

STATE OF NEW YORK

7396--B

2023-2024 Regular Sessions

IN ASSEMBLY

May 19, 2023

Introduced by M. of A. LEE, OTIS -- read once and referred to the Committee on Environmental Conservation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Environmental Conservation in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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

12 2. One requiring: (a) the participant to pay for state costs, includ-
13 ing the recovery of state costs incurred before the effective date of
14 such agreement; provided, however, that such costs may be based on a
15 reasonable flat-fee for oversight, which shall reflect the projected
16 future state costs incurred in negotiating and overseeing implementation
17 of such agreement; [~~and~~]

18 (b) with respect to a brownfield site which: (i) the department has
19 determined constitutes a significant threat to the public health or

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

LBD11147-11-4

1 environment, or (ii) is located on and/or adjacent to a school or day
2 care facility, the department [~~may~~] shall include a provision requiring
3 the applicant to provide a technical assistance grant, as described in
4 subdivision four of section 27-1417 of this title and under the condi-
5 tions described therein, to an eligible party in accordance with proce-
6 dures established under such program, with the cost of such a grant
7 incurred by a volunteer serving as an offset against such state costs;

8 (c) with respect to all other brownfield sites the department may
9 include a provision requiring the applicant to provide a technical
10 assistance grant, as described in subdivision four of section 27-1417 of
11 this title and under the conditions described therein, to an eligible
12 party in accordance with procedures established under such program, with
13 the cost of such a grant incurred by a volunteer serving as an offset
14 against such state costs;

15 9. One requiring the preparation and implementation of a [~~citizen~~]
16 community participation plan consistent with the requirements of this
17 title as soon as possible following execution of the agreement but no
18 later than prior to the preparation of a draft remedial investigation
19 plan by the applicant which shall include a description of [~~citizen~~]
20 community participation activities already performed by the applicant
21 and/or the department;

22 § 3. Subparagraph (vi) of paragraph (i) of subdivision 3 of section
23 27-1415 of the environmental conservation law, as amended by section 7
24 of part A of chapter 577 of the laws of 2004, is amended to read as
25 follows:

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

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

34 § 27-1417. [~~Citizen~~] Community participation.

35 1. [~~Citizen~~] Community participation handbook. The commissioner shall
36 prepare a [~~citizen~~] community participation handbook for the purpose of
37 providing guidance to applicants in the design and implementation of
38 meaningful [~~citizen~~] community participation plans consistent with the
39 requirements of this section for the remediation of brownfield sites as
40 provided in this title. Such handbook shall encourage [~~citizen~~] communi-
41 ty involvement by outlining opportunities and recommended methods for
42 effective [~~citizen~~] community participation, including the availability
43 of technical assistance grants. The commissioner shall make such hand-
44 book available to all applicants and other interested members of the
45 public upon request and shall make it available on the department's
46 website.

47 2. [~~Citizen~~] Community participation plans. (a) The design of any
48 [~~citizen~~] community participation plan, including the level of [~~citizen~~]
49 community involvement and the tools utilized, shall take into account
50 the scope and scale of the proposed remedial program, local interest and
51 history, and other relevant factors. While retaining flexibility, [~~citizen~~]
52 community participation plans shall embody the following principles
53 of meaningful [~~citizen~~] community participation:

54 (1) opportunities for [~~citizen~~] community involvement should be
55 provided as early as possible in the decision making process prior to

1 the selection of a preferred course of action by the department and/or
2 the applicant.

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

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

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

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

14 (2) identification of major issues of public concern related to the
15 brownfield site;

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

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

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

23 (b) The person submitting a request for participation, in cooperation
24 with the department, shall provide a newspaper notice of the person's
25 request to participate in the program. The person, in cooperation with
26 the department, shall also provide notice thereof to the brownfield site
27 contact list. Such notice shall provide for a thirty day public comment
28 period following publication.

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

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

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

43 (f) Before the department finalizes a proposed remedial work plan or
44 makes a determination that site conditions meet the requirements of this
45 title without the necessity for remediation pursuant to section 27-1411
46 of this title, the department, in consultation with the applicant, must
47 notify individuals on the brownfield site contact list. Such notice
48 shall include a fact sheet describing such plan and provide for a
49 forty-five day public comment period. The commissioner shall hold a
50 public meeting if requested by the affected community and the commis-
51 sioner has found that the site constitutes a significant threat to the
52 public health or the environment. Further, the affected community may
53 request a public meeting at sites that do not constitute a significant
54 threat. (1) To the extent that the department has determined that site
55 conditions do not pose a significant threat and the site is being
56 addressed by a volunteer, the notice shall state that the department has

1 determined that no remediation is required for the off-site areas and
2 that the department's determination of a significant threat is subject
3 to this forty-five day comment period. (2) If the remedial work plan
4 includes a Track 2, Track 3 or Track 4 remedy at a non-significant
5 threat site, such comment period shall apply both to the approval of the
6 alternatives analysis by the department and the proposed remedy selected
7 by the applicant.

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

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

16 (i) Within ten days of the issuance of a certificate of completion at
17 a site which will utilize institutional or engineering controls, the
18 applicant, in cooperation with the department, shall provide notice to
19 the brownfield site contact list. Such notice shall include a fact sheet
20 describing such controls.

21 4. Technical assistance grants. (a) Within the limits of appropri-
22 ations made available pursuant to paragraph [j] (j) of subdivision three
23 of section ninety-seven-b of the state finance law, the commissioner is
24 authorized to provide grants to the New York city community board, which
25 shall have the same meaning as set forth in section twenty-eight hundred
26 of the New York city charter, in which the site is located or to any
27 not-for-profit corporation exempt from taxation under section 501(c)(3)
28 of the internal revenue code at any site determined to pose a signif-
29 icant threat by the department and which may be affected by a brownfield
30 site remedial program. To qualify to receive such assistance, a communi-
31 ty group must demonstrate that its membership represents the interests
32 of the community affected by such site. Furthermore, the commissioner is
33 authorized to direct any applicant who is a responsible party, as
34 defined in section 27-1313 of this article, to provide such grants. Such
35 grants shall be known as technical assistance grants and may be used to
36 obtain technical assistance in interpreting information with regard to
37 the nature of the hazard posed by contamination located at or emanating
38 from a brownfield site or sites and the development and implementation
39 of a brownfield site remedial program or programs. Such grants may also
40 be used to hire health and safety experts to advise affected residents
41 on any health assessments and for the education of interested affected
42 community members to enable them to more effectively participate in the
43 remedy selection process. Grants awarded under this section may not be
44 used for the purposes of collecting field sampling data, political
45 activity or lobbying legislative bodies.

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

48 (c) No matching contribution from the grant recipient shall be
49 required for a technical assistance grant. Following a grant award, a
50 portion of the grant shall be made available to the grant recipient, in
51 advance of the expenditures to be covered by the grant, in five thousand
52 dollar installments.

53 § 5. This act shall take effect on the first of February next succeed-
54 ing the date upon which it shall have become a law and shall apply to
55 any applications received on or after such date.