of part A of chapter 577
11 of the laws of 2004, are amended to read as follows:

12 (b) [~~with respect to a brownfield site which the department has deter-~~
13 ~~mined constitutes a significant threat to the public health or environ-~~
14 ~~ment the department may include a provision requiring~~] the [~~applicant~~
15 participant] to provide a technical assistance grant, as described in
16 subdivision four of section 27-1417 of this title and under the condi-
17 tions described therein, to an eligible party in accordance with proce-
18 dures established under such program[~~, with the cost of such a grant~~
19 ~~incurred by a volunteer serving as an offset against such state costs~~];

20 9. One requiring the preparation and implementation of a [~~citizen~~
21 community] participation plan consistent with the requirements of this
22 title as soon as possible following execution of the agreement but no
23 later than prior to the preparation of a draft remedial investigation
24 plan by the applicant which shall include a description of [~~citizen~~]

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 community participation activities already performed by the applicant
2 and/or the department;

3 § 3. Subparagraph (vi) of paragraph (i) of subdivision 3 of section
4 27-1415 of the environmental conservation law, as amended by section 7
5 of part A of chapter 577 of the laws of 2004, is amended to read as
6 follows:

7 (vi) Any written and oral comments submitted by members of the public
8 on the applicant's proposed use as part of [~~citizen~~] community partic-
9 ipation activities performed by the applicant pursuant to this title.

10 § 4. Section 27-1417 of the environmental conservation law, as added
11 by section 1 of part A of chapter 1 of the laws of 2003, paragraphs (b),
12 (d), (e), (f), (g), (h), (i) of subdivision 3 and paragraph (a) of
13 subdivision 4 as amended by section 8 of part A of chapter 577 of the
14 laws of 2004, is amended to read as follows:

15 § 27-1417. [~~Citizen~~] Community participation.

16 1. [~~Citizen~~] Community participation handbook. The commissioner shall
17 prepare a [~~citizen~~] community participation handbook for the purpose of
18 providing guidance to applicants in the design and implementation of
19 meaningful [~~citizen~~] community participation plans consistent with the
20 requirements of this section for the remediation of brownfield sites as
21 provided in this title. Such handbook shall encourage [~~citizen~~] communi-
22 ty involvement by outlining opportunities and recommended methods for
23 effective [~~citizen~~] community participation, including the availability
24 of technical assistance grants. The commissioner shall make such hand-
25 book available to all applicants and other interested members of the
26 public upon request and shall make it available on the department's
27 website.

28 2. [~~Citizen~~] Community participation plans. (a) The design of any
29 [~~citizen~~] community participation plan, including the level of [~~citizen~~]
30 community involvement and the tools utilized, shall take into account
31 the scope and scale of the proposed remedial program, local interest and
32 history, and other relevant factors. While retaining flexibility, [~~citizen~~]
33 community participation plans shall embody the following principles
34 of meaningful [~~citizen~~] community participation:

35 (1) opportunities for [~~citizen~~] community involvement should be
36 provided as early as possible in the decision making process prior to
37 the selection of a preferred course of action by the department and/or
38 the applicant.

39 (2) activities proposed in such plan should be as reflective of the
40 diversity of interests and perspective found within the community as
41 possible, allowing the public the opportunity to have their views heard
42 and considered, which may include opportunities for two-way dialogue.

43 (3) full, timely, and accessible disclosure and sharing of information
44 by the department shall be provided, including the provision of techni-
45 cal data and the assumptions upon which the analyses are based.

46 (b) All [~~citizen~~] community participation plans shall include the
47 following minimum elements:

48 (1) identification of the interested public and preparation of a
49 brownfield site contact list;

50 (2) identification of major issues of public concern related to the
51 brownfield site;

52 (3) a description and schedule of public participation activities
53 required pursuant to this section; and

54 (4) a description and schedule of any additional public participation
55 activities needed to address public concerns.

1 3. [~~Citizen~~ **Community**] participation requirements. (a) In addition to
2 the formal milestones listed below, the public may provide comments at
3 any time during the remedial program.

4 (b) The person submitting a request for participation, in cooperation
5 with the department, shall provide a newspaper notice of the person's
6 request to participate in the program. The person, in cooperation with
7 the department, shall also provide notice thereof to the brownfield site
8 contact list. Such notice shall provide for a thirty day public comment
9 period following publication.

10 (c) Before the department finalizes the remedial investigation work-
11 plan, the applicant, in cooperation with the department, must notify
12 individuals on the brownfield site contact list. Such notice shall
13 include a fact sheet describing such plan and provide for a thirty day
14 public comment period.

15 (d) Before the department approves a proposed remedial investigation
16 report, the department, in consultation with the applicant, shall notify
17 individuals on the brownfield site contact list. Such notice shall
18 include a fact sheet describing such report.

19 (e) Upon the department's determination of significant threat pursuant
20 to section 27-1411 of this title, the department must provide notice to
21 individuals on the brownfield site contact list. Such notice shall
22 include a fact sheet describing the basis of the department's determi-
23 nation.

24 (f) Before the department finalizes a proposed remedial work plan or
25 makes a determination that site conditions meet the requirements of this
26 title without the necessity for remediation pursuant to section 27-1411
27 of this title, the department, in consultation with the applicant, must
28 notify individuals on the brownfield site contact list. Such notice
29 shall include a fact sheet describing such plan and provide for a
30 forty-five day public comment period. The commissioner shall hold a
31 public meeting if requested by the affected community and the commis-
32 sioner has found that the site constitutes a significant threat to the
33 public health or the environment. Further, the affected community may
34 request a public meeting at sites that do not constitute a significant
35 threat. (1) To the extent that the department has determined that site
36 conditions do not pose a significant threat and the site is being
37 addressed by a volunteer, the notice shall state that the department has
38 determined that no remediation is required for the off-site areas and
39 that the department's determination of a significant threat is subject
40 to this forty-five day comment period. (2) If the remedial work plan
41 includes a Track 2, Track 3 or Track 4 remedy at a non-significant
42 threat site, such comment period shall apply both to the approval of the
43 alternatives analysis by the department and the proposed remedy selected
44 by the applicant.

45 (g) Before the applicant commences construction at the brownfield
46 site, the applicant, in cooperation with the department, shall provide
47 notice to the individuals on the brownfield site contact list.

48 (h) Before the department approves a proposed final engineering
49 report, the department, in consultation with the applicant, must notify
50 individuals on such contact list. Such notice shall include a fact sheet
51 describing the brownfield site report, including any proposed institu-
52 tional or engineering controls.

53 (i) Within ten days of the issuance of a certificate of completion at
54 a site which will utilize institutional or engineering controls, the
55 applicant, in cooperation with the department, shall provide notice to

1 the brownfield site contact list. Such notice shall include a fact sheet
2 describing such controls.

3 4. Technical assistance grants. (a) Within the limits of appropri-
4 ations made available pursuant to paragraph [~~j~~] (j) of subdivision three
5 of section ninety-seven-b of the state finance law, the commissioner [~~is~~
6 ~~authorized to~~] shall provide grants to the New York city community
7 board, established pursuant to section twenty-eight hundred of the New
8 York city charter, with jurisdiction over the site or to any not-for-
9 profit corporation exempt from taxation under section 501(c)(3) of the
10 internal revenue code at any site [~~determined to pose a significant~~
11 ~~threat by the department and~~] which may be affected by a brownfield site
12 remedial program, provided only one such grant may be made available for
13 any brownfield site. To qualify to receive such assistance, a community
14 group must demonstrate that its membership represents the interests of
15 the community affected by such site. Furthermore, the commissioner [~~is~~
16 ~~authorized to~~] shall direct any applicant or participant who is a
17 responsible party, as defined in section 27-1313 of this article, to
18 provide such grants. Such grants shall be known as technical assistance
19 grants and may be used to obtain technical assistance in interpreting
20 information with regard to the nature of the hazard posed by contam-
21 ination located at or emanating from a brownfield site or sites and the
22 development and implementation of a brownfield site remedial program or
23 programs. Such grants may also be used to hire health and safety experts
24 to advise affected residents on any health assessments and for the
25 education of interested affected community members to enable them to
26 more effectively participate in the remedy selection process. Grants
27 awarded under this section may not be used for the purposes of collect-
28 ing field sampling data, political activity or lobbying legislative
29 bodies.

30 (b) The amount of any grant awarded under this section may not exceed
31 fifty thousand dollars at any one site.

32 (c) No matching contribution from the grant recipient shall be
33 required for a technical assistance grant. Following a grant award, a
34 portion of the grant shall be made available to the grant recipient, in
35 advance of the expenditures to be covered by the grant, in five thousand
36 dollar installments.

37 § 5. This act shall take effect immediately.