§ 27-1411. Work plan requirements.

1. A remedial investigation work plan shall provide for the investigation and characterization of the nature and extent of the contamination within the boundaries of the brownfield site; provided, however, a participant shall also be required to fully investigate and characterize the nature and extent of contamination emanating from such site; and a volunteer must perform a qualitative exposure assessment pursuant to subdivision two of section 27-1415 of this title regarding contamination emanating from such site. Such work plan shall require that the applicant cause a final report to be prepared and submitted to the department that identifies the investigation activities completed pursuant to such work plan. Such final report, at a minimum, shall:

(a) Fully characterize the nature and extent of contamination at the brownfield site; a participant shall also fully characterize the nature and extent of contamination that has emanated from the brownfield site; and a volunteer shall describe the findings of the off-site exposure assessments;

(b) State whether the completed investigation has demonstrated that conditions at the brownfield site (1) require remediation in order to meet the remedial requirements of this title; or (2) meet the requirements of this title without necessity for remediation;

(c) Within twenty days of the completion of the final report the department shall make a final determination regarding whether the site poses a significant threat based on criteria promulgated pursuant to title thirteen of this article; and

(d) For it to be determined that the requirements of this title have been met without the necessity for remediation, an alternatives analysis pursuant to section 27-1413 of this title must support such determination for all sites which do not meet the requirements in Track 1 for unrestricted use and the department must have made a final determination that the site does not pose a significant threat.

2. A remedial work plan shall provide for the development and implementation of a remedial program for such contamination within the boundaries of such brownfield site; provided, however, that a participant shall also be required to provide in such work plan for the

development and implementation of a remedial program for contamination that has emanated from such site.

3. Interim remedial measures. (a) Interim remedial measure work plan. For interim remedial measures that are not emergency response actions an interim remedial measure work plan shall be prepared by the applicant containing such provisions as the department deems appropriate.

(b) Interim remedial measure report. For interim remedial measures that are not emergency response actions, an interim remedial measure report must be prepared and submitted to the department which shall include a description of all interim remedial measures completed pursuant to the interim remedial measure work plan.

4. The commissioner shall use all best efforts to expeditiously approve, modify, or reject a proposed work plan within forty-five days from its receipt or within fifteen days of the close of the comment period, whichever is later.

(a) If the commissioner rejects a proposed work plan, the commissioner shall notify the applicant and specify the reasons for rejecting same.

(b) If the commissioner approves or modifies such proposed work plan, the commissioner shall notify the applicant, in writing, that the proposed work plan has been approved or modified. If the commissioner requires a modification, the applicant may agree to modify such proposed work plan or withdraw it from consideration.

5. Within six months of the determination that a site poses a significant threat, in the event that the applicant is a volunteer, the department shall bring an enforcement action against any parties known or suspected to be responsible for contamination (other than such volunteer) at or emanating from the site according to applicable principles of statutory or common law liability. If such action cannot be brought, or does not result in the initiation of a remedial program by such party or parties at such site, the department shall use best efforts to begin a remedial program to perform the remediation of off-site contamination at such site within one year of the completion of such enforcement action or the completion of the volunteer's on-site remedial program, whichever is later. The state shall use moneys from

the hazardous waste remedial fund established pursuant to section ninety-seven-b of the state finance law, and/or from the New York environmental protection and spill compensation fund established pursuant to section one hundred seventy-nine of the navigation law, as appropriate, to undertake the investigation and/or remediation of such contamination. The state's costs incurred relative to such off-site contamination shall be recoverable by the state from the person or persons responsible.

6. An applicant shall include with every report submitted to the department a schedule for the submission of any subsequent work plan required to meet the requirements of this title.