Rochester Committee
for Scientific Information
Rochester, NY

RCSI Bulletin 161
The RCSI New York State Legislative Review (1972)

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July 1973

THE ROCHESTER COMMITTEE FOR SCIENTIFIC INFORMATION
P. O. Box 5236, River Campus Station
Rochester, New York 14627

Bulletin # 161
Legislation, New York State July 1973

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Summary

In 1972 the New York State Legislature passed two major environmental laws: the Environmental Conservation Law and the Environmental Quality Bond Act. The Environmental Conservation Law (ECL) collects the laws heretofore scattered on the books into one comprehensive body of law, which is to be administered by the Department of Environmental Conservation (DEC). The Environmental Quality Bond Act shows the concern of the voters of the State of New York for the environment. They authorized one billion one hundred fifty million dollars for environmental purposes. In all, approximately twenty pieces of legislation dealt with the environment.

Environmental Conservation Law

1. Administrative and Advisory Bodies

Chapter 664 of the Laws of 1972 places all existing environmental law, previously found under such headings as Health or Conservation, into a recodified Environmental Conservation Law, under the jurisdiction of the Department of Environmental Conservation (DEC). This demonstrates the continuation of the DEC and insures its supervision of many rules and regulations concerning environmental policies.

Article 1: States that the policy is to conserve, improve and protect the natural resources and environment, and to 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.

Article 3: Sets up the DEC with its general functions and powers.

Article 5: Perpetuates the State Environmental Board which advises the Commissioner in the review and appraisal of programs.

Article 7: Continues the Council of Environmental Advisors which helps the Governor define environmental management policies and makes recommendations for environmental studies.

2. Parks and Forests

Article 9: Sets up the procedures for the control of lands and forests (to be coordinated with the Park Law that is administered by the Office of Parks and Recreation). This includes a program for reforestation and one for cooperative forest management.

3. Fish and Wildlife

Article 11: Sets forth the procedures for the preservation of fish and wildlife. These laws were originally under the Department of Conservation and have now been codified in the ECL under the Department of Environmental Conservation.

4. Water Resources

Article 13: Sets forth the procedures for the conservation of marine and coastal resources. It is also a codification of the prior law.

Article 15: Is concerned with water resources. Title 3 gives the Department of Environmental Conservation the right to alter the classifications of the waters of New York State after a public hearing. The present classification of streams is not mentioned in the ECL. It is printed in the Codes, Rules and Regulations of the State of New York, 1972. Streams were classified according to best usage. The highest classification in the State is AA - drinking water and the lowest D - water that can receive agricultural wastes. The DEC is currently considering altering the State's stream classifications and will hold a public hearing in Rochester on August 6, 1973.

Title 5 concerns special regulations for some waters classified C or above. It is prohibited for any person or public corporation to change, modify or disturb the course of a stream or move sand, gravel or other materials without obtaining a permit from the DEC. The DEC must, before granting a permit, ascertain the probable effect on the health, safety and welfare of the people of the State and the effects on the natural resources of the State including soil, forest, fish and aquatic resources. Only a State Department or a State Public Corporation is exempt from obtaining a permit. They may, however, enter into a memorandum of understanding with the DEC.

Section 15-0505 covers the protection of navigable waters. It requires that a permit be obtained before excavation, or before fill may be put in navigable waters of the State. This protection extends to estuaries or marshes or wetlands that are adjacent to and contiguous at any point to navigable waters.

Article 17: Sets forth the provision for water pollution control. This also codifies pre-existing laws.

5. Air

Article 19: Sets forth a codification of air pollution control laws.

6. Interstate Agreements

Article 21: Sets forth pollution control compacts (a compact is an agreement between states) which include the New England Interstate Water Pollution Control Compact Title 1; Ohio River Valley Water Sanitation Compact Title 2; Tri-State Compact Title 3; Delaware River Basin Compact Title 7; Great Lakes Basin Compact Title 9; Champlain Basin Compact Title 11; Susquehanna River Basin Compact Title 13; Mid-Atlantic State Air Pollution Control Compact Title 15; and Delaware River Basin Water Pollution Compact Title 17.

7. Land Use, Waste Disposal and the Release of Chemicals

Article 23: Sets forth the mineral resources rules and regulations.

Article 27: Is concerned with the collection, treatment and disposal of refuse and other solid waste materials. Essentially, the rules and regulations for the disposal of solid waste are the guidelines for receiving State Aid.

Article 33: Describes the regulations concerning pesticides.

Article 35: Sets forth the rules and regulations concerning detergents and other household cleansing products.

Article 45: Concerns the State Nature and Historical Preserve Trust.

Article 47: Describes the rules and regulations for setting up County Environmental Management Councils.*

Article 49: Describes the rules for protection of the natural and manmade beauty. The Commissioner is empowered to develop general plans for the State and to advise local governments.

Article 71: Codifies enforcement procedures for violations of various laws set up under the environmental rules.

Environmental Quality Bond Act

1. Funds

Chapters 658 and 659 of the Laws of 1972 enacted the Environmental Quality Bond Act of 1972. This Bond Act was approved by the voters in the November election. The Act authorized the creation of State debt to the amount of one billion one hundred fifty million dollars ($1,150,000,000) to provide monies for preservation, enhancement, restoration and improvement of the quality of the State's environment which included State Grants to Municipalities and other governmental agencies for such purpose, to match Federal Funds which may from time to time be made available by Congress for such purpose. The Legislature was authorized to make this money available to cities, counties, towns, villages or improvement districts or public benefit corporations or other public corporations for the purposes prescribed by the Act. Section 3 breaks down the bond issue as $650,000,000 for the preservation of water; $150,000,000 for the preservation of air; and $350,000,000 for the preservation of the quality of land.

2. Sewage Treatment Facilities

Section 203 sets forth the procedure by which a municipality, after approval of its governing body, may apply for State assistance. A municipality is defined as including a public benefit corporation, school district, or an improvement district within a city, town or village. Title 2 (Sections 220 to 222) sets forth the division of the $650,000,000 for water quality improvement projects:

Monroe County	$7,680,400	for the North West Quadrant Pure Waters District Project
Town of Webster	$9,198,900	for the Town of Webster Project
Village of Brockport	$1,627,000	for the Village of Brockport Project
City of Rochester	$19,982,300	for the City of Rochester Combined Waste Treatment Phase I.

* See page 7 for description of function of County Environmental Management Councils.

Additional projects may be subsequently determined to be eligible under the provisions of the Act. Monroe County has identified seven other projects, six for the collection of waste water and one for the second phase of combined waste treatment near the lower Genesee.

Procedures for obtaining eligibility are defined in Section 221. A project is eligible:

a) When it has been approved by the Federal Pollution Abatement Assistance Program

b) When it received a permit which, in the judgment of the Commissioner is in accord with reports of comprehensive regional studies

c) When it conforms to applicable laws and regulations

d) When in the judgment of the Commissioner it is necessary for the accomplishment of the State Water Control Program.

The Commissioner may decide to pay up to thirty (30) per cent of the Project cost. This depends on the amount of Federal subsidy.

3. Abatement of Air Pollution

Title 3 sets forth the procedures for dividing the money to be used on air quality improvement projects. The Rochester State Hospital is to share in grants for other State projects. The total to upgrade State owned facilities is $50,000,000. An additional one hundred million dollars goes to municipal air quality improvement projects. Sections 240 to 243 set forth the procedures for obtaining a grant from the Commissioner. The Commissioner is authorized to pay up to 50% of the cost of the project.

4. Improvement of Forests, Parks, and Other Public Lands

Titles 4 and 6 set forth the procedures for obtaining land preservation and improvement grants. Monies available are shown in Table 1.

Table I.

Land Acquisition or Restoration	Total Monies in Millions
Catskills	15
Adirondacks	44
Tidal wetlands acquisition - 5,000 acres	18
Tidal wetlands, restoration	4
Fresh water wetlands acquisition, 50,000 acres	5
Unique areas	10
Access to state lands	8
Stream rights	3
Park projects	40
Open space preservation	50
Water ways Public access to rivers and lakes	9
Trailways Connecting parts of Statewide trail system now functioning - such as the Finger Lakes trail	4

The State makes the decision on which land it will purchase, however, the Director of Parks for the County has made recommendations. A few sample recommendations in different categories are listed below. There are many others.

Under fresh water wetlands:

1. Irondequoit Bay wetlands south of Empire Boulevard, 283.143 acres
2. Parts of 6 marshes adjacent to or near Lake Ontario State Parkway
3. Some of the Genesee River flood plain located in Eastern Chili, Wheatland, West Henrietta and Rush

Under Unique Area Preservation:

1. Some Irondequoit bayside land
2. Site of the Seneca Indian village of Totiakton - no longer standing

Under stream rights:

1. Extend rights along Oatka Creek
2. Buy rights on north side of Black Creek in Chili
3. Preserve canal lands

Under park projects:

1. 400-600 acres along Paddy Hill Creek and Kirk Creek in Greece
2. Land in Perinton for the proposed White Brook Park

5. Grants for Solid Waste Disposal

Title 5 sets forth the procedures for obtaining solid waste recovery and management grants. This is limited to one hundred and seventy-five million dollars. The State Government would pay up to twenty-five (25) percent of the cost of disposal equipment, and up to fifty percent if the project is metropolitan and includes recovery and recycling. Monroe County expects to receive 9 million dollars for a project expected to cost 18 million.

Amendments and Additions to the Environmental Conservation Law of 1972

Emissions from motor vehicles

Chapter 1,000 requires a small percentage of the fees charged for the inspection of vehicles to be used for regulation and research in the control of motor vehicle exhaust emission. Section 15 was also amended to give the State additional power of setting minor controlling regulations for motor vehicle pollution emissions.

Solid Wastes

The Department of Environmental Conservation may "provide and recommend methods for the recovery, recycling, reuse, or where recycling or reuse are not possible, the disposal of solid waste". Thus, recycling is now a recommended method of disposing of solid wastes.

Chapter 999 of the Laws of 1972 amends the Public Authorities Law. The State may pay for private projects to determine the effectiveness of new technology for recycling of solid wastes. After the project is completed, a copy of the report is to be submitted to the Commissioner of Environmental Conservation who shall hold public hearings upon its recommendations. Rules and regulations consistent with the private project report may be initiated by the Commissioner of Environmental Conservation.

Chapter 796 amends the procedures for obtaining State Aid for planning and construction of solid waste disposal facilities, which are now called "solid waste management facilities". Included under this heading are such processes as compression, shredding, high-temperature incineration, flotation separation, or any other technology for resource recovery, transporting, restoring, or recycling; or the final placement or disposal of solid waste in a manner satisfactory to the Commissioner. The Law also permits two municipalities acting together to apply for grants.

Hazardous Substances

The Environmental Conservation Law, Section 20, was amended by the Laws of 1972, Chapter 797 to permit the Commissioner to regulate the putting of hazardous substances into the environment. A hazardous substance is one which because of its toxicity, magnification or concentration and biological change presents a demonstrated threat to biological life cycles when discharged to the environment. The Department shall within the year promulgate a list of substances hazardous to the environment. Industry is to cooperate in gettting such information. The Department is authorized to promulgate rules and regulations pertaining to the storing or the discharge to the environment of substances hazardous to the environment. Users may be required to give to the Department for the public record information regarding such substances which the user may have, and the nature and extent of research performed on each substance. Public hearings will be held prior to the rules being enacted. As the rules are enacted, no industrial or commercial user shall store or discharge materials in a way which violates the rules. A violation will incur a civil penalty not to exceed $2,500 for each violation, with an additional penalty of not more than five hundred dollars for each day during which said violation continues.

Food Additives

Because of the undernourishment that still exists in the State of New York, Article 17-A was added to the Agriculture and Markets Law by Chapter 247 of the Laws of 1972 (Sections 215 to 215(c)), to insure adequate dietary patterns. The Legislature gave authority to the Commissioner of Agriculture and Markets to set enrichment standards, after a public hearing, for wheat, flour, corn flour and related products, breads, rolls and related bakery products, milled rice, macaroni and noodle products. It has been made unlawful to sell any unenriched product in violation of the rules and regulations and standards set.

River Shores and Parks

Wild, scenic, and recreational river systems are protected by the Conservation Law, (Article 5 Chapter 869) which adds portions of selected rivers in the Adirondack Park to the protected list. It provides procedures for obtaining inclusion of other rivers. The bill's purpose is to insure that the future development of land areas immediately along the designated rivers will be compatible with the particular qualities of the river. The DEC will have the responsibility for all the protected rivers outside the Adirondack Park. Within the Park, the responsibility will be shared with the Adirondack Park Agency.

Chapter 660 of the Laws of 1972 sets forth a new law called the Parks and Recreation Law. This law centralizes administrative responsibility for the State Park and Historical Preservation Programs outside of the Adirondack and Catskill Parks in an Office of Parks and Recreation. A new State Board of Historic Preservation was created to assume the advisory functions previously exercised by the Historic Trust. The stated purpose was to insure that the public continues to have a strong and independent voice in the management of the park system.

That Act also sets forth the procedures for registering snowmobiles and to restrict their use in the State Parks System (Sections 25.01 to 25.29). It is unlawful for a person to drive a snowmobile on a public highway except in certain emergencies and on certain highway crossings. Detailed procedures are set forth as to the type of liability insurance which a snowmobile operator must have.

Environmental Planning and Education

Chapter 904 of the Laws of 1972 amends the Conservation Law concerning County Environmental Management Councils. A Council may now advise on all matters affecting the preservation, conservation and ecology of the natural resources of the county. Each Council is to prepare a plan for the protection of the county's environment; this is to be done in coordination with the State's Environmental Conservation Plan. The Council is now required to make an annual report to both the Legislature and the County Manager.

Chapter 905 of the Laws of 1972 gives additional powers to the Conservation Advisory Councils and to Conservation Boards. The Councils and Boards are required not only to keep a list of open space areas, but to keep an "inventory and map". The statute also added a phrase that in keeping an inventory and map of all open marshlands, swamp and other wet lands that the Councils may recommend to the governing body of a municipality a program for ecologically suitable utilization of all such areas. In the old law they were only authorized to recommend a program for the better promotion, development or utilization of such areas. When authorized by local legislative bodies the Councils may accept gifts and other bequests for use in the furtherance of their powers.

In prior legislation, the Council was given the powers to conduct researches into land areas of the municipality; to coordinate the activities of unofficial bodies organized for similar purposes; to cooperate with other official municipal bodies in the area of community planning; to advertise and prepare books and maps, etc. and to keep an inventory and map of all open spaces, open marshlands and in addition to carry out any other duties or responsibilities consistent with the objectives of the article which the legislative body shall assign to the Council. The general responsibility of the Council is to advise in the development, management and protection of the natural resources of the municipality.

Chapter 667 of the Laws of 1972 set up a Temporary State Commission to study the teaching of the principles of environmental conservation in New York State. The Commission is to make reports to the Governor and the Legislature not later than March 31, 1973. $75,000 was appropriated for the study. The Commission held a forum in Rochester in January. They submitted a plan for Regional Environmental Education Development to the Governor in April, 1973.