§ 27-1413. Alternatives analysis.

1. For sites proposed to be remediated under Track 1 pursuant to section 27-1415 of this title, the applicant shall develop and evaluate at least one remedial alternative.

2. For all other sites, the applicant shall develop and evaluate at least two remedial alternatives, one of which would achieve a Track 1 cleanup. The department shall have the discretion to require the evaluation of additional alternatives at a site that has been determined to pose a significant threat. The applicant shall submit the alternatives analysis as a part of the remedial work plan to the department for review, approval, modification or rejection.

3. Unless the applicant has elected to remediate the site to Track 1, the department may require the applicant, as a condition of continuing under this program, to develop and evaluate a Track 2 cleanup pursuant to section 27-1415 of this title for such non-significant threat site upon due consideration of the following factors:

(a) the degree to which the remedy selection criteria would be better satisfied by a Track 2 cleanup;

(b) the degree of impact a Track 2 cleanup would have on the applicant's ability to successfully cleanup and/or redevelop the property;

(c) the benefit to the environment to be realized by the expeditious remediation of the property; and

(d) the economic benefit to the state to be realized by the expeditious remediation of the property.

4. For sites that the department has determined constitute a significant threat, the department shall select the remedy from a department-approved alternatives analysis prepared by the applicant.

5. For sites that the department has determined do not constitute a significant threat, the applicant may select the remedy from a department-approved alternatives analysis, which analysis shall contain at least two remedial alternatives as set forth in subdivision two of

this section. Provided, however, that where the department has required the applicant to develop and evaluate a Track 2 cleanup, the department shall have the discretion to, as a condition of continuing under this program, require the applicant to implement such remedy.