

2008 ANNUAL REPORT

NEW YORK STATE ASSEMBLY

COMMITTEE ON
ENVIRONMENTAL CONSERVATION



Sheldon Silver, Speaker

Robert K. Sweeney, Chairman

December 15, 2008

Honorable Sheldon Silver
Speaker of the Assembly
Legislative Office Building, Room 932
Albany, NY 12248

Dear Speaker Silver:

I am pleased to submit to you the 2008 Annual Report of the Assembly Standing Committee on Environmental Conservation.

The Committee addressed several important issues this year including brownfield reforms, E-waste and global warming. This report describes the legislative actions and major issues considered by the Committee and sets forth our goals for future legislative sessions.

Under your leadership and with your continued support of the Committee's efforts, the Assembly will continue the work of preserving and protecting New York's environmental resources during the 2009 legislative session.

Sincerely,

A handwritten signature in black ink, appearing to read "Bob Sweeney". The signature is written in a cursive, slightly slanted style.

Robert K. Sweeney, Chairman
Assembly Standing Committee on
Environmental Conservation

2008 ANNUAL REPORT
OF THE NEW YORK STATE ASSEMBLY
STANDING COMMITTEE ON ENVIRONMENTAL CONSERVATION

Robert K. Sweeney, Chairman

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COMMITTEE RESPONSIBILITIES

The Assembly Standing Committee on Environmental Conservation has jurisdiction over legislation affecting State environmental policy. The Committee considers bills amending the Environmental Conservation Law (ECL), Parks, Recreation and Historic Preservation Law, Canal Law, Executive Law, Soil and Water Conservation Districts Law, and Navigation Law.

The primary concerns of the Committee are pollution prevention and control, resource management, and environmental quality issues. The Committee also monitors the activities and enforcement of environmental laws by the Department of Environmental Conservation (DEC). During the 2008 Legislative Session the Committee considered 395 bills, acting favorably on 78, with 25 becoming law.

SUBCOMMITTEES

The Environmental Conservation Committee examined policy issues with the assistance of two subcommittees - the Subcommittee on Oversight of the Department of Environmental Conservation and the Subcommittee on Shoreline Protection. These subcommittees help promote more deliberative, long-term discussions and solutions to complicated and far-reaching challenges.

Subcommittee on Oversight of the Department of Environmental Conservation – Adam T. Bradley, Chair

This Subcommittee examines issues regarding the Department of Environmental Conservation's (DEC) ability to protect human health and the environment and effectively implement the provisions of the Environmental Conservation Law. These issues include the adequacy of staffing, auditing of and reporting by the Department, ensuring public access to DEC records and overseeing the implementation of environmental laws and regulations.

Subcommittee on Shoreline Protection – Steven Cymbrowitz, Chair

This Subcommittee focuses on topics involving the protection of both coastal and freshwater shorelines. Issues considered by the Subcommittee may impact such areas as the shores of Long Island Sound, New York Harbor, the Great Lakes, the Hudson River and Adirondack lakes. Issues under examination include beach and shoreline erosion control, tidal and freshwater wetlands protection, shoreline setbacks to control nonpoint source pollution and the protection of shore areas from aquatic invasive species.

MAJOR ISSUES OF 2008

A. BUDGET HIGHLIGHTS

The State Fiscal Year (SFY) 2008-09 Enacted Budget included approximately \$1.2 billion in funding for environmental programs and included monies for children's environmental health programs, water and wastewater infrastructure and recycling programs.

Environmental Protection Fund (EPF)

The Environmental Protection Fund (EPF) received a record \$255 million. In his budget proposal, the Governor maintained EPF funding at \$250 million. The Assembly budget proposal boosted the Governor's proposal further by including an additional \$15 million for the EPF. The final EPF budget led to substantial increases for traditional EPF programs such as waterfront revitalization, municipal recycling, water quality improvement, and farmland protection. In addition, the extra funding will support two new programs: Solar Initiatives and the Hudson Fulton-Champlain Quadricentennial. Finally, the Assembly ensured that no less than 25 percent of the funds appropriated for local waterfront revitalization and municipal parks projects under the EPF will be made available for projects in densely populated or low-income communities that are underserved with respect to existing recreational opportunities in the area.

The table on the following page provides a detailed description of the allocations within the individual EPF accounts.

EPF Funding

\$ (in millions)

EPF Category	Enacted 2007-08	Executive 2008-09	Enacted 2008-09
Solid Waste Account	27.350	29.100	26.550
Municipal Recycling	9.825	10.825	10.825
Pollution Prevention Institute	2.000	4.000	1.000
Secondary Markets	8.750	8.750	8.750
Natural Resource Damages	1.300	1.500	1.500
Pesticide Database	2.025	2.025	2.025
BCERF	.450		.450
Landfill Closure/Gas Management	3.000	2.000	2.000
Parks, Recreation & Historic Preservation Account	83.100	64.100	70.225
Local Waterfront Revitalization	26.625	23.375	27.250
Municipal Parks	21.225	21.225	21.225
Hudson River Park	5.000	0	1.000
Stewardship	22.250	5.000	5.750
Hud-Ful-Champ Quadricentennial (new)	0	3.000	3.000
Solar Initiatives (new)	0	2.000	2.000
Zoos, Botanical Gardens, & Aquaria	8.000	8.500	9.000
Open Space Account	139.550	153.800	158.225
Land Acquisition	55.000	66.000	66.575
Smart Growth	2.000	2.500	2.500
Farmland Protection	28.000	30.000	30.000
Biodiversity	1.500	1.500	1.500
Albany Pine Bush	2.000	2.000	2.000
Invasive Species	5.000	4.000	5.000
Long Island Pine Barrens Planning	1.100	1.100	1.100
Ocean and Great Lakes	4.000	4.000	5.000
Water Quality Improvement	10.000	10.000	12.000
Long Island South Shore Estuary Reserve	0.900	0.900	0.900
Non-point Source Pollution Control	19.250	19.500	19.500
Soil and Water Conservation Districts	3.000	3.000	3.000
Finger Lakes - Lake Ontario Watershed	2.300	2.300	2.300
Hudson River Estuary Management	5.500	6.500	6.500
Air Quality (new)		3.000	0
Total	250.000	250.000	255.000

B. ENVIRONMENTAL QUALITY

Disposal of Pharmaceuticals

(A.840-B Englebright; Chapter 625 of the Laws of 2008)

Recent tests of drinking water have found evidence of trace amounts of pharmaceutical products. Scientific studies to determine the effects of the pharmaceuticals in the drinking water are ongoing. In an effort to prevent the increased presence of pharmaceuticals in the water supply, this legislation requires the Department of Environmental Conservation (DEC), in consultation with the Department of Health, to develop and implement a public information program on the most effective disposal techniques for prescription and non-prescription pharmaceuticals. DEC, in consultation with the Department of Education, would also be responsible for developing a notice that would be conspicuously displayed in pharmacies and other retail businesses authorized to sell drugs. In addition, the Commissioner of the Department of Environmental Conservation, in consultation with the Commissioner of the Department of Health, is authorized to establish a demonstration program to determine the most effective drug disposal methods.

Cancer Mapping

(A.1143-B Brodsky; Chapter 638 of the Laws of 2008)

Scientists are increasingly interested in the link between the environment and public health. This legislation requires the Department of Environmental Conservation, in cooperation with the Health Research Science Board, to collect and develop information on environmental facilities and cancer cases in order to facilitate the plotting of the information on computer-generated cancer maps.

Encouraging Smart Growth

(A.7335-A Hoyt; Veto Memo 144)

As New York's population continues to spread out from urban areas into the suburbs and outlying small towns and villages, the need for responsible growth, incorporating economic, environmental and quality of life concerns, has grown. This legislation would have encouraged the application of smart growth principles statewide by enacting the "State Smart Growth Public Infrastructures Policy Act." The legislation would have developed smart growth principles including: conservation and restoration, partnerships, community livability, consistency and sustainability and ensured that projects undertaken, approved or financed by certain state agencies and authorities including the Department of Environmental Conservation, the Department of Transportation, the Department of Education, the Department of Health, the Dormitory Authority and the New York State Thruway Authority, included consideration of smart growth criteria.

Addition of Washington County to the Hudson River Valley Greenway
(A.9698 McDonald; Chapter 541 of the Laws of 2008)

The Hudson River Valley Greenway was established in 1991 to create a process for voluntary regional cooperation among the counties in the Hudson River Valley. The Greenway currently includes approximately 242 communities from Saratoga County to Manhattan, with member communities receiving a variety of services including planning grants and technical assistance. This legislation adds Washington County to the Greenway membership.

Reporting on the State of New York's Natural Environment
(A.801 Englebright; Passed the Assembly)

The natural environment of the State changes frequently, with invasive species and climate change becoming increasingly prevalent. This legislation would require the Department of Environmental Conservation to prepare an annual report on the status of New York's natural environment. The report would include information regarding: positive and negative changes to air, water, soil, wetlands and wildlife; significant programmatic accomplishments of the Department; significant unresolved problems and proposed legislative and administrative recommendations for the resolution of such issues.

State Environmental Quality Review Act Standing
(A.1435 Bradley; Passed the Assembly)

Under current law, individuals may be barred from bringing legal actions that allege violations of the environmental quality review provisions of the Environmental Conservation Law solely on the basis that the injury alleged by such individual does not differ in kind or degree from the injury that would be suffered by the public at large. This legislation would ensure that individuals are allowed to bring private actions alleging violations of the State Environmental Quality Review Act (SEQRA) regardless of the kind or degree of injury that would be suffered by the public at large.

Controlling Light Pollution
(A.7438-A Rosenthal; Passed the Assembly)

Increasing scientific and experimental evidence demonstrates that misdirected, unshielded, excessive or unnecessary outdoor night lighting has detrimental effects, including wasted energy. This legislation would require state agencies and public corporations to consider: shielding certain lights, energy conservation and efficiency and recommendations by the Illuminating Engineering Society of North America. In addition, the legislation would protect the night time environment and conserve energy by allowing the Department of Environmental Conservation (DEC) to designate dark areas. The legislation would also provide for the development of a model comprehensive outdoor lighting ordinance and informational pamphlet.

Environmental Impact Zone Designation

(A.2002 R. Diaz; Passed the Assembly)

This legislation would require the Department of Environmental Conservation (DEC) to publish a list of “high local environmental impact zones,” which would be defined as areas of the State that are most adversely impacted by existing environmental hazards. In compiling the list, the DEC would consider potentially adverse environmental impacts within an area, such as releases of toxic chemicals and petroleum discharges, the quantities of emissions, discharges and stored waste authorized by permit, the amount of pesticides sold and used in the area, the proximity of water bodies, and air quality of the area.

Ensuring Equitable Environmental Quality Review

(A.1098 Brodsky; Passed the Assembly)

This legislation would add a new requirement to environmental impact statement preparation under the State Environmental Quality Review Act (SEQRA), requiring a detailed statement on whether the action would cause a disproportionate or inequitable burden or a vital indirect impact on the minority community or economically distressed area affected by the action. In addition, the legislation would direct the Department of Environmental Conservation to expand the existing criteria used in the SEQRA process to include consideration of the proposed action's expected burdens on minority communities and/or economically distressed areas.

Enhancing Environmental Quality Review

(A.615 Paulin; Passed the Assembly)

This legislation would ensure the consideration of emerging environmental science issues in the determination of the significance of a project or action under the State Environmental Quality Review (SEQR) process. The Department of Environmental Conservation would be required to annually update any forms or documentation designed to assist applicants and lead agencies in determining whether a proposed project may have a significant impact on the environment. When updating such forms, the Department would be required to consider changes in science and emerging issues in environmental protection, including impacts on sensitive populations, such as children.

Community Impact Statements

(A.3670 Lentol; Passed the Assembly)

Currently, consent orders are negotiated by the Department of Environmental Conservation and are not subject to community involvement. This legislation would apply to New York City and would require orders to be published in the Environmental Notice Bulletin and in a newspaper having general circulation in the community. Community Board representatives would have 15 days to submit a community impact statement. Such statements would be reviewed by the Department and incorporated into the record.

Tire Efficiency Program

(A.10262-B Hevesi; Passed the Assembly)

Energy efficient tires provide better fuel efficiency by minimizing the amount of energy needed to move a tire, a measurement known as rolling resistance. As rolling resistance increases so too does gas consumption. Federal law requires auto makers to equip new cars with low-rolling resistant tires; however, there are no such requirements in New York for replacement tires. Estimates indicate that the rolling resistance of replacement tires is approximately 22 percent higher than original tires. Although some fuel efficient tires are on the market, consumers have no way to discern their efficiency. This legislation would require the Department of Environmental Conservation to establish a replacement tire energy efficiency program for passenger cars and light-duty trucks. The program would include a database of the energy efficiency of a representative sample of tires as well as a rating system to enable consumers to make more informed decisions.

Lead Contamination Study of Parks

(A.6052 Jeffries; Passed the Assembly)

Lead exposure in children has been found to result in developmental delays and other health problems. This legislation would require the Department of Environmental Conservation to conduct a study of lead contamination in parks adjacent to heavily-traveled city streets and rural and suburban highways. As part of the study, the Department would include recommendations for remediation methods. Within six months of the study, the Department would post warning signs indicating the presence of high lead levels and the potential health effects of exposure. The legislation would also authorize grants to municipalities for clean-up costs and require ongoing progress reporting by the Department.

DecaBDE Ban

(A.7977-B Sweeney; Passed the Assembly)

Chapter 387 of the Laws of 2004 prohibited the manufacture, process, or distribution of two forms of flame retardants commonly known as pentaBDE and octaBDE, due to their prevalence in the environment and research suggesting that they cause permanent neurological and developmental damage. A third flame retardant, decabrominated diphenyl ether (decaBDE), has become the most widely used of the three formulations, exceeding 60,000 metric tons worldwide with 40 percent of the use occurring in North America. DecaBDE has been found to accumulate in dust and food and its presence has been noted in blood and breast milk samples. In addition, it has been shown to pose the same public health dangers as those of its banned counterparts and when it breaks down, either by natural environmental processes or when metabolized, it forms by products that are predominantly found in the now prohibited pentaBDE and octaBDE. This legislation would restrict the use of DecaBDE in certain products including certain electronic devices, upholstered furniture or textiles for indoor residential use and, mattresses and mattress pads provided however; the DEC Commissioner would be authorized to grant an exemption to the decaBDE prohibition upon a finding that there is no other technically feasible alternative or that the potential harm to public health and the environment posed by an alternative is greater than the potential harm posed by decaBDE.

C. HAZARDOUS WASTE MANAGEMENT

Brownfield Reform

(A.11768 Rules (Sweeney); Chapter 390 of the Laws of 2008)

The Brownfield Cleanup Program (BCP) was enacted into law in 2003, to encourage the remediation of contaminated sites. Since its enactment, there have been a number of revisions to improve the efficacy of the program. This year, legislation was passed to encourage greater accountability and transparency in the program by modifying tax credits to encourage cleaner clean-ups and increasing agency reporting. Specifically, this legislation:

- Establishes a cap on redevelopment credits of:
 - the lesser of \$35 million or three times remediation costs; however, sites with manufacturing activities would have a cap of the lesser of \$45 million or six times remediation costs, with the new cap applying to site applications approved after June 23, 2008.
- Provides a two percent increase for sites developed in conformance with a Brownfield Opportunity Area (BOA) plan.
- Increases the remediation credit to a maximum of 50 percent to be distributed as follows:
 - Soil cleanup for unrestricted use – 50 percent
 - Soil cleanup for residential use – 40 percent, except for Track 4, which is 28 percent
 - Soil cleanup for commercial use – 33 percent, except for Track 4, which is 25 percent
 - Soil cleanup for industrial use – 27 percent, except for Track 4, which is 22 percent
- Establishes a Brownfield Advisory Board within the Department of State consisting of 15 members including: the Commissioner of the Department of Environmental Conservation (DEC), the Commissioner of Health, the Commissioner of Economic Development, the Commissioner of Taxation and Finance and the Secretary of State plus ten at large members appointed by the Governor, with two appointments each for the Senate and Assembly majority and one appointment each for the minority. The Board will serve as a working forum and issue a report on the implementation of the State's brownfield programs by December 1, 2009.
- Creates a Brownfield Credit Report by the Commissioner of Taxation and Finance, in consultation with DEC, to contain information about the credits contained during the previous calendar year.
- Establishes a Brownfield Cleanup Program Report prepared by DEC, in consultation with the Commissioner of Taxation and Finance, to contain information about the program, including: the number of requests for participation, the number of remedial investigations and the total number of certificates of completion issued.
- Transfers administration of the BOA program to the Department of State.
- Repeals the application moratorium.

Tenant Notification of Contamination
(A.10952-B Lupardo; Chapter 521 of the Laws of 2008)

Currently, landlords are not required to notify tenants of known contamination, including vapor intrusion, which has occurred on the property; however, home buyers are typically informed of certain environmental threats, prior to the transfer and sale of property. In Endicott and Ithaca, for example, renters were exposed unknowingly to environmental hazards resulting from Trichloroethylene (TCE) exposure. This legislation requires a landlord, in cases where the test results exceed established guidelines, to provide tenants or prospective tenants with a fact sheet and timely notice of any public meetings required to be held to discuss results, and upon request, disclose test results and any closure letter within 15 days of receipt. Generic fact sheets will be prepared by the Department of Health and shall, at a minimum, identify the contaminant of concern, reportable detection levels and health risks associated with exposure, as well as a means to obtain additional information.

Recycling of Mercury-Containing Lights
(A.8641-C Sweeney; Passed the Assembly)

According to the United States Department of Energy, energy consumption for all lighting in the United States is estimated to be about 22 percent of the total electricity generated. Consumers and businesses are transitioning rapidly to more energy and cost efficient lighting sources. Compact Fluorescent Lamps (CFLs), one example of an energy efficient lighting alternative, use two-thirds less energy than standard incandescent bulbs and last up to 10 times longer, with an average life span of five years. However, CFLs and other lighting alternatives contain trace amounts of mercury and other toxic substances and should be treated as household hazardous waste. This legislation would enact the “New York State Lighting Toxics Reduction Act” to require the manufacturers of lights containing mercury to establish collection and recycling programs. Manufacturers of mercury-containing general-purpose lights would be required to provide for the collection and recycling of such lights, beginning July 1, 2011, in accordance with a plan approved by the Department of Environmental Conservation.

Special Assessment Exemption for Schools
(A.11704 Rules (Sweeney); Passed the Assembly)

As the dangers of exposure to environmental hazards like lead and mercury become well known, more and more schools are undertaking remediation activities. Hazardous waste remediation activities at schools serve to benefit the safety and health of students, faculty and the entire community. This legislation would encourage schools to conduct remediation efforts in consultation with the Department of Environmental Conservation or the United States Environmental Protection Agency, by creating an exemption from certain special assessments, fees and surcharges on hazardous waste generated by or at an elementary or secondary school in association with remediation efforts conducted in accordance with the involvement of those agencies.

Public Notification by Nuclear Power Plants
(A.2422 Galef; Passed the Assembly)

This legislation would require increased public notification by operators of nuclear power plants including: requiring operators to maintain toll free numbers in order to make information available to the public; providing notice of scheduled releases of radioactive materials at least 24 hours in advance; reporting unscheduled releases of radioactive material and equipment malfunctions as soon as possible, but no later than 24 hours; and, reporting annually to the Public Service Commission.

Reimbursement to Fire Companies for Hazardous Spill Response
(A.7332-A Sweeney; Passed the Assembly)

Many municipal and volunteer fire companies accumulate significant costs in responding to hazardous materials spills; however, current law does not provide a mechanism to allow for recovery of these costs. This legislation would provide reimbursement to fire companies for costs associated with responding to spills of hazardous materials.

Mercury in Packaging
(A.11462 Rules (Sweeney); Passed the Assembly)

Environmental Conservation Law regulates the disposal of mercury-added consumer products. In general, it requires the disposal of mercury-added consumer products by separated delivery to a solid waste management facility or hazardous waste management facility. Under existing law, mercury-added consumer products include batteries sold to consumers, but not "button" batteries. As a result, button batteries are exempted from the management and disposal requirements. There is no compelling justification for exempting button batteries when other batteries are subject to the law. This legislation would remove the exemption for button batteries and modify the definition of novelty product to remove the exemption for light screen displays.

D. PESTICIDES MANAGEMENT

Aquatic Antifouling Paints
(A.11278 Sweeney; Chapter 345 of the Laws of 2008)

Currently, aquatic antifouling paint may be applied by a commercial pesticide apprentice who is working under the direct supervision of a certified commercial pesticide applicator or under the supervision of a certified pesticide technician qualified in applying aquatic antifouling paint. This legislation extends, until December 31, 2008, the authorization for commercial pesticide apprentices to apply aquatic antifouling paints. In addition, the legislation requires the Department of Environmental Conservation to translate the antifouling paint applicator certification examination into Spanish, and any other language the Commissioner deems necessary, no later than September 30, 2008.

Creating a State Urban Pesticide Board
(A.5299 Wright; Passed the Assembly)

Recent reports have revealed the widespread use of pesticides in urban areas of the State. According to the Department of Environmental Conservation's (DEC) pesticides reporting program, more than 25 percent of all pesticides used in the State during 1998 were applied in New York City. This legislation would create a ten member urban pesticide board within the DEC to investigate the proliferation of pesticides in urban areas. The board created by this legislation would examine, evaluate, and make recommendations concerning the sale, use and application of pesticides in urban areas.

Phasing Out the Use of Pesticides by the State
(A.1142-A Brodsky; Passed the Assembly)

New York State agencies, authorities and their contractors use pesticides that are known to contaminate ground and surface water, cause reproductive or developmental defects, and are often toxic and/or carcinogenic to humans. Restriction of pesticide use by the State will not only prevent the harmful environmental and health effects of these chemicals but may also save taxpayers money. This legislation would provide for the implementation of a policy to discontinue the use of pesticides by all state agencies, public authorities, and public benefit corporations and would require the adoption of a pest control policy that relies substantially on non-chemical pest controls.

E. AIR QUALITY

RGGI Proceeds
(A.7365-A Sweeney; Passed the Assembly)
(A.7366-A Ginaaris; Passed the Assembly)

Global climate change threatens the environment, natural resources and economy of New York State. In an effort to reduce its contribution to global warming, the State has led the way in developing the Regional Greenhouse Gas Initiative (RGGI), a nine state cap and trade program to stabilize and reduce carbon dioxide emissions. Initially, the program will involve emissions from power plants, currently the third highest source of emissions. In New York, one-hundred percent of the carbon dioxide emissions allowance budget will be auctioned for consumer benefit. The bill, A.7365-A Sweeney, would require the funds received by the Department of Environmental Conservation from the sale of air emission allowances to be used for the following programs: greenhouse gas emissions reduction; energy efficiency; renewable energy development and clean air technology. The bill, A.7366-A Gianaris, would establish a fund for the proceeds of the emission allowances of the Regional Greenhouse Gas Initiative.

Enhancing Public Notification of High Levels of Air Emissions
(A.4226 Ramos; Passed the Assembly)

In the past, major sources of air pollution have exceeded emissions limits while the public was left unaware of the potential health risks of such pollution. One such instance occurred during the winter of 2002-03 when the Power Authority of the State of New York (PASNY) power plants in New York City and Long Island violated emissions limits and were subsequently fined by the Department of Environmental Conservation (DEC). The public was not informed of the violations and, thus, was unaware of the increased risk of health hazards associated with high levels of emissions, which included ammonia, carbon monoxide and nitrous oxide. This legislation would require the owner or operator of an emission source to provide notification within 24 hours to the DEC and the public in instances where an emissions limit has been exceeded for a second or subsequent time. Upon notification, the DEC would be required to solicit from the Department of Health a study identifying the health implications of such emissions. The study would be required to be completed within 90 days of the emission violation notification and would be made available to the public. Finally, the legislation would provide that in cases where a settlement of air operating permit violations includes an environmental benefit project, such project should be undertaken within the municipality where the violation occurred.

F. FISH AND WILDLIFE

Junior Hunting
(A.11033 DelMonte; Chapter 344 of the Laws of 2008)

New York is the only state in the nation where 14 year-olds cannot hunt big game with a firearm. Forty-six states allow 12 year-olds to hunt big game with a firearm. Moreover, 12 year-olds have been allowed to hunt small game in New York with a firearm while accompanied by an adult since 1991. This specific group of young hunters has demonstrated the best safety record of any age group in the State when accompanied by an adult, as required by law. Requiring strict supervision by experienced sportsmen and sportswomen enhances opportunities to develop a strong safety ethic in young hunters. Under current law, persons 14 and 15 years of age have been restricted to hunting deer and bear with longbows, even though they may use a firearm (including the same weapons that would be used to hunt deer and bear) to hunt small game from age 12. This legislation would authorize 14 and 15 year olds to hunt big game if accompanied by a parent, guardian or youth mentor at least 21 years old, in physical contact with such adult at all times, wearing at least 150 square inches of blaze fluorescent orange and remaining at ground level. In addition, this legislation would permit minors 12 and under to accompany a licensed trapper provided that such person is 18 years or older.

Lobster Size

(A.11080 Sweeney; Chapter 211 of the Laws of 2008)

Certain species of fish and crustaceans are subject to federal as well as state regulation. Federal requirements are promulgated by the Atlantic States Marine Fisheries Commission. This legislation relates to American lobsters in Long Island Sound (Area six), and establishes minimum and maximum sizes of lobsters that may be taken, possessed, bought, sold, imported and exported. The changes are intended to encourage lobster stock recovery and rebuilding. The failure to adopt a conforming change in law could lead to a finding of non-compliance and the potential federal closure of the New York lobster fishery.

Protecting the State's Freshwater Fisheries

(A.734 DelMonte; Veto Memo 27)

This legislation would have protected the viability of the State's freshwater fisheries by prohibiting the commercialization of freshwater fish taken under the privilege of a sport fishing license or any similar recreational or sport fishing license issued outside of the State. This measure would have prevented over-harvesting of unprotected fish (those not subject to minimum size limits or a closed season) and eliminated conflicts between recreational and commercial anglers. New York remains one of only four states where recreational anglers are allowed to sell certain species of freshwater fish for profit.

Rifle Hunting in Chemung, Steuben and Yates Counties (A.9845-A Bacalles; Chapter 357 of the Laws of 2008)

This legislation extends, until October 1, 2011, authorization for rifle hunting in Chemung, Steuben and Yates counties.

Rifle Hunting in Madison Counties

(A.10163-A Magee; Chapter 412 of the Laws of 2008)

This legislation authorizes rifle hunting in Madison County until October 1, 2011.

Seagrass Research

(A.11703 Rules (Sweeney); Chapter 285 of the Laws of 2008)

Seagrass, which is essential to fish habitation, is a vital component to successful and lasting restoration of Long Island finfish, shellfish, crustacean, and waterfowl populations. Long Island seagrass populations were severely decimated by wasting disease in the 1930s and again by a massive brown tide event in the 1980s. Despite the absence of these events over the past 20 years, local seagrasses have still not recovered. In 2006, the Legislature established a task force to develop recommendations for regulations to improve seagrass protection, restoration, research and monitoring. The task force was charged with identifying and assessing the severity of indirect and direct threats, developing restoration goals, recommending short-term and long-term research and monitoring and proposing public outreach and education tools. This legislation extends the Seagrass Research Monitoring and Restoration Task Force until January 1, 2010.

Contact with “Big Cats”

(A.11632 Rules (Rosenthal); Veto Memo 164)

Haley Hilderbrand was a 17 year old girl who was killed by a Siberian tiger at a USDA-licensed facility while posing with the cat for her senior picture. This legislation would have enacted Haley’s Act to prohibit direct contact between lions, tigers, leopards, cheetahs, mountain lions and cougars and a member of the public.

Trapping Notification

(A.967-A Englebright; Passed the Assembly)

In recent years, dogs and cats have been caught in legally set traps. This legislation would require signs, at entry points on publicly accessible municipally-owned property where trapping is authorized, informing park users of the potential presence of traps. The presence of these signs would help ensure that park users would be aware of the potential presence of traps and take appropriate precautions.

Striped Bass Management

(A.1147 Brodsky; Passed the Assembly)

Legislation passed in 2000, required the New York State Department of Environmental Conservation to appoint a Temporary Advisory Committee to issue recommendations on the commercial management of striped bass in the Hudson River. The Advisory Committee did not reach a consensus decision on reopening the fishery, reflecting concerns about the potential depletion of the striped bass if the fishery was re-opened to commercial fishing. The lack of consensus was also based on concerns about the potential loss in revenue generated by the recreational striped bass angling community who travel across the state and the nation to fish for “stripers.” In recognition of these and other concerns, this legislation would prohibit the taking of striped bass from the Hudson River for commercial purposes.

Canned Hunting

(A.2612-A Glick; Passed the Assembly)

In 1999, legislation was passed prohibiting the hunting of non-native animals confined to less than 10 acres. This legislation would expand the hunting prohibition to include any fenced area or other area from which there is no means for such animal to escape.

Prohibition on the Mass Release of Helium Balloons
(A.7630 Kavanagh; Passed the Assembly)

Releasing balloons may seem like a harmless activity; however, the litter caused by balloons has a significant impact on the environment and on marine life. Marine life is especially susceptible since the vast majority of the balloons come down over the ocean and the similarity of balloon debris to jelly fish causes them to be eaten by marine life. Animals who consume balloons can choke or be prevented for absorbing nutrients, resulting in starvation. Balloons have been found in dead sea turtles and whales in the Atlantic and Gulf coasts. Several states have already passed legislation limiting the release of helium balloons. This legislation would prohibit individuals or entities from releasing more than 24 helium balloons per day. Balloons for scientific experiments and hot air balloons would be excluded from the prohibition.

G. ENVIRONMENTAL ENFORCEMENT

Improving New York State's Compliance With its Own Environmental Laws
(A.8036 Kavanagh; Passed the Assembly)

Among the largest polluters in New York State is the State itself. This bill seeks to remedy this problem by requiring the Department of Environmental Conservation to impose penalties upon any State agency that fails to complete a remediation plan within the timeframe required by law. In addition, this legislation would require public hearings and allow for action against agencies for failure to develop and complete remedial plans.

Enhanced Public Notice Requirement
(A.1007 Dinowitz; Passed the Assembly)

Present law requires publication in newspapers having "general circulation in the area in which the project is proposed to be located." This legislation would modify those requirements to include publication in the Environmental Notice Bulletin (ENB) and in non-English publications when 25 percent of the population does not have English as a primary language. This legislation would also provide the public with access to correspondence between applicants and the Department and information about pre-application conferences or meetings.

Beverage Container Redemption Enforcement
(A.1011-A Dinowitz; Passed the Assembly)

Current law requires retailers who sell beverages with deposits to accept those cans for return; however, some retailers choose not to comply, leading to inconvenience for those attempting to return containers. The Department of Environmental Conservation is currently the only entity able to enforce the redemption provisions. This legislation would authorize municipalities to enforce compliance with the State's beverage container recycling laws, ensuring greater enforcement and compliance and decreased consumer inconvenience.

Disclosure of Environmental Compliance
(A.1099 Brodsky; Passed the Assembly)

Persistent or significant violators who commit breaches of the law directly relating to their ability to carry out the authorized activities of the Environmental Conservation Law should receive increased scrutiny before having a permit renewed or obtaining a new permit. In addition, if a permit is issued to a prior violator, it may be appropriate to impose strict reporting or monitoring conditions on such permits, or to require an environmental monitor on-site. This legislation would require increased disclosure of an environmental conservation permit applicant's record of compliance with state, federal and foreign environmental regulations.

Environmental Justice Advisory Group
(A.2003 R. Diaz; Passed the Assembly)

Environmental justice is intended to help members of minority and low-income communities make their neighborhoods safer and more liveable. In 1999, the Department of Environmental Conservation received a grant from the United States Environmental Protection Agency to develop a comprehensive environmental justice program. As part of this process, the Department convened an environmental justice advisory group. In January 2002, the advisory group issued its report. In March 2003, the Department adopted a policy on environmental justice and permitting but took no action on several of the advisory group's recommendations. This legislation would establish an Environmental Justice Advisory Group and Interagency Coordinating Council to implement the recommendations of the advisory group and ensure that state agencies receive an environmental justice review and address environmental justice.

Disqualification of Stand-By Contractors
(A.3254 Pretlow; Passed the Assembly)

Current law authorizes the use of stand-by contractors in cases where it is not practical to solicit bids, including emergency response to hazardous spills. This same law also includes guidelines for qualifying stand-by contractors; however it does not include provisions for disqualifying contractors. This legislation would require the Department of Environmental Conservation to establish guidelines for the disqualification of stand-by contractors. Such guidelines would include past performance, reasonableness of price charged in past contracts, negligence or

malfeasance and the conviction of a crime reflecting upon the honesty, integrity or capability of a contractor.

H. SOLID WASTE MANAGEMENT

Plastic Bag Recycling

(A.11725 Rules (Sweeney); Chapter of the Laws of 2008)

An estimated 500 billion to 1 trillion plastic bags are consumed worldwide each year. Billions end up as litter or take up valuable space in landfills. Plastic bags do not biodegrade but instead break down into smaller toxic bits, contaminating soil and waterways and suffocating marine life. In addition, the manufacturing process for plastic bags uses over 12 million barrels of oil each year. This legislation enacts the “Plastic Bag Reuse and Recycling Act” to require stores over 10,000 square feet, or stores with five or more locations over 5,000 square feet, to accept plastic bags for recycling.

Recycling Waste Tires

(A.10837-C Farrell; Chapter 200 of the Laws of 2008)

The Waste Tire Management and Recycling Act of 2003 was enacted to ensure the proper management of waste tires in New York State. The Act instituted a \$2.50 charge on every new tire sold, of which 25 cents goes to the retailer to cover the costs associated with proper waste tire disposal. Unlike surrounding states, New York requires that any additional cost incurred by the retailer for tire disposal be reflected in the advertised price of the tire; however, the current 25 cents reimbursement rate is lower than the actual disposal costs. As a result, to recover the costs associated with disposal, tire retailers must increase the price of the tire, making it difficult for New York retailers to remain competitive with border state rivals and internet providers. This legislation modifies provisions related to the management and recycling of waste tires to permit tire retailers to include costs as part of the advertised price of the new tire or charge a separate per-tire charge.

Solid Waste Management on MTA Leased Property

(A.9655-A Sweeney; Veto memo 13)

This legislation would have expanded the definition of "solid waste management facility" in the Environmental Conservation Law to include facilities that process, transfer, transload or store contaminated or uncontaminated solid waste. In addition, the legislation would have authorized the governing body of any municipality having a population of less than one million to have jurisdiction over any entity, other than the Metropolitan Transportation Authority (MTA) or its subsidiaries, that operates a solid waste management facility. The legislation would also have made it clear that municipalities having a population of less than one million would have jurisdiction over entities, other than the MTA or its subsidiaries, that operate solid waste management facilities regardless of whether the property is owned, leased or under contract to another entity.

Expanding New York's Bottle Recycling Law
(A.8044-A Sweeney; Passed the Assembly)

The Returnable Container Act (the bottle bill) has been one of New York's most successful recycling initiatives. Not only has it reduced litter along roadways and public spaces but it has reduced the burden of solid waste disposal shouldered by municipalities. Since enactment of the bottle bill in 1982, beverages such as bottled water, juices and teas have become increasingly popular. Non-carbonated beverages now represent over 20 percent of beverage containers sold in New York, but such beverages are not covered under current law. This legislation would expand the bottle law to all beverages, with the exception of liquor, wine, infant formula and milk. Additionally, the legislation would provide for the recapture of unclaimed deposits by the State to be deposited in the Environmental Protection Fund (EPF). In addition to expanding the bottle law to include non-carbonated beverages, this legislation would provide for several important reforms including: increasing redemption rates; easing burdens on retailers; encouraging the establishment of new redemption centers; discouraging transshipping (whereby containers purchased out-of-state are redeemed in New York); and facilitating enforcement.

E-Waste Recycling
(A.8444-B Sweeney; Passed the Assembly)

Electronic waste represents one of the fastest growing and most hazardous components of New York's waste stream, containing many toxic substances, including lead, mercury, chromium, cadmium, polyvinyl chloride and beryllium. The Environmental Protection Agency estimates that in 2004 there were approximately 1.2 billion pounds of covered electronic equipment sold in the United States. As new devices are purchased, the replaced equipment frequently ends up in a landfill where its chemical components can contribute to pollution. There are direct environmental and public health consequences for New York State residents and workers from the improper handling and disposal of electronic waste, but there is currently no comprehensive system for managing the growing problem of electronic waste in the State. This legislation would create an electronic recycling and reuse program whereby manufacturers of certain covered electronic equipment would be responsible for developing a plan for the collection, handling and recycling or reuse of the electronic equipment the manufacturer produces that is offered for return in the State. Covered electronic equipment would include computers, televisions, and printers. In addition, manufacturers would be responsible for all costs associated with the development and implementation of the electronic waste management plan and would be prohibited from imposing a fee on consumers for the collection, handling and recycling or reuse of covered electronic equipment.

Compostable or Recyclable Food Service Ware
(A.11466-A Rules (Kavanagh); Passed the Assembly)

Styrofoam is a liquid hydrocarbon that is commercially manufactured from petroleum. Each year Americans throw away 25,000,000 Styrofoam cups, an amount equal to 1,369 tons of Styrofoam every day. A single Styrofoam cup can take up to 500 years to fully disintegrate and Styrofoam is very difficult to recycle due to its light weight and low scrap value. It is generally not accepted in curbside programs, is seldom able to be reused, and takes up a considerable amount of space in landfills. In addition, such materials can have serious impact on human health, wildlife, and the aquatic environment because the product breaks down and can clog waterways, or be mistaken for food by wildlife. This legislation would require state agencies and municipalities to use compostable or recyclable food service ware made from material other than polystyrene foam unless there is no viable alternative product of comparable cost.

Recycling as a Component of Solid Waste Management Plans
(A.1629 Peralta; Passed the Assembly)

Currently, local solid waste management plans are required to contain information about a variety of factors including availability of solid waste management programs and facilities and timetables for implementation; however, plans are not required to include consideration of recycling, an integral component of solid waste reduction. This legislation would require solid waste management plans for New York City to include adequate trash and recycling receptacles in commercial zones and public recreational areas.

Enhancing Statewide Recycling Efforts
(A.3318 Colton; Passed the Assembly)

This legislation would enhance statewide recycling efforts by clarifying the obligations of waste haulers regarding the handling of recyclable materials and specifying the materials which are to be separated for recycling. Specifically, the legislation would prohibit private and municipal waste haulers from delivering recyclable materials to landfills, incinerators or transfer stations. Also, the legislation would prohibit the acceptance of recyclable materials for disposal by operators of incinerators or landfills. In addition, the commingling of recyclable materials with other solid waste would be prohibited. Finally, the legislation would specify which materials must, at a minimum, be separated for recycling pursuant to a local recycling law.

Enhancing Solid Waste Management
(A.6578 Sweeney; Passed the Assembly)

This legislation would require an applicant for a permit to construct a solid waste management facility to demonstrate that the facility would be consistent with the objectives of the local solid waste management plan of the planning unit in which the proposed facility would be sited, as well as the plans of the planning units from which the solid waste would be received. In addition, this legislation would change the definition of solid waste management facility to include recyclable waste handling and recovery facilities.

I. PETROLEUM MANAGEMENT

Bulk Petroleum and Chemical Storage Requirements **(A.9019-A Sweeney; Chapter 334 of the Laws of 2008)**

This legislation amends the existing petroleum and chemical bulk storage requirements to achieve parity with the federal underground storage tank provisions. This parity is necessary for New York to comply with the Federal Energy Policy Act of 2005 and receive delegation authority for the federal program. Specifically, this legislation authorizes the Department of Environmental Conservation (DEC) to prohibit deliveries to any tank that is leaking or where proper leak detection or corrosion protections are not installed. In addition, DEC is required to promulgate rules and regulations related to training requirements for facility operators. DEC is also required to update the list of hazardous substances.

Neighbor Notification of Petroleum Discharge **(A.843 Englebright; Passed the Assembly)**

Currently, people responsible for petroleum discharges are required to notify the Department of Environmental Conservation (DEC) as soon as possible, but not later than 2 hours after the discharge; however, there is no requirement for neighboring property owners to be notified. In New Windsor, New York, notification of a petroleum discharge was provided to DEC, but no further notification was provided. The petroleum discharge contaminated nearby wells and residents drank contaminated water for more than a year before discovering the contamination. This legislation would require the DEC, upon notification of a petroleum spill, to provide immediate notification to adjacent and/or nearby landowners or tenants whose property or drinking water supply may be affected by the discharged material.

Accident Prevention Planning for Bulk Petroleum Storage Facilities **(A.1620 Lentol; Passed the Assembly)**

Over the years, millions of gallons of oil have spilled from storage tanks, posing environmental and health risks. This legislation would require bulk petroleum storage facilities in New York City to undertake comprehensive accident prevention planning for the prevention of spills and leaks of petroleum. Plans would be required to be audited by an independent company on a quarterly basis.

Detecting Accidental Discharges **(A.1622 Lentol; Passed the Assembly)**

Current law requires "early" detection of discharges; however, "early" may not be soon enough. Accidental discharges can occur in a short period of time, and can cause significant damage to delicate ecosystems. This bill seeks to prevent such damage and ensure that spills are cleaned up quickly by requiring major facilities, which store at least 400,000 gallons of petroleum, to install devices to detect accidental discharges within 24 hours.

J. WATER CONSERVATION AND QUALITY

Great Lakes-St. Lawrence River Basin Water Resources Compact (A.7266-B Sweeney; Chapter 27 of the Laws of 2008)

The Great Lakes Basin is composed of five of the largest freshwater lakes in the world. The Great Lakes and their bays and tributaries contain 20 percent of the world's supply of freshwater and 95 percent of North America's supply of surface freshwater. The Great Lakes represent an invaluable natural resource for the people living within and along the Basin boundaries. Approximately 80 percent of New York's fresh surface water and over 700 miles of New York's shoreline are within the drainage basins of Lake Ontario, Lake Erie, and the St. Lawrence River. Although the Great Lakes are large, they are also vulnerable. Only a small percentage of the waters of the basin are recharged annually, and the Great Lakes are susceptible to the effects of increased demands from municipalities and industries and changes in water recharge patterns including rain, runoff, and snowmelt. The Great Lakes – St. Lawrence River Basin Water Resources Compact is the result of a multi-year international effort to create enforceable guidelines for protecting the waters of the Great Lakes Basin. This legislation ratifies New York's participation in the Compact, a multi-state agreement on the management of the Great Lakes that creates a system for cooperatively managing water withdrawals and use of water from the Basin. The Compact will give the eight Great Lakes States the authority to manage water resources cooperatively. The legislation was subsequently passed by all of the participating states and signed by the President.

Environmental Facilities Corporation Financing (11197 Sweeney; Chapter 214 of the Laws of 2008)

The Environmental Facilities Corporation (EFC) provides municipalities with grants and low cost loans to finance drinking and wastewater infrastructure. In 2005, EFC received authority to expand the direct investment of Clean Water State Revolving Loan Funds monies to include any security obligation available to municipalities under the General Municipal Law. This legislation extends, until September 30, 2011, this investment power of the Environmental Facilities Corporation.

Protecting the Lloyd Sands Aquifer (A.2986 Weisenberg; Chapter 567 of the Laws of 2008)

The Lloyd Aquifer is the oldest and deepest of Long Island's three aquifers and provides water for an estimated 10 percent of the population. It is currently protected by a moratorium that prohibits the granting of new permits to drill public, private or industrial wells. This legislation extends the moratorium to include a prohibition on the storage or pumping of water into the aquifer.

Membership of the New York State Canal Flood Mitigation Task Force
(A.9667-A Magnarelli; Chapter 336 of the Laws of 2008)

In 2007, in response to severe flooding along the Erie Canal, the Legislature established the New York State Canal Flood Mitigation Task Force to make recommendations on how to prevent future flooding. This legislation expands the prior authorization to include the major water bodies within the Oswego River Basin that contribute to canal flooding and to establish a citizens advisory board.

Protecting the State's Freshwater Wetlands
(A.7133 Sweeney; Passed the Assembly)

In 2006, the United States Supreme Court ruled that the federal government does not have jurisdiction over isolated wetlands. In light of this ruling, estimates from the Environmental Protection Agency and The Army Corps of Engineers suggest that at least 20 percent and possibly 50 percent of existing wetlands, constituting millions of acres nationwide, are now unprotected. In New York State, estimates are even higher, with potentially as much as 80 percent of the wetlands currently being unregulated and unprotected. While all of New York's neighboring states already have the regulatory authority to step in and regulate the wetlands that the Corps of Engineers formerly oversaw, New York's Department of Environmental Conservation is currently limited to regulating mapped wetlands of a size greater than 12.4 acres. This legislation would expand DEC's regulatory authority to wetlands over one acre in size or of significant local importance and remove the existing requirement that lands or waters be included on the freshwater wetlands map in order to be considered wetlands.

Restoration of Areas Adjacent to Wetlands
(A.8588-A Sweeney; Passed the Assembly)

The condition of areas adjacent to wetlands can have a profound effect on the health and viability of the wetland itself, and restoration of those areas can be essential to the restoration of the damaged wetland because the adjacent area acts as a buffer to protect the abutting wetland from deterioration. In the 2005 case of *Bradley Corporate Park v. Crotty*, the violator challenged the Department of Environmental Conservation's order requiring the restoration of adjacent areas as well as the damaged wetlands. The Appellate Division rejected the argument. This legislation would strengthen wetland enforcement provisions to: increase penalties for wetland violations; specify the conditions under which the DEC can issue a cease-and-desist order and require that a violator may be directed to restore the area adjacent to the freshwater wetland as well as the wetland itself.

Protecting Residents with Private Wells
(A.7231 Jaffee; Passed the Assembly)

Over one million residents of New York State get their drinking water from private wells. While laws require municipal water suppliers to test their water periodically, and to send residents an annual report on the quality of that water, there are no similar protections for private wells. As a result, people using private wells around the State are unprotected and often unaware that there may be problems with their drinking water. This legislation would establish a private well testing program in New York State, requiring testing of private drinking water wells at the time of property transfer. Testing would include: bacteria (total coliform), nitrates, iron, manganese, pH, and all volatile organic compounds for which a maximum contaminant level has been established pursuant to public health regulations.

Electronic Filing of Wetland Maps
(A.2691 Lifton; Passed the Assembly)

The Freshwater Wetlands Act requires that Department of Environmental Conservation maps be filed with local governments to be made available for public inspection. In order for such maps to be official, they must be distributed in paper format. Paper maps have limited public impact in that they can only be viewed during the office hours of the municipal clerk. This legislation would authorize the electronic filing of wetlands regulatory maps.

Neighbor Notification of Proposed Wetland Development
(A.2799 Cusick; Passed the Assembly)

Current law requires any person proposing to conduct a regulated activity upon a wetland to file an application. Notice of such applications is filed with municipalities which then provide notice to adjacent land owners. This legislation would expand the notice requirements to include publication in a newspaper with general circulation and, in municipalities with a population of one million or more, notice to all property owners within 1,000 feet of the watershed.

Encouraging Watershed Protection
(A.7268 Sweeney; Passed the Assembly)

Over the last 10 years, the State has participated in numerous watershed or regional basin-wide planning approaches to water quality issues with significant local government and public participation. This legislation would encourage municipalities to commence similar projects by authorizing the Environmental Facilities Corporation (EFC) to provide loans at a zero percent rate of interest from the Clean Water State Revolving Loan Fund (CWSRF) for the purpose of acquiring interests in land as part of a watershed management plan.

Establishing a State Ballast Water Management Plan
(A.1355 Aubertine; Passed the Assembly)

The introduction of aquatic nuisance species into United States waters through the discharge of ballast water from vessels has become a significant environmental threat. It is estimated that more than 4,500 self-sustaining aquatic nuisance species populations now exist nationwide. This legislation would limit the introduction of aquatic nuisance species into New York State waters by prohibiting the discharge of ballast water into the waters of the State, unless the vessel has conducted an open sea exchange of ballast water or the vessel has treated its ballast water in accordance with standards to be set by the Department of Environmental Conservation. The legislation would also establish ballast water reporting and sampling requirements.

Connecticut-New York Bi-State Long Island Sound Committee
(A.8556 Alessi; Passed the Assembly)

Chapter 690 of the Laws of 1988, created the New York Bi-State Long Island Sound Committee; however, the legislation cannot become effective until both states adopt identical laws. Connecticut amended their legislation to: rename the Committee, include consideration of public enjoyment and protection of natural resources; increase reporting requirements and authorize the Committee to make recommendations regarding uniform signs indicating coastal access to the Long Island Sound. This legislation would make conforming amendments to the provisions of law relating to the Connecticut-New York Bi-State Long Island Sound Committee.

K. FOREST AND LAND RESOURCES

Statewide Spacing Requirements for Oil and Gas Wells
(A.10526-A Parment; Chapter 376 of the Laws of 2008)

Chapter 386 of the Laws of 2005, amended the oil and gas provisions of the Environmental Conservation law to establish statewide spacing units. Well permits that complied with spacing unit requirements would not require a spacing unit hearing. Since that amendment, horizontal well drilling has become increasingly popular. This legislation expands the definition of statewide spacing to: address oil wells and horizontal wells; provide a 330-foot setback for horizontal shale wells; decrease the setback from 660 feet to 460 feet for vertical shale wells and smaller units in other pools; and make other technical corrections.

Preserving Old Growth Forests
(A.8145-C Hoyt; Chapter 533 of the Laws of 2008)

This legislation establishes the Bruce S. Kershner Old-Growth Forest Preservation and Protection Act. New York State has a long history of forest protection, beginning in 1895 with the Constitutional protection of the Forest Preserve. Although the Constitutional provision protects lands within the Preserve, old-growth forests outside the Preserve do not receive similar protections. This bill expands the existing protections of the State Nature and Historical Preserve Trust to recognize the ecological significance of old-growth forests. In addition, the ability of the State to acquire lands with old-growth forests is codified and the Department of Environmental Conservation is authorized to develop model ordinances for the designation of old growth forests by municipalities.

Bluestone Mining Authorization
(A.10261-A Gunther; Chapter 107 of the Laws of 2008)

In 2002, the Legislature authorized the temporary issuance of exploratory permits for bluestone, on sites of up to one acre not adjacent to water bodies, for not more than one year. The temporary authority was set to expire on July 31, 2008. This legislation makes the authority to issue exploratory permits for bluestone permanent.

Authorization for a Marine Transfer Station on the Gansevoort Peninsula
(A.11773 Rules (Sweeney); Chapter 596 of the Laws of 2008)

The City of New York requested authority to construct and operate a water-dependent marine transfer station on the Gansevoort peninsula of the Hudson River Park. This legislation provides the authorization following the adoption of a memorandum of understanding by the Legislature, Governor and the Mayor identifying an eligible project list and the sum of money to be dedicated to acquire and/or improve park lands located in the Hudson River Park, or eligible for inclusion in the Hudson River Park. Any money provided must supplement, and not supplant, existing Hudson River Park funds. Also, the authorization is conditioned on the completion of a supplemental environmental impact statement.

Township 40 Title Dispute
(A.11734 Rules (Sweeney); Constitutional Amendment – first passage)

Title to approximately 220 parcels of land totaling slightly more than 1,000 acres in Township 40, in the hamlet of Raquette Lake, Hamilton County and located within the Adirondack Forest Preserve, is claimed by both the State and private parties. Both the current occupants of the land and the State have claimed title to the land since the late 1800's. Forest Preserve land, under Article XIV of the New York State Constitution, may not be alienated without a constitutional amendment. This legislation would amend the constitution to settle the title dispute provided that the Town of Long Lake conveys land that is at least equal in value to the lands subject to the settlement for incorporation into the forest preserve.

Local Zoning of Mining

(A.7119 Gordon T.; Passed the Assembly)

Currently, local governments must be notified when a mining application has been submitted to the Department of Environmental Conservation; however, the Department is not required to follow municipal zoning laws and may approve the application despite a municipal prohibition. This legislation would prohibit the Department from approving a mining permit if a local law prohibits the proposed mining use within the area proposed to be mined.

Protecting State-owned Natural Resources

(A.1614 Englebright; Passed the Assembly)

Since its inception in 1995, the adopt-a-natural resource program, which allows volunteers to preserve and maintain state-owned resources under an agreement with the Department of Environmental Conservation, has facilitated the completion of numerous beneficial stewardship projects. Recently, however, instances have emerged where volunteers performed work that was incompatible with the protection of the natural resource. This legislation would eliminate the possibility of environmental damage by prohibiting stewardship agreements that authorize the destruction or alteration of natural resources in a manner inconsistent with State law. The legislation would also prevent the use of heavy construction equipment to construct, refurbish or build projects pursuant to a stewardship agreement and would require DEC to provide public notice of proposed stewardship agreements in the State Environmental Notice Bulletin.

Providing Enhanced Public Notice and Disclosure of County Land Acquisitions

(A.914 Englebright; Passed the Assembly)

This legislation would require municipalities that acquire open space with revenues from a State-authorized tax, or with the assistance of State funding, to produce a finding to be filed with the municipal clerk. Such finding would address the suitability of the land or easement for preservation, the manner and fairness of the land acquisition process, and the adherence to applicable local laws and procedures regarding land acquisition. Also, the legislation would require municipalities to make a file with all records and information relating to the acquisition transaction available for public inspection and publish notification of each acquisition transaction in the newspaper of record.

Sale of State-Owned Land

(A.2004 Lupardo; Passed the Assembly)

The State Land Acquisition Plan was created in statute to help identify and prioritize the State's natural resources. The State Land Acquisition Advisory Council was created to aid in the formulation of this plan, and to make recommendations for land acquisition that ensure a balance of statewide and regional acquisition goals. This legislation would require the State Land Acquisition Advisory Council to promulgate regulations to determine whether state-owned lands proposed for sale have any value that would make them worthy of continued resource protection by the State.

L. CLIMATE CHANGE

Greenhouse Gas Emission Limits

(A.10303 Sweeney; Passed the Assembly)

Scientific studies, including those from the Union of Concerned Scientists and Intergovernmental Panel on Climate Change (2007 Nobel Peace Prize Winner), have concluded that the global warming poses a serious threat. The continued emission of greenhouse gases will increase the Earth's temperature, leading to rising sea levels, threats to public welfare and other ecological changes, dramatically affecting fisheries, wildlife and natural resources. This legislation would authorize the Department of Environmental Conservation to establish greenhouse gas emission reporting requirements and, beginning in 2014, after a public hearing, promulgate rules and regulations setting a limit on all greenhouse gas emission sources. The limit established by the Department must be less than the 1990 limit and must not impose additional burdens on communities already experiencing significant levels of regulated air contaminants as compared with the county average. Beginning in 2015, the limit established by the Department would be decreased by 2.3 percent each year, resulting in an 80 percent reduction by 2050.

Reporting of Greenhouse Gas Emissions by State Agencies

(A.9169 Sweeney; Passed the Assembly)

State government is one of the greatest energy consumers in the state. This legislation would require State agencies to calculate the amount of greenhouse gases emitted as a result of agency operations. Also, agencies would be required to describe actual emissions, describe steps taken to reduce emissions and reduce future emissions.

Greenhouse Gas Emission Calculator

(A.9199 Sweeney; Passed the Assembly)

Reducing greenhouse gases will help decrease the effects of global warming, preserve resources and help protect the environment. This legislation would require the Department of Environmental Conservation (DEC) to establish and promote on its website a method for individuals and businesses to calculate their greenhouse gas emissions and offer recommendations on steps to reduce such emissions. In addition, the legislation would require DEC to develop best management and procurement practices for State agencies to reduce their greenhouse gas emissions.

M. ENVIRONMENTAL PROTECTION FUND

Grant Changes within the EPF

(A.11568 Rules (Sweeney); Chapter 377 of the Laws of 2008)

Currently, financial assistance from federal and other sources must be deducted from the “cost” of a project for purposes of calculating the maximum amount of State assistance payments available for a project. Many distressed communities are comparatively underserved by recreational, historic and heritage resources and find it difficult to attract investment for such projects. This legislation eliminates the requirement that other funding sources be deducted as part of the cost calculation and authorizes state assistance payments of up to 75 percent of the cost for projects that are in, or primarily, serve densely populated areas which have sustained deterioration, decay, neglect of disinvestment, or where a substantial portion of the residential population is of low income or is otherwise disadvantaged or otherwise underserved with respect to recreational, historic or heritage area resources.

Repayment Provisions

(A.11569-A Rules (Sweeney); Passed the Assembly)

The Environmental Protection Fund is New York’s primary source of funding for key environmental programs. The fund is a dedicated source of funding for a variety of important environmental programs including: open space land acquisition; waterfront revitalization projects; municipal parks projects; zoos, botanical gardens and aquariums; wastewater treatment projects; and, local recycling projects. This legislation would require the Division of Budget, in consultation with the appropriate State agency, department, public authority or public benefit corporation to develop a repayment plan for funds transferred to the General Fund.

OVERSIGHT AND PUBLIC HEARINGS

In 2008, the Committee continued its oversight functions by holding hearings on the following issues: federal requirements for state saltwater fishing licenses; protection of water quality and aquatic resources; the effective management of stormwater runoff; the environmental impacts of oil and natural gas drilling, Office of Parks, Historic Preservation and Recreation capital projects; and State Budget oversight.

Saltwater Fishing Licenses

In 2006, Congress passed legislation re-authorizing the Magnuson-Stevens Fishery Conservation and Management Act. The legislation contained a provision requiring the creation of a regionally-based registry program for recreational saltwater fishermen, including the registration of individuals (identification and contact information) and fishing vessels, including but not limited to, charter fishing vessels. On April 17th, in Farmingdale, the Committee held a hearing focused on what, if any, actions were necessary to fulfill the new federal requirements.

Protection of Water Quality and Aquatic Resources

The World Health Organization predicts that by 2050, nearly two-thirds of the world's present population will face severe fresh water shortages. Decisions made now will help determine whether the World Health Organization's dire prediction will become reality. On August 6, th in New City, the Committee held a hearing to examine New York's water quality and aquatic resources, including the impacts of groundwater and surface withdrawals and desalination.

Effective Management of Stormwater Runoff

The EPA estimates that approximately 50 percent of the country's waterways are adversely impacted by stormwater. Stormwater is water from precipitation that does not soak into the ground but instead runs off buildings and roads, accumulating debris and pollutants along the way that end up adversely impacting the water quality of wetlands and waterbodies. These adverse impacts include beach closures, algae blooms and decreased productivity of marine fisheries. EPA data for 2006 indicates that New York State beaches had 1,705 closing and advisory days for 132 beaches - a trend that is expected to continue unless stormwater management practices are improved. On August 13th, at Jones Beach State Park, the Committee held a hearing to examine New York's stormwater management practices, including the recently-revised Municipal Separate Storm Sewer Systems (MS4s) permits, and solicit input on any changes that may be necessary to increase the effectiveness of stormwater management programs.

Oil and Natural Gas Drilling

New York is home to rich natural gas reserves. In 2006, there were 6,213 active natural gas wells that generated a state record of 55.3 billion cubic feet of natural gas. The Marcellus formation that extends from the Southern Tier into Ohio, Pennsylvania and West Virginia is estimated to have \$1 trillion worth of natural gas, and is largely untapped. The rising price of natural gas has led to an increased demand for new sources and made formations like the Marcellus even more attractive. The State is host to oil reserves as well – 3,364 active wells in 2006 that generated 319,099 barrels. On October 15th, in Albany, the Committee held a hearing to examine the environmental protections needed in the Department of Environmental Conservation’s natural gas and oil drilling regulatory structure in order to safeguard natural resources.

Parks Capital

The 213 state parks and historic sites that span the State of New York showcase the diverse ecosystems, the natural wonder, and the historic importance of New York. Facing a backlog of maintenance and health and safety problems at their facilities, the Office of Parks, Recreation, and Historic Preservation undertook a comprehensive inventory of all eleven state park regions and put together a multi-year master plan of repair and enhancement. The 2008-2009 State Budget appropriated \$95 million in capital dollars to be used by four agencies, with the majority, \$75.5 million, going directly to the Office of Parks, Recreation, and Historic Preservation. On November 19th, in Albany, the Committee, in conjunction with the Assembly Committee on Tourism, Arts and Sports Development, held a hearing to examine the Parks Capital Plan enacted in the 2008-09 State Budget and to provide oversight on the \$75.5 million dollars provided in the plan.

Budget Oversight

The Department of Environmental Conservation (DEC) is responsible for conserving and improving New York’s natural resources, managing the State’s fish, wildlife and marine resources, and controlling water, land and air pollution to enhance the health, safety and general welfare of the State’s residents. The State Fiscal Year (SFY) 2008-09 State Budget provides almost \$1.2 billion for the environment. On December 4th, in New York City, the Committee held a hearing to review the DEC’s implementation of the State Budget and the impacts on State environmental programs.

OUTLOOK AND GOALS FOR 2009

The Committee looks forward to the 2009 Legislative Session. The Committee will continue its history of environmental advocacy and achievement by working to enact sound, workable environmental policies. Also, the Committee will continue to work toward its goal of developing a progressive approach to water quality issues. The Committee will consider legislation to protect wetlands, address sewer overflow issues, reduce the potential for surface and groundwater contamination from septic systems and ensure safe drinking water for homeowners who utilize private wells. Finally, the Committee will continue to work to protect the State's natural resources and the long-term health and abundance of New York's fish and wildlife populations.

APPENDIX A
2008 SUMMARY SHEET

Summary of Action on All Bills Referred to the Committee on
ENVIRONMENTAL CONSERVATION

Final Action	Assembly <u>Bills</u>	Senate <u>Bills</u>	<u>Total</u>
<u>Bills Reported With or Without Amendment</u>			
To Floor; Not Returning to Committee	6		6
To Floor; Recommitted and Died	0		0
To Ways & Means	22		22
To Codes	40		40
To Rules	10		10
To Judiciary			
Total	78		78
<u>Bills Having Committee Reference Changed</u>			
To Transportation	1		1
Total	1		1
<u>Senate Bills Substituted or Recalled</u>			
Substituted	9		9
Recalled	1		1
Total	10		10
<u>Bills Defeated in Committee</u>			
<u>Bills Never Reported, Held or Died in Committee</u>	263	30	293
<u>Bills Having Enacting Clause Stricken</u>	3		3
<u>Motion to Discharge Lost</u>			
TOTAL BILLS IN COMMITTEE	345	50	395
TOTAL NUMBER OF COMMITTEE MEETINGS HELD		12	

APPENDIX B

ENVIRONMENTAL CONSERVATION BILLS THAT PASSED BOTH HOUSES

Assembly Bill	Sponsor	Title	Final Action
A.734	DelMonte	Restricts the purchase or sale of certain fish taken pursuant to fishing licenses	Veto Memo 27
A.840-B	Englebright	Requires DEC, in consultation with the Department of Health, to establish a public information program on the proper disposal of drugs	Chapter 625
A.1143-B	Brodsky	Directs the Commissioners of Environmental Conservation and Health to produce an environmental facility and cancer incidence map	Chapter 638
A.2986	Weisenberg	Prohibits the storage or pumping of water into the Lloyd Sands aquifer	Chapter 567
A.7266-B	Sweeney	Enacts the Great Lakes - St. Lawrence River Basin Water Resources Compact	Chapter 27
A.7335-A	Hoyt	Directs state agencies and public authorities to adopt and utilize smart growth principles	Veto Memo 144
A.8145-C	Hoyt	Creates the Bruce S. Kershner Old-Growth Forest Preservation and Protection Act	Chapter 533
A.9019-A	Sweeney	Establishes new delivery and storage standards for petroleum and chemical storage facilities	Chapter 334
A.9462	Sweeney	Clarifies the responsibilities of the New York Invasive Species Council	Chapter 26
A.9655-A	Sweeney	Regulates solid waste management facilities on lands leased by the Metropolitan Transportation Authority	Veto Memo 13
A.9667-A	Magnarelli	Revises the membership of the New York State Canal Flood Mitigation Task Force to include major water bodies within the Oswego River Basin that contribute to the flooding of the canal	Chapter 336

Assembly Bill	Sponsor	Title	Final Action
A.9698	McDonald	Adds Washington County to the Hudson River Valley Greenway	Chapter 541
A.9845-A	Bacalles	Extends provisions of law allowing rifle hunting in the counties of Chemung, Steuben and Yates	Chapter 357
A.10163-A	Magee	Allows hunters in the county of Madison to hunt deer with the use of a rifle	Chapter 412
A.10261-A	Gunther	Makes the bluestone mining exploration authorization permanent	Chapter 107
A.10526-A	Parment	Modifies statewide spacing requirements for oil and gas wells	Chapter 376
A.10536	Gordon T.	Authorizes the East Kill, Gooseberry, Schoharie, and West Kill creeks to be eligible for the waterfront revitalization program	Chapter 363
A.10837-C	Farrell	Modifies provisions related to the management and recycling of waste tires	Chapter 200
A.10952-B	Lupardo	Requires tenants to be notified of the results of environmental testing	Chapter 521
A.11033	DelMonte	Modifies existing junior hunting provisions and establishes a trapper mentoring program	Chapter 344
A.11080	Sweeney	Establishes minimum and maximum sizes of American lobsters that may be taken, possessed, bought, sold, imported and exported	Chapter 211
A.11197	Sweeney	Extends, until September 30, 2011, certain investment powers of the Environmental Facilities Corporation	Chapter 214
A.11278	Sweeney	Extends, until December 31, 2008, the authorization for commercial pesticide apprentices to apply aquatic antifouling paints	Chapter 345
A.11568	Rules (Sweeney)	Makes technical changes to the municipal parks, historic preservation and heritage areas grants programs	Chapter 377

Assembly Bill	Sponsor	Title	Final Action
A.11591	Rules (Lifton)	Authorizes the state to transfer easements and rights-of-way on state reforestation land to the New York State Electric & Gas Corporation in exchange for lands for reforestation purposes	Chapter 527
A.11593	Rules (Lifton)	Authorizes the town of Ithaca to regulate the construction and location of certain waterfront structures	Chapter 554
A.11632	Rules (Rosenthal)	Prohibits direct contact between lions, tigers, leopards, cheetahs, mountain lions and cougars and a member of the public	Veto Memo 164
A.11703	Rules (Sweeney)	Extends the Seagrass Research, Monitoring and Restoration Task Force until January 1, 2010	Chapter 285
A.11725	Rules (Sweeney)	Enacts the Plastic Bag Reduction, Reuse and Recycling Act"	
A.11734	Rules (Sweeney)	Relates to the title dispute in Township Forty and Totten and Crossfield's Purchase in the Town of Long Lake, Hamilton County	Con. amend 1 st passage
A.11773	Rules (Sweeney)	Authorizes the City of New York to construct and operate a water-dependent marine transfer station on the Gansevoort peninsula	Chapter 596

APPENDIX C

ENVIRONMENTAL CONSERVATION BILLS THAT PASSED THE ASSEMBLY ONLY

Assembly Bill	Sponsor	Title
A.615	Paulin	Directs the Department of Environmental Conservation to update any forms of documentation intended to assist individuals or lead agencies in the preparation of environmental impact statements
A.801	Englebright	Requires the Department of Environmental Conservation to prepare an annual report on the status of New York's natural environment
A.843	Englebright	Requires landowners or tenants to be notified of petroleum discharges
A.914	Englebright	Establishes accountability and disclosure requirements for the acquisition of land for open space, environmental and/or historic preservation purposes by local governments
A. 967-A	Englebright	Requires posted signage at entry points on publicly accessible municipally-owned property where trapping is authorized
A. 1007	Dinowitz	Enhances the public notice provisions of the Department of Environmental Conservation's uniform procedures
A. 1011-A	Dinowitz	Grants a director of a municipality the power to enforce the beverage container redemption requirements
A.1098	Brodsky	Makes provisions regarding the siting of environmental facilities in minority communities or economically distressed areas
A.1099	Brodsky	Requires increased disclosure of an environmental conservation permit applicant's record of compliance with state, federal, and foreign environmental regulations
A.1142-A	Brodsky	Provides for the phasing-out of pesticides on state property and requires the establishment of state agency pest management plans
A.1147	Brodsky	Prohibits the taking of striped bass from the Hudson River for commercial purposes

Assembly Bill	Sponsor	Title
A.1150-A	Gunther	Directs the Department of Environmental Conservation, in consultation with federal agencies and the New York City Department of Environmental Protection to review the West of Hudson River New York City drinking water supply system program
A. 1217-A	Latimer	Requires commercial pesticide applicators to provide notice to residents of multiple family dwellings prior to the application of pesticide on such premises
A.1355	Aubertine	Establishes ballast water management practices for shipping vessels in an effort to prevent the introduction of non-indigenous species
A.1435	Bradley	Allows an individual to institute an action for a violation of the provisions of the State Environmental Quality Review Act even if the injury does not affect the public at large
A.1614	Englebright	Prohibits natural resource stewardship agreements from authorizing the destruction or certain alterations of such natural resource
A.1620	Lentol	Requires bulk petroleum storage facilities to undertake comprehensive accident prevention planning
A.1622	Lentol	Requires the implementation of plans and the installation of equipment for the prompt detection of petroleum discharges
A.1629	Peralta	Requires solid waste management plans for New York City to include adequate trash and recycling receptacles in commercial zones and public recreational areas
A.2002	Diaz R.	Establishes criteria for the Department of Environmental Conservation to identify areas of the State most adversely affected by existing environmental hazards
A.2003	Diaz R	Establishes an environmental justice advisory group and interagency coordinating council
A.2004	Lupardo	Directs the State Land Acquisition Advisory Council to promulgate regulations governing the sale of state-owned land
A.2422	Galef	Requires increased public notification by operators of nuclear power plants
A.2612-A	Glick	Prohibits the taking of non-native big game mammals in a fenced or other area from which there is no means for such mammal to escape

Assembly Bill	Sponsor	Title
A.2691	Lifton	Authorizes the electronic filing of wetlands regulatory maps
A.2799	Cusick	Requires notice to neighboring landowners of the intention to develop wetland areas
A.3254	Pretlow	Requires the Department of Environmental Conservation to establish guidelines for the disqualification of stand-by contractors
A.3318	Colton	Establishes requirements for source separation and disposal of recyclable materials and requires municipalities to adopt local laws providing therefor
A.3670	Lentol	Allows communities affected by administrative orders issued by the Department of Environmental Conservation to submit community impact statements
A.4226	Ramos	Adds additional notice provisions to operating permits issued to sources subject to the Federal Clean Air Act
A.5299	Wright	Creates a state urban pesticide board to study and report on the application of pesticides in urban areas and requires alternative pesticide training
A.6052	Jeffries	Requires the Department of Environmental Conservation to conduct a study of lead contamination of parks
A.6578	Sweeney	Establishes new regulations for the operation of solid waste management facilities
A.7119	Gordon T.	Prohibits the Department of Environmental Conservation from issuing application for a permit to mine if a local law prohibits the proposed mining use within the area proposed to be mined
A.7133	Sweeney	Provides the Department of Environmental Conservation with regulatory authority over freshwater wetlands
A.7231	Jaffee	Enacts the "Private Well Testing Act"
A.7268	Sweeney	Authorizes the Environmental Facilities Corporation to provide loans from the Water Pollution Control Revolving Fund at zero percent interest to municipalities

Assembly Bill	Sponsor	Title
A.7332-A	Sweeney	Provides reimbursement to fire companies for costs associated with responding to spills of hazardous materials
A.7365-A	Sweeney	Provides statutory direction for the use of funds received by the Department of Environmental Conservation from the sale of air emission allowances in accordance with the Regional Greenhouse Gas Initiative
A.7366-A	Gianaris	Establishes a fund for the proceeds of the emission allowances of the Regional Greenhouse Gas Initiative
A.7438-A	Rosenthal	Provides for the management of outdoor night lighting to protect the night environment, and conserve energy
A.7630	Kavanagh	Prohibits the mass release of helium balloons
A.7977-B	Sweeney	Restricts the use of the flame retardant decabromodiphenyl ether in certain products
A.8036	Kavanagh	Imposes penalties upon agencies that fail to complete a remediation plan
A.8044-A	Sweeney	Expands the existing "Bottle Bill" to include non-carbonated beverages
A.8444-B	Sweeney	Enacts the "Electronic Equipment Recycling and Reuse Act"
A.8556	Alessi	Makes conforming amendments to the provisions of law relating to the Connecticut-New York Bi-State Long Island Sound Committee
A.8588-A	Sweeney	Requires restoration of areas adjacent to wetlands
A.8641-C	Sweeney	Enacts the "New York State Lighting Toxics Reduction Act" to require the manufacturers of lights containing mercury to establish collection and recycling programs.
A.8810-C	Sweeney	Enacts the "Plastic Bag Reuse and Recycling Act"
A.9169	Sweeney	Requires state agencies to report their greenhouse gas emissions
A.9199	Sweeney	Requires the Department of Environmental Conservation to establish a method for individuals and businesses to calculate their greenhouse gas emissions
A.9301-B	Bradley	Authorizes the Commissioner of Environmental Conservation to make recommendations concerning flood prevention in additional counties

Assembly Bill	Sponsor	Title
A.10262-B	Hevesi	Establishes a replacement tire energy efficiency program for passenger cars and light-duty trucks
A.10303	Sweeney	Authorizes the Department of Environmental Conservation to establish greenhouse gas emissions limits
A.10637-C	John	Establishes reverse vending machine requirements, based on square footage, for retailers
A.11168	Cahill	Adds areas of Ulster County to the Hudson River Valley Greenway
A.11462	Rules (Sweeney)	Relates to mercury in products and toxicity in packaging
A.11466-A	Rules (Kavanagh)	Requires state agencies and municipalities to use compostable or recyclable food service ware made from material other than polystyrene foam
A.11569-A	Rules (Sweeney)	Establishes a repayment plan for monies transferred from the Environmental Protection Fund to the General Fund
A.11704	Rules (Sweeney)	Creates an exemption from certain special assessments, fees and surcharges on hazardous waste generated by or at an elementary or secondary school