

1 tation district. Provided, however, that for taxable years beginning in
2 two thousand and thereafter, for purposes of this subdivision the tax
3 imposed under section one hundred eighty-four of this article shall be
4 deemed to have been imposed at the rate of three-quarters of one
5 percent, except that in the case of a corporation, joint-stock company
6 or association which has made an election pursuant to subdivision ten of
7 section one hundred eighty-three of this article, for purposes of this
8 subdivision the tax imposed under section one hundred eighty-four of
9 this article shall be deemed to have been imposed at the rate of six-
10 tenths of one percent.

11 The term "local telephone business" shall have the same meaning as
12 such term is used in section one hundred eighty-four of this article.
13 The term "telecommunication services" shall have the meaning ascribed to
14 such term in section one hundred eighty-six-e of this article.

15 The term "mobile telecommunications business" means the provision or
16 furnishing of "mobile telecommunications service" as such term is
17 defined in paragraph twenty-four of subdivision (b) of section eleven
18 hundred one of this chapter.

19 § 3. This act shall take effect immediately and shall apply to taxable
20 years beginning on and after January 1, 2015.

21

PART Q

22 Section 1. The tax law is amended by adding a new section 195 to read
23 as follows:

24 § 195. Limitation on refunds or credits. Where any person subject to
25 tax under this article passes through the economic incidence of any tax
26 imposed by this article as a separately stated amount on a bill or
27 invoice furnished to its customer, no refund or credit shall be made to
28 such person of any such amount unless such person shall first establish
29 to the satisfaction of the commissioner that such amount had been repaid
30 to such customer. For purposes of this section, the term "person" shall
31 have the same meaning that is ascribed to it in paragraph (c) of subdivi-
32 vision one of section one hundred eighty-six-e of this article.

33 § 2. This act shall take effect immediately and shall apply to any
34 amended return or claim for refund submitted on and after January 1,
35 2015.

36

PART R

37 Section 1. Subdivision (b) of section 27-1318 of the environmental
38 conservation law, as amended by section 2 of part E of chapter 577 of
39 the laws of 2004, is amended to read as follows:

40 (b) Within [~~sixty~~] one hundred eighty days of commencement of the
41 remedial design, the owner of an inactive hazardous waste disposal site,
42 and/or any person responsible for implementing a remedial program at
43 such site, where institutional or engineering controls are employed
44 pursuant to this title, shall execute an environmental easement pursuant
45 to title thirty-six of article seventy-one of this chapter.

46 § 2. Subdivision 2 of section 27-1405 of the environmental conserva-
47 tion law, as amended by section 2 of part A of chapter 577 of the laws
48 of 2004, is amended and a new subdivision 29 is added to read as
49 follows:

50 2. "Brownfield site" or "site" shall mean any real property[~~, the~~
51 ~~redevelopment or reuse of which may be complicated by the presence or~~
52 ~~potential presence of~~] where a contaminant is present at levels exceed-

1 ing the soil cleanup objectives or other health-based or environmental
2 standards, criteria or guidance adopted by the department that are
3 applicable based on the reasonably anticipated use of the property, as
4 determined by the department in accordance with applicable regulations.

5 Such term shall not include real property:

6 (a) listed in the registry of inactive hazardous waste disposal sites
7 under section 27-1305 of this article at the time of application to this
8 program and given a classification as described in subparagraph one or
9 two of paragraph b of subdivision two of section 27-1305 of this arti-
10 cle; provided, however [~~except until July first, two thousand five~~],
11 real property listed in the registry of inactive hazardous waste
12 disposal sites under subparagraph two of paragraph b of subdivision two
13 of section 27-1305 of this article [~~prior to the effective date of this~~
14 ~~article~~], where such real property is owned by a volunteer or under
15 contract to be transferred to a volunteer, shall not be deemed ineligi-
16 ble to participate, provided that, prior to the site being accepted into
17 the brownfield cleanup program, the department has not identified any
18 responsible party for that property having the ability to pay for the
19 investigation or cleanup of the property and further provided that the
20 status of any such site as listed in the registry shall not be altered
21 prior to the issuance of a certificate of completion pursuant to section
22 27-1419 of this title. The department's assessment of eligibility under
23 this paragraph shall not constitute a finding concerning liability with
24 respect to the property;

25 (b) listed on the national priorities list established under authority
26 of 42 U.S.C. section 9605;

27 (c) subject to an enforcement action under title seven or nine of this
28 article, [~~except~~] or permitted or required to be permitted as a treat-
29 ment, storage or disposal facility [~~subject to a permit~~]; provided, that
30 nothing herein contained shall be deemed otherwise to exclude from the
31 scope of the term "brownfield site" a hazardous waste treatment, storage
32 or disposal facility having interim status according to regulations
33 promulgated by the commissioner;

34 (d) subject to an order for cleanup pursuant to article twelve of the
35 navigation law or pursuant to title ten of article seventeen of this
36 chapter except such property shall not be deemed ineligible if it is
37 subject to a stipulation agreement; or

38 (e) subject to any other on-going state or federal environmental
39 enforcement action related to the contamination which is at or emanating
40 from the site subject to the present application.

41 29. "Affordable housing project" means a project subject to a regula-
42 tory agreement with a federal, state or local government housing agency
43 that is (a) a rental building in which at least twenty percent of the
44 dwelling units are restricted by the regulatory agreement for occupancy
45 by tenants whose annual incomes upon initial occupancy do not exceed
46 ninety percent of the area median income and in which at least an addi-
47 tional thirty percent of the dwelling units are restricted by the regu-
48 latory agreement for occupancy by tenants whose annual incomes upon
49 initial occupancy do not exceed one hundred thirty percent of the area
50 median income; (b) a cooperative or condominium project with at least
51 ten dwelling units where at least fifty percent of the dwelling units
52 are intended for buyers whose average annual incomes upon initial occu-
53 pancy do not exceed one hundred thirty percent of the area median
54 income; or (c) a single-family home-ownership project with one to three
55 units, consisting of not less than twenty fee-simple properties where at
56 least fifty percent of the homes are intended for buyers whose annual

1 incomes upon initial occupancy do not exceed one hundred thirty percent
2 of the area median income. Area median income means the area median
3 income for the primary metropolitan statistical area, or for the county
4 if located outside a metropolitan statistical area, as determined by the
5 United States department of housing and urban development, or its
6 successor, for a family of four, as adjusted for family size.

7 § 3. Subdivision 1 of section 27-1407 of the environmental conserva-
8 tion law, as amended by section 3 of part A of chapter 577 of the laws
9 of 2004, is amended and two new subdivisions 1-a and 1-b are added to
10 read as follows:

11 1. A person who seeks to participate in this program shall submit a
12 request to the department on a form provided by the department. Such
13 form shall include information to be determined by the department suffi-
14 cient to allow the department to determine eligibility and the current,
15 intended and reasonably anticipated future land use of the site pursuant
16 to section 27-1415 of this title. Any such person shall submit an
17 investigation report sufficient to demonstrate that the site requires
18 remediation in order to meet the remedial requirements of this title.

19 1-a. If the person is also seeking to receive the tangible property
20 credit component of the brownfield redevelopment tax credit pursuant to
21 paragraph three of subdivision (a) of section twenty-one of the tax law
22 such person shall submit information sufficient to demonstrate that: (a)
23 at least half of the site area is located in an environmental zone as
24 defined in section twenty-one of the tax law; (b) the projected cost of
25 the investigation and remediation which is protective for the antic-
26 ipated use of the site exceeds the certified appraised value of the
27 property absent contamination; or (c) the project is an affordable hous-
28 ing project. For any site located within a brownfield opportunity area
29 designated by the secretary of state pursuant to section nine hundred
30 seventy-r of the general municipal law such persons must also certify
31 that the development of the site will be in conformance with such brown-
32 field opportunity area plan. An applicant may request an eligibility
33 determination for tangible property credits at any time from application
34 until the site receives a certificate of completion pursuant to section
35 27-1419 of this title.

36 Sites are not eligible for tangible property tax credits if: (a) the
37 contamination is solely emanating from property other than the site
38 subject to the present application; or (b) the department has determined
39 that the property has previously been remediated such that it may be
40 developed for its then intended use.

41 1-b. The department is authorized to accept the request of an appli-
42 cant which is currently active in its administrative voluntary cleanup
43 program for participation in this program, provided, however, that:

44 (a) the applicant shall not be eligible for tax credits pursuant to
45 section twenty-one of the tax law; and

46 (b) the applicant commits to prompt and diligent implementation of all
47 remaining investigation and/or remediation of the contamination.

48 § 4. Subdivision 3 of section 27-1407 of the environmental conserva-
49 tion law, as amended by section 3 of part A of chapter 577 of the laws
50 of 2004, is amended to read as follows:

51 3. The department shall notify the person requesting participation in
52 this program within [~~ten~~] thirty days after receiving such request that
53 such request is either complete or incomplete. In the event the applica-
54 tion is determined to be incomplete the department shall specify in
55 writing the missing necessary information required pursuant to this
56 article to complete the application and shall have ten days after

1 receipt of the missing information to issue a written determination if
2 the application is complete.

3 § 5. Subdivision 6 of section 27-1407 of the environmental conserva-
4 tion law, as added by section 1 of part A of chapter 1 of the laws of
5 2003, is amended to read as follows:

6 6. The department shall use all best efforts to expeditiously notify
7 the applicant within forty-five days after receiving [~~their request~~] a
8 complete application for participation that such request is either
9 accepted or rejected, and, for any applicant seeking to receive the
10 tangible property credit component of the brownfield redevelopment tax
11 credit pursuant to paragraph three of subdivision (a) of section twen-
12 ty-one of the tax law, shall concurrently notify the applicant whether
13 the criteria for receiving such component as set forth in subdivision
14 one of this section have been met.

15 § 6. Subdivision 9 of section 27-1407 of the environmental conserva-
16 tion law is amended by adding a new paragraph (g) to read as follows:

17 (g) The person's participation in any remedial program under the
18 department's oversight was terminated by the department or by a court
19 for failure to substantially comply with an agreement or order.

20 § 7. Subdivision 2 of section 27-1409 of the environmental conserva-
21 tion law, as amended by section 4 of part A of chapter 577 of the laws
22 of 2004, is amended to read as follows:

23 2. One requiring: (a) the [applicant] participant to pay for state
24 costs, including the recovery of state costs incurred before the effec-
25 tive date of such agreement; provided, however, that such costs may be
26 based on a reasonable flat-fee for oversight, which shall reflect the
27 projected future state costs incurred in negotiating and overseeing
28 implementation of such agreement; and

29 (b) with respect to a brownfield site which the department has deter-
30 mined constitutes a significant threat to the public health or environ-
31 ment the department may include a provision requiring the applicant to
32 provide a technical assistance grant, as described in subdivision four
33 of section 27-1417 of this title and under the conditions described
34 therein, to an eligible party in accordance with procedures established
35 under such program, with the cost of such a grant incurred by a volun-
36 teer serving as an offset against such state costs[~~, — Where the appli-~~
37 ~~cant is a participant, the department shall include provisions relating~~
38 ~~to recovery of state costs incurred before the effective date of such~~
39 ~~agreement];~~

40 § 8. Section 27-1411 of the environmental conservation law is amended
41 by adding a new subdivision 6 to read as follows:

42 6. An applicant shall commence implementation of any work plan within
43 ninety days of approval of the plan by the department and complete the
44 activities provided for in such work plan in accordance with the sched-
45 ule set forth therein, or as otherwise approved by the department in
46 writing.

47 § 9. Subdivision 2 of section 27-1413 of the environmental conserva-
48 tion law, as amended by section 6 of part A of chapter 577 of the laws
49 of 2004, is amended to read as follows:

50 2. For all [~~other~~] sites seeking to receive the tangible property
51 credit component pursuant to paragraph three of subdivision (a) of
52 section twenty-one of the tax law and all sites accepted pursuant to
53 subdivision one-b of section 27-1407 of this title, the applicant shall
54 develop and evaluate at least two remedial alternatives, one of which
55 would achieve a Track 1 cleanup. The department shall have the
56 discretion to require the evaluation of additional alternatives at a

1 site that has been determined to pose a significant threat. The appli-
2 cant shall submit the alternatives analysis [~~as a part of the remedial~~
3 ~~work plan to the department~~] within sixty days of the acceptance of the
4 remedial investigation by the department for review, approval, modifica-
5 tion or rejection by the department.

6 § 10. Subdivision 4 of section 27-1415 of the environmental conserva-
7 tion law, as amended by section 7 of part A of chapter 577 of the laws
8 of 2004, is amended to read as follows:

9 4. Tracks. The commissioner, in consultation with the commissioner of
10 health, shall propose within twelve months and thereafter timely promul-
11 gate regulations which create a multi-track approach for the remediation
12 of contamination, and, commencing on the effective date of such regu-
13 lations, utilize such multi-track approach. Such regulations shall
14 provide that groundwater use in Tracks 2, 3 or 4 can be either
15 restricted or unrestricted. The tracks shall be as follows:

16 Track 1: The remedial program shall achieve a cleanup level that will
17 allow the site to be used for any purpose without restriction and with-
18 out reliance on the long-term employment of institutional or engineering
19 controls, and shall achieve contaminant-specific remedial action objec-
20 tives for soil which conform with those contained in the generic table
21 of contaminant-specific remedial action objectives for unrestricted use
22 developed pursuant to subdivision six of this section. Provided, howev-
23 er, that volunteers whose proposed remedial program [~~for the remediation~~
24 ~~of groundwater~~] (a) (i) may require the long-term employment of institu-
25 tional or engineering controls for the remediation of groundwater after
26 the bulk reduction of groundwater contamination to asymptotic levels has
27 been achieved or (ii) may require an institutional or engineering
28 control for more than five years solely to address soil vapor intrusion
29 but (b) whose program would otherwise conform with the requirements
30 necessary to qualify for Track 1, shall qualify for Track 1.

31 Track 2: The remedial program may include restrictions on the use of
32 the site or reliance on the long-term employment of engineering and/or
33 institutional controls, but shall achieve contaminant-specific remedial
34 action objectives for soil which conform with those contained in one of
35 the generic tables developed pursuant to subdivision six of this section
36 without the use of institutional or engineering controls to reach such
37 objectives.

38 Track 3: The remedial program shall achieve contaminant-specific reme-
39 dial action objectives for soil which conform with the criteria used to
40 develop the generic tables for such objectives developed pursuant to
41 subdivision six of this section but may use site specific data to deter-
42 mine such objectives.

43 Track 4: The remedial program shall achieve a cleanup level that will
44 be protective for the site's current, intended or reasonably anticipated
45 residential, commercial, or industrial use with restrictions and with
46 reliance on the long-term employment of institutional or engineering
47 controls to achieve such level. The regulations shall include a
48 provision requiring that a cleanup level which poses a risk in excee-
49 dance of an excess cancer risk of one in one million for carcinogenic
50 end points and a hazard index of one for non-cancer end points for a
51 specific contaminant at a specific site may be approved by the depart-
52 ment without requiring the use of institutional or engineering controls
53 to eliminate exposure only upon a site specific finding by the commis-
54 sioner, in consultation with the commissioner of health, that such level
55 shall be protective of public health and environment. Such finding shall

1 be included in the draft remedial work plan for the site and fully
2 described in the notice and fact sheet provided for such work plan.

3 § 11. Paragraphs (b), (c) and (d) of subdivision 7 of section 27-1415
4 of the environmental conservation law are relettered paragraphs (c), (d)
5 and (e) and a new paragraph (b) is added to read as follows:

6 (b) Within one hundred eighty days of commencement of the remedial
7 design or at least three months prior to the date of the anticipated
8 issuance of the certificate of completion, the owner of a brownfield
9 site, and/or any person responsible for implementing a remedial program
10 at such site, where institutional or engineering controls are employed
11 pursuant to this title, shall execute an environmental easement pursuant
12 to title thirty-six of article seventy-one of this chapter.

13 § 12. Paragraph (h) of subdivision 3 of section 27-1417 of the envi-
14 ronmental conservation law is REPEALED, paragraph (i) is relettered
15 paragraph (h) and paragraph (f), as amended by section 8 of part A of
16 chapter 577 of the laws of 2004, is amended to read as follows:

17 (f) Before the department [~~finalizes~~] selects a proposed [~~remedial~~
18 ~~work-plan~~] remedy from the alternatives set forth in the alternatives
19 analysis as prescribed by section 27-1413 of this title or makes a
20 determination that site conditions meet the requirements of this title
21 without the necessity for remediation pursuant to section 27-1411 of
22 this title, the department, in consultation with the applicant, must
23 notify individuals on the brownfield site contact list. Such notice
24 shall include a fact sheet describing such plan and provide for a
25 forty-five day public comment period. The commissioner shall hold a
26 public meeting if requested by the affected community and the commis-
27 sioner has found that the site constitutes a significant threat to the
28 public health or the environment. Further, the affected community may
29 request a public meeting at sites that do not constitute a significant
30 threat. (1) To the extent that the department has determined that site
31 conditions do not pose a significant threat and the site is being
32 addressed by a volunteer, the notice shall state that the department has
33 determined that no remediation is required for the off-site areas and
34 that the department's determination of a significant threat is subject
35 to this forty-five day comment period. (2) If the [~~remedial work plan~~]
36 remedy includes a Track 2, Track 3 or Track 4 remedy at a non-signifi-
37 cant threat site, such comment period shall apply both to the approval
38 of the alternatives analysis by the department, if applicable, and the
39 proposed remedy selected by the applicant.

40 § 13. Paragraph (a) of subdivision 2 and subdivision 3 of section
41 27-1419 of the environmental conservation law, paragraph (a) of subdivi-
42 sion 2 as added by section 1 of part A of chapter 1 of the laws of 2003,
43 subdivision 3 as amended by chapter 390 of the laws of 2008, are amended
44 to read as follows:

45 (a) a description of the remediation activities completed pursuant to
46 the remedial work plan and any interim remedial measures for the brown-
47 field site and the costs paid for those activities;

48 3. Upon receipt of the final engineering report, the department shall
49 review such report and the data submitted pursuant to the brownfield
50 site cleanup agreement as well as any other relevant information regard-
51 ing the brownfield site. Upon satisfaction of the commissioner that the
52 remediation requirements set forth in this title have been or will be
53 achieved in accordance with the timeframes, if any, established in the
54 remedial work plan, the commissioner shall issue a written certificate
55 of completion[~~—such~~]. The certificate shall include such information as
56 determined by the department of taxation and finance, including but not

1 limited to the brownfield site boundaries included in the final engi-
2 neering report, the date of the brownfield site cleanup agreement
3 [~~pursuant to section 27-1409 of this title~~], identification of the enti-
4 ty or entities eligible for credits pursuant to sections twenty-one,
5 twenty-two or twenty-three of the tax law, and the applicable percent-
6 ages available as of the date of the certificate of completion for that
7 site for purposes of section twenty-one of the tax law[~~, with such~~
8 ~~percentages to be determined as follows with respect to such qualified~~
9 ~~site~~]. For those sites for which the department has issued a notice to
10 the applicant on or after April first, two thousand fifteen that its
11 request for participation has been accepted under subdivision six of
12 section 27-1407 of this title, the tangible property credit component of
13 the brownfield redevelopment tax credit pursuant to paragraph three of
14 subdivision (a) of section twenty-one of the tax law shall only be
15 available to the taxpayer if the criteria for receiving such tax compo-
16 nent have been met. For those sites for which the department has issued
17 a notice to the taxpayer after June twenty-third, two thousand eight
18 that its request for participation has been accepted under subdivision
19 six of section 27-1407 of this title[+]

20 ~~For the purposes of calculating~~, the applicable percentage for the
21 site preparation credit component pursuant to paragraph two of subdivi-
22 sion (a) of section twenty-one of the tax law, and the on-site groundwa-
23 ter remediation credit component pursuant to paragraph four of subdivi-
24 sion (a) of section twenty-one of the tax law[~~, the applicable~~
25 ~~percentage~~] shall be based on the level of cleanup achieved pursuant to
26 subdivision four of section 27-1415 of this title and the level of
27 cleanup of soils to contaminant-specific soil cleanup objectives promul-
28 gated pursuant to subdivision six of section 27-1415 of this title, up
29 to a maximum of fifty percent, as follows:

30 (a) soil cleanup for unrestricted use, the protection of groundwater
31 or the protection of ecological resources, the applicable percentage
32 shall be fifty percent;

33 (b) soil cleanup for residential use, the applicable percentage shall
34 be forty percent, except for Track 4 which shall be twenty-eight
35 percent;

36 (c) soil cleanup for commercial use, the applicable percentage shall
37 be thirty-three percent, except for Track 4 which shall be twenty-five
38 percent;

39 (d) soil cleanup for industrial use, the applicable percentage shall
40 be twenty-seven percent, except for Track 4 which shall be twenty-two
41 percent.

42 § 14. Subdivision 5 of section 27-1419 of the environmental conserva-
43 tion law, as amended by section 9 of part A of chapter 577 of the laws
44 of 2004, is amended to read as follows:

45 5. A certificate of completion issued pursuant to this section may be
46 transferred [~~to the applicant's successors or assigns upon transfer or~~
47 ~~sale of the brownfield site~~] by the applicant or subsequent holder of
48 the certificate of completion to a successor to a real property inter-
49 est, including legal title, equitable title or leasehold, in all or a
50 part of the brownfield site for which the certificate of completion was
51 issued. Notwithstanding any provision of this chapter to the contrary, a
52 certificate of completion shall not be transferred to a responsible
53 party. Further, a certificate of completion may be modified or revoked
54 by the commissioner upon a finding that:

1 (a) Either the applicant, or the applicant's successors or assigns,
2 has failed to comply with the terms and conditions of the brownfield
3 site cleanup agreement;

4 (b) The applicant made a misrepresentation of a material fact tending
5 to demonstrate that: (i) it was qualified as a volunteer; or (ii) met
6 the criteria set forth in subdivision one-a of section 27-1407 of this
7 title for the purpose of receiving the tangible property credit compo-
8 nent of the brownfield redevelopment tax credit pursuant to paragraph
9 three of subdivision (a) of section twenty-one of the tax law;

10 (c) Either the applicant, or the applicant's successors or assigns,
11 made a misrepresentation of a material fact tending to demonstrate that
12 the cleanup levels identified in the brownfield site cleanup agreement
13 were reached; ~~[ex]~~

14 (d) The environmental easement created and recorded pursuant to title
15 thirty-six of article seventy-one of this chapter no longer provides an
16 effective or enforceable means of ensuring the performance of mainte-
17 nance, monitoring or operating requirements, or the restrictions on
18 future uses, including restrictions on drilling for or withdrawing
19 groundwater; or

20 (e) There is good cause for such modification or revocation.

21 § 15. Section 27-1423 of the environmental conservation law is
22 REPEALED.

23 § 16. Section 27-1429 of the environmental conservation law, as
24 amended by section 13 of part A of chapter 577 of the laws of 2004, is
25 amended to read as follows:

26 § 27-1429. Permit waivers.

27 The department~~[, by and through the commissioner,]~~ shall be exempt,
28 and shall be authorized to exempt a person from the requirement to
29 obtain any state or local permit or other authorization for any activity
30 needed to implement a program for the investigation and/or remediation
31 of contamination at or emanating from a brownfield site; provided that
32 the activity is conducted in a manner which satisfies all substantive
33 technical requirements applicable to like activity conducted pursuant to
34 a permit.

35 § 17. Subdivision 1 of section 27-1431 of the environmental conserva-
36 tion law is amended by adding a new paragraph c to read as follows:

37 c. to inspect for compliance with the site management plan approved by
38 the department, including (i) inspection of the performance of mainte-
39 nance, monitoring and operational activities required as part of the
40 remedial program for the site, (ii) inspection for the purpose of ascer-
41 taining current uses of the site, and (iii) taking samples in accordance
42 with paragraph (a) of this subdivision.

43 § 17-a. Section 27-1435 of the environmental conservation law is
44 REPEALED.

45 § 18. The environmental conservation law is amended by adding a new
46 section 27-1437 to read as follows:

47 § 27-1437. BCP-EZ Program.

48 1. Notwithstanding the provisions of this title or any other provision
49 of law, the department shall promulgate regulations which authorize the
50 department to exempt an applicant from procedural requirements of this
51 title as the department may specify which are otherwise applicable to
52 implementation of an investigation and/or remediation of contamination,
53 provided that:

54 (a) at the time of the application, the department has not determined
55 that the brownfield site poses a significant threat pursuant to section
56 27-1411 of this title;

1 (b) the applicant has waived in writing any claim for tax credits
2 pursuant to section twenty-one of the tax law on a form prescribed by
3 the department; and

4 (c) the activity is conducted in a manner which satisfies all substan-
5 tive technical requirements applicable to like activity conducted pursu-
6 ant to this title, including meeting applicable soil cleanup objectives
7 established pursuant to subdivision six of section 27-1417 of this title
8 except as provided in subdivision three of this section.

9 2. Where an exemption has been granted pursuant to subdivision one of
10 this section, the approved work plan for a brownfield site shall include
11 the procedural requirements the department determines appropriate based
12 on site specific considerations and consideration of section 27-1417 of
13 this title.

14 3. For any site accepted into the BCP-EZ program pursuant to this
15 section which is pursuing a Track 4 remediation, if a contaminant is
16 identified in soil in excess of the remedial action objectives contained
17 in an applicable generic table developed pursuant to subdivision six of
18 section 27-1415 of this title, the applicant may use site-specific data
19 to demonstrate to the department that the concentration of the contam-
20 inant in the soils reflects background conditions and, in that case, a
21 contaminant-specific action objective for such contaminant equal to such
22 background concentration may be established provided that such objective
23 is protective of the public health and the environment and is determined
24 in a manner acceptable to the department.

25 4. Upon the department's acceptance of the certification by the appli-
26 cant that the remediation requirements of this title have been achieved
27 for the brownfield site and an environmental easement, if necessary, has
28 been created and filed pursuant to title thirty-six of article seventy-
29 one of this chapter, a site in the BCP-EZ shall be eligible to receive a
30 certificate of completion in accordance with section 27-1419 of this
31 title; provided, however, that such certificate of completion shall not
32 entitle the holder to any tax credits provided by section twenty-one of
33 the tax law.

34 § 19. The opening paragraph of subdivision 10 of section 71-3605 of
35 the environmental conservation law, as added by section 2 of part A of
36 chapter 1 of the laws of 2003, is amended to read as follows:

37 An environmental easement may be enforced in law or equity by its
38 grantor, by the state, or any affected local government as defined in
39 section 71-3603 of this title. Such easement is enforceable against the
40 owner of the burdened property, any lessees, and any person using the
41 land. Enforcement shall not be defeated because of any subsequent
42 adverse possession, laches, estoppel, reversion or waiver. No general
43 law of the state which operates to defeat the enforcement of any inter-
44 est in real property shall operate to defeat the enforcement of any
45 environmental easement unless such general law expressly states the
46 intent to defeat the enforcement of such easement or provides for the
47 exercise of the power of eminent domain. It is not a defense in any
48 action to enforce an environmental easement that:

49 § 20. Paragraph 2 of subdivision (a) of section 21 of the tax law, as
50 amended by section 1 of part H of chapter 577 of the laws of 2004, is
51 amended to read as follows:

52 (2) Site preparation credit component. The site preparation credit
53 component shall be equal to the applicable percentage of the site prepa-
54 ration costs paid [~~or~~] within six months of the date the expense is
55 incurred by the taxpayer with respect to a qualified site. The credit
56 component amount so determined with respect to a site's qualification

1 for a certificate of completion shall be allowed for the taxable year in
2 which the effective date of the certificate of completion occurs. The
3 credit component amount determined other than with respect to such qual-
4 ification shall be allowed for the taxable year in which the improvement
5 to which the applicable costs apply is placed in service for up to five
6 taxable years after the issuance of such certificate of completion.

7 § 21. Paragraph 3 of subdivision (a) of section 21 of the tax law, as
8 amended by chapter 390 of the laws of 2008, is amended to read as
9 follows:

10 (3) Tangible property credit component.

11 (i) The tangible property credit component shall be equal to the
12 applicable percentage of the cost or other basis for federal income tax
13 purposes of tangible personal property and other tangible property,
14 including buildings and structural components of buildings, which
15 constitute qualified tangible property; provided~~[, however,]~~ that in
16 determining the cost or other basis of such property, the taxpayer shall
17 exclude the acquisition cost of any item of property with respect to
18 which a credit under this section was allowable to another taxpayer. The
19 credit component amount so determined shall be allowed for the taxable
20 year in which such qualified tangible property is first placed in
21 service on a qualified site with respect to which a certificate of
22 completion has been issued to the taxpayer, or for the taxable year in
23 which the certificate of completion is issued if the qualified tangible
24 property is placed in service prior to the issuance of the certificate
25 of completion. This credit component shall only be allowed for up to
26 ~~[ten]~~ five consecutive taxable years ~~[after]~~ from the start of the rede-
27 velopment of the site provided that all credits must be claimed within
28 ten years of the date of the issuance of such certificate of completion.

29 (ii) The tangible property credit component shall be allowed with
30 respect to property leased to a second party only if such second party
31 is either ~~[(i)]~~ (A) not a party responsible for the disposal of hazard-
32 ous waste or the discharge of petroleum at the site according to appli-
33 cable principles of statutory or common law liability, or ~~[(ii)]~~ (B) a
34 party responsible according to applicable principles of statutory or
35 common law liability if such party's liability arises solely from opera-
36 tion of the site subsequent to the disposal of hazardous waste or the
37 discharge of petroleum, and is so certified by the commissioner of envi-
38 ronmental conservation at the request of the taxpayer, pursuant to
39 section 27-1419 of the environmental conservation law. Notwithstanding
40 any other provision of law to the contrary, in the case of allowance of
41 credit under this section to such a lessor, the commissioner shall have
42 the authority to reveal to such lessor any information, with respect to
43 the issue of qualified use of property by the lessee, which is the basis
44 for the denial in whole or in part, or for the recapture, of the credit
45 claimed by such lessor. For purposes of the tangible property credit
46 component allowed under this section the taxpayer to whom the certifi-
47 cate of completion is issued, as provided for under subdivision five of
48 section 27-1419 of the environmental conservation law, may transfer the
49 benefits and burdens of the certificate of completion, which run with
50 the land and to the applicant's successors or assigns upon transfer or
51 sale of all or any portion of an interest or estate in the qualified
52 site. However, the taxpayer to whom certificate's benefits and burdens
53 are transferred shall not include the cost of acquiring all or any
54 portion of an interest or estate in the site and the amounts included in
55 the cost or other basis for federal income tax purposes of qualified

1 tangible property already claimed by the previous taxpayer pursuant to
2 this section.

3 (iii) The tangible property credit component shall not include costs
4 paid to a related party or parties, as such term "related person" is
5 defined in subparagraph (c) of paragraph three of subdivision (b) of
6 section four hundred sixty-five of the internal revenue code.

7 (iv) Eligible costs for the tangible property credit component are
8 limited to costs associated with actual construction of tangible proper-
9 ty incorporated as part of the physical structure, and costs associated
10 with the foundation of any buildings constructed as part of the site
11 cover that are not properly included in the site preparation component.

12 (v) With respect to any qualified site for which the department of
13 environmental conservation has issued a notice to the taxpayer on or
14 after April first, two thousand fifteen that its request for partic-
15 ipation has been accepted under subdivision six of section 27-1407 of
16 the environmental conservation law, and the site is eligible for the
17 tangible property credit component because it is an affordable housing
18 project pursuant to subdivision one-a of section 27-1407 of the environ-
19 mental conservation law, the portion of eligible costs to be included in
20 the calculation of the tangible property credit component will be deter-
21 mined by multiplying the total costs qualified for the tangible property
22 credit component by a fraction, the numerator of which shall be the
23 square footage of space of the affordable housing units dedicated to
24 residential occupancy and the denominator of which shall be the total
25 square footage of the building together with the total square footage of
26 any other improvements on the site.

27 § 22. Subparagraph (A) of paragraph 3-a of subdivision (a) of section
28 21 of the tax law, as added by chapter 390 of the laws of 2008, is
29 amended to read as follows:

30 (A) Notwithstanding any other provision of law to the contrary, the
31 tangible property credit component available for any qualified site
32 pursuant to paragraph three of this subdivision shall not exceed thir-
33 ty-five million dollars or three times the sum of the costs included in
34 the calculation of the site preparation credit component and the on-site
35 groundwater remediation credit component under paragraphs two and four,
36 respectively, of this subdivision, and the costs that would have been
37 included in the calculation of such components if not treated as an
38 expense and deducted pursuant to section one hundred ninety-eight of the
39 internal revenue code, whichever is less; provided, however, that: (1)
40 in the case of a qualified site to be used primarily for manufacturing
41 activities, the tangible property credit component available for any
42 qualified site pursuant to paragraph three of this subdivision shall not
43 exceed forty-five million dollars or six times the sum of the costs
44 included in the calculation of the site preparation credit component and
45 the on-site groundwater remediation credit component under paragraphs
46 two and four, respectively, of this subdivision, and the costs that
47 would have been included in the calculation of such components if not
48 treated as an expense and deducted pursuant to section one hundred nine-
49 ty-eight of the internal revenue code, whichever is less; and (2) the
50 provisions of this paragraph shall not apply to any qualified site for
51 which the department of environmental conservation has issued a notice
52 to the taxpayer before June twenty-third, two thousand eight that its
53 request for participation has been accepted under subdivision six of
54 section 27-1407 of the environmental conservation law.

1 § 22-a. Subparagraph (C) of paragraph 3-a of subdivision (a) of
2 section 21 of the tax law, as added by chapter 390 of the laws of 2008,
3 is amended to read as follows:

4 (C) In order to properly administer the [~~credit~~] credits set forth in
5 [~~paragraph three of~~] this subdivision, the department may disclose
6 information about the calculation and the amounts of the credits claimed
7 under [~~paragraph three of~~] this subdivision on a taxpayer's return to
8 the department of environmental conservation and other taxpayers claim-
9 ing tax credits under this section with respect to the same qualifying
10 site.

11 § 23. Subparagraph (D) of paragraph 3-a of subdivision (a) of section
12 21 of the tax law, as added by chapter 390 of the laws of 2008, is
13 amended to read as follows:

14 (D) [~~if~~] With respect to any qualified site for which the department
15 of environmental conservation has issued a notice to the taxpayer before
16 April first, two thousand fifteen that its request for participation has
17 been accepted under subdivision six of section 27-1407 of the environ-
18 mental conservation law, or where the taxpayer has either been issued or
19 received a certificate of completion from another taxpayer under section
20 27-1419 of the environmental conservation law before April first, two
21 thousand fifteen, if the qualifying site is located in a brownfield
22 opportunity area and is developed in conformance with the goals and
23 priorities established for that applicable brownfield opportunity area
24 as designated pursuant to section nine hundred seventy-r of the general
25 municipal law, the applicable percentage of the tangible property credit
26 component will be increased by two percent.

27 § 24. Paragraph 4 of subdivision (a) of section 21 of the tax law, as
28 amended by section 1 of part H of chapter 577 of the laws of 2004, is
29 amended to read as follows:

30 (4) On-site groundwater remediation credit component. The on-site
31 groundwater remediation credit component shall be equal to the applica-
32 ble percentage of the on-site groundwater remediation costs paid [~~or~~]
33 within six months of the date the expense is incurred by the taxpayer
34 with respect to a qualified site (to the extent that such groundwater
35 remediation costs are not included in the determination of the site
36 preparation credit or the cost or other basis included in the determi-
37 nation of the tangible property credit). The credit component so deter-
38 mined for costs [~~incurred and~~] paid with respect to and prior to the
39 issuance of a certificate of completion shall be allowed for the taxable
40 year in which the effective date of the issuance of a certificate of
41 completion occurs. The credit component amount determined in taxable
42 years after the effective date of the issuance of a certificate of
43 completion shall be allowed in the taxable year such qualified costs are
44 [~~incurred and~~] paid for up to five taxable years after the issuance of
45 such certificate of completion.

46 § 25. Paragraph 5 of subdivision (a) of section 21 of the tax law, as
47 amended by section 39 of part A of chapter 59 of the laws of 2014, is
48 amended to read as follows:

49 (5) Applicable percentage. (A) For purposes of computing the site
50 preparation and on-site groundwater remediation credit components pursu-
51 ant to paragraphs two[, three] and four of this subdivision, with
52 respect to such qualified sites for which the department of environ-
53 mental conservation has issued a notice to the taxpayer before June
54 twenty-third, two thousand eight that its request for participation has
55 been accepted under subdivision six of section 27-1407 of the environ-
56 mental conservation law, or where the taxpayer has either been issued or

1 received a certificate of completion from another taxpayer under section
2 27-1419 of the environmental conservation law for such a site, and, for
3 purposes of computing the tangible property component pursuant to para-
4 graph three of this subdivision with respect to such qualified sites for
5 which the department of environmental conservation has issued a notice
6 to the taxpayer before April first, two thousand fifteen that its
7 request for participation has been accepted under subdivision six of
8 section 27-1407 of the environmental conservation law, or where the
9 taxpayer has either been issued or received a certificate of completion
10 from another taxpayer under section 27-1419 of the environmental conser-
11 vation law for such a site, the applicable percentage shall be twelve
12 percent in the case of credits claimed under article nine, nine-A or
13 thirty-three of this chapter, and ten percent in the case of credits
14 claimed under article twenty-two of this chapter, except that where at
15 least fifty percent of the area of the qualified site relating to the
16 credit provided for in this section is located in an environmental zone
17 as defined in paragraph six of subdivision (b) of this section, the
18 applicable percentage shall be increased by an additional eight percent.
19 Provided, however, as afforded in section 27-1419 of the environmental
20 conservation law, if the certificate of completion indicates that the
21 qualified site has been remediated to Track 1 as that term is described
22 in subdivision four of section 27-1415 of the environmental conservation
23 law, the applicable percentage set forth in the first sentence of this
24 paragraph shall be increased by an additional two percent.

25 (B) With respect to such qualified site for which the department of
26 environmental conservation has issued a notice to the taxpayer on or
27 after April first, two thousand fifteen that its request for partic-
28 ipation has been accepted under subdivision six of section 27-1407 of
29 the environmental conservation law, the applicable percentage for the
30 tangible property credit component of the brownfield redevelopment tax
31 credit pursuant to paragraph three of subdivision (a) of this section
32 shall be the sum of ten percent and the following additional percent-
33 ages, provided that the total percentage of the tangible property credit
34 component shall not exceed twenty-four percent and is otherwise subject
35 to the limitations set forth in paragraphs three and three-a of subdivi-
36 sion (a) of this section:

37 (i) five percent for a site within an environmental zone;
38 (ii) five percent for a site located within a designated brownfield
39 opportunity area;
40 (iii) five percent for a site developed as affordable housing, as
41 defined in section 27-1405 of the environmental conservation law; and
42 (iv) five percent for a site to be used primarily for manufacturing
43 activities as such term is defined in subparagraph (B) of paragraph
44 three-a of this subdivision.

45 (C) The taxpayer shall submit, in the manner prescribed by the commis-
46 sioner, information sufficient to demonstrate that the site qualifies
47 for any credit components available under subparagraph (B) of this para-
48 graph. If the site is located within a designated brownfield opportunity
49 area, the taxpayer shall submit a certification from the secretary of
50 state that the development is in conformance with such brownfield oppor-
51 tunity area plan pursuant to section nine hundred seventy-r of the
52 general municipal law.

53 § 26. Paragraph 6 of subdivision (a) of section 21 of the tax law, as
54 amended by section 1 of part H of chapter 577 of the laws of 2004, is
55 amended to read as follows:

1 (6) Site preparation costs and on-site groundwater remediation costs
2 paid [~~or~~] within six months of the date the expense is incurred by the
3 taxpayer with respect to a qualified site and the cost or other basis
4 for federal income tax purposes of tangible personal property and other
5 tangible property, including buildings and structural components of
6 buildings, which constitute qualified tangible property shall only
7 include costs paid [~~or~~] within six months of the date the expense is
8 incurred by the taxpayer on or after the date of the brownfield site
9 cleanup agreement executed by the taxpayer and the department of envi-
10 ronmental conservation pursuant to section 27-1409 of the environmental
11 conservation law.

12 § 27. Paragraphs 2, 4 and 6 of subdivision (b) of section 21 of the
13 tax law, as amended by section 1 of part H of chapter 577 of the laws of
14 2004 and subparagraph (B) and the closing paragraph of paragraph 6 as
15 amended by section 1 of part G of chapter 62 of the laws of 2006, are
16 amended to read as follows:

17 (2) Site preparation costs. The term "site preparation costs" shall
18 mean all amounts properly [~~chargeable~~] charged to a capital account, (i)
19 which are paid [~~or~~] within six months of the date the expense is
20 incurred in connection with a site's qualification for a certificate of
21 completion, and (ii) all other site preparation costs paid [~~or~~] within
22 six months of the date the expense is incurred in connection with
23 preparing a site for the erection of a building or a component of a
24 building, or otherwise to establish a site as usable for its industrial,
25 commercial (including the commercial development of residential hous-
26 ing), recreational or conservation purposes. Site preparation costs
27 shall include, but not be limited to, the costs of excavation, temporary
28 electric wiring, scaffolding, demolition costs, and the costs of fencing
29 and security facilities and shall include costs attributable to activ-
30 ities undertaken under the oversight of the department of labor or in
31 accordance with standards established by the department of health to
32 remediate regulated materials including asbestos, lead or polychlorinat-
33 ed biphenyls in buildings which will remain on the site. For a building
34 foundation, only costs equivalent to the cost of a site cover for the
35 area covered by the foundation shall be included in site preparation
36 costs. Site preparation costs shall not include the cost of acquiring
37 the site and shall not include amounts included in the cost or other
38 basis for federal income tax purposes of qualified tangible property, as
39 described in paragraph three of this subdivision. "Site preparation
40 costs" shall not include costs paid to a related party or parties, as
41 such term "related person" is defined in subparagraph (c) of paragraph
42 three of subdivision (b) of section four hundred sixty-five of the
43 internal revenue code. Eligible site preparation costs are limited to
44 costs directly associated with actual site preparation-related
45 construction, including costs associated with all requirements of site
46 remediation and easements required pursuant to title fourteen of article
47 twenty-seven and title thirty-six of article seventy-one of the environ-
48 mental conservation law such as architectural and engineering fees,
49 appraisal, surveys, soil borings/other investigations, legal fees asso-
50 ciated with any environmental easement required, operation, maintenance
51 and monitoring of treatment systems, testing for asbestos or lead paint,
52 legal fees associated with construction loan closing, cost certification
53 and insurance.

54 (4) On-site groundwater remediation costs. The term "on-site groundwa-
55 ter remediation costs" shall mean all amounts properly [~~chargeable~~]
56 charged to a capital account, (i) which are paid [~~or~~] within six months

1 of the date the expense is incurred in connection with a site's quali-
2 fication for a certificate of completion, and (ii) include costs which
3 are paid ~~[ex]~~ within six months of the date the expense is incurred in
4 connection with the remediation of on-site groundwater contamination and
5 ~~[incurred]~~ paid to implement a requirement of the remedial work plan or
6 an interim remedial measure work plan for a qualified site which are
7 imposed pursuant to subdivisions two and three of section 27-1411 of the
8 environmental conservation law. "On-site groundwater remediation costs"
9 shall not include costs paid to a related party or parties, as such term
10 "related person" is defined in subparagraph (c) of paragraph three of
11 subdivision (b) of section four hundred sixty-five of the internal
12 revenue code. On site groundwater remediation costs are limited to
13 costs directly associated with actual groundwater remediation activ-
14 ities, including costs associated with all requirements of site remedi-
15 ation and easements required pursuant to title fourteen of article twen-
16 ty-seven and title thirty-six of article seventy-one of the
17 environmental conservation law such as architectural and engineering
18 fees, appraisal, surveys, soil boring/other investigations, legal fees
19 associated with any environmental easement required, operation, mainte-
20 nance and monitoring of treatment systems, testing for asbestos or lead
21 paint, legal fees associated with construction loan closing, cost
22 certification and insurance.

23 (6) Environmental zones (EN-Zones). An "environmental zone" shall mean
24 an area designated as such by the commissioner of ~~[economic development]~~
25 labor. Such areas ~~[so designated are areas which are]~~ shall be census
26 tracts ~~[and block numbering areas which, as of the two thousand census,]~~
27 that satisfy either of the following criteria:

28 (A) areas that have both:

29 (i) a poverty rate of at least twenty percent ~~[for the year to which~~
30 ~~the data relate]~~ based on the most recent five year American Community
31 Survey; and

32 (ii) an unemployment rate of at least one and one-quarter times the
33 statewide unemployment rate ~~[for the year to which the data relate]~~
34 based on the most recent five year American Community Survey, or;

35 (B) areas that have a poverty rate of at least two times the poverty
36 rate for the county in which the areas are located ~~[for the year to~~
37 ~~which the data relate provided, however, that a qualified site shall~~
38 ~~only be deemed to be located in an environmental zone under this subpar-~~
39 ~~agraph (B) if such site was the subject of a brownfield site cleanup~~
40 ~~agreement pursuant to section 27-1409 of the environmental conservation~~
41 ~~law that was entered into prior to September first, two thousand ten]~~
42 based on the most recent five year American Community Survey.

43 Such designation shall be made and a list of all such environmental
44 zones shall be established by the commissioner of ~~[economic development~~
45 ~~no later than December thirty-first, two thousand four provided, howev-~~
46 ~~er, that a qualified site shall only be deemed to be located in an envi-~~
47 ~~ronmental zone under subparagraph (B) of this paragraph if such site was~~
48 ~~the subject of a brownfield site cleanup agreement pursuant to section~~
49 ~~27-1409 of the environmental conservation law that was entered into~~
50 ~~prior to September first, two thousand ten]~~ labor based on the two thou-
51 sand nine through two thousand thirteen American Community Survey esti-
52 mate. Upon request of the commissioner of environmental conservation,
53 the commissioner of labor shall update such designation based on the
54 most recent American Community Survey, or its successor.

55 The determination of whether a site is located in an environmental
56 zone shall be based on the date the department of environmental conser-

1 vation issued a notice to the taxpayer that its request for partic-
2 ipation in the brownfield cleanup program has been deemed complete
3 pursuant to subdivision three of section 27-1407 of the environmental
4 conservation law.

5 § 28. Section 171-r of the tax law is amended by adding a new subdivi-
6 sion (e) to read as follows:

7 (e) The commissioner, in consultation with the commissioner of envi-
8 ronmental conservation, shall publish by January thirty-first, two thou-
9 sand sixteen a supplemental brownfield credit report containing the
10 information required by this section about the credits claimed for the
11 years two thousand five, two thousand six, and two thousand seven.

12 § 29. Section 171-s of the tax law is REPEALED.

13 § 30. Paragraph b of subdivision 2 of section 970-r of the general
14 municipal law, as added by section 1 of part F of chapter 1 of the laws
15 of 2003, is amended to read as follows:

16 b. Activities eligible to receive such assistance shall include, but
17 are not limited to, the assembly and development of basic information
18 about:

- 19 (1) the borders of the [~~proposed~~] brownfield opportunity area;
- 20 (2) the number and size of known or suspected brownfield sites;
- 21 (3) current and anticipated uses of the properties in the [~~proposed~~]
22 brownfield opportunity area;
- 23 (4) current and anticipated future conditions of groundwater in the
24 [~~proposed~~] brownfield opportunity area;
- 25 (5) known data about the environmental conditions of the properties in
26 the [~~proposed~~] brownfield opportunity area;
- 27 (6) ownership of the properties in the [~~proposed~~] brownfield opportu-
28 nity area and whether the owners would like to participate directly in
29 the brownfield opportunity planning process; and
- 30 (7) preliminary descriptions of possible remediation strategies, reuse
31 opportunities, necessary infrastructure improvements and other public or
32 private measures needed to stimulate investment, promote revitalization,
33 and enhance community health and environmental conditions.

34 § 31. Subparagraphs 2 and 5 of paragraph c of subdivision 2 of section
35 970-r of the general municipal law, as added by section 1 of part F of
36 chapter 1 of the laws of 2003, are amended to read as follows:

- 37 (2) areas with concentrations of known or suspected brownfield sites;
- 38 (5) areas with known or suspected brownfield sites presenting strate-
39 gic opportunities to stimulate economic development, community revitali-
40 zation or the siting of public amenities.

41 § 32. Paragraph a of subdivision 3 of section 970-r of the general
42 municipal law, as amended by chapter 390 of the laws of 2008, is amended
43 to read as follows:

44 a. Within the limits of appropriations therefor, the secretary is
45 authorized to provide, on a competitive basis, financial assistance to
46 municipalities, to community based organizations, to community boards,
47 or to municipalities and community based organizations acting in cooper-
48 ation to prepare a pre-nomination study for a brownfield opportunity
49 area designation. Such financial assistance shall not exceed ninety
50 percent of the costs of such pre-nomination study for any such area. A
51 nomination study must include sufficient information to designate the
52 brownfield opportunity area. The contents of the nomination study shall
53 be developed based on pre-nomination study information, which shall
54 principally consist of an area-wide study, documenting the historic
55 brownfield uses in the area proposed for designation. A nomination study
56 is not intended to be equivalent to or to serve as a master plan,

1 comprehensive plan, or other equivalent land use study, but rather is
2 intended to be a basic plan for designation of the brownfield opportu-
3 nity area based on historic brownfield use information and the community
4 participation required in this section. A master plan, comprehensive
5 plan or equivalent land use study may be separately developed under this
6 program as an implementation strategy for the final brownfield opportu-
7 nity area plan. Since a nomination study is not equivalent to a final
8 land use plan, the preparation of the nomination study does not require
9 review under the Environmental Quality Review Act pursuant to article
10 eight of the environmental conservation law, and a brownfield opportu-
11 nity area can be designated based exclusively on a nomination study. In
12 the event the municipality and/or community based organization elect to
13 develop implementation strategies, including but not limited to a master
14 plan, comprehensive plan or urban renewal plan, review under the Envi-
15 ronmental Quality Review Act under article eight of the environmental
16 conservation law is required. No such nomination study shall supersede
17 an existing master plan or equivalent land and use study.

18 § 33. Subparagraphs 2 and 5 of paragraph e of subdivision 3 and subdivi-
19 sion 4 of section 970-r of the general municipal law, subparagraphs 2
20 and 5 of paragraph e of subdivision 3 as added by section 1 of part F of
21 chapter 1 of the laws of 2003 and subdivision 4 as amended by chapter
22 390 of the laws of 2008, are amended to read as follows:

23 (2) areas with concentrations of known or suspected brownfield sites;
24 (5) areas with known or suspected brownfield sites presenting strate-
25 gic opportunities to stimulate economic development, community revitali-
26 zation or the siting of public amenities.

27 4. Designation of brownfield opportunity area. Upon completion of a
28 nomination for designation of a brownfield opportunity area, it shall be
29 forwarded by the applicant to the secretary, who shall determine whether
30 it is consistent with the provisions of this section. The secretary may
31 review and approve a nomination for designation of a brownfield opportu-
32 nity area at any time. If the secretary determines that the nomination
33 is consistent with the provisions of this section, the brownfield oppor-
34 tunity area shall be designated. If the secretary determines that the
35 nomination is not consistent with the provisions of this section, the
36 secretary shall make recommendations in writing to the applicant of the
37 manner and nature in which the nomination should be amended.

38 § 34. The subdivision heading, paragraph a and subparagraphs 2 and 5
39 of paragraph e of subdivision 6 of section 970-r of the general municip-
40 al law, the subdivision heading and subparagraphs 2 and 5 of paragraph
41 e as added by section 1 of part F of chapter 1 of the laws of 2003, and
42 paragraph a as amended by chapter 386 of the laws of 2007, are amended
43 to read as follows:

44 State assistance for brownfield site assessments in proposed or desig-
45 nated brownfield opportunity areas. a. Within the limits of appropri-
46 ations therefor, [~~the commissioner, in consultation with~~] the secretary
47 of state, is authorized to provide, on a competitive basis, financial
48 assistance to municipalities, to community based organizations, to
49 community boards, or to municipalities and community based organizations
50 acting in cooperation to conduct brownfield site assessments [~~in a~~
51 ~~brownfield opportunity area designated pursuant to this section~~]. Such
52 financial assistance shall not exceed ninety percent of the costs of
53 such brownfield site assessment.

54 (2) areas with concentrations of known or suspected brownfield sites;

1 (5) areas with known or suspected brownfield sites presenting strate-
2 gic opportunities to stimulate economic development, community revitali-
3 zation or the siting of public amenities.

4 § 35. Section 970-r of the general municipal law is amended by adding
5 a new subdivision 10 to read as follows:

6 10. The secretary shall establish criteria for brownfield opportunity
7 area conformance determinations for purposes of the brownfield cleanup
8 program pursuant to title fourteen of article twenty-seven of the envi-
9 ronmental conservation law and the brownfield redevelopment tax credits
10 pursuant to section twenty-one of the tax law. In establishing criteria,
11 the secretary shall be guided by, but not limited to, the following
12 considerations: how the proposed use and development advances the desig-
13 ned brownfield opportunity area plan's vision statement, goals and
14 objectives for revitalization; how the density of development and asso-
15 ciated buildings and structures advances the plan's objectives, desired
16 redevelopment and priorities for investment; and how the project
17 complies with zoning and other local laws and standards to guide and
18 ensure appropriate use of the project site.

19 § 36. Section 31 of part H of chapter 1 of the laws of 2003, amending
20 the tax law relating to brownfield redevelopment tax credits, remediated
21 brownfield credit for real property taxes for qualified sites and envi-
22 ronmental remediation insurance credits, as amended by chapter 474 of
23 the laws of 2012, is amended to read as follows:

24 § 31. The tax credits allowed under section [~~21,~~] 22 or 23 of the tax
25 law and the corresponding provisions in articles 9, 9-A, 22[~~, 32~~] and 33
26 of the tax law, as added by the provisions of sections one through twen-
27 ty-nine of this act, shall not be applicable [~~if~~] to any site accepted
28 into the brownfield cleanup program on and after April 1, 2015. The tax
29 credits allowed under section 21 of the tax law and the corresponding
30 provisions in articles 9, 9-A, 22 and 33 of the tax law, as added by the
31 provisions of sections one through twenty-nine of this act, shall not be
32 applicable to any site accepted into the brownfield cleanup program
33 after December 31, 2022, provided, however that any sites accepted on or
34 before December 31, 2022 must have received the [~~remediation~~]
35 certificate of completion required to qualify for any of such credits [~~is~~
36 ~~issued after~~] by December 31, [~~2015~~] 2025.

37 § 37. Any site for which a brownfield cleanup agreement with the
38 department of environmental conservation was entered into prior to April
39 1, 2015 which has not received a certificate of completion by December
40 31, 2017, shall only be eligible for brownfield remediation tax credits
41 available pursuant to section 21 of the tax law as if the site was
42 accepted into the brownfield cleanup program on and after April 1, 2015
43 and shall be subject to the eligibility requirements for the tangible
44 property credit component set forth in subdivision 1-a of section
45 27-1407 of the environmental conservation law.

46 § 38. Paragraph c of subdivision 3 of section 27-0923 of the environ-
47 mental conservation law, as amended by section 5 of part I of chapter
48 577 of the laws of 2004, is amended to read as follows:

49 c. For the purpose of this section, generation of hazardous waste
50 shall not include retrieval or creation of hazardous waste which must be
51 disposed of under an order of or agreement with the department pursuant
52 to title thirteen or title fourteen of this article or under a contract
53 with the department pursuant to title five of article fifty-six of this
54 chapter or under an order of or agreement with the United States envi-
55 ronmental protection agency or an order of a court of competent juris-
56 isdiction, related to a facility addressed pursuant to the Comprehensive

1 Environmental Response, Compensation and Liability Act (42 U.S.C. 9601
2 et seq.) or under a written agreement with a municipality which is
3 subject to a memorandum of agreement with the department related to the
4 remediation of brownfield sites.

5 § 39. Subparagraphs (i) and (vi) of paragraph d of subdivision 1 of
6 section 72-0402 of the environmental conservation law, as amended by
7 chapter 99 of the laws of 2010, are amended to read as follows:

8 (i) under a contract with the department, or with the department's
9 written approval and in compliance with department regulations, or
10 pursuant to an order of the department, the United States environmental
11 protection agency or a court of competent jurisdiction, related to the
12 cleanup or remediation of a hazardous materials or hazardous waste
13 spill, discharge, or surficial cleanup, pursuant to this chapter; or

14 (vi) under a brownfield site cleanup agreement with the department
15 pursuant to section 27-1409 of this chapter or under an agreement with a
16 municipality which is subject to a memorandum of agreement with the
17 department related to the remediation of brownfield sites; or

18 § 40. Section 56-0501 of the environmental conservation law, as added
19 by chapter 413 of the laws of 1996, is amended to read as follows:

20 § 56-0501. Allocation of moneys.

21 1. Of the moneys received by the state from the sale of bonds pursuant
22 to the Clean Water/Clean Air Bond Act of 1996, two hundred million
23 dollars (\$200,000,000) shall be available for disbursements for environ-
24 mental restoration projects.

25 2. Environmental restoration projects may be funded using the proceeds
26 of bonds issued pursuant to section twelve hundred eighty-five-q of the
27 public authorities law.

28 § 41. Subdivision 6 of section 56-0502 of the environmental conserva-
29 tion law, as amended by section 2 of part D of chapter 577 of the laws
30 of 2004, is amended to read as follows:

31 6. "State assistance", for purposes of this title, shall mean in the
32 case of a contract authorized by subdivision one of section 56-0503 of
33 this title, payments made to a municipality to reimburse the municipi-
34 pality for the state share of the costs incurred by the municipality to
35 undertake an environmental restoration project or in the case of an
36 agreement authorized by subdivision three of section 56-0503 of this
37 title, costs incurred by the state to undertake an environmental resto-
38 ration project but not reimbursed by a municipality.

39 § 42. Paragraph (c) of subdivision 2 of section 56-0503 of the envi-
40 ronmental conservation law, as amended by section 4 of part D of chapter
41 1 of the laws of 2003, is amended and a new subdivision 3 is added to
42 read as follows:

43 (c) A provision that the municipality shall assist in identifying a
44 responsible party by searching local records, including property tax
45 rolls, or document reviews, and if, in accordance with the required
46 departmental approval of any settlement with a responsible party, any
47 responsible party payments become available to the municipality, before,
48 during or after the completion of an environmental restoration project,
49 which were not included when the state share was calculated pursuant to
50 this section, the state assistance share shall be recalculated, and the
51 municipality shall pay to the state, for deposit into the environmental
52 restoration project account of the hazardous waste remedial fund estab-
53 lished under section ninety-seven-b of the state finance law, the
54 difference between the original state assistance payment and the recal-
55 culated state share. Recalculation of the state share shall be done each
56 time a payment from a responsible party is received by the municipality;

1 3. The department may undertake an environmental restoration project
2 on behalf of a municipality upon request. If the department undertakes
3 the project on behalf of the municipality, the state shall enter into an
4 agreement with the municipality and the agreement shall require the
5 municipality to periodically provide its share to the state for costs
6 incurred during the progress of such project. The municipality's share
7 shall be the same as would be required under subdivision one of this
8 section. The agreement shall include all provisions specified in subdivi-
9 vision two of this section as appropriate. For purposes of projects to
10 subject to agreements under this subdivision, all references to
11 contracts in this title shall also apply to agreements under this subdivi-
12 vision as appropriate.

13 § 43. Subdivision 4 of section 56-0505 of the environmental conserva-
14 tion law, as amended by section 5 part of part D of chapter 1 of the
15 laws of 2003, is amended to read as follows:

16 4. After completion of such project, the municipality may use the
17 property for public purposes or may dispose of it. If the municipality
18 shall dispose of such property by sale to a responsible party, such
19 party shall pay to such municipality, in addition to such other consid-
20 eration, an amount of money constituting the amount of state assistance
21 provided [~~to the municipality~~] under this title plus accrued interest
22 and transaction costs and the municipality shall deposit that money into
23 the environmental restoration project account of the hazardous waste
24 remedial fund established under section ninety-seven-b of the state
25 finance law.

26 § 44. Subdivisions 3 and 4 of section 56-0508 of the environmental
27 conservation law, as added by section 7 of part D of chapter 1 of the
28 laws of 2003, are amended to read as follows:

29 3. such temporary incidents of ownership by such taxing district shall
30 also qualify it as being the owner of such property [~~for the purposes of~~
31 ~~obtaining~~] to be eligible for funding from the state of New York for
32 such environmental restoration investigation project under this article
33 or for such funding from any source pursuant to any other state, feder-
34 al, or local law, but such incidents of ownership shall not be suffi-
35 cient to qualify it as the owner of such property for the purposes of
36 holding it wholly or partially liable for any damages, past, present, or
37 future from any release of any hazardous material, substance, or contam-
38 inant into the air, ground, or water, unless such release was caused by
39 such taxing district.

40 4. within thirty days of the completion of the environmental restora-
41 tion investigation project and the receipt by the taxing jurisdiction of
42 the final report of such investigation, such taxing jurisdiction shall
43 file such report with the court on notice to the court and all other
44 parties of record, and the stay of the foreclosure shall be lifted
45 (unless lifted earlier by a prior court order), and all incidents of
46 temporary ownership of the taxing jurisdiction that was awarded such
47 taxing district, except any right [~~to receive funding~~] for the environ-
48 mental restoration investigation project to be funded, shall cease to
49 exist, and nothing in this subdivision shall preclude the taxing juris-
50 diction that conducted the environmental restoration investigation
51 project or the taxing jurisdiction that commenced the foreclosure
52 action, if it is a different taxing jurisdiction than the taxing juris-
53 diction which conducted the investigation, from withdrawing the parcel
54 from foreclosure pursuant to section eleven hundred thirty-eight of the
55 real property tax law.

1 § 45. Subdivision 2 and paragraph (f) of subdivision 3 of section 97-b
2 of the state finance law, as amended by section 4 of part I of chapter 1
3 of the laws of 2003, are amended to read as follows:

4 2. Such fund shall consist of all of the following:

5 (a) moneys appropriated for transfer to the fund's site investigation
6 and construction account; (b) all fines and other sums accumulated in
7 the fund prior to April first, nineteen hundred eighty-eight pursuant to
8 section 71-2725 of the environmental conservation law for deposit in the
9 fund's site investigation and construction account; (c) all moneys
10 collected or received by the department of taxation and finance pursuant
11 to section 27-0923 of the environmental conservation law for deposit in
12 the fund's industry fee transfer account; (d) all moneys paid into the
13 fund pursuant to section 72-0201 of the environmental conservation law
14 which shall be deposited in the fund's industry fee transfer account;
15 (e) all moneys paid into the fund pursuant to section one hundred eight-
16 y-six of the navigation law which shall be deposited in the fund's
17 industry fee transfer account; (f) [~~all moneys paid into the fund by~~
18 ~~municipalities for repayment of landfill closure loans made pursuant to~~
19 ~~title five of article fifty-two of the environmental conservation law~~
20 ~~for deposit in the fund's site investigation and construction account,~~
21 ~~(g)~~] all monies recovered under sections 56-0503, 56-0505 and 56-0507 of
22 the environmental conservation law into the fund's environmental resto-
23 ration project account; [~~(h) all~~] (g) fees paid into the fund pursuant
24 to section [~~72-0403~~] 72-0402 of the environmental conservation law which
25 shall be deposited in the fund's industry fee transfer account; [~~(i)~~]
26 (h) payments received for all state costs incurred in negotiating and
27 overseeing the implementation of brownfield site cleanup agreements
28 pursuant to title fourteen of article twenty-seven of the environmental
29 conservation law shall be deposited in the hazardous waste remediation
30 oversight and assistance account; and [~~(j)~~] (i) other moneys credited or
31 transferred thereto from any other fund or source for deposit in the
32 fund's site investigation and construction account.

33 (f) to undertake such remedial measures as the department of environ-
34 mental conservation may determine necessary due to environmental condi-
35 tions related to the property subject to an agreement [~~to provide state~~
36 ~~assistance~~] or contract under title five of article fifty-six of the
37 environmental conservation law [~~that were unknown to such department at~~
38 ~~the time of its approval of such agreement which indicates that condi-~~
39 ~~tions on such property are not sufficiently protective of human health~~
40 ~~for its reasonably anticipated uses or due to information received, in~~
41 ~~whole or in part, after such department's approval of such agreement's~~
42 ~~final engineering report and certification~~], which indicates that such
43 agreement's remedial activities are not sufficiently protective of human
44 health for such property's reasonably anticipated uses; and, [~~respecting~~
45 ~~the monies in the environmental restoration project account in excess of~~
46 ~~ten million dollars,~~] shall provide state assistance under title five of
47 article fifty-six of the environmental conservation law;

48 § 46. Severability. If any clause, sentence, paragraph, subdivision,
49 section or part of this act shall be adjudged by any court of competent
50 jurisdiction to be invalid, such judgment shall not affect, impair or
51 invalidate the remainder thereof, but shall be confined in its operation
52 to the clause, sentence, paragraph, subdivision, section or part thereof
53 directly involved in the controversy in which such judgment shall have
54 been rendered. It is hereby declared to be the intent of the legislature
55 that this act would have been enacted even if such invalid provisions
56 had not been included herein.

1 § 47. This act shall take affect April 1, 2015; provided, however,
2 that the department of environmental conservation shall not charge
3 volunteers in the brownfield cleanup program for oversight costs for any
4 sites in the program incurred on or after April 1, 2015; provided,
5 however, that the amendments made by section two of this act relating to
6 the definition of brownfield site, section twenty-one of this act relat-
7 ing to the length of time a taxpayer may claim the tangible property
8 credit component, and all amendments to the brownfield redevelopment tax
9 credits made by sections twenty, twenty-one, twenty-two, twenty-three,
10 twenty-four, twenty-five, twenty-six and twenty-seven of this act shall
11 apply only to sites for which the department of environmental conserva-
12 tion has issued a notice to the applicant on or after April 1, 2015 that
13 its request for participation has been accepted under subdivision six of
14 section 27-1407 of the environmental conservation law; provided,
15 further, that the department of labor shall update the environmental
16 zones as required by section twenty-seven of this act within ninety days
17 of this act becoming law.

18

PART S

19 Section 1. Paragraph (r) of section 104-A of the business corporation
20 law, as amended by chapter 172 of the laws of 2000, is amended to read
21 as follows:

22 (r) For filing a statement or amendment pursuant to section four
23 hundred eight of this chapter with the department of state, nine
24 dollars.

25 § 2. Paragraphs (b) and (c) of section 306-A of the business corpo-
26 ration law, as added by chapter 469 of the laws of 1997, are amended to
27 read as follows:

28 (b) Upon the failure of the designating corporation to file a certif-
29 icate of amendment or change providing for the designation by the corpo-
30 ration of the new address after the filing of a certificate of resigna-
31 tion for receipt of process with the secretary of state, its authority
32 to do business in this state shall be suspended unless the corporation
33 has previously filed a statement [~~of addresses and directors~~] under
34 section four hundred eight of this chapter, in which case the address of
35 the principal executive office stated in the last filed statement [~~of~~
36 ~~addresses and directors~~], shall constitute the new address for process
37 of the corporation provided such address is different from the previous
38 address for process, and the corporation shall not be deemed suspended.

39 (c) The filing by the department of state of a certificate of amend-
40 ment or change or statement under section four hundred eight of this
41 chapter providing for a new address by a designating corporation shall
42 annul the suspension and its authority to do business in this state
43 shall be restored and continue as if no suspension had occurred.

44 § 3. Section 408 of the business corporation law, as added by chapter
45 55 of the laws of 1992, the section heading as amended by chapter 375 of
46 the laws of 1998, subparagraph (a) of paragraph 1 and paragraph 2 as
47 amended by chapter 172 of the laws of 1999, subparagraph (b) of para-
48 graph 3 as amended by chapter 170 of the laws of 1994, paragraph 6 as
49 added by chapter 469 of the laws of 1997, and paragraph 7 as added by
50 chapter 172 of the laws of 2000, is amended to read as follows:

51 § 408. [~~Biennial statement~~] Statement; filing.

52 1. [~~Each~~] Except as provided in paragraph eight of this section, each
53 domestic corporation, and each foreign corporation authorized to do
54 business in this state, shall, during the applicable filing period as