



*Conserving, improving, and protecting New York's natural resources and environment*

## Environmental Conservation Law

The body of law that established DEC and authorizes its programs is called Environmental Conservation Law, often abbreviated to ECL. The full text of New York's ECL is found on the New York State Legislative Information System.

On the New York State Legislative Information System site scroll down the list to find the link titled "ENV Environmental Conservation" to access the full text of the ECL.

### Administration and Enforcement

DEC is responsible for administration and enforcement of the Environmental Conservation Law. The Department's major responsibilities as assigned in Environmental Conservation Law are:

- **Regulate the disposal, transport and treatment of hazardous and toxic wastes in an environmentally sound manner;**
- **Manage the state program for oil and chemical spills;**
- **Provide for the abatement of water, land and air pollution, including pesticides;**
- **Monitor environmental conditions and test for contaminants;**
- **Encourage recycling, recovery and reuse of all solid waste to conserve resources and reduce waste;**
- Administer fish and wildlife laws, carry out sound fish and wildlife management practices, and conduct fish and wildlife research;
- Manage New York's marine and coastal resources;
- Conduct sound forestry management practices on state lands, provide assistance to private forest landowners and manage fire prevention and control efforts;
- Manage the Adirondack and Catskill forest preserves and recreational facilities, including campsites and the Belleayre Mountain ski center;
- Protect tidal and freshwater wetlands and flood plains;
- **Promote the wise use of water resources;**
- Administer the wild, scenic and recreational rivers program;
- **Regulate mining, including reclamation of mined lands, extraction of oil and gas, and underground storage of natural gas and liquefied petroleum gas;**
- **Inform the public about environmental conservation principles and encourage their participation in environmental affairs.**

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**Title 1. Declaration of policy**

**3. Short title; general definitions**

**TITLE 1 — DECLARATION OF POLICY**

**Section 1-0101. Declaration of policy.**

1. The quality of our environment is fundamental to our concern for the quality of life. It is hereby declared to be the policy of the State of New York to conserve, improve and protect its natural resources and environment and to prevent, abate and control water, land and air pollution, in order to enhance the health, safety and welfare of the people of the state and their overall economic and social well being.
2. It shall further be the policy of the state to improve and coordinate the environmental plans, functions, powers and programs of the state, in cooperation with the federal government, regions, local governments, other public and private organizations and the concerned individual, and to develop and manage the basic resources of water, land, and air to the end that the state may fulfill its responsibility as trustee of the environment for the present and future generations.
3. It shall further be the policy of the state to foster, promote, create and maintain conditions under which man and nature can thrive in harmony with each other, and achieve social, economic and technological progress for present and future generations by:
  - a. Assuring surroundings which are healthful and aesthetically pleasing;
  - b. Guaranteeing that the widest range of beneficial uses of the environment is attained without risk to health or safety, unnecessary degradation or other undesirable or unintended consequences;
  - c. Promoting patterns of development and technology which minimize adverse impact on the environment;
  - d. Preserving the unique qualities of special resources such as the Adirondack and Catskill forest preserves;

- e. Providing that care is taken for the air, water and other resources that are shared with the other states of the United States and with Canada in the manner of a good neighbor.

**§ 1-0303. General definitions.**

Whenever used in this chapter, unless a different meaning clearly appears from the context or unless a different meaning is stated in a definition applicable to only a portion of this chapter:

1. "Air pollution emergency" means a combination of circumstances which requires immediate action to reduce the quantity of contaminants in the atmosphere due to danger to public health and welfare, injury to agricultural crops and livestock, damage to and deterioration of property, hazards to air and ground transportation or impairment of environmental quality.
2. "Article," "title," "section" and "subdivision" shall mean such article, title, section or subdivision of this chapter.
3. "Board" shall mean the State Environmental Board.
4. "Commissioner" shall mean the state Commissioner of Environmental Conservation.
5. "Consolidated health district" shall mean a health district established under section 390 of the Public Health Law.
6. "Council" shall mean the Council of Environmental Advisers.
7. "County department of health" shall mean that division of the county government having jurisdiction over the public health of a county or part-county health district.
8. "County health commissioner" shall mean the executive officer of a county department of health.
9. "County health district" shall mean a health district comprising the entire county heretofore or hereafter established.
10. "County legislative body" shall mean the board of supervisors, or the elected county legislative body, if the county has one.
11. "Department" shall mean the state Department of Environmental Conservation.
12. "Health district" shall mean a county health district, part-county health district, city, town, village or consolidated health district having a separate board of health.
13. "Local board of health" shall mean the board of health of a county, part-county, city, village, town or consolidated health district.
14. "Local health officer" shall mean the health officer of a county, part-county, city, village, town or consolidated health district.
15. As used in sections 3-0109 through 3-0115, inclusive, and sections 3-0305 and 3-0307 of article 3; articles 9, 11, 13 and 15; titles 7, 9, 11 and 13 of article 21; article 23; title 3 of article 27; articles 43, 45 and 47; and titles 1 through 13 inclusive and title 33 of article 71 applicable to these provisions, "local public corporation" shall mean any "municipal corporation" or "district corporation" as defined in subdivisions two and three of section sixty-six of the general construction law.
16. As used in articles 17 and 19 of this chapter, "municipality" shall mean a city, village, town or consolidated health district.
17. "Part-county health district" shall mean all that part of a county outside of a city or cities having a population of fifty thousand or more heretofore or hereafter established as a health district.
18. "Person" shall mean any individual, public or private corporation, political subdivision, government agency, department or bureau of the state, municipality, industry, co-partnership, association, firm, trust, estate or any other legal entity whatsoever. Provided, however, that for purposes of sections 3-0109 through 3-0115 inclusive, and sections 3-0305 and 3-0307 of article 3; articles 9, 11, 13 and 15; titles 7, 9, 11 and 13 of article 21; article 23; articles 43, 45 and 47; sections 57-0121 and 57-0123 of article 57;

and titles 1 through 13 inclusive and title 33 of article 71 applicable to these provisions, “person” means any individual, firm, co-partnership, association or corporation other than the state and a “public corporation”.

19. “Pollution” shall mean the presence in the environment of conditions and or contaminants in quantities of characteristics which are or may be injurious to human, plant or animal life or to property or which unreasonably interfere with the comfortable enjoyment of life and property throughout such areas of the state as shall be affected thereby.
20. As used in sections 3-0109 through 3-0115 inclusive, and sections 3-0305 and 3-0307 of article 3; articles 9, 11, 13 and 15; titles 7, 9, 11 and 13 of article 21; article 23; title 3 of article 27; articles 43, 45 and 47; and titles 1 through 15 inclusive and title 33 of article 71 applicable to these provisions, “public corporation” shall mean “public corporation” as defined in subdivision 1 of section 3 of the General Corporation Law and includes all public authorities.
21. As used in sections 3-0109 through 3-0115 inclusive, and sections 3-0305 and 3-0307 of article 3; articles 9, 11, 13 and 15; titles 7, 9, 11 and 13 of article 21; article 23; title 3 of article 27; articles 43, 45 and 47; and titles 1 through 15 inclusive and title 33 of article 71 applicable to these provisions, “state public corporation” shall mean public benefit corporation to which the Governor appoints a majority of the members. A person who is a member of a public corporation by virtue of holding another state office shall be deemed to be selected as a member of the public benefit corporation in the manner in which he was selected for such other office.
22. “Infant” or “minor” shall mean any person who has not attained the age of eighteen years.
23. “Arbor day” shall mean the last Friday of April.
24. “Sole source aquifer” shall mean an aquifer system that the United States environmental protection agency, pursuant to Public Law 93-523 which is known as the federal Safe Drinking Water Act of 1974, has designated as the sole or principal drinking water source for an area and which, if contaminated, would create a significant hazard to public health.
25. “Telecommuting” shall mean the conservation of energy through the reduction of travel by employees of the department to and from their designated workplace through the use of telecommunication and computer technology in tasks including, but not limited to, information transfer and processing.

### **ARTICLE 3**

#### **DEPARTMENT OF ENVIRONMENTAL CONSERVATION; GENERAL FUNCTIONS, POWERS, DUTIES AND JURISDICTION**

- Title 1. Department of environmental conservation**  
**3. General functions, powers, duties and jurisdiction**

##### **TITLE 1 – DEPARTMENT OF ENVIRONMENTAL CONSERVATION**

- 3-0101 – Continuation of department.**
- 3-0103 – Commissioner of environmental conservation.**
- 3-0105 - Offices of the department.**
- 3-0107 – Organization of department; officers and employees.**
- 3-0109 – Eligibility for certain offices.**
- 3-0113 – The New York State Conservationist.**
- 3-0115 – Establishment of forestry and wildlife management areas by United States; consent of state.**
- 3-0117 – Activities of local governmental agencies.**
- 3-0119 – Laboratory tests.**

**§ 3-0101. Continuation of department.**

The Department of Environmental Conservation, which was established by chapter 140 of the Laws of 1970, is hereby continued, and all the powers, functions, duties and obligations possessed by the department pursuant to such chapter immediately preceding the effective date of this chapter are hereby continued.

**§ 3-0117. Activities of local governmental agencies.**

1. Activities of local health boards, departments and officers and other local government agencies pertaining to functions, powers and duties which were transferred pursuant to chapter 140 of the Laws of 1970, from the Department and Commissioner of Health to the Department and Commissioner of Environmental Conservation shall be eligible for aid under the provisions of titles 1, 2, and 3 of article 6 of the Public Health Law to the same extent such activities were eligible for such aid if conducted immediately prior to the effective date of chapter 140 of the Laws of 1970. The Commissioner of Environmental Conservation shall exercise the same powers of approval and supervision with respect to such activities as were exercised by the Commissioner of Health immediately prior to the effective date of that chapter.
2. Counties and cities shall be eligible for aid for other environmental conservation activities pertaining to functions, powers and duties other than those which were so transferred pursuant to chapter 140 of the Laws of 1970. Such other activities shall be described under rules and regulations adopted pursuant to subdivision four of this section.
3. A county or city shall be eligible for aid whenever it shall appropriate or otherwise make funds available and expend monies for the purpose of defraying expenses incurred in undertaking environmental conservation activities under this section. The appropriations made or to be made by the legislature for the purpose of carrying out the provisions of this section shall be apportioned and made available by the director of the budget to the Commissioner of Environmental Conservation. The rate of aid shall be set annually by the Commissioner of Environmental Conservation, provided however, that except as otherwise provided in the public health law, the rate shall not exceed fifty percentum of the amount expended annually by a county or city. In the event that the amount appropriated by the legislature is insufficient to make full payment of all state aid to which eligible counties and cities would otherwise be entitled under this section, the amounts appropriated shall be apportioned in proportion to the amounts to which such counties and cities would otherwise be entitled.
4. The Department of Environmental Conservation shall adopt rules and regulations to implement the provisions of this section, which shall include, but not be limited to the establishment of the following: information and reporting requirements; activity, facility, construction, equipment, service, administration and work eligibility requirements and standards; department inspection, examination and approval procedures; qualifications for persons engaged in environmental conservation activities; and minimum criteria for the composition of county and city government bodies that may be authorized to engage in activities for which aid may be sought.

**TITLE 3 — GENERAL FUNCTIONS, POWERS, DUTIES AND JURISDICTION**

**3-0301 – General functions, powers and duties of the department and the commissioner.**

**3-0302 – Review of state-owned lands.**

**3-0303 – Statewide environmental plan.**

**3-0304 – The department shall compile and maintain an inventory of educational resources for teaching the principles of environmental conservation in New York**

**3-0305 – Acquisition of real property by purchase or appropriation.**

**3-0306 – Registry of public agencies and private organizations; notice of department hearings.**

**3-0307 – Acquisition of federal lands.**

**3-0309 – Stand-by contracts.**

**3-0311 – Municipal notification of environmental violations.**

**3-0311\*2 – State agency environmental audits.**

**3-0313 – Adopt-a-beach stewardship program.**

**3-0315 – Geographic information system.**

**§ 3-0301. General functions, powers and duties of the department and the commissioner.**

1. It shall be the responsibility of the department, in accordance with such existing provisions and limitations as may be elsewhere set forth in law, by and through the commissioner to carry out the environmental policy of the state set forth in section 1-0101 of this chapter. In so doing, the commissioner shall have power to:
  - a. Coordinate and develop policies, planning and programs related to the environment of the state and regions thereof;
  - b. Promote and coordinate management of water, land, fish, wildlife and air resources to assure their protection, enhancement, provision, allocation, and balanced utilization consistent with the environmental policy of the state and take into account the cumulative impact upon all of such resources in making any determination in connection with any license, order, permit, certification or other similar action or promulgating any rule or regulation, standard or criterion;
    - bb. Prescribe the qualifications for operators of public sewage treatment plants.
  - c. Provide for the propagation, protection, and management of fish and other aquatic life and wildlife and the preservation of endangered species;
    - cc. Prescribe and certify the qualifications for operators of solid waste management facilities as defined in section 27-0701 of this chapter; provided, however, that the commissioner shall not require the certification of operators until the commissioner shall have identified or established programs of training within the state that satisfy such qualifications;
  - d. Provide for the care, custody, and control of the forest preserve;
  - e. Provide for the protection and management of marine and coastal resources and of wetlands, estuaries and shorelines;
  - f. Foster and promote sound practices for the use of agricultural land, river valleys, open land, and other areas of unique value;
  - g. Encourage industrial, commercial, residential and community development which provides the best usage of land areas, maximizes environmental benefits and minimizes the effects of less desirable environmental conditions;
    - gg. Develop a plan to maximize the use of telecommuting to conserve energy otherwise used by the personnel of the department in commuting to their assigned workplace. Within one year of the effective date of this paragraph, the department shall submit a report to the governor and the legislature on the impact of such plan to include, but not be limited to, energy conservation, air quality, workforce acceptance, office costs and potential cost savings.
  - h. Assure the preservation and enhancement of natural beauty and man-made scenic qualities;
    - hh. Cooperate with the division of probation and correctional alternatives by identifying appropriate worksites where persons performing community service as part of a criminal disposition may be assigned to provide cleanup and other maintenance services in order to preserve and enhance the state's natural beauty and human-made scenic qualities. Such sites may include but are not limited to the state's shorelines, beaches, parks, roadways, historic sites and other natural or human-made resources.
  - i. Provide for prevention and abatement of all water, land and air pollution including, but not limited to, that related to hazardous substances, particulates, gases, dust, vapors, noise, radiation, odor, nutrients and heated liquids;
  - j. Promote control of pests and regulate the use, storage and disposal of pesticides and other chemicals which may be harmful to man, animals, plant life, or natural resources;
  - k. Promote control of weeds and aquatic growth, develop methods of prevention and eradication, and regulate herbicides;

- l. Provide and recommend methods for the recovery, recycling and reuse; or, where recycling and reuse are not possible, the disposal of solid wastes, including domestic and industrial refuse, junk cars, litter and debris consistent with sound health, scenic, environmental quality, and land use practices;
- m. Prevent pollution through the regulation of the storage, handling and transport of solids, liquids and gases which may cause or contribute to pollution;
- n. Promote restoration and reclamation of degraded or despoiled areas and natural resources;
- o. Encourage recycling and reuse of products to conserve resources and reduce waste products;
- p. Administer properties having unique natural beauty, wilderness character, or geological, ecological or historical significance dedicated by law to the state nature and historical preserve;
- q. Formulate guides for measuring presently unquantified environmental values and relationships so they may be given appropriate consideration along with social, economic, and technical considerations in decision-making;
- r. Encourage and undertake scientific investigation and research on the ecological process, pollution prevention and abatement, recycling and reuse of resources, and other areas essential to understanding and achievement of the environmental policy;
- s. Assess new and changing technology and development patterns to identify long-range implications for the environment and encourage alternatives which minimize adverse impact;
- t. Monitor the environment to afford more effective and efficient control practices, to identify changes and conditions in ecological systems and to warn of emergency conditions;
- u. Encourage activities consistent with the purposes of this chapter by advising and assisting local governments, institutions, industries, and individuals;
- v. Undertake an extensive public information and education program to inform and involve other public and private organizations and groups and the general public in the commitment to the principles and practices of environmental conservation and develop programs for the teaching by others of such principles and practices;
- w. Cooperate with the executive, legislative and planning authorities of the United States, neighboring states and their municipalities and the Dominion of Canada in furtherance of the policy of this state as set forth in section 1-0101;
- x. Exercise and perform such other functions, powers and duties as shall have been or may be from time to time conveyed or imposed by law, including, but not limited to, all the functions, powers and duties assigned and transferred to the department from the Department of Health, Conservation Department, Department of Agriculture and Markets, and Office for Local Government in the Executive Department by chapter 140 of the laws of 1970.
- y. To prevent and control air pollution emergencies, as defined in subdivision 1 of section 1-0303 hereof. In exercising such prevention and control the department and the commissioner may limit the consumption of fuels and use of vehicles, curtail or require the cessation of industrial processes and limit or require the cessation of incineration and open burning, and take any other action he may deem necessary to prevent and/or control air pollution emergencies. The department and commissioner shall adopt and implement by rule and regulation a plan designed to prevent and control such air pollution emergencies.
- z. Within amounts appropriated to the department, to contract, outside the city of New York, with federally-funded nonprofit organizations that are organized for the purpose of beautification of highways, parks and recreation areas and employ persons sixty years of age or older whose net annual income does not exceed one thousand dollars to carry out such activities. The contract shall name the organization, the amount and manner of payment for the service to be rendered, nature of such service, the rendering of a verified account of the disbursements and verified or certified

vouchers therefor attached, a refund of any unused amount, and such other conditions upon the use thereof as may be deemed proper.

2. To further assist in carrying out the policy of this state as provided in section 1-0101 of the chapter the department, by and through the commissioner, shall be authorized to:
  - a. With the advice and approval of the board, adopt, amend or repeal environmental standards, criteria and those rules and regulations having the force and effect of standards and criteria to carry out the purposes and provisions of this act. Upon approval by the board of any such environmental standard, criterion, rule or regulation or change thereto, it shall become effective thirty days after being filed with the Secretary of State for publication in the "Official Compilation of Codes, Rules, and Regulations of the State of New York" published pursuant to section 102 of the Executive Law. This provision shall not in any way restrict the commissioner in the exercise of any function, power or duty transferred to him and heretofore authorized to be exercised by any other department acting through its commissioner to promulgate, adopt, amend or repeal any standards, rules and regulations. No such environmental standards, criterion, rule or regulation or change thereto shall be proposed for approval unless a public hearing relating to the subject of such standard shall be held by the commissioner prior thereto not less than 30 days after date of notice therefor, any provision of law to the contrary notwithstanding. Notice shall be given by public advertisement of the date, time, place and purpose of such hearing. Members of the board shall be entitled to participate in such hearing and opportunity to be heard by the commissioner with respect to the subject thereof shall be given to the public.
    - aa. (1) A "construction emergency" is damage to or an imminent danger of failure, or the malfunction of buildings, structures or property caused by a sudden and unexpected occurrence which involves a pressing necessity for immediate repair, reconstruction or maintenance in order to permit the safe continuation of necessary public use or function, or to protect the property of the state of New York, or the life, health or safety of any person.
    - (2) Whenever the commissioner determines and declares that a construction emergency exists, the commissioner may have immediate work performed to protect life, limb, property, public health or safety, or essential services by utilizing the services of a contractor selected in accordance with procedures developed by the department and approved by the state comptroller.
    - (3) Such procedures shall provide for consideration of solicitation of sufficient competition to the extent practicable, from responsible contractors representative of the contracting community by inviting at least five contractors who are capable of performing such work; permitting said contractors to examine the site and submit bids for the required emergency restoration work at a time and place to be determined by the commissioner; and submission of a notice of emergency award for publication in the procurement opportunities newsletter as soon as practicable after the award.
    - (4) Such emergency work shall reasonably be expected to be completed within a period of thirty days and emergency contracts shall be let only for work necessary to remedy or alleviate a construction emergency.
    - (5) If the selected contractor is already under contract to the department such work may be undertaken as additional work on the existing contract, notwithstanding the existing scope of work.
    - (6) The commissioner shall promptly notify the office of the state comptroller, the office of the attorney general, and the office of the division of the budget, and shall provide an estimate of the cost and duration of the emergency work.
  - b. Enter into contracts with any person to do all things necessary or convenient to carry out the functions, powers and duties of the department.

- bb. Develop and implement an "I Love New York Fishing" passbook program to encourage additional fishing in this state. The program shall be administered according to the provisions of subdivision five of section 11-1307 of this chapter.
- c. Review and appraise programs and activities of state departments and agencies in light of the policy set forth in section 1-0101 of this chapter for the purpose of determining the extent to which such programs and activities are contributing to the achievement of such policy and to make recommendations to such departments and agencies with respect thereto, including but not limited to, environmental guidelines for their use.
- cc. Cooperate with the department of agriculture and markets, the environmental facilities corporation, and other state agencies and public authorities to establish methods to facilitate loans to eligible borrowers to prevent and control non-point source water pollution and to develop educational materials for potential borrowers, including, without limitation, members of the agricultural community, about the low-interest loans available through the water pollution control linked deposit program and to develop an application form to be provided to lenders for the linked deposit loan requests. The department may promulgate rules and regulations necessary and reasonable for the operation of the program.
- d. Consult with and co-operate with:
  - (1) Officials of departments and agencies of the state having duties and responsibilities concerning the environment;
  - (2) Officials and representatives of any public benefit corporation in the state;
  - (3) Officials and representatives of the federal government, of other states and of interstate agencies on problems affecting the environment of this state;
  - (4) Persons, organizations and groups, public and private, utilizing, served by, interested in or concerned with the environment in the state;
  - (5) The appropriate committee or committees of the Legislature.
- e. Appear and participate in proceedings before any federal regulatory agency involving or affecting the purposes of this department.
- f. Undertake any studies, inquiries, surveys or analyses it may deem relevant through the personnel of the department or in co-operation with any public or private agencies, including educational, civic and research organizations, colleges, universities, institutes or foundations, for the accomplishment of the purposes of the department.
- g. Enter and inspect any property or premises for the purpose of investigating either actual or suspected sources of pollution or contamination or for the purpose of ascertaining compliance or noncompliance with any law, rule or regulation which may be promulgated pursuant to this chapter. Any information relating to secret processes or methods of manufacture shall be kept confidential.
- h. Conduct investigations and hold hearings and compel the attendance of witnesses and the production of accounts, books, documents, and nondocumentary evidence by the issuance of a subpoena.
- i. Advise and cooperate with municipal, county, regional and other local agencies and officials within the state, to carry out the purposes of chapter 140 of the laws of 1970.
- j. Act as the official agency of the state in all matters affecting the purposes of the department under any federal laws now or hereafter to be enacted, and as the official agency of a county, town, city, village or authority in connection with the grant or advance of any federal or other funds or credits to the state or through the state to its local governing bodies for the purposes of chapter 140 of the laws of 1970.
- k. Report from time to time to the Governor and make an annual report to the Governor and the Legislature.

- l. Formulate and execute contracts, keep accounts, record personnel data, acquire real or personal property, including acquisition by condemnation, appropriation, gift grant, devise or bequest, adjust claims, compile statistics and engage in research opportunities; all according to the statutes or department orders and regulations in such cases made and provided.
- m. Adopt such rules, regulations and procedures as may be necessary, convenient or desirable to effectuate the purposes of this chapter.
- n. Study, monitor, control and regulate pollution from motor vehicle exhaust emissions.
- o. When requested to do so by another state with which New York has reciprocally agreed to provide personnel and equipment, provide such personnel and equipment for use in suppression of forest fires upon lands within such other state.
- p. Notwithstanding any other provision of this chapter, delegate to municipal health or environmental departments or agencies or other appropriate governmental entities including the state soil and water conservation committee and the soil and water conservation districts, any of which shall meet such qualifications relating to adequate authority, expertise, staff, funding and other matters as may be prescribed, such functions of review, approval of plans, issuance of permits, licenses, certificates or approvals required or authorized by this chapter as the commissioner may deem appropriate in order to expedite the review of matters within the jurisdiction of the department, to provide for better coordination among different levels of government or to enhance environmental protection, subject to such conditions as he may establish. The powers delegated pursuant to this part may be withdrawn by the commissioner, at any time, upon thirty days written notice to the department, agency or other governmental entity including the state soil and water conservation committee and the soil and water conservation districts holding such powers by virtue of this paragraph.
- q. Require that a written instrument submitted pursuant to this chapter or a rule or regulation adopted pursuant hereto contain a form notice to the effect that false statements made therein are punishable pursuant to section 210.45 of the penal law.
- r. Notwithstanding the provisions of article six of the public officers law, deny access to inspection of records which identify locations of habitats of species designated endangered pursuant to section 11-0535 of this chapter, protected pursuant to section 9-1503 of this chapter or any other species or unique combination of species of flora or fauna where the destruction of such habitat or the removal of such species therefrom would impair their ability to survive provided, however, that the commissioner may, in his discretion permit access to such inspection to persons engaged in legitimate scientific and academic research.
- s. Coordinate and conduct Arbor day ceremonies on the last Friday of April in cooperation with the department of education and the department of agriculture and markets.
- t. Establish a program, in consultation with the conservation fund advisory council for the sale of limited edition prints of fish and wildlife paintings with the proceeds to be credited to the conservation fund established pursuant to section eighty-three of the state finance law.
- u. Notwithstanding any other provisions of this chapter, establish a program to offer for sale to the public of items symbolic of contributions made to support department activities performed as steward of lands under its jurisdiction. The terms upon which such items will be available and the relevant donations for such items shall be set forth in regulations to be promulgated by the commissioner provided, however, that no such item shall be offered unless the amount of such donation exceeds the value of the item. All receipts of the department from such contributions shall be deposited in and separately accounted for in an account in the miscellaneous state special revenue fund, expenditures from which shall be limited to the activities of the department pursuant to this paragraph and activities performed as steward of lands under its jurisdiction.
- v. Except for the forest preserve which is under the care, custody and control of the department pursuant to paragraph d of subdivision one of this section and subdivision one of section 9-0105 of this chapter, administer and manage the real property under the jurisdiction of the department for the

purpose of preserving, protecting and enhancing the natural resource value for which the property was acquired or to which it is dedicated, employing all appropriate management activities.

- w. Shall prepare and submit to the federally appointed “Aquatic Nuisance Species Task Force” two comprehensive management plans, after notice and opportunity for public comment, for funding of New York state activities under the Federal Non-indigenous Aquatic Nuisance Prevention and Control Act of 1990, Public Law 101-646, by January 1, 1992. One such plan shall identify those areas or activities within the state, other than those related to public facilities, where technical and financial assistance is needed within the state to eliminate or reduce environmental, public health and safety risks and to mitigate the financial impact upon the state associated with non-indigenous aquatic species, particularly zebra mussels. The other plan shall be a “public facility management plan” which is limited solely to identifying those public facilities within the state for which technical and financial assistance is needed to reduce infestations of zebra mussels. Each plan shall identify the management practices and measures that will be undertaken to reduce infestations of aquatic nuisance species, especially zebra mussels, and include the following: (1) a description of the state and local programs for environmentally sound prevention and control of the target species; (2) a description of federal activities that may be needed for environmentally sound prevention and control of aquatic nuisance species and a description of the manner in which those activities should be coordinated with state and local government activities; and (3) a schedule for implementing the plan, including a schedule of annual objectives. In developing and implementing these management plans, the department shall, to the maximum extent practicable, involve local governments, regional entities and public and private organizations that have expertise in the control of aquatic nuisance species. Copies of these plans shall also be submitted to the temporary president of the senate and the speaker of the assembly, and the department shall annually, on or before January first, submit to the temporary president of the senate and speaker of the assembly a report on the activities of the department under these plans.
- x. Consistent with paragraph v of subdivision 1 of this section, offer for sale advertising or corporate sponsorship space in various departmental publications, including but not limited to “The Conservationist”, the annual compilation and syllabus of laws, rules and regulations governing fish and wildlife as required by section 11-0323 of this chapter, and offer for sale informational and promotional material related to lands, facilities and resources under the jurisdiction of the department. Any proceeds realized from the sale of advertising or corporate sponsorships shall be deposited in a special revenue account to be selected by the department and the division of the budget except that proceeds from advertising or corporate sponsorship in “The Conservationist” shall be deposited in the environmental conservation special revenue fund, “The Conservationist” magazine account, and proceeds from advertising or corporate sponsorship in the annual compilation and syllabus of laws, rules and regulations governing fish and wildlife as required by section 11-0323 of this chapter shall be deposited in the conservation fund.
- \* y. The department, by contract or otherwise, is hereby authorized to engage in games, contests or other promotions or advertising schemes or plans, hereinafter referred to as “an event or events,” which are intended to increase, improve, stabilize or otherwise assist in development of the subscriber base of “The Conservationist” in accordance with the following:
  - (1) An event may include sweepstakes and other similar marketing techniques intended to heighten public awareness, interest and participation in department programs including but not limited to purchasing of subscriptions, licenses, or camping permits.
  - (2) The department is authorized to offer the opportunity to receive gifts, prizes or gratuities, as determined by chance, without any consideration therefor.
  - (3) The department shall develop a statement, which shall be included in any and all promotions of an event, which shall contain the following information:
    - (i) the minimum number of entry forms to be made available;
    - (ii) the minimum number of prizes that shall be included in the event;

- (iii) the proportionate opportunity of winning prizes;
  - (iv) the minimum value of prizes to be made available;
  - (v) the rules pertaining to the event, which shall include the period of time and the geographic area to be covered by the event and which shall not be subject to the rulemaking procedures of the state administrative procedure act; and
  - (vi) such additional information as may be deemed in the best interests of the state as determined by the commissioner.
- (4) The department is authorized to accept donations for the purposes of providing publicity, prizes, incentives or other inducements for participation in the event. Donations may be of goods and services, shall not exceed five thousand dollars in value, per donor per contest, and must be of a nature consistent with the purposes of the department, and in the best interests of the state as determined by the commissioner.

**\* NB Repealed August 1, 2009**

- z. Issue and amend guidance memoranda and similar documents of general applicability which are to be relied upon by department personnel for implementation of this chapter, and rules and regulations promulgated pursuant thereto, and for guidance to the general public in complying with the requirements of this chapter; provided, however, that (1) in no event shall any such document be issued by the department in violation of the state administrative procedure act where and to the extent that a duly promulgated rule or regulation would be required, and (2) no such document shall be implemented until thirty days after the full text, or a summary thereof, along with information on how the full text may be obtained, has been published in the environmental notice bulletin, as defined in section 70-0105 of this chapter. At a minimum, the full text of each such document shall be made available by the department on and after the date of such publication to the public upon request, and, in addition, at least one copy shall be made available in the department's main office and in each regional office for public inspection. The department shall publish and invite public comment on a draft version of any such document, unless it determines that to do so would delay or otherwise impede compliance with the underlying statute or regulation, provided that, when a document is issued without making provisions for public comment, the department shall also publish its reason or reasons for deeming such provisions inappropriate. This paragraph shall not apply to (i) declaratory rulings issued pursuant to section two hundred four of the state administrative procedure act or (ii) documents which only concern the internal management of the agency and which do not have any effect on the rights of or procedures or practices available to the public. Each January, the department shall publish in the environmental notice bulletin an index of its existing guidance documents, and indicate how the full text thereof may be obtained; provided, however, that the secretary of state may exempt the department from compliance with this publication requirement upon a determination that the department has published on its website the full text of all guidance documents on which it currently relies. The secretary of state shall publish a notice of such determination identifying the website in the state register.
3. The department shall not alter the boundaries of any of the nine administrative regions from the boundaries existing on January first, nineteen hundred seventy-seven without first holding public hearings in each region affected.
  4. The commissioner shall cooperate with the commissioner of the state department of health, district attorneys and the department of law in providing assistance in the investigation and prosecution of violations of article twenty-seven of this chapter.
  5. To facilitate the practice of forestry by electing to comment upon proposed local laws or ordinances that may restrict the practice of forestry.

**§ 3-0303. Statewide environmental plan.**

1. The department shall formulate and from time to time revise a statewide environmental plan for the management and protection of the quality of the environment and the natural resources of the state, in furtherance of the legislative policy and purposes expressed in chapter 140 of the laws of 1970.
2. The department shall submit such plan to the Governor and to the Department of State on or before October first, nineteen hundred seventy-five, and thereafter shall submit periodic revisions of such plan to the governor and to the Department of State. The Department of State shall review such plan and such revisions and shall submit a report thereon together with such recommendations within sixty days as it may deem appropriate to the Governor. The governor shall approve, approve with modifications, or reject such plan within sixty days.
3. In formulating such plan and any revisions, the department shall:
  - a. Conduct one or more public hearings;
  - b. Consult with and cooperate with:
    - (1) Officials of departments and agencies of the state having duties and responsibilities concerning the environment;
    - (2) Officials and representatives of the federal government, of neighboring states and of interstate agencies on problems affecting the environment of this state;
    - (3) Officials and representatives of local government in the state;
    - (4) Officials and representatives of science, industry, and education;
    - (5) Persons, organizations and groups, public or private, utilizing, served by, interested in or concerned with the environment of the state; and
  - c. Request and receive from any department, division, board, bureau, commission or other agency of the state or any political subdivision thereof or any public authority such assistance and data as may be necessary to enable the department to carry out its responsibilities under this section.

**§ 3-0305. Acquisition of real property by purchase or appropriation.**

1. The commissioner when moneys therefor have been appropriated by the legislature or are otherwise available, may acquire any real property which he deems necessary for any of the purposes or functions of the department, by purchase or as provided in the eminent domain procedure law. Title to such real property shall be taken in the name of and be vested in the people of the state of New York. No real property shall be so acquired by purchase unless the title thereto is approved by the attorney general. The terms "property" or "real property" as used in this section shall mean "real property" as defined by section one hundred three of the eminent domain procedure law.
2. Whenever real property is to be so acquired pursuant to the provisions of the eminent domain procedure law, by appropriation, the commissioner shall cause to be made an accurate acquisition map as so provided in said law.
3. On the approval of such map by the commissioner, the original tracing of map shall, pursuant to the eminent domain procedure law, be filed in the main office of the department.
4. If the commissioner shall determine, prior to the filing of a copy of such acquisition map in the office of the county clerk, that changes, alterations or modifications of such map as filed in the main office of the department should be made, he or she shall, subject to the provisions of article two of the eminent domain procedure law, if applicable, direct the preparation of an amended map. On the approval of such amended map by the commissioner, it shall be filed in the main office of the department in the same manner as the original map was filed and the amended map shall thereupon in all respects and for all purposes supersede the map previously filed.

5. If the commissioner shall determine prior to filing a copy of an acquisition map in the office of the county clerk, as provided in section four hundred two of the eminent domain procedure law, that such map should be withdrawn, he or she shall file a certificate of withdrawal in the offices of the department and of the department of law. Upon the filing of such certificate of withdrawal, the map to which it refers shall be cancelled and all rights thereunder shall cease and determine.
6. The commissioner shall deliver to the attorney general a copy of such acquisition map, whereupon it shall be the duty of the attorney general to advise and certify to the commissioner the names of the owners of the real property described in the said acquisition map, including the owners of any right, title or interest therein, pursuant to the requirements of section four hundred three of the eminent domain procedure law.
7. If, at or after the vesting of title to such property in the people of the state of New York in the manner provided for in the eminent domain procedure law, the commissioner shall deem it necessary to cause the removal of an owner or other occupant from such property, he may cause such owner or occupant to be removed therefrom by proceeding in accordance with section four hundred five of such law. The proceeding shall be brought in the name of the commissioner as agent of the state and the attorney general shall represent the petitioner in the proceedings. No execution shall issue for costs, if any, awarded against the state or the commissioner, but they shall be part of the costs of the acquisition of the real property and be paid in like manner. Proceedings may be brought separately against one or more of the owners or occupants of any such property, or one proceeding may be brought against all or several of the owners or occupants of any or all such property within the territorial jurisdiction of the same court, justice or judge; judgment shall be given for immediate removal of persons defaulting in appearance or in answering, or withdrawing their answers, if any, without awaiting the trial or decision of issues raised by contestants, if any.
8. Upon making any agreement provided for in section three hundred four of the eminent domain procedure law, the commissioner shall deliver to the comptroller such agreement and a certificate stating the amount due such owner or owners thereunder on account of such appropriation of his or their property and the amount so fixed shall be paid out of the state treasury after audit by the comptroller from moneys appropriated for the acquisition of such real property, but not until there shall have been filed with the comptroller a certificate of the attorney general showing the person or persons claiming the amount so agreed upon to be legally entitled thereto.
9. Application for reimbursement as provided in section seven hundred two of the eminent domain procedure law, shall be made to the commissioner upon forms prescribed by him and shall be accompanied by such information and evidence as the commissioner may require. Upon approval of such application, the commissioner shall deliver a copy thereof to the comptroller together with a certificate stating the amount due thereof, and the amount so fixed shall be paid out of the state treasury after audit by the comptroller from moneys appropriated for the acquisition of property under this section.
10. The commissioner with the approval of the director of the budget, shall establish and may from time to time amend rules and regulations authorizing the payment of actual reasonable and necessary moving expenses of occupants of property acquired pursuant to this section; of actual direct losses of tangible personal property as a result of moving or discontinuing a business or farm operation, but not exceeding an amount equal to the reasonable expenses that would have been required to relocate such property, as determined by the commissioner; and actual reasonable expenses in searching for a replacement business or farm, or in hardship cases for the advance payment of such expenses and losses. For the purposes of making payment of such expenses and losses only the term "business" means any lawful activity conducted primarily for assisting in the purchase, sale, resale, manufacture, processing or marketing of products, commodities, personal property or services by the erection and maintenance of an outdoor advertising display or displays, whether or not such display or displays are located on the premises on which any of the above activities are conducted. Such rules and regulations may further define the terms used in this subdivision. In lieu of such actual reasonable and necessary moving expenses, any such displaced owner or tenant of residential property may elect to accept a moving expense allowance, plus a dislocation allowance, determined in accordance with a schedule prepared by the commissioner and

made a part of such rules and regulations. In lieu of such actual reasonable and necessary moving expenses, any such displaced owner or tenant of commercial property who relocates or discontinues his business or farm operation may elect to accept a fixed relocation payment in an amount equal to the average annual net earnings of the business or farm operation, except that such payment shall be not less than two thousand five hundred dollars nor more than ten thousand dollars. In the case of a business, no such fixed relocation payment shall be made unless the commissioner finds and determines that the business cannot be relocated without a substantial loss of its existing patronage, and that the business is not part of a commercial enterprise having at least one other establishment, which is not being acquired by the state or the United States, which is engaged in the same or similar business. In the case of a business which is to be discontinued but for which the findings and determinations set forth above cannot be made, the commissioner may prepare an estimate of what the actual reasonable and necessary moving expenses, exclusive of any storage charges, would be if the business were to be relocated and enter into an agreed settlement with the owner of such business for an amount not to exceed such estimate in lieu of such actual reasonable and necessary moving expenses. Application for payment under this subdivision shall be made to the commissioner upon forms prescribed by him and shall be accompanied by such information and evidence as the commissioner may require. Upon approval of such application, the commissioner shall deliver a copy thereof to the comptroller together with a certificate stating the amount due thereunder, and the amount so fixed shall be paid out of the state treasury after audit by the comptroller from moneys appropriated for the acquisition of property under this section. As used in this subdivision the term "commercial property" shall include property owned by an individual, family, partnership, corporation, association or a non-profit organization and includes a farm operation. As used in this subdivision the term "business" means any lawful activity, except a farm operation, conducted primarily for the purchase, sale, lease and rental of personal and real property, and for the manufacture, processing, or marketing of products, commodities, or any other personal property; for the sale of services to the public; or by a non-profit organization.

11. The commissioner pursuant to section three hundred five of the eminent domain procedure law, may make agreements on such terms, condition and consideration as he deems beneficial to the state with respect to any property heretofore or hereafter acquired, whereby such property may be used and occupied by the former owner, tenant or by any other party from a date specified in said agreement, until such time as the state requires and obtains actual physical possession. The agreements for the use and occupancy of such property may be managed, supervised and enforced (1) by the staff, forces and equipment of the department of environmental conservation; or (2) by the commissioner of environmental conservation contracting for the management, supervision and enforcement thereof with any person, firm or corporation; or (3) by a combination of such methods.

The use and occupancy of such property under the provisions of this section and the right of the state or its duly authorized agent to recover possession thereof shall not be subject to the emergency housing rent control law.

Expenses which are determined by the commissioner to have been incurred in connection with the use and occupancy of such property may be paid out of the state treasury after audit by the comptroller from moneys appropriated for the duly authorized project for which the property was acquired. However, such expenses incurred under a contract for management and supervision of such property may be paid out of the gross revenue therefrom. All moneys received by the commissioner for such use or occupancy shall be paid into the treasury of the state to the credit of the capital construction fund.

12. Authorization is hereby given to the commissioner to make supplemental relocation payments, separately computed and stated, to displaced owners and tenants of residential property acquired pursuant to this section who are entitled thereto, as determined by him. The commissioner with the approval of the director of the budget, may establish and from time to time amend rules and regulations providing for such supplemental relocation payments. Such rules and regulations may further define the terms used in this subdivision. In the case of property acquired pursuant to this section, which is improved by a dwelling actually owned and occupied by the displaced owner for not less than one hundred eighty days immediately prior to initiation of negotiations for the acquisition of such property, such payment to such owner shall not exceed fifteen thousand dollars. Such payment shall be the

amount, if any, which, when added to the acquisition payment equals the average price, established by the commissioner on a class, group or individual basis, required to obtain a comparable replacement dwelling that is decent, safe and sanitary to accommodate the displaced owner, reasonably accessible to public services and places of employment and available on the private market, but in no event shall such payment exceed the difference between acquisition payment and the actual purchase price of the replacement dwelling. Such payment shall include an amount which will compensate such displaced owner for any increased interest costs which such person is required to pay for financing the acquisition of any such comparable replacement dwelling. Such amount shall be paid only if the dwelling acquired pursuant to this section was encumbered by a bona fide mortgage which was a valid lien on such dwelling for not less than one hundred eighty days prior to the initiation of negotiations for the acquisition of such dwelling. Such amount shall be equal to the excess in the aggregate interest and other debt service costs of that amount of the principal of the mortgage on the replacement dwelling which is equal to the unpaid balance of the mortgage on the acquired dwelling, over the remainder term of the mortgage on the acquired dwelling, reduced to discounted present value. The discount rate shall be the prevailing interest rate paid on savings deposits by commercial banks in the general area in which the replacement dwelling is located. Any such mortgage interest differential payment shall, notwithstanding the provisions of section twenty-six-b of the general construction law, be in lieu of and in full satisfaction of the requirements of such section. Such payment shall include reasonable expenses incurred by such displaced owner for evidence of title, recording fees and other closing costs incident to the purchase of the replacement dwelling, but not including prepaid expenses. Such payment shall be made only to a displaced owner who purchases and occupies a replacement dwelling which is decent, safe and sanitary within one year subsequent to the date on which he is required to move from the dwelling acquired pursuant to this section or the date on which he receives from the state final payment of all costs of the acquired dwelling, whichever occurs later, except advance payment of such amount may be made in hardship cases. In the case of property acquired pursuant to this section from which an individual or family, not otherwise eligible to receive a payment pursuant to the above provisions of this subdivision, is displaced from any dwelling thereon which has been actually and lawfully occupied by such individual or family for not less than ninety days immediately prior to the initiation of negotiation, for the acquisition of such property, such payment to such individual or family shall not exceed four thousand dollars. Such payment shall be the amount which is necessary to enable such individual or family to lease or rent for a period not to exceed four years, a decent, safe, and sanitary dwelling of standards adequate to accommodate such individual or family in areas not generally less desirable in regard to public utilities and public and commercial facilities and reasonably accessible to his place of employment, but shall not exceed four thousand dollars, or to make the down payment, including reasonable expenses incurred by such individual or family for evidence of title, recording fees, and other closing costs incident to the purchase of the replacement dwelling, but not including prepaid expenses, on the purchase of a decent, safe and sanitary dwelling of standards adequate to accommodate such individual or family in areas not generally less desirable in regard to public utilities and public and commercial facilities, but shall not exceed four thousand dollars, except if such amount exceeds two thousand dollars, such person must equally match any such amount in excess of two thousand dollars, in making the down payment. Such payments may be made in installments as determined by the commissioner. Application for payment under this subdivision shall be made to the commissioner upon forms prescribed by him and shall be accompanied by such information and evidence as the commissioner may require. Upon approval of such application, the commissioner shall deliver a copy thereof to the comptroller, together with a certificate stating the amount due thereunder, and the amount so fixed shall be paid out of the state treasury after audit by the comptroller from moneys appropriated for the acquisition of property under this section.

13. Any owner may present to the court of claims, pursuant to section five hundred three of the eminent domain procedure law, a claim for the value of such property appropriated and for legal damages, as provided by law for the filing of claims with the court of claims. Awards and judgments of the court of claims shall be paid in the same manner as awards and judgments of that court for the acquisition of lands generally and shall be paid out of the state treasury after audit by the comptroller from moneys appropriated for the acquisition of such real property.

14. Expenses incurred in the acquisition of the real property, including the cost of making surveys, and preparing maps of property to be acquired, serving notices, making appraisals and agreements and of searches ordered and examinations and readings of title made by the attorney general, and expenses incurred by the commissioner or attorney general in proceedings for removal of owners and occupants, shall be deemed to be part of the cost of the acquisition of such real property.
15. If the commissioner shall determine subsequent to the acquisition of a temporary easement in any real property that the purposes for which such easement right was acquired have been accomplished and that the exercise of such easement is no longer necessary, the commissioner shall make a certificate that the exercise of such easement is no longer necessary and that such easement right is therefore terminated, released and extinguished. The commissioner shall cause such certificate to be filed in the main office of the department and upon such filing all rights acquired by the state in such real property shall cease and determine. The commissioner shall cause a certified copy of such certificate as so filed in the main office of the department to be mailed to the owner of the property affected, as certified by the attorney general, if the place of residence of such owner is known or can be ascertained by a reasonable effort and such commissioner shall cause a further certified copy of such certificate to be filed in the office of the recording officer of each county in which the property affected or any part thereof is situated.

On the filing of such certified copy of such certificate with such recording officer, it shall be his duty to record the same in his office in the books used for recording deeds and to index the same against the name of the people of the state of New York as grantor.

16. The commissioner may, by official order filed in the department and subject to such limitations as he may prescribe, authorize the exercise of any of his powers or the performance of any of his duties under this section by such deputy commissioners as he may designate; and any act performed pursuant to such authorization shall be as valid and effectual as if performed by the commissioner pursuant to this section.

**§ 3-0306. Registry of public agencies and private organizations; notice of department hearings.**

1. The commissioner shall develop and maintain a registry of government agencies and officials and of private organizations of statewide, regional, county and local scope, with interests in the regulatory and other programs of the department for the purpose of providing written notice to such agencies and organizations of the time, date, place, subject and nature of hearings on rules and regulations under consideration by the department, or on applications to the department for permits relating to the use, improvement, construction, change or any modification whatsoever of the air, land, or water resources within the state, or in relation to any other business before the department for which issuance of a public notice is required or is appropriate and desirable in accord with the interests of public participation in environmental planning and decision-making.
2. To aid in the compilation of the registry, the commissioner shall advertise its purposes no less than annually to governmental agencies and the public through news releases and other media available to the department, stating that interested agencies and organizations may apply to be listed in the registry by completing forms requiring such information as may be prescribed by the commissioner. Said registry shall be prepared by the department to be as comprehensive as possible and the entries contained therein shall not be limited to those obtained in response to advertisement by the department of the purposes of the registry.
3. The commissioner shall publish and distribute or cause to be published and distributed said registry, not less frequently than annually and in whole or in part as deemed appropriate and desirable by the commissioner, for the purpose of providing a directory to assist with communications between public agencies and private organizations in all manner of environmental affairs.
4. Notices, as described herein, shall, at the discretion of the commissioner, be published not less frequently than once every two weeks in a departmental publication which shall be mailed to registered agencies and organizations in the area to be affected by the subject of said notices and to other persons subscribing to such publication; provided that the commissioner may require the payment of a subscription fee not to exceed the reasonable costs of such publication; and provided further that the commissioner may in lieu of publishing any such notice mail a copy thereof to registered agencies or organizations. In setting such fee

the commissioner shall take into account the purposes of this section to provide broad public notice of department actions. Unless otherwise provided by statute or regulation, failure to provide notice as herein described shall in no way affect the ordinary proceedings of the department.

**\* § 3-0311. Municipal notification of environmental violations.**

Notwithstanding any other provision of law and except when any criminal investigation is pending, the commissioner shall notify the chief executive officer of the municipality together with the chief executive officer of the county where any violations of article 17, 19, 24, 25 or 27 of this chapter are found to exist within the boundaries of such municipalities including, but not limited to, any municipal landfill or municipal solid waste disposal or recovery facility within seventy-two hours of determining that sufficient evidence exists to commence an enforcement action.

**\* NB There are 2 § 3-0311's**

**\* § 3-0311. State agency environmental audits.**

1. Each state agency as defined in subdivision five of this section shall annually audit the environmental problems created by its operations or the operations of contractors it has hired and over whom it has exercised or is required to exercise direct oversight, acting in fulfillment of their contracts. Such audit shall identify the extent to which these operations are in violation of this chapter, or regulations adopted thereunder. Each such state agency shall submit a report to the department on or before April first of each year. The report shall:
  - a. describe:
    - (1) each identified violation, including the year each violation was first reported to the department;
    - (2) the progress made in remedying any identified violations, and in remedying the violations identified in the previous year's audit and the past problems previously identified in the department's report dated "January 1990" titled "Past Practices Assessment Report";
    - (3) disbursements to remedy individual violations or past problems made during the previous year and disbursements recommended to be made or made during the current fiscal year; and
    - (4) the steps being taken to assure future compliance with state laws and regulations, including any new policies developed to address patterns of violations identified by the audit.
  - b. rank each violation and past problem based on the threat each poses to the public health or the environment, so that each is placed into one of the following classifications:
    - (1) presents an imminent substantial threat to the public health or the environment;
    - (2) presents a potential substantial threat to the public health or the environment;
    - (3) presents a discernible but not substantial threat to the public health or the environment; or
    - (4) no evidence of discernible threat to the public health or the environment.
  - c. include a remedial plan for the correction of all existing identified violations and uncorrected past environmental problems previously identified in the "Past Practices Assessment Report". Such remedial plan shall specify:
    - (1) the actions the agency intends to take to remedy each violation or problem;
    - (2) an estimate of the costs, if any, of bringing each violation or problem into compliance, and a total cost estimate for remedying all violations and uncorrected past problems; and
    - (3) a projected time schedule for remedying each violation or problem.
2. In addition to the audit prepared pursuant to subdivision one of this section, each state agency shall report to the department any violation of this chapter, or regulations adopted thereunder, that presents an imminent substantial, potential substantial, or discernible threat to the public health or the environment,

which has been committed on agency property by the agency's lessees or other persons and of which the agency has become aware.

3. The department shall, before September first of each year, submit an annual report to the governor, the director of the budget, the temporary president of the senate, the speaker of the assembly, the chairman of the senate environmental conservation committee, the chairman of the assembly environmental conservation committee, the chairman of the senate finance committee, the chairman of the assembly ways and means committee, and the chairman of the assembly committee on oversight, analysis and investigation.

The report shall include:

- a. a summary of the major categories of violations or uncorrected past problems previously identified in the "Past Practices Assessment Report" dated January, nineteen hundred ninety;
- b. a description of each violation or uncorrected past environmental problem, including an indication of the year each violation was first reported to the department and an identification of the rank as determined by each agency, pursuant to paragraph (b) of subdivision one of this section, with any reordering of rankings as determined by the department;
- c. a description of the progress made in remedying any reported violations or past environmental problems, and in remedying the violations identified in the previous year's audit, and a listing of disbursements to remedy violations or past problems made during the previous year and disbursements recommended to be made or made during the current fiscal year;
- d. a description of enforcement efforts which the department has completed to remedy violations noted in the current or previous year's audit report, including whether the department has taken administrative, civil, or criminal enforcement actions;
- e. if the department and the agency have entered into a consent decree regarding the violation or problem, the date the violation or problem was first identified by the department; the date the consent decree was signed; the date by which, according to the consent decree, the violation or problem is to be remedied; and if the remedy date has been extended, the date such extension was granted and the revised remedy date;
- f. a description of each agency's remedial plan for the correction of all existing identified violations and uncorrected past environmental problems, specifying:
  - (1) the actions the agency intends to take to remedy each violation or past problem;
  - (2) the agency's estimate of the costs, if any, of bringing each violation or problem into compliance, and a total estimate for each agency of the costs of remedying all violations and uncorrected past problems; and
  - (3) the agency's projected time schedule for remedying each violation or past problem;
- g. a determination by the department of the adequacy of each agency's proposed remedial plan:
  - (1) for violations and past problems that pose an imminent substantial threat to the public health or the environment;
  - (2) for violations and past problems that pose a potential substantial threat to the public health or the environment; or
  - (3) that the department has been required to review pursuant to subdivision four of this section prior to the disbursement of any appropriation for such purpose.

If the department determines that the agency's plan is inadequate, the department shall provide a statement explaining this determination. No determination of adequacy need be included in the report for remedial plans that are the subject of a pending enforcement action or permit proceeding. Remedial plans that are included as part of a completed enforcement action or permit proceeding shall be deemed to have been determined to be adequate; and

- h. a listing of violations committed by lessees or other persons reported by each state agency pursuant to subdivision two of this section, and the actions the department has taken to cause each such violation to be remedied.
  - i. The department may, at its discretion, include any of the information listed in paragraphs (b) through (h) of this subdivision or any additional appropriate material within appendices to the report.
4. Within its requested budget, each state agency shall set forth in the aggregate all proposed appropriations for the purposes of remedying its violations of the environmental conservation law or regulations adopted thereunder. The amount requested to remedy each functional category of violation as well as project specific information for each functional category of violation shall also be set forth. A priority criterion to be considered in determining such proposed appropriations shall be the ranking of such violations as determined by the agency pursuant to paragraph (b) of subdivision one of this section, with any reordering of rankings as determined by the department. Amounts appropriated shall be disbursed for remediation of the violation or environmental problem only upon review and determination by the department of the adequacy of the remedial plan for correction of any such violation or environmental problem.
5. As used in this section, the term “state agency” or “agency” shall mean:
- a. each state department;
  - b. Division of Military and Naval Affairs, Division of State Police, Division of Housing and Community Renewal, Division for Youth, Office of General Services, Office of Parks, Recreation and Historic Preservation, and State University of New York;
  - c. any other division, board, commission, office, or bureau of the state which is required to obtain a permit or approval from the department or which undertakes an activity for which it must register with the department;
  - d. Albany Port District Commission, Battery Park City Authority, Capital District Transportation Authority, Central New York Regional Transportation Authority, Dormitory Authority of the State of New York, Facilities Development Corporation, Metropolitan Transportation Authority (including the operations of all of its operating units), New York State Energy Research and Development Authority, New York State Environmental Facilities Corporation, New York State Olympic Regional Development Authority, New York State Thruway Authority, New York State Urban Development Corporation, Niagara Frontier Transportation Authority, Ogdensburg Bridge and Port Authority, Port Authority of New York and New Jersey, Port of Oswego Authority, Power Authority of the State of New York, Rochester-Genesee Regional Transportation Authority; and
  - e. any other major agency, public authority or public benefit corporation which performs a state function and which is identified by the commissioner for the purpose of complying with this section.
6. On or before February fifteenth, nineteen hundred ninety-two and thereafter as may be necessary, the department shall develop guidelines for the preparation of environmental audits by state agencies and for the ranking of violations and problems based on the threat each poses to the public health or the environment, pursuant to paragraph (b) of subdivision one of this section.

\* NB There are 2 § 3-0311’s

## ARTICLE 5

### STATE ENVIRONMENTAL BOARD

**Section 5-0101. Continuation of state environmental board; membership.**

**5-0103. Organization of the board; officers; terms of office.**

**5-0105. Compensation.**

**5-0107. Jurisdiction; functions; powers and duties.**

**5-0109. Meetings; quorum; quorum to approve environmental standards.**

**5-0111. Executive secretary; jurisdiction; powers and duties.**

**5-0113. Staff services.**

**§ 5-0101. Continuation of state environmental board; membership.**

1. There is hereby continued within the department the State Environmental Board, which shall consist of sixteen members, including the Commissioner of Environmental Conservation as chair; the Commissioner of Health as vice chair; the Commissioners of Agriculture and Markets, Economic Development, Transportation, Labor, and Parks, Recreation and Historic Preservation, the Secretary of State, the Chair of the Public Service Commission, the President of the New York State Energy Research and Development Authority, and members to be appointed by the Governor with the advice and consent of the Senate. None of the members appointed by the Governor shall be officers or employees of any state department or agency and each shall be, by professional training or experience and attainment, qualified to analyze and interpret matters of environmental concern. Of such members, one shall be representative of conservationists of the state and shall be familiar with matters pertaining to the utilization of the natural resources of the state, one shall be representative of industry and as such shall be employed by a manufacturer or public utility, one shall be representative of agriculture and shall be familiar with matters pertaining to agriculture and three shall be from the fields of public health, natural sciences, urban studies or other disciplines relating to the environment, ecology or natural resource management.
2. An ex officio member of the state environmental board may delegate all powers and duties provided under this article, including voting rights, to another employee of the member's department, commission or authority. Such delegation shall be made in writing in a form acceptable to the chair.

**ARTICLE 8**

**ENVIRONMENTAL QUALITY REVIEW**

**8-0101 – Purpose.**

**8-0103 – Legislative findings and declaration.**

**8-0105 – Definitions.**

**8-0107 – Agency implementation.**

**8-0109 – Preparation of environmental impact statement.**

**8-0111 – Coordination of reporting; limitations; lead agency.**

**8-0113 – Rules and regulations.**

**8-0115 – Severability.**

**8-0117 – Phased implementation.**

**§ 8-0101. Purpose.**

It is the purpose of this act to declare a state policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and enhance human and community resources; and to enrich the understanding of the ecological systems, natural, human and community resources important to the people of the state.

**§ 8-0105. Definitions.**

Unless the context otherwise requires, the definitions in this section shall govern the construction of the following terms as used in this article: 1. "State agency" means any state department, agency, board, public benefit corporation, public authority or commission.

2. "Local agency" means any local agency, board, district, commission or governing body, including any city, county, and other political subdivision of the state.
3. "Agency" means any state or local agency.
4. "Actions" include:
  - (i) projects or activities directly undertaken by any agency; or projects or activities supported in whole or part through contracts, grants, subsidies, loans, or other forms of funding assistance from one or

more agencies; or projects or activities involving the issuance to a person of a lease, permit, license, certificate or other entitlement for use or permission to act by one or more agencies;

- (ii) policy, regulations, and procedure-making.
5. "Actions" do not include:
- (i) enforcement proceedings or the exercise of prosecutorial discretion in determining whether or not to institute such proceedings;
  - (ii) official acts of a ministerial nature, involving no exercise of discretion;
  - (iii) maintenance or repair involving no substantial changes in existing structure or facility.
6. "Environment" means the physical conditions which will be affected by a proposed action, including land, air, water, minerals, flora, fauna, noise, objects of historic or aesthetic significance, existing patterns of population concentration, distribution, or growth, and existing community or neighborhood character.
7. "Environmental impact statement" means a detailed statement setting forth the matters specified in section 8-0109 of this article. It includes any comments on a draft environmental statement which are received pursuant to section 8-0109 of this article, and the agency's response to such comments, to the extent that such comments raise issues not adequately resolved in the draft environmental statement.
8. "Draft environmental impact statement" means a preliminary statement prepared pursuant to section 8-0109 of this article.

**§ 8-0113. Rules and regulations.**

1. After consultation with the other agencies subject to the provisions of this article, including state agencies and representatives of local governments and after conducting public hearings and review of any other comments submitted, the commissioner shall adopt rules and regulations implementing the provisions of this article within one hundred and twenty days after the effective date of this section.
2. The rules and regulations adopted by the commissioner specifically shall include:
  - (a) Definition of terms used in this article;
  - (b) Criteria for determining whether or not a proposed action may have a significant effect on the environment, taking into account social and economic factors to be considered in determining the significance of an environmental effect;
  - (c) Identification on the basis of such criteria of:
    - (i) Actions or classes of actions that are likely to require preparation of environmental impact statements;
    - (ii) Actions or classes of actions which have been determined not to have a significant effect on the environment and which do not require environmental impact statements under this article. In adopting the rules and regulations, the commissioner shall make a finding that each action or class of actions identified does not have a significant effect on the environment;
  - (d) Typical associated environmental effects, and methods for assessing such effects, of actions determined to be likely to require preparation of environmental impact statements;
  - (e) Categorization of actions which are or may be primarily of statewide, regional, or local concern, with provisions for technical assistance including the preparation or review of environmental impact statements, if requested, in connection with environmental impact review by local agencies.
  - (f) Provision for the filing and circulation of draft environmental impact statements pursuant to subdivision four of section 8-0109, and environmental impact statements pursuant to subdivision six of section 8-0109, including, in addition to any other circulation and public availability requirements, making such statements available free of charge to the public and government

agencies on the publicly-available Internet website, unless impracticable. Printed filings and public notices shall clearly indicate the address of the website at which such filing is posted;

- (g) Scope, content, filing and availability of findings required to be made pursuant to subdivision eight of section 8-0109;
  - (h) Form and content of and level of detail required for an environmental impact statement; and
  - (i) Procedures for obtaining comments on draft environmental impact statements, holding hearings, providing public notice of agency decisions with respect to preparation of a draft environmental statement; and for such other matters as may be needed to assure effective participation by the public and efficient and expeditious administration of the article.
  - (j) Procedure for providing applicants with estimates, when requested, of the costs expected to be charged them pursuant to subdivision seven of section 8-0109 of this article.
  - (k) Appeals procedure for the settlement of disputed costs charged by state agencies to applicants pursuant to subdivision seven of section 8-0109 of this article. Such appeal procedure shall not interfere or cause delay in the determination of environmental significance or prohibit an action from being undertaken.
  - (l) A model assessment form to be used during the initial review to assist an agency in its responsibilities under this article.
3. Within the time periods specified in section 8-0117 of this article the agencies subject to this article shall, after public hearing, adopt and publish such additional procedures as may be necessary for the implementation by them of this article consistent with the rules and regulations adopted by the commissioner.
- (a) Existing agency environmental procedures may be incorporated in and integrated with the procedures adopted under this article, and variance in form alone shall constitute no objection thereto. Such individual agency procedures shall be no less protective of environmental values, public participation, and agency and judicial review than the procedures herein mandated.
  - (b) Such agency procedures shall provide for interagency working relationships in cases where actions typically involve more than one agency, liaison with the public, and such other procedures as may be required to effect the efficient and expeditious administration of this article.
4. Coordination with agricultural districts program. The commissioner, in consultation with the commissioner of agriculture and markets, shall amend the regulations promulgated pursuant to the provisions of this section as necessary and appropriate to assure the adequate consideration of impacts of public acquisitions, or the advancement of public monies for non-farm development on lands used in agricultural production and unique and irreplaceable agricultural lands within agricultural districts in accordance with the provisions of subdivision four of section three hundred five of the agriculture and markets law.

## **ARTICLE 15**

### **WATER RESOURCES**

- Title 1. Short title; statement of policy; definitions; general provisions**
- 3. Powers and duties**
  - 5. Protection of water**
  - 6. Water efficiency and reuse**
  - 7. Private rights in waters**
  - 8. Regulation of reservoir releases**
  - 9. Administrative procedures for article 15**
  - 11. Local and regional water resources planning and development**
  - 13. Comprehensive public water supply studies and reports**

- 15. Water supply
- 16. Great Lakes water conservation and management
- 17. Water power
- 19. Drainage
- 21. River regulation by storage reservoirs
- 23. River improvement
- 25. Joint river regulating, river improvement and drainage improvement districts
- 27. Wild, scenic and recreational rivers system
- 29. Water resources management strategy
- 31. Groundwater protection and remediation program

**Title 1 - SHORT TITLE; STATEMENT OF POLICY; DEFINITIONS; GENERAL PROVISIONS**

**15-0101 – Short title.**

**15-0103 – Legislative findings.**

**15-0105 – Declaration of policy.**

**15-0107 – Definitions as used in this article.**

**15-0109 – General jurisdiction.**

**15-0111 – Public Authorities Law and Administrative Code of the City of New York are not affected.**

**15-0113 – State to be reimbursed for costs.**

**§ 15-0101. Short title.**

This article 15 of the Environmental Conservation Law shall be known as the Water Resources Law. However, sections of the Environmental Conservation Law falling within this article 15 may be cited either as such sections of the Environmental Conservation Law or as such sections of the Water Resources Law.

**§ 15-0103. Legislative findings.**

Article 15 shall be construed and administered in the light of the following findings of fact:

1. The sovereign power to regulate and control the water resources of this state ever since its establishment has been and now is vested exclusively in the state of New York, except to the extent of any delegation of power to the United States;
2. New York State has been generously endowed with water resources which have contributed and continue to contribute greatly to the position of preeminence attained by New York in population, agriculture, commerce, trade, industry and outdoor recreation;
3. Adequate and suitable water for water supply, domestic, municipal, industrial, agricultural and commercial uses, power, irrigation, transportation, fire protection, sewage and waste assimilation, the growth of forests, maintenance of fish and wildlife, recreational enjoyment and other uses is essential to the health, safety and welfare of the people and economic growth and prosperity of the state;
4. In recent years our population growth and the development and use of new technology and processes have resulted in demands for more water and the equitable use thereof for these purposes;
5. In recent years recreational activities are making new and greater demands on lakes and streams of the state for boating, fishing, bathing and water sports, and the lands adjacent thereto for campsites, access areas and public beaches;
6. The growth of cities and urban areas and their expansion into formerly rural areas has in many cases resulted in the filling in, diversion and destruction of water courses, necessarily destroying aquatic habitat and lessening supplies of water for multiple use purposes;
7. Increased motorized highway travel and public safety are requiring the construction of new, better and larger public highways which may alter the water ways of the state and encroach upon water courses and affect their uses;
8. All fish, game, wildlife, shellfish, crustacea and protected insects in the state, except those legally acquired and held in private ownership, are owned by the state and held for the use and enjoyment of the

people of the state, and the state has a responsibility to preserve, protect and conserve such terrestrial and aquatic resources from destruction and damage and to promote their natural propagation;

9. The unreasonable, uncontrolled and unnecessary interference with or defilement and disturbance of water courses create hazards to the health, safety and welfare of the people of the state causing great economic loss by erosion of soil, increased costs of water purification and treatment, the loss of crop lands and forests by flooding, the destruction and failure of natural propagation of fish and aquatic resources and the loss of water for domestic, industrial, navigational, municipal, agricultural, recreational and other beneficial uses and purposes;
10. The unreasonable and unregulated (a) interference with the channels and beds of lakes and streams by construction of dams, roads and other structures, (b) alteration of water courses and gradients, (c) impounding of water, (d) dredging and filling in of stream beds, and the unreasonable removal of sand, gravel or other materials from streams, and by other action, have resulted in pollution of such waters, increase in turbidity and the deposit of silt and debris, irregular variations of velocity, temperature and levels of water, erosion of banks and uplands and the flooding of valuable lands;
11. The department, and two of its predecessors, the Water Resources Commission and the Water Pollution Control Board, has classified substantially all of the waters of the state;
12. The department, pursuant to title 11 of article 15 of the Environmental Conservation Law, is continuing the work of its predecessor, the Water Resources Commission in undertaking comprehensive planning for the protection, conservation and development of the water resources of the state;
13. It is in the best interest of the state that provision be made for the regulation and supervision of activities that deplete, defile, damage or otherwise adversely affect the waters of the state and land resources associated therewith.

**§ 15-0105. Declaration of policy.**

In recognition of its sovereign duty to conserve and control its water resources for the benefit of all inhabitants of the state, it is hereby declared to be the public policy of the state of New York that:

1. The regulation and control of the water resources of the state of New York be exercised only pursuant to the laws of this state;
2. The waters of the state be conserved and developed for all public beneficial uses;
3. Comprehensive planning be undertaken for the protection, conservation, equitable and wise use and development of the water resources of the state to the end that such water resources be not wasted and shall be adequate to meet the present and future needs for domestic, municipal, agricultural, commercial, industrial, power, recreational and other public, beneficial purposes;
4. With respect to the use of the waters of the state and the water courses thereof, due consideration shall be given to the relative importance of different uses;
5. The acquisition, storage, diversion and use of water for domestic and municipal purposes shall have priority over all other purposes;
6. Alterations in the conditions of waters and water courses be planned and carried out in such manner that the important uses will be impaired as little as possible;
7. Reasonable standards of purity and quality of the waters of the state be maintained consistent with public health, safety and welfare and the public enjoyment thereof, the propagation and protection of fish and wildlife, including birds, mammals and other terrestrial and aquatic life, and the industrial development of the state, and to that end, to require the use of all known available and reasonable methods to prevent and control pollution, wastage and unreasonable disturbance and defilement of the waters of the state;
8. In addition to other recognized public beneficial uses and control of water as provided by this article 15 or by any other statute, the regulated acquisition, storage, diversion and use of water for the

supplemental irrigation of agricultural lands within the state is a public purpose and use, in the interests of the health, safety and welfare of the people of the state and for their interest.

**§ 15-0107. Definitions as used in this article.**

1. "Person" means any individual, firm, co-partnership, association or corporation other than the state and a "public corporation."
2. "Public corporation" means "public corporation" as defined in subdivision one of Section 3 of the General Corporation Law and includes all public authorities, except the Power Authority of the State of New York.
3. "Municipality" or "municipal corporation" includes a county, city, town and village.
4. "Waters" shall be construed to include lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic ocean within the territorial limits of the state of New York, and all other bodies of surface or underground water, natural or artificial, inland or coastal, fresh or salt, public or private, which are wholly or partially within or bordering the state or within its jurisdiction.
5. "Water power" shall be construed to mean power developed from falling or flowing water, and all electrical current and other forms of energy into which such power may be transformed.
6. The term "comprehensive planning" as used in title 11 of this article shall be deemed to mean multi-purpose planning for at least two, and as many more as may be found to be practicable and reasonable, of the purposes and uses as provided by this article 15 or by any other statute, the provisions of which and the procedures authorized thereby are to remain in full force and effect.
7. Other definitions, applicable to this article, are found in sections 15-1301, 15-1703, 15-1973 and 15-2101.

**§ 15-0109. General jurisdiction.**

The department shall exercise its powers and perform its duties in any matter affecting the construction of improvements to or developments of water resources for the public health, safety or welfare, including but not limited to the supply of potable waters for the various municipalities and inhabitants thereof, the use of water for industrial and agricultural operations, the developed and undeveloped water power of the state, the facilitation of proper drainage and the regulation of flow and improvement of the rivers of the state.

**§ 15-0111. Public Authorities Law and Administrative Code of the City of New York are not affected.**

Nothing contained in this article shall be deemed or construed as amending, repealing, altering or otherwise modifying in whole or in part any provision of Title 1, Article 5 of the Public Authorities Law, as amended, with respect to Power Authority of the State of New York, or any provision of Title K of Chapter fifty-one and Title D of Chapter 15 of the Administrative Code of the City of New York, as amended, with respect to the City of New York, and such acts shall remain in full force and effect, except that notwithstanding the provisions of this section and title 3 of article 1 of this chapter, section 15-0103 and title 8 of this article shall apply to the city of New York, its agencies and departments. Nothing in this article shall be deemed or construed as adding to, diminishing or otherwise modifying the rights, powers, duties and obligations granted to and imposed upon Power Authority of the State of New York and the City of New York, its or their agencies and departments by such statutes or any other statutes, except that notwithstanding the provisions of this section and title 3 of article 1 of this chapter, section 15-0103 and of title 8 of this article shall apply to the city of New York, its agencies and departments.

**§ 15-0113. State to be reimbursed for costs.**

In the event that the department shall carry out a project paid for by the beneficiaries, as provided by various parts in this article, the department may, if such procedure shall be found to be just and reasonable, require that the state be reimbursed for costs which may have been paid from state appropriations. This reimbursement may cover costs and expenses incurred prior to the time the project funds could be made available for salaries and expenses for regular employees of any state department who may have devoted all

or a part of their time to that particular project, except this is not intended to apply to the salaries of the members of the department engaged only in general administrative work in connection with the project.

## **ARTICLE 17**

### **WATER POLLUTION CONTROL**

#### **Title 1. General provisions and public policy**

- 3. Jurisdiction of the department; authority; powers and duties**
- 5. Prohibitions**
- 7. Permits and certificates**
- 8. State pollutant discharge elimination system**
- 9. Procedure**
- 10. Control of the bulk storage of petroleum**
- 11. Scope and construction; other remedies**
- 13. Approval of marine toilet pollution control devices and establishing effluent standards therefor**
- 14. Nonpoint source water pollution control**
- 15. Realty subdivisions: sewerage service**
- 17. Discharge of sewage into waters**
- 19. State aid: collection, treatment, and disposal of sewage**

#### **TITLE 1 — GENERAL PROVISIONS AND PUBLIC POLICY**

**17-0101 – Declaration of policy.**

**17-0103 – Statement of purpose.**

**17-0105 – Definitions applicable to portions of this article.**

##### **§ 17-0101. Declaration of policy.**

It is declared to be the public policy of the state of New York to maintain reasonable standards of purity of the waters of the state consistent with public health and public enjoyment thereof, the propagation and protection of fish and wild life, including birds, mammals and other terrestrial and aquatic life, and the industrial development of the state, and to that end require the use of all known available and reasonable methods to prevent and control the pollution of the waters of the state of New York.

##### **§ 17-0103. Statement of purpose.**

It is the purpose of this article to safeguard the waters of the state from pollution by preventing any new pollution and abating pollution existing when the predecessor of this chapter was enacted, under a program consistent with the declaration of policy stated in section 17-0101.

##### **§ 17-0105. Definitions applicable to portions of this article.**

When used in titles 1 to 11, inclusive, and titles 14 and 19 of this article:

1. “Person” or “persons” means any individual, public or private corporation, political subdivision, government agency, municipality, industry, co-partnership, association, firm, trust, estate or any other legal entity whatsoever.
2. “Waters” or “waters of the state” shall be construed to include lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic ocean within the territorial limits of the state of New York and all other bodies of surface or underground water, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters which do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the state or within its jurisdiction.
3. “Marine district” shall include the waters of the Atlantic ocean within three nautical miles from the coast line and all other tidal waters within the state, except the Hudson river northerly of the south end of Manhattan Island.

4. "Sewage" means the water-carried human or animal wastes from residences, buildings, industrial establishments or other places, together with such ground water infiltration and surface water as may be present. The admixture with sewage as above defined of industrial wastes or other wastes as hereafter defined, shall also be considered "sewage" within the meaning of this article.
5. "Industrial waste" means any liquid, gaseous, solid or waste substance or a combination thereof resulting from any process of industry, manufacturing, trade, or business or from the development or recovery of any natural resources, which may cause or might reasonably be expected to cause pollution of the waters of the state in contravention of the standards adopted as provided herein.
6. "Other wastes" means garbage, refuse, decayed wood, sawdust, shavings, bark, sand, lime, cinders, ashes, offal, oil, tar, dyestuffs, acids, chemicals, ballast and all other discarded matter not sewage or industrial waste which may cause or might reasonably be expected to cause pollution of the waters of the state in contravention of the standards adopted as provided herein.
7. "Standard" or "Standards" means such measure of purity or quality for any waters in relation to their reasonable and necessary use as may be established by the department pursuant to section 17-0301.
8. "Sewer system" or "sewerage system" means pipe lines or conduits, pumping stations, and force mains, and all other constructions, devices, and appliances appurtenant thereto, used for conducting sewage, industrial waste or other wastes to a point of ultimate disposal.
9. "Treatment works" means any plant, disposal field, lagoon, pumping station, constructed drainage ditch or surface water intercepting ditch, incinerator, area devoted to sanitary land fills, or other works not specifically mentioned herein, installed for the purpose of treating, neutralizing, stabilizing or disposing of sewage, industrial waste or other wastes.
10. "Disposal system" means a system for disposing of sewage, industrial waste or other wastes, and including sewer systems and treatment works.
11. "Outlet" means the terminus of a sewer system, or the point of emergence of any water-borne sewage, industrial waste or other wastes or the effluent therefrom, into the waters of the state.
12. "Shellfish" includes oysters, scallops, clams, mussels and other aquatic mollusks, and lobsters, shrimp, crawfish, crabs and other aquatic crustaceans.
13. "State Pollutant Discharge Elimination System" or "SPDES" means the system established pursuant hereto for issuance of permits authorizing discharges to the waters of the state.
14. "National Pollutant Discharge Elimination System" or "NPDES" means the national system for the issuance of permits under the Federal Water Pollution Control Act.
15. "Effluent standard and/or limitation" means any restriction on quantities, quality, rates and concentrations of chemical, physical, biological, and other constituents of effluents which are discharged into or allowed to run from an outlet or point source into waters of the state promulgated by the federal government.
16. "Point source" means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, vessel or other floating craft, or landfill leachate collection system from which pollutants are or may be discharged. This term does not include agricultural stormwater discharges and return flows from irrigated agriculture.
17. "Pollutant" means dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand and industrial, municipal, and agricultural waste discharged into water; and ballast which may cause or might reasonably be expected to cause pollution of the waters of the state in contravention of the standards adopted as provided herein.

18. "Schedule of compliance" means a schedule of remedial measures including an enforceable sequence of actions or operations leading to compliance with an effluent limitation, other limitation, prohibition, or standard.
19. "Toxic pollutant" means those pollutants, or combination of pollutants, including disease-causing agents which after discharge and upon exposure, ingestion, inhalation or assimilation into any organism, either directly from the environment or indirectly through food chains, will, on the basis of information available to the department, cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions, including malfunctions in reproduction, or physical deformations, in such organisms or their offspring.
20. "New source" means any source, the construction of which is commenced after the publication of a standard or performance applicable to such source under the provisions of the Act, provided such standard is thereafter promulgated and adopted.
21. "Standard of performance" means a standard for the control of the discharge of pollutants which reflects the greatest degree of effluent reduction which the federal government determines to be achievable through application of the best available demonstrated control technology, processes, operating methods, or other alternatives, including, where practicable, a standard permitting no discharge of pollutants.
22. "Toxic and pretreatment effluent standard" means standards adopted by the federal government pursuant to section 307 of the Act.
23. "Tanker" means any watercraft of more than three hundred gross tons and having a fully loaded draft of seven feet or more used to carry any liquid cargo, including petroleum, oil or water.

### **TITLE 3 — JURISDICTION OF THE DEPARTMENT; AUTHORITY; POWERS AND DUTIES**

#### **17-0301 – Classification of waters and adoption of standards.**

#### **17-0303 – General powers and duties applicable to portions of this article.**

#### **17-0305 – Establishment of a program to monitor water quality by private citizens under the direction of the department.**

#### **§ 17-0301. Classification of waters and adoption of standards.**

1. It is recognized that, due to variable factors, no single standard of quality and purity of the waters is applicable to all waters of the state or to different segments of the same waters.
2. In order to attain the objectives of this article, the department after proper study, and after conducting public hearing upon due notice, shall group the designated waters of the state into classes. Such classification shall be made in accordance with considerations of best usage in the interest of the public and with regard to the considerations mentioned in subdivision 3 hereof.
3. In adopting the classification of waters and the standards of purity and quality above mentioned, the department shall give consideration to:
  - a. The size, depth, surface area covered, volume, direction and rate of flow, stream gradient and temperature of the water;
  - b. The character of the district bordering said waters and its peculiar suitability for the particular uses, and with a view to conserving the value of the same and encouraging the most appropriate use of lands bordering said waters, for residential, agricultural, industrial or recreational purposes;
  - c. The uses which have been made, are being made or may be made, of said waters for transportation, domestic and industrial consumption, bathing, fishing and fish culture, fire prevention, the disposal of sewage, industrial waste and other wastes, or other uses within this state, and, at the discretion of the department, any such uses in another state on interstate waters flowing through or originating in this state;
  - d. The extent of present defilement or fouling of said waters which has already occurred or resulted from past discharges therein.

4. The department, after proper study, and after conducting public hearings upon due notice, shall adopt and assign standards of quality and purity for each such classification necessary for the public use or benefit contemplated by such classification. Such standards shall prescribe what qualities and properties of water shall indicate a polluted condition of the waters of the state which is actually or potentially deleterious, harmful, detrimental or injurious to the public health, safety or welfare, to terrestrial or aquatic life or the growth and propagation thereof, or to the use of such waters for domestic, commercial, industrial, agricultural, recreational or other reasonable purposes, with respect to the various classes established pursuant to subdivision 2 hereof.
5. In establishing such standards, consideration shall be given to the following factors:
  - a. The extent, if any, to which floating solids may be permitted in the water;
  - b. The extent to which suspended solids, colloids or a combination of solids with other substances suspended in water, may be permitted;
  - c. Organisms of the coliform group or any other organisms from wastes of animal or human origin shall not exceed the following prescribed standards for usage of the classified waters of the state:
    - (1) Sources of water supply for drinking, culinary or food processing purposes which, if subjected to approved disinfection treatment, with additional treatment if necessary to remove naturally present impurities, meet or will meet New York State Health Department drinking water standards and any other usages: For such sources the monthly median coliform value for one hundred ml of sample shall not exceed fifty from a minimum of five examinations and provided that not more than twenty percent of the samples shall exceed a coliform value of two hundred forty for one hundred ml of sample.
    - (2) Sources of water supply for drinking, culinary or food processing purposes which, if subjected to approved treatment equal to coagulation, sedimentation, filtration and disinfection, with additional treatment if necessary to reduce naturally present impurities, will meet New York State Department of Health drinking water standards; bathing, fishing, boating, and any other usages: For such sources the monthly median coliform value for one hundred ml of sample shall not exceed five thousand from a minimum of five examinations and provided that not more than twenty percent of the samples shall exceed a coliform value of twenty thousand for one hundred ml of sample.
    - (3) Sources of water for bathing, fishing, boating, and any other usages except shellfishing for market purposes in tidal salt waters: For such sources the monthly median coliform value for one hundred ml of sample shall not exceed two thousand four hundred from a minimum of five examinations and provided that not more than twenty percent of the samples shall exceed a coliform value of five thousand for one hundred ml of sample and provided further that surface waters receiving treated sewage discharges which pass through residential communities where there is a potential exposure of population to the surface waters shall be protected by the requirement that all effluents from sewage treatment plants shall be adequately disinfected prior to discharge into the surface waters in order that the monthly median coliform value for one hundred ml of sample shall not exceed two thousand four hundred from a minimum of five examinations and provided that not more than twenty percent of the samples shall exceed a coliform value of five thousand for one hundred ml of sample.
    - (4) Sources of water for shellfishing for market purposes and any other usages of tidal salt waters: Median MPN not to exceed seventy coliform organisms per one hundred milliliter sample in a series of four or more samples collected during any thirty-day period in the waters of a shellfishing area, and not exceeding in more than ten percent of the samples collected during the period an MPN of two hundred thirty coliform organisms per one hundred milliliters for a five-tube, or an MPN of three hundred thirty per one hundred milliliters for a three-tube decimal dilution test in those areas most probably exposed to fecal contamination during the most unfavorable hydrographic conditions.

- (5) All samples shall be collected, analyzed, and reported in a manner satisfactory to the commissioner.
  - (6) When the above prescribed standards are exceeded the commissioner shall make an investigation to determine the source or sources of pollution. When it shall appear to the commissioner after investigation, that there has been a violation of any of the provisions of titles 1 to 11, inclusive, and title 19 of this article he shall take further proceedings as provided in section 17-0905.
  - (7) The department may adopt and assign more restrictive standards for the best usages of the waters of the state.
- d. The extent of the oxygen demand which may be permitted in the receiving waters;
- e. Such other physical, chemical or biological properties necessary for the attainment of the objectives of this article, as set forth in section 17-0101.
6. The adoption, alteration or modification of the standards of quality and purity, above prescribed, shall be made by the department only after public hearing on due notice.
7. The "Rules and Classifications and Standards of Quality and Purity for Waters of New York State," hitherto adopted by the former New York water pollution control board by order made and entered October 23, 1950 effective October 25, 1950, as duly amended in the manner provided by law, are hereby approved and adopted as the general system and plan of the classification of the waters of the state and the standards of quality and purity thereof applicable to such general classification of the waters and are hereby deemed established and adopted by the department.
8. All classifications and standards of quality and purity hitherto assigned, by the former New York Water Pollution Control Board, or by the former Water Resources Commission by order, duly and respectively made and entered, to designated and specified waters of the state, are hereby approved and adopted as the classification and standards of quality and purity for such specified waters so respectively hitherto classified and are hereby deemed established, adopted and so assigned by the department.
9. The "Rules and Classifications and Standards of Quality and Purity for Waters of New York State," so hitherto adopted by the former Water Pollution Control Board and by the former Water Resources Commission and hereinabove readopted may from time to time be altered or modified by the department after public hearing thereon. Any classification of the specified waters of the state, so hitherto assigned by the former Water Pollution Control Board or by the former Water Resources Commission and hereinabove readopted may from time to time be altered or modified by the department after public hearing thereon.
10. Notices of public hearing for the consideration, adoption, modification, alteration and/or amendment of the general classification-standards system or of the classification of waters and the standards of purity and quality thereof shall:
  - a. Be published at least twice in a newspaper regularly published or circulated in the county or counties bordering or through which the waters sought to be classified, or for which standards are sought to be adopted, flow, the first date of publication of which shall be at least thirty days before the date fixed for such hearing, and
  - b. Be mailed at least thirty days before such hearing to the chief executive of each municipal corporation bordering or through which said waters, for which standards are sought to be adopted, flow, and to such other persons as the department has reason to believe may be affected by the proposed standards.
11. The fact that an application for the modification or alteration of classifications and standards of quality and purity has been made pursuant to this section shall not of itself constitute a sufficient ground for an injunction against, or a stay of, any proceeding or order authorized by this article.

12. In all hearings in connection with the modification or alteration of classifications and standards of quality and purity heretofore assigned by the former Water Pollution Control Board or the former Water Resources Commission or hereafter assigned by the department by order, duly and respectively made and entered, to designated and specified waters of the state, except as provided in paragraphs a and b of subdivision 10 of this section, the administrative procedures to be followed shall be governed by article two of the state administrative procedure act.
13. The department shall not require the expense of any public hearing initiated by petition of any person or public corporation in connection with the adoption, modification or alteration of classification of waters or standards of purity and quality thereof to be paid by such person or public corporation.
14. The classification of waters and standards of quality and purity thereof, upon adoption, shall, before becoming effective, be filed with the Secretary of State for publication in the "Official Compilation of Codes, Rules and Regulations of the state of New York" published pursuant to section 102 of the Executive Law.

**§ 17-0303. General powers and duties applicable to portions of this article.**

1. The provisions of this section shall apply only to titles 1 to 11, inclusive, and title 19 of this article.
2. The department shall have administrative jurisdiction to abate and prevent the pollution of waters of the state in the manner herein provided in accordance with the classification of waters adopted by the department pursuant to section 17-0301 and in accordance with standards, criteria, limitations, rules and regulations and permit conditions adopted, promulgated or applied by the department pursuant to title 8 hereof.
3. The department, acting through the commissioner may, from time to time, adopt, amend, or cancel administrative rules and regulations governing the procedure to be followed with respect to hearing, filing of reports, the issuance of permits, and all other matters relating to procedure, and generally, may make such administrative rules and regulations, and do and perform any and all acts, not inconsistent with the provisions of this article listed in subdivision 1 of this section, as may be necessary or proper to carry into effect such provisions of this article listed in subdivision 1 of this section, and may make, amend and repeal rules and regulations for the storage of liquids likely to pollute the waters of the state including, but not limited to, standards for the construction, installation, maintenance, protection and diking of tanks used to store any such liquids and their associated structures, piping, valves, fittings, fixtures and outlets, in conjunction with the promulgation of which, the commissioner shall consider codes and practices of industries concerned with the handling and storage of such liquids and the time required for persons engaged in such industries to conform with such rules and regulations. Such rules and regulations, before becoming effective, shall be filed with the secretary of state for publication in the "Official Compilation of Codes, Rules and Regulations of the State of New York" published pursuant to section 120 of the Executive Law.
4. The commissioner is hereby authorized to:
  - a. Hold public hearings, receive pertinent and relevant proof from any party in interest who appears at such hearing, compel the attendance of witnesses, make findings of fact and determinations, and assess such penalties therefor as are hereinafter prescribed, all with respect to the violations of the provisions of this article listed in subdivision 1 of this section, or the orders issued by the commissioner;
  - b. Make, modify or cancel orders requiring the discontinuance of the discharge of sewage, industrial waste or other wastes into any waters of the state in accordance with the provisions of this article listed in subdivision 1 of this section, and specifying the conditions and time within which such discontinuance must be accomplished.
  - c. Institute or cause to be instituted in a court of competent jurisdiction proceedings to compel compliance with the provisions of this article listed in subdivision 1 of this section or the determinations and orders of the commissioner;

- d. Issue or deny permits, under such conditions as may be prescribed for the prevention and abatement of pollution, for the discharge of sewage, industrial waste or other wastes, or for the installation or operation of disposal systems or parts thereof;
  - e. Continue any permit heretofore or hereafter issued under the provisions of this article listed in subdivision 1 of this section, or under the authority of laws previously enacted and thereafter repealed, whenever, after hearing thereon, the commissioner determines that such continuation is necessary or desirable to prevent or abate pollution of any waters of the state;
  - f. Revoke or modify any construction, operating or discharge permit heretofore or hereafter issued under the provisions of this article listed in subdivision 1 of this section, or under the authority of laws previously enacted and thereafter repealed, whenever, after hearing thereon, the commissioner determines that such revocation or modification is necessary or desirable to prevent or abate pollution of any waters of the state provided, however, that the hearing required under this paragraph may be waived in writing by the applicant or permittees;
  - g. Conduct such investigations as may be deemed advisable and necessary to carry out the intents and purposes of the provisions of this article listed in subdivision 1 of this section;
  - h. Settle or compromise, with the approval of the attorney general, any action or cause of action for the recovery of a penalty under the provisions of this article listed in subdivision 1 of this section as he may deem advantageous to the state;
  - i. Perform such other and further acts as may be necessary, proper or desirable, to carry out effectively the duties and responsibilities prescribed in the provisions of this article listed in subdivision 1 of this section.
5. It shall be the duty and responsibility of the department to:
- a. Encourage voluntary cooperation by all persons in preventing and abating pollution of the waters of the state;
  - b. Encourage the formulation and execution of plans by cooperative groups or associations of municipalities, industries, and other users of the waters who, severally or jointly, are or may be the source of pollution in the same waters, for the prevention and abatement of pollution;
  - c. Cooperate with the appropriate agencies of the United States or other states, or any interstate agencies in respect to pollution control matters, or for the formulation for submission to the legislature of interstate pollution control compacts or agreements;
  - d. Conduct or cause to be conducted studies and research, and provide services by itself or in cooperation with federal, interstate, state or municipal agencies, with respect to pollution abatement or control problems, disposal systems, and treatment of sewage, industrial waste and other wastes, which shall include but not be limited to (1) advances in effectiveness and economies in waste water treatment and plant design and operation, (2) feasible and economical means for providing sewers and sewage treatment works for small communities, (3) economical means for future incorporation of separate sewer service units into area-wide systems, (4) studies of selected problems, such as industrial wastes and changing sewage characteristics, (5) development of a data processing system for periodic determination of the status of water pollution control throughout the state, (6) provision of advisory services for municipal officials in relation to sewage problems, including information material concerning planning, construction and operation, financial assistance programs and methods of defraying the costs of sewers and sewage treatment plants, and (7) assimilative capacities of streams, lakes and other waters of the state;
  - e. Prepare and develop a general comprehensive plan for the abatement of existing pollution and the prevention of new pollution, by the installation, use, and operation of practical and available systems, methods and means for controlling pollution, recognizing different requirements for separate waters and for different segments of the same waters;

- f. Require to be submitted to it, and to consider for approval, plans for disposal systems or any part thereof, and to inspect the construction thereof for compliance with the approved plans;
  - g. Serve as an agency of the state for the receipt of moneys from the federal government, or other public or private agencies, and to expend the same, after appropriation therefor, for the purpose of pollution control, studies or research.
  - h. Establish a water quality surveillance network with sufficient stations and sampling schedule to meet the needs of the state, including ground water and surface water, both fresh and salt, and publish the results of such water quality surveillance network periodically;
  - i. Develop a public education and promotion program to aid and assist public officials in publicizing needs and securing support for pollution control action;
  - j. Prepare an annual report on the status of the water pollution control program, covering all phases of the program;
  - l. Promulgate rules, regulations and standards, subject to the requirements of subdivision 3 of section 17-0303, providing for the testing and measuring of sewage, industrial waste or other wastes, at their outlet or point source into waters of the state, and further providing for the maintaining of a permanent record of the resulting data, and periodically reporting such record to the commissioner, subject to the restriction set forth in subdivision 6 of section 17-0303.
6. The commissioner, or his authorized representative, shall have the right to enter at all reasonable times in or upon any property, public or private, for the purpose of inspecting and investigating conditions relating to pollution, or the possible pollution of any waters of the state, which inspection or examination does not involve confidential information relating to secret processes or economics of operation.
  7. The commissioner, or his authorized representative may examine any records or memoranda pertaining to the operation of a disposal system or treatment works which examination does not involve confidential information relating to secret processes or to economics of operation.
  8. The commissioner, or his or her authorized representative, shall disclose to the public the date, location and source of a petroleum spill, including, but not limited to, information pertaining to the cleanup of such spill and the presence of methyl tertiary butyl ether (MTBE). In the event of such spill, the department shall post such information on its website within a reasonable period of time, including additional related information as soon thereafter as it becomes available.

**§ 17-0305. Establishment of a program to monitor water quality by private citizens under the direction of the department.**

1. The commissioner shall establish a program which shall be known as the “citizens statewide lake assessment program”. The purpose of this program is to establish a network of volunteers belonging to lake associations throughout the state to monitor the condition of their respective lakes under the guidance and direction of the department. The volunteers, designated by the commission, will sample the assigned lakes on a weekly basis between May and September. Water quality information will be obtained by measuring water transparency and taking samples for water chemistry. Samples shall be processed by the volunteers and forwarded to a contract chemistry laboratory for analysis.
2. The commissioner shall establish and fill a new permanent position of program coordinator for the monitoring program within the division of water.
3. The commissioner shall establish a training program for the purpose of providing the volunteers with the skills necessary to accomplish their monitoring tasks. Quality control checks will be carried out on a regular basis by the program coordinator, and through the lake classification and inventory survey.
4. The commissioner will provide the volunteers with all of the equipment and materials necessary to accomplish the monitoring.
5. Chemistry parameters shall include, but are not limited to, tests for total phosphorus, nitrate, color and chlorophyll. Additional survey data shall include, but not be limited to, aquatic vegetation surveys,

angler surveys and questionnaires/surveys for water users concerning problems, issues and use impairment.

6. The program coordinator shall prepare an annual report which will include a summary of the information collected on the monitored waters during the previous season. This information shall be distributed to the program participants and other interested parties.

## **TITLE 5 — PROHIBITIONS**

**17-0501 – General prohibition against pollution.**

**17-0503 – Prohibition against pollution of waters of marine district.**

**17-0505 – Prohibition against certain acts without permit.**

**17-0507 – Prohibition against modification of wastes discharged through existing outlet or point source without permit.**

**17-0509 – Minimum treatment required.**

**17-0511 – Restrictions on discharge of sewage, industrial waste or other wastes.**

### **§ 17-0501. General prohibition against pollution.**

1. It shall be unlawful for any person, directly or indirectly, to throw, drain, run or otherwise discharge into such waters organic or inorganic matter that shall cause or contribute to a condition in contravention of the standards adopted by the department pursuant to section 17-0301.

### **§ 17-0509. Minimum treatment required.**

1. As used in this section, the term “effective secondary treatment” shall mean the removal of substantially all floating and settleable solids and the removal of at least eighty-five percent of suspended solids and at least eighty-five percent of five day biochemical oxygen demand, or such other standard as may be adopted pursuant to the Act.
2. The minimum degree of treatment required for the discharge of sanitary sewage into the surface waters of the state shall be effective secondary treatment, provided, however, that additional treatment may be required consistent with the standards established for specific waters by the department pursuant to section 17-0301 or with standards, criteria, limitations, rules or regulations promulgated or applied pursuant to title 8 hereof.

### **§ 17-0511. Restrictions on discharge of sewage, industrial waste or other wastes.**

The use of existing or new outlets or point sources, which discharge sewage, industrial waste or other wastes into waters of this state is prohibited unless such use is in compliance with all standards, criteria, limitations, rules and regulations promulgated or applied by the department pursuant to this article.

## **TITLE 14 — NONPOINT SOURCE WATER POLLUTION CONTROL**

**17-1401 – Purpose.**

**17-1403 – Definitions.**

**17-1405 – Inventory.**

**17-1407 – Priority nonpoint source pollution.**

**17-1409 – State assistance for non-agricultural nonpoint source abatement and control projects.**

**17-1411 – Regulations.**

### **§ 17-1401. Purpose.**

It is the purpose of this title to safeguard the waters of the state from nonpoint source pollution by controlling and abating new and existing sources of nonpoint source pollution.

### **§ 17-1403. Definitions.**

As used in this title:

1. "Best management practices" means methods, measures or practices determined to be the most practical and effective in preventing or reducing the impact of pollutants generated by nonpoint sources to a level compatible with water quality standards established pursuant to section 17-0301 of this article. Best management practices include, but are not limited to, structural and nonstructural controls and operations and maintenance procedures. Best management practices can be applied before, during or after pollution producing activities to reduce or eliminate the introduction of pollutants into receiving waters.
2. "Municipal corporation" means a county, city, town or village or an entity designated to act on behalf of such.
3. "Nonpoint source" means any source of water pollution or pollutants which is not a discrete conveyance or point source permitted pursuant to title seven or eight of this article.
4. "Nonpoint source abatement and control program" means a program of activities and projects for the abatement and reduction of nonpoint source pollution through the implementation of best management practices.
5. "District" means a county soil and water conservation district created pursuant to section five of the soil and water conservation districts law.

**§ 17-1409. State assistance for non-agricultural nonpoint source abatement and control projects.**

1. Subject to the availability of funds appropriated therefor, a matching grant program is established to fund the costs of implementing nonpoint source abatement and control projects that meet the following criteria:
  - a. the project must consist of activities and projects which will significantly reduce, abate or control nonpoint source pollution originating from non-agricultural activities;
  - b. the project must be proposed for implementation by a municipal corporation, or by a district at the formal request of such corporation;
  - c. the project must be located within a water body identified by the commissioner, pursuant to section 17-1407 of this title;
  - d. the project must propose to implement best management practices which meet the criteria promulgated pursuant to section 17-1411 of this title; and
  - e. the municipal corporation must have funds available to pay for its share of the eligible project costs.
- 1-a. Subject to the availability of funds appropriated therefore, a matching grant program is established to fund the cost of comprehensive watershed based water quality management designed to address the reduction and control of nonpoint source pollution and the improvement of water quality in a water body or water bodies identified on the prioritized list developed pursuant to section 17-1407 of this title.
2. Applications for matching grants shall contain the following information:
  - a. the name and location of the water body and the nonpoint source problem to be addressed;
  - b. for projects described in subdivision one of this section, an identification of the best management practice to be implemented;
  - c. a cost estimate for the proposed project;
  - d. the source of funds available to pay for the non-state share of the eligible costs;
  - e. information sufficient to demonstrate that the criteria set forth in subdivision one of this section have been met; and
  - f. such other information as may be required by the commissioner through regulations.
3. In awarding grants pursuant to this section, the commissioner shall give preference to those projects located or designed to address water quality concerns for in the highest priority water bodies identified pursuant to section 17-1407 of this title.

4. Eligible costs that may be funded pursuant to this section are architectural and engineering services, plans and specifications, consultant and legal services and other direct expenses related to comprehensive watershed based water quality management and project implementation.
5. Matching grants awarded pursuant to this section shall be up to seventy-five percent of the eligible costs for any specified project.
6. Notwithstanding any other provision of law to the contrary, storm water discharges of a municipality permitted pursuant to title seven or eight of this article shall be treated as a non-agricultural nonpoint source for the purpose of qualifying for funding pursuant to this section.

## **ARTICLE 19**

### **AIR POLLUTION CONTROL**

#### **Title 1. Short title; declarations of policy and purpose; definitions**

- 3. Powers and duties**
- 5. Procedure**
- 7. Scope and construction**
- 9. State acid deposition control act**
- 11. Vehicle global warming index labels**

#### **TITLE 1 — SHORT TITLE; DECLARATIONS OF POLICY AND PURPOSE; DEFINITIONS**

**19-0101 – Short title.**

**19-0103 – Declaration of policy.**

**19-0105 – Declaration of purpose.**

**19-0107 – Definitions.**

**§ 19-0101. Short title.**

This article shall be known as the “Air Pollution Control Act”.

**§ 19-0103. Declaration of policy.**

It is declared to be the policy of the state of New York to maintain a reasonable degree of purity of the air resources of the state, which shall be consistent with the public health and welfare and the public enjoyment thereof, the industrial development of the state, the propagation and protection of flora and fauna, and the protection of physical property and other resources, and to that end to require the use of all available practical and reasonable methods to prevent and control air pollution in the state of New York. It is further declared that this can be done most effectively by focusing on goals to be achieved by a maximum of cooperation among all parties concerned and that codes, rules and regulations established under the provisions of this article should be clearly premised upon scientific knowledge of causes as well as of effects.

**§ 19-0105. Declaration of purpose.**

It is the purpose of this article to safeguard the air resources of the state from pollution by: (1) controlling or abating air pollution which shall exist when this article shall be enacted and (2) preventing new air pollution, under a program which shall be consistent with the declaration of policy above stated and in accordance with the provisions of this article.

**§ 19-0107. Definitions.**

When used in this article:

1. “Person” means any individual, public or private corporation, political subdivision, agency, board, department or bureau of the state, municipality, partnership, association, firm, trust, estate or any other legal entity whatsoever which is recognized by law as the subject of rights and duties.

2. "Air contaminant" means a dust, fume, gas, mist, odor, smoke, vapor, pollen, noise or any combination thereof.
3. "Air pollution" means the presence in the outdoor atmosphere of one or more air contaminants in quantities, of characteristics and of a duration which are injurious to human, plant or animal life or to property or which unreasonably interfere with the comfortable enjoyment of life and property throughout the state or throughout such areas of the state as shall be affected thereby; excluding however all conditions subject to the requirements of the Labor Law and Industrial Code.
4. "Air contamination" means the presence in the outdoor atmosphere of one or more air contaminants which contribute or which are likely to contribute to a condition of air pollution.
5. "Air contamination source" means any source at, from or by reason of which there is emitted into the atmosphere any air contaminant, regardless of who the person may be who owns or operates the building, premises or other property in, at or on which such source is located or the facility, equipment or other property by which the emission is caused or from which the emission comes. Without limiting the generality of the foregoing, this term includes all types of commercial and industrial plants and works, heating and power plants and stations, shops and stores; buildings and other structures of all types, including single and multiple family residences, apartment houses, office buildings, public buildings, hotels, restaurants, schools, hospitals, churches, and other institutional buildings; automobiles, trucks, tractors, buses and other motor vehicles (hereinafter called "motor vehicles"); garages; vending and service locations and stations; railroad locomotives; ships, boats and other waterborne craft; aircraft; portable fuel-burning equipment; incinerators of all types, indoor and outdoor; and refuse dumps and piles.
6. "Air cleaning installation" means any method, process or equipment which removes, reduces or renders less noxious air contaminants discharged into the atmosphere.
7. "Area of the state" means any county, city, town, village, or other geographical area of the state as may be designated by the department.
8. "The Act" means the Federal Clean Air Act, 42 U.S.C. Section 7401 et seq., as amended by Public Law 101-549, November fifteenth, nineteen hundred ninety.
9. "Administrator" means the administrator of the United States environmental protection agency.
10. "Affected source" or "affected unit" shall have the meaning given to it in the regulations promulgated under Title IV of the Act.
11. "Clean alternative fuels" means fuels, for use in motor vehicles which meet the requirements of section 7511a(c)(4) of the Act.
12. "Clean fuel vehicle" means a vehicle in a class or category of vehicles which has been certified to meet, for any model year, the clean fuel vehicle standards for clean fuel vehicles specified in this article pursuant to section 7583 of the Act.
13. "Covered fleet" means ten or more motor vehicles which are owned or operated by a single person in an area designated as being a severe ozone non-attainment area by the administrator pursuant to Title I of the Act. In determining the number of motor vehicles owned or operated by a single person for the purposes of this article, all motor vehicles owned or operated, leased or otherwise controlled by such person, by any person who controls such person, by any person controlled by such person, and by any person under common control with such person shall be treated as owned by such person. The term "covered fleet" shall not include motor vehicles held for lease or rental to the general public, motor vehicles held for sale by motor vehicle dealers including demonstration vehicles, motor vehicles used for motor vehicle manufacturer product evaluations or tests, law enforcement and other emergency vehicles, or non-road vehicles including farm and construction vehicles.
14. "Covered fleet vehicle" means only a motor vehicle which is (i) in a covered fleet which is centrally fueled or is capable of being centrally fueled and (ii) in a vehicle class for which standards are applicable under this article.

15. "Emission offset" or "offset" means emission reductions or emission reduction credits which are required to be obtained by an air contamination source in order to obtain approval for a permit to construct a new air contamination source, or modify an existing air contamination source, in a non-attainment area pursuant to Title I of the Act.
16. "Emission reduction" or "emission reduction credit" means the actual decrease in emissions of a regulated air contaminant in tons per year. Emission reductions may be created by, but not limited to, product, process, pollution control or housekeeping changes that:
  - a. reduce emissions beyond that which is required by the Act;
  - b. are real and actually occur;
  - c. are quantifiable;
  - d. are enforceable by the commissioner or the administrator; and
  - e. are assured for the life of a corresponding increase.
17. "Fugitive emissions" means those emissions of regulated air contaminants which could not reasonably pass through a stack, chimney, vent or other functionally-equivalent openings.
18. "Operating permit" means a permit issued pursuant to section 19-0311 of this article.
19. "Major air contamination source" or "major stationary source" means any stationary source or any group of stationary sources located within a contiguous area and under common control and belonging to a single major industrial grouping that:
  - a. emits or has the potential to emit one hundred tons per year of any regulated air contaminant; or
  - b. emits or has the potential to emit ten tons per year of any air contaminant or twenty-five tons per year of any combination of air contaminants listed under section 7412(b) of the Act, including fugitive emissions of such contaminants, or lesser quantities as the administrator may establish pursuant to the Act; or
  - c. emits or has the potential to emit twenty-five tons per year of volatile organic compounds or oxides of nitrogen, including fugitive emissions of such contaminants if located in an area designated a "severe non-attainment area" pursuant to section 7511 of the Act; or
  - d. emits or has the potential to emit fifty tons per year of volatile organic compounds or one hundred tons of oxides of nitrogen if located in an ozone transport region pursuant to section 7511(c) of the Act.

Fugitive emissions from a stationary source must be considered in determining whether such stationary source is a major stationary source for permit requirements if the source belongs to one of the categories of stationary sources identified by the administrator in regulation pursuant to section 7602(j) of the Act.

20. "Major industrial grouping" means all activities belonging to the same major group identified in the Standard Industrial Classification Manual (1987) published by the United States department of commerce.
21. "Potential to emit" means the maximum capacity of a stationary source to emit any regulated air contaminant under its physical and operational design. Any physical or operational limitation on the capacity of such source to emit a regulated air contaminant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation is enforceable by the commissioner and the administrator of the United States environmental protection agency provided, however, that physical or operational limitations enforceable by the commissioner shall be treated as part of a source's design, if the commissioner is given such authorization by the administrator.
22. "Regulated air contaminant" means the following:
  - a. oxides of nitrogen;

- b. volatile organic compounds;
  - c. sulfur dioxide;
  - d. particulate;
  - e. carbon monoxide;
  - f. any class I or II substance subject to a standard promulgated pursuant to section 7671 of the Act;
  - g. any other air contaminant for which a national ambient air quality standard has been promulgated; or
  - h. any air contaminant that is regulated under section 7411 or 7412 (b) and (c) of the Act and which the commissioner has listed in regulation. The department may use emergency rulemaking pursuant to subdivision six of section two hundred two of the state administrative procedure act if necessary, in order to timely list such air contaminants.
23. "State implementation plan" or "SIP" means documents prepared by the department, and submitted to the administrator for approval, which identify actions and programs to be undertaken by the state and its subdivisions to implement the Act.
24. "Stationary source" means any building, structure, facility or installation that emits or may emit any regulated air contaminant.

## **ARTICLE 21**

### **POLLUTION CONTROL COMPACTS**

- Title 1. New England Interstate Water Pollution Control Compact**
- 3. Ohio River Valley Water Sanitation Compact**
  - 5. Tri-state compact and interstate environmental commission**
  - 7. Delaware river basin compact**
  - 9. Great Lakes basin compact**
  - 10. Great Lakes-St. Lawrence river basin water resources compact**
  - 11. Champlain basin compact**
  - 13. Susquehanna river basin compact**
  - 15. Mid-Atlantic states air pollution control compact**
  - 17. Delaware river basin water commission compact**

#### **TITLE 7 — DELAWARE RIVER BASIN COMPACT**

- 21-0701 – Delaware river basin compact.**
- 21-0703 – Commissioner and alternate.**
- 21-0705 – Advisors.**
- 21-0707 – Consent to alteration of diversions.**
- 21-0709 – Jurisdiction of courts.**
- 21-0711 – Prior to project approval.**
- 21-0713 – Agreements with municipalities.**
- 21-0715 – Delegations of power.**
- 21-0716 – Report and recommendations of department.**
- 21-0717 – Cooperative services.**
- 21-0719 – Budget.**
- 21-0721 – Audit.**
- 21-0723 – Inconsistent laws.**

#### **TITLE 17 — DELAWARE RIVER BASIN WATER COMMISSION COMPACT**

- 21-1701 – The Delaware river basin water commission compact approved.**
- 21-1703 – Force and effect of the compact.**
- 21-1705 – Consent of the congress.**
- 21-1707 – Effective date of this act.**

**§ 21-1701. The Delaware river basin water commission compact approved.**

The authority of the Governor to enter into a compact on behalf of the state of New York with the states of Delaware and New Jersey and the commonwealth of Pennsylvania in substantially the following form, which authority was first conferred by chapter 701 of the laws of 1952, is hereby continued:

**COMPACT**

**BETWEEN THE STATES OF DELAWARE, NEW JERSEY  
AND NEW YORK AND THE COMMONWEALTH OF  
PENNSYLVANIA CREATING THE DELAWARE  
RIVER BASIN WATER COMMISSION AND  
DEFINING ITS POWERS AND DUTIES**

Etc.

**ARTICLE 23**

**MINERAL RESOURCES**

- Title 1. Definitions**  
**3. General provisions**  
**5. Well permits and well spacing in oil and natural gas pools and fields**  
**7. Voluntary integration and unitization in oil and natural gas pools and fields**  
**9. Compulsory integration and unitization in oil and natural gas pools and fields**  
**11. Leases for production and storage of oil and gas on state lands**  
**13. Underground storage of gas**  
**17. Liquefied natural and petroleum gas**  
**19. Oil, gas and solution mining regulation and reclamation fee**  
**21. Interstate compact to conserve oil and gas**  
**23. Rerefining of used oil**  
**24. New York state oil energy conservation program**  
**27. New York state mined land reclamation law**

**§ 23-0101. Definitions.**

As used in this article, unless the context otherwise requires:

1. "Buffer zone" means all that area outside and surrounding the underground gas storage reservoir which the department approves as appropriate to protect the integrity of the reservoir, no part of which shall be more than thirty-five hundred linear feet from the boundary thereof.
2. "Cavity" means an open or partially open space left after a salt has been solution mined.
3. "Commissioner" means the commissioner of environmental conservation.
4. "Department" means the department of environmental conservation.
5. "Fund" means the oil and gas fund as established in section eighty-three-a of the state finance law.
6. "Field" means the general area underlaid by one or more pools.
7. "Gas" means all natural, manufactured, mixed, and byproduct gas, and all other hydrocarbons not defined as oil in this section.
8. "Local agency" means any local agency, board, authority, school district, commission or governing body, including any county, city, town, village or other political subdivision of the state.
9. "Metered" means the physical measurement of gas by means acceptable to the department.

10. "Oil" means crude petroleum oil and all other hydrocarbons, regardless of gravity, that are produced at the wellhead in liquid form by ordinary production methods and that are not the result of condensation of gas.
11. "Owner" means the person who has the right to drill into and produce from a pool or a salt deposit and to appropriate the oil, gas or salt he produces either for himself or others, or for himself and others.
12. "Person" means and includes any natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, or other representative of any kind, and includes any department, agency or instrumentality of the state or any of its governmental subdivisions.
13. "Plug and abandon" means the plugging, replugging if necessary, and abandonment of a well bore including the placing of all bridges, plugs, and fluids therein and the restoration and reclamation of the surface in the immediate vicinity to a reasonable condition consistent with the adjacent terrain.
14. "Pool" means an underground reservoir containing a common accumulation of oil or gas or both; each zone of a structure which is completely separated from any other zone in the same structure is a pool.
15. "Producer" means the owner of a well or wells capable of producing oil, gas, or salt; or any salt or hydrocarbon mixture.
16. "Product" means any commodity made from oil or gas and includes refined crude oil, crude tops, topped crude, processed crude, processed crude petroleum, residue from crude petroleum, cracking stock, uncracked fuel oil, fuel oil, treated crude oil, residuum, gas oil, casing head gasoline, natural-gas gasoline, kerosene, benzine, wash oil, waste oil, blended gasoline, lubricating oil, blends or mixtures of oil with one or more liquid products or by-products derived from oil or gas, and blends or mixtures of two or more liquid products or by-products derived from oil or gas, whether herein enumerated or not.
17. "Reservoir" means any underground reservoir, natural or artificial cavern or geologic dome, sand or stratigraphic trap, whether or not previously occupied by or containing oil or gas.
18. "Salt" means sodium chloride, evaporite or other water soluble minerals, either in solution or as a solid or crystalline material in a pure state or as a mixture.
19. "Solution mining" means the dissolving of an underground salt by water to produce a brine for transport to another underground or surface location for sale, processing or storage.
20. "Waste" means
  - a. Physical waste, as that term is generally understood in the oil and gas industry;
  - b. The inefficient, excessive or improper use of, or the unnecessary dissipation of reservoir energy;
  - c. The locating, spacing, drilling, equipping, operating, or producing of any oil or gas well or wells in a manner which causes or tends to cause reduction in the quantity of oil or gas ultimately recoverable from a pool under prudent and proper operations, or which causes or tends to cause unnecessary or excessive surface loss or destruction of oil or gas;
  - d. The inefficient storing of oil or gas; and
  - e. The flaring of gas produced from an oil or condensate well after the department has found that the use of the gas, on terms that are just and reasonable, is, or will be economically feasible within a reasonable time.

**§ 23-0102. Short title.**

This article shall be known and may be cited as the "oil, gas and solution mining law".

**TITLE 3 — GENERAL PROVISIONS**

**23-0301 – Declaration of policy.**

**23-0303 – Administration of article.**

**23-0305 – Powers and duties of the commissioner and the department.**

**23-0309 – Severability.**

**23-0311 – New York state oil, gas and solution mining advisory board.**

**23-0313 – Public access to records.**

**§ 23-0301. Declaration of policy.**

It is hereby declared to be in the public interest to regulate the development, production and utilization of natural resources of oil and gas in this state in such a manner as will prevent waste; to authorize and to provide for the operation and development of oil and gas properties in such a manner that a greater ultimate recovery of oil and gas may be had, and that the correlative rights of all owners and the rights of all persons including landowners and the general public may be fully protected, and to provide in similar fashion for the underground storage of gas, the solution mining of salt and geothermal, stratigraphic and brine disposal wells.

**TITLE 5 — WELL PERMITS AND WELL SPACING IN OIL AND NATURAL GAS POOLS AND FIELDS**

**23-0501 – Well permits.**

**23-0503 – Well spacing in oil and natural gas pools and fields.**

**TITLE 7 — VOLUNTARY INTEGRATION AND UNITIZATION IN OIL AND NATURAL GAS POOLS AND FIELDS**

**23-0701 – Voluntary integration and unitization in oil and natural gas pools and fields.**

**TITLE 9 — COMPULSORY INTEGRATION AND UNITIZATION IN OIL AND NATURAL GAS POOLS AND FIELDS**

**23-0901 – Compulsory integration and unitization in oil and natural gas pools and fields.**

**TITLE 27 — NEW YORK STATE MINED LAND RECLAMATION LAW**

**23-2701 – Short title.**

**23-2703 – Declaration of policy.**

**23-2705 – Definitions.**

**23-2709 – Administration of title.**

**23-2711 – Permits.**

**23-2713 – Mined land-use plan.**

**23-2715 – Financial security for reclamation.**

**23-2719 – Enforcement.**

**23-2721 – Judicial review.**

**23-2722 – Interstate mining compact.**

**23-2723 – Severability.**

**§ 23-2701. Short title.**

This title shall be known and may be cited as the “New York State Mined Land Reclamation Law”.

**§ 23-2703. Declaration of policy.**

1. The legislature hereby declares that it is the policy of this state to foster and encourage the development of an economically sound and stable mining industry, and the orderly development of domestic mineral resources and reserves necessary to assure satisfaction of economic needs compatible with sound environmental management practices. The legislature further declares it to be the policy of this state to provide for the management and planning for the use of these non-renewable natural resources and to provide, in conjunction with such mining operations, for reclamation of affected lands; to encourage productive use including but not restricted to the planting of forests, the planting of crops for harvest, the seeding of grass and legumes for grazing purposes, the protection and enhancement of wildlife and aquatic resources, the establishment of recreational, home, commercial, and industrial sites; to provide for the conservation, development, utilization, management and appropriate use of all the natural resources of such areas for compatible multiple purposes; to prevent pollution; to protect and perpetuate

the taxable value of property; to protect the health, safety and general welfare of the people, as well as the natural beauty and aesthetic values in the affected areas of the state.

2. For the purposes stated herein, this title shall supersede all other state and local laws relating to the extractive mining industry; provided, however, that nothing in this title shall be construed to prevent any local government from:
  - a. enacting or enforcing local laws or ordinances of general applicability, except that such local laws or ordinances shall not regulate mining and/or reclamation activities regulated by state statute, regulation, or permit; or
  - b. enacting or enforcing local zoning ordinances or laws which determine permissible uses in zoning districts. Where mining is designated a permissible use in a zoning district and allowed by special use permit, conditions placed on such special use permits shall be limited to the following:
    - (i) ingress and egress to public thoroughfares controlled by the local government;
    - (ii) routing of mineral transport vehicles on roads controlled by the local government;
    - (iii) requirements and conditions as specified in the permit issued by the department under this title concerning setback from property boundaries and public thoroughfare rights-of-way natural or man-made barriers to restrict access, if required, dust control and hours of operation, when such requirements and conditions are established pursuant to subdivision three of section 23-2711 of this title;
    - (iv) enforcement of reclamation requirements contained in mined land reclamation permits issued by the state; or
  - c. enacting or enforcing local laws or ordinances regulating mining or the reclamation of mines not required to be permitted by the state.
3. No agency of this state shall consider an application for a permit to mine as complete or process such application for a permit to mine pursuant to this title, within counties with a population of one million or more which draws its primary source of drinking water for a majority of county residents from a designated sole source aquifer, if local zoning laws or ordinances prohibit mining uses within the area proposed to be mined.

#### **§ 23-2705. Definitions.**

As used in this title, unless the context otherwise requires:

1. “Abandoned” means the cessation of mining and reclamation activities on land affected by mining without prior notification to the department of such cessation of activities or without describing such cessation in a mined land-use plan approved by the department, and after opportunity to be heard.
2. “Affected land” and “land affected by mining” means the sum of that surface area of land or land under water which: (i) has been disturbed by mining since April first, nineteen hundred seventy-five and not been reclaimed, and (ii) is to be disturbed by mining during the term of the permit to mine.
3. “Applicant” means that person making application to the department for a mining permit.
4. “Haulageway” means all roads utilized for mining purposes, together with that area of land over which material is transported, that are located within the permitted area.
5. “Mine” means any excavation from which a mineral is to be produced for sale or exchange, or for commercial, industrial or municipal use; all haulageways and all equipment above, on or below the surface of the ground used in connection with such excavation, and all lands included in the life of the mine review by the department.
6. “Mined land-use plan” means a document, consisting of a mining plan and a reclamation plan, which describes proposals for conduct of the applicant’s mining operation and reclamation of the land to be mined to achieve the purposes of this title.

7. "Mineral" means any naturally formed, usually inorganic, solid material located on or below the surface of the earth. For the purposes of this title, peat and topsoil shall be considered minerals.
8. "Mining" means the extraction of overburden and minerals from the earth; the preparation and processing of minerals, including any activities or processes or parts thereof for the extraction or removal of minerals from their original location and the preparation, washing, cleaning, crushing, stockpiling or other processing of minerals at the mine location so as to make them suitable for commercial, industrial, or construction use; exclusive of manufacturing processes, at the mine location; the removal of such materials through sale or exchange, or for commercial, industrial or municipal use; and the disposition of overburden, tailings and waste at the mine location. "Mining" shall not include the excavation, removal and disposition of minerals from construction projects, exclusive of the creation of water bodies, or excavations in aid of agricultural activities.
9. "Mining plan" means a description of the applicant's mining operation which shall include maps, plans, written materials and other documents as required by the department.
10. "Overburden" means all of the earth, vegetation and other materials which lie above or alongside a mineral deposit.
11. "Permittee" means any person who holds a valid mining permit from the department for the boundaries of the land identified in the mined land-use plan.
12. "Person" means any individual, public or private corporation, political subdivision, government agency, department or bureau of the state, municipality, industry, partnership, association, firm, trust, estate or any other legal entity whatsoever.
13. "Person engaged in mining" means a person who is subject to this title but who is mining without a mining permit issued by the department.
14. "Reclamation" means the conditioning of the affected land to make it suitable for any uses or purposes consistent with the provisions of this title.
15. "Reclamation plan" means a description of operations to be performed by the applicant to reclaim the land to be mined over the life of the mine. The reclamation plan shall include maps, plans, the schedule for reclamation, written material and other documents as required by the department.
16. "Spoil" means any waste material removed from its natural place in the process of mining and all waste material directly connected with the cleaning and preparation of any minerals.
17. "Tailings" means material of inferior quality or value resulting from the removal, preparation or processing of minerals.

## **ARTICLE 28**

### **POLLUTION PREVENTION**

**28-0101 – Declaration of policy.**

**28-0103 – Declaration of purpose.**

**28-0105 – Definitions.**

**28-0107 – Powers and duties of the department.**

**28-0109 – Small business pollution prevention and environmental compliance assistance program.**

**28-0111 – Pollution prevention and environmental compliance coordinating council.**

**28-0112 – Pollution prevention institute program.**

**28-0113 – Pollution prevention program evaluation.**

**§ 28-0101. Declaration of policy.**

It is declared to be the policy of the state of New York to promote affordable and cost effective methods to reduce energy and resource consumption and reduce or eliminate the use of hazardous substances and the generation of such substances, pollution or waste at the source in order to conserve, improve and protect New

York's environment and natural resources; enhance the health, safety and welfare of its citizens; and increase the economic competitiveness of New York businesses.

**§ 28-0103. Declaration of purpose.**

It is the purpose of this article to:

1. promote pollution prevention as a means for preventing the risks associated with the use and production of hazardous substances, including risks to public health and the environment;
2. promote pollution prevention as a means for reducing energy and resource consumption, and reducing or eliminating the generation of hazardous substances, pollution and waste;
3. promote implementation of affordable and cost effective methods of achieving pollution prevention as means of sustaining and safeguarding the competitive advantage of New York businesses, large and small, and advancing innovation in the reduction of energy and resource consumption and the reduction or elimination of hazardous substances, pollution and waste;
4. promote voluntary implementation of pollution prevention as a means for meeting the requirements of state or federal environmental laws or regulations; and
5. promote coordination and cooperation between all federal, state and local agencies and private organizations administering programs related to pollution prevention, energy consumption, resource consumption, the use and generation of hazardous substances, or the generation of waste or pollution.

**§ 28-0105. Definitions.**

As used in this article, the following words and phrases shall mean:

1. "Hazardous substance" shall mean any substance listed as a substance hazardous to public health, safety or the environment in regulations promulgated pursuant to article 37 of this chapter.
2. "Local agency" shall mean any local agency, board, district, commission or governing body, including any city, county, or other political subdivision of the state.
3. "Pollution prevention" shall mean changes in production methods, work practices, raw materials or the provision of services that reduce energy or resource consumption, or that reduce, avoid or eliminate the use of hazardous substances or the generation of such substances, pollutants or waste per unit of product or service provided, so as to reduce risks to public health or the environment, without shifting risks between individuals or environmental media. Such term shall include the redesign, modification, upgrade or replacement of processes, procedures, equipment or technology; reformulation or redesign of products, substitution of inputs or raw materials; improvements in housekeeping, maintenance, training or inventory control; and extended use or reuse of materials through methods integral to the production process or provision of service, such as in-process, closed-loop recycling. Such term shall not include incineration, energy recovery from the combustion of waste, transfer from one medium of release or discharge to another medium, off-site or out-of-production recycling, end-of-pipe treatment, or any practice which alters the physical, chemical or biological characteristics or volume of a hazardous substance, pollutant or solid waste through a process or activity which itself is not integral to and necessary for the production of a product or the providing of a service.
4. "Pollutant" shall mean any substance, contaminant, waste or emission which contributes to pollution.
5. "Solid waste" shall mean a solid waste as such term is defined by subdivision 1 of section 27-0701 of this chapter.
6. "State agency" shall mean any state department, agency, board, public benefit corporation, public authority or commission.

## ARTICLE 37

### SUBSTANCES HAZARDOUS OR ACUTELY HAZARDOUS TO PUBLIC HEALTH, SAFETY OR THE ENVIRONMENT

#### TITLE I — SUBSTANCES HAZARDOUS TO THE ENVIRONMENT

##### Section 37-0101. Definitions.

- 37-0103. Lists of substances hazardous or acutely hazardous to public health, safety or the environment.
- 37-0105. Rules and regulations.
- 37-0107. Prohibition against storage or release.
- 37-0109. Chromated copper arsenate pressure treated lumber; public facilities.
- 37-0111. Prohibition against brominated flame retardants.

#### TITLE II — HAZARDOUS PACKAGING

##### Section 37-0201. Legislative findings and intent.

- 37-0203. Definitions.
- 37-0205. Prohibitions.
- 37-0207. Exemptions.
- 37-0209. Violations.
- 37-0211. Reports.
- 37-0213. Rules and regulations.

#### TITLE III — GOVERNMENT AGENCY REPORTING OF TOXIC CHEMICAL RELEASES

##### Section 37-0301. Definitions.

- 37-0303. Applicability.
- 37-0305. Toxic chemical release form.
- 37-0307. Availability of information.

#### TITLE 1 — SUBSTANCES HAZARDOUS TO THE ENVIRONMENT

##### 37-0101 – Definitions.

- 37-0103 – Lists of substances hazardous or acutely hazardous to public health, safety or the environment.
- 37-0105 – Rules and regulations.
- 37-0107 – Prohibition against storage or release.
- 37-0109 – Chromated copper arsenate pressure treated lumber; public facilities.
- 37-0111 – Prohibition against brominated flame retardants.

##### § 37-0101. Definitions.

As used in this article, unless the context requires otherwise:

1. “Oral LD (rat) toxicity” means a calculated dose of a substance which is expected to cause the death of fifty percent of an experimental rat population when administered orally.
2. “Inhalation LC (rat) toxicity” means a calculated concentration of substance in air, exposure to which is expected to cause death of fifty percent of an experimental rat population when inhaled.
3. “Dermal LD (rabbit) toxicity” means a calculated dose of a substance which is expected to cause the death of fifty percent of an experimental rabbit population when applied to the skin.
4. “Brominated flame retardants” refers generally to any product containing a mixture of chemicals known as brominated diphenyl ether to prevent, reduce or retard the risk of fire in electronic devices, furniture, and textiles.
5. “Polybrominated diphenyl ether” (PBDE) is a mixture of brominated diphenyl ethers, usually marketed as pentabromodiphenyl ether or octabromodiphenyl ether, according to how many hydrogen atoms in the diphenyloxy structure are replaced with bromine atoms.

6. "Process", as used in section 37-0111 of this title, shall not include the processing of metallic recyclables containing pentabrominated diphenyl ether or octabrominated diphenyl ether that is conducted in compliance with all applicable federal, state, and local laws.

**§ 37-0103. Lists of substances hazardous or acutely hazardous to public health, safety or the environment.**

1. No later than two years from the date on which this section as hereby amended takes effect, the commissioner shall promulgate and thereafter from time to time amend regulations consistent with the state administrative procedure act which contain:
  - (a) A list of substances hazardous to the public health, safety or the environment, as required by paragraph (b) of subdivision ten of section 71-2702 of this chapter, which meet the following criteria:
    - (i) because of their quantity, concentration, or physical, chemical or infectious characteristics cause physical injury or illness when improperly treated, stored, transported, disposed of, or otherwise managed; or
    - (ii) pose a present or potential hazard to the environment when improperly treated, stored, transported, disposed of, or otherwise managed; or
    - (iii) because of their toxicity or concentration within biological chains, present a demonstrated threat to biological life cycles when released into the environment.
  - (b) A list of substances acutely hazardous to public health, safety or the environment, as required by paragraph (b) of subdivision eleven of section 71-2702 of this chapter, which meet the following criteria:
    - (i) A. have an oral LD (rat) toxicity of less than 50 milligrams per kilogram; or
    - B. have an inhalation LC (rat) toxicity of less than 2 milligrams per liter; or
    - C. have a dermal LD (rabbit) toxicity of less than 200 milligrams per kilogram; or
    - (ii) cause or are capable of causing death, serious illness or serious physical injury to any person or persons as a consequence of release into the environment.
2. In promulgating a list pursuant to paragraph (a) of subdivision one of this section, the commissioner shall include the following:
  - (a) substances whose manufacture, processing, contribution in commerce, use, possession or disposal is banned, prohibited or limited pursuant to the federal Toxic Substances Control Act (15 U.S.C. 2601 et seq.) as of January 1, 2008, as amended from time to time;
  - (b) substances and pesticides whose use or possession is prohibited pursuant to the federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. 135 et seq.) as of January 1, 2008, as amended from time to time; and
  - (c) substances defined as hazardous substances pursuant to the federal Comprehensive Environmental Response, Compensation and Liability Act (26 U.S.C. 4611 et seq.; 42 U.S.C. 9601 et seq.) as of January 1, 2008, as amended from time to time.

**TITLE 3 — GOVERNMENT AGENCY REPORTING OF TOXIC CHEMICAL RELEASES**

**37-0301 – Definitions.**

**37-0303 – Applicability.**

**37-0305 – Toxic chemical release form.**

**37-0307 – Availability of information.**

**§ 37-0301. Definitions.**

As used in this title, the following terms shall have the following meanings:

1. "Facility" means all buildings, equipment, structures, and other stationary items located on a single site or adjacent sites and owned or operated by the same person (or by any person who controls, is controlled by, or is under common control with, such person).
2. "State agency" means:
  - (a) each state department;
  - (b) division of military and naval affairs, division of state police, division of housing and community renewal, division for youth, office of general services, office of parks, recreation and historic preservation, and state university of New York;
  - (c) any division, board, commission, office, or bureau of any state department which is required to obtain a permit issued by the department or which undertakes an activity for which it must register with the department; and
  - (d) dormitory authority of the state of New York, facilities development corporation, metropolitan transportation authority (including the operations of all of its operating units), New York state energy research and development authority, New York state environmental facilities corporation, New York state olympic regional development authority, New York state thruway authority, New York state urban development corporation, port authority of New York and New Jersey, and power authority of the state of New York.
3. The term "manufacture" means to produce, prepare, import, or compound a toxic chemical.
4. The term "process" means the preparation of a toxic chemical, after its manufacture, for distribution in commerce in the same form or physical state as, or in a different form or physical state from, that in which it was received by the person so preparing such chemical, or as part of an article containing the toxic chemical.
5. The term "release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment (including the abandonment or discarding of barrels, containers, and other closed receptacles) of any hazardous chemical, extremely hazardous substance, or toxic chemical.
6. The term "toxic chemical" means a substance on the list described in 42 U.S.C. § 11023(c).

## **ARTICLE 49**

### **PROTECTION OF NATURAL AND MAN-MADE BEAUTY**

- Title 1. Natural and manmade beauty**
- 2. State Land Acquisition**
- 3. Conservation easements**

## **ARTICLE 54**

### **ENVIRONMENTAL PROTECTION ACT**

- Title 1. General provisions**
- 3. Open space land conservation projects**
- 5. Non-hazardous municipal landfill closure projects and municipal landfill gas management projects**
- 7. Municipal waste reduction or recycling projects**
- 9. Park, recreation and historic preservation projects**
- 11. Local waterfront revitalization plans and coastal rehabilitation projects**
- 13. Long Island central pine barrens area and south shore estuary reserve planning**

## ARTICLE 55

### SOLE SOURCE AQUIFER PROTECTION

**55-0101 – Declaration of policy.**

**55-0103 – Legislative findings.**

**55-0105 – Purpose.**

**55-0107 – Definitions.**

**55-0109 – Special groundwater protection areas; nomination.**

**55-0111 – Special groundwater protection areas; designation.**

**55-0113 – Special groundwater protection areas; Long Island designation.**

**55-0115 – Comprehensive management plan; contents.**

**55-0117 – Comprehensive management plan; approval.**

**55-0119 – Local land use regulation within a special groundwater protection area.**

#### **§ 55-0101. Declaration of policy.**

It is declared to be the public policy of this state to provide funds for the preparation and implementation of groundwater watershed protection plans in order to maintain existing water quality in special groundwater protection areas within federally designated sole source aquifer areas contained within counties having a population of one million or more and to further the implementation of nonpoint source controls for the protection of the potable supply underlying the entire recharge area.