

# STATE OF NEW YORK

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7396--A

2023-2024 Regular Sessions

## IN ASSEMBLY

May 19, 2023

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Introduced by M. of A. LEE -- read once and referred to the Committee on Environmental Conservation -- 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. 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 to  
15 provide a technical assistance grant, as described in subdivision four  
16 of section 27-1417 of this title and under the conditions described  
17 therein, to an eligible party in accordance with procedures established  
18 under such program, with the cost of such a grant incurred by a volun-  
19 teer 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

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

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1 plan by the applicant which shall include a description of [citizen]  
2 community participation activities already performed by the applicant  
3 and/or the department;

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

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

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

16 § 27-1417. [Citizen] Community participation.

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

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

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

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

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

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

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

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

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

55 (4) a description and schedule of any additional public participation  
56 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) 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 who is a responsible party, as  
17 defined in section 27-1313 of this article, to provide such grants. Such  
18 grants shall be known as technical assistance grants and may be used to  
19 obtain technical assistance in interpreting information with regard to  
20 the nature of the hazard posed by contamination located at or emanating  
21 from a brownfield site or sites and the development and implementation  
22 of a brownfield site remedial program or programs. Such grants may also  
23 be used to hire health and safety experts to advise affected residents  
24 on any health assessments and for the education of interested affected  
25 community members to enable them to more effectively participate in the  
26 remedy selection process. Grants awarded under this section may not be  
27 used for the purposes of collecting field sampling data, political  
28 activity or lobbying legislative bodies.

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

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

36     § 5. This act shall take effect immediately.