

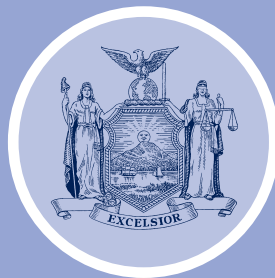


NEW YORK STATE ASSEMBLY

A N N U A L

2 0 1 2

R E P O R T



**Committee on
Environmental Conservation**

Robert K. Sweeney, Chairman

SHELDON SILVER, SPEAKER



ROBERT K. SWEENEY
Assemblyman 11th District

THE ASSEMBLY
STATE OF NEW YORK
ALBANY

CHAIRMAN
Environmental Conservation

COMMITTEES
Education
Rules
Veterans' Affairs

December 15, 2012

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 2012 Annual Report of the Assembly Standing Committee on Environmental Conservation.

The Committee addressed several important issues this year including limiting chemical exposure for children, restricting the introduction of invasive species, and increasing the availability of water pollution information. 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 2013 legislative session.

Sincerely,

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

2012 ANNUAL REPORT

OF THE NEW YORK STATE ASSEMBLY

STANDING COMMITTEE ON ENVIRONMENTAL CONSERVATION

Robert K. Sweeney, Chairman

Committee Members

Harvey Weisenberg
Deborah J. Glick
William Colton
Steven Cymbrowitz
Barbara S. Lifton
Daniel J. O'Donnell
Crystal D. Peoples-Stokes
Aileen M. Gunther
George S. Latimer
Donna A. Lupardo
Ellen C. Jaffee
Brian P. Kavanagh
Michelle Schimel
Matthew Titone
Kenneth Zebrowski
Fred W. Thiele, Jr.
Marcos Crespo
Thomas J. Abinanti
Sean M. Ryan

Sean T. Hanna
Teresa R. Sayward
Daniel J. Burling
Will Barclay
Joseph S. Saladino
Peter D. Lopez
Gary D. Finch
Jane L. Corwin
Robert J. Castelli
John D. Ceretto

Staff

Julia Mallalieu, Assistant Secretary for Program and Policy
Christian Malanga, Associate Counsel
Michelle Milot, Principal Legislative Analyst
Michael Szydlo, Committee Assistant
Rebecca Rasmussen, Committee Clerk
Maegan Lynch, Program and Counsel Secretary

TABLE OF CONTENTS

COMMITTEE RESPONSIBILITIES	1
MAJOR ISSUES OF 2012.....	2
A. BUDGET HIGHLIGHTS	2
B. ENVIRONMENTAL QUALITY	4
C. HAZARDOUS WASTE MANAGEMENT.....	5
D. PESTICIDES MANAGEMENT.....	5
E. NATURAL GAS DRILLING.....	6
F. FISH AND WILDLIFE.....	7
G. ENVIRONMENTAL ENFORCEMENT.....	9
H. SOLID WASTE MANAGEMENT	10
I. PETROLEUM MANAGEMENT	10
J. WATER CONSERVATION AND QUALITY	11
K. FOREST AND LAND RESOURCES	14
L. CLIMATE CHANGE	15
M. CHEMICALS	15
N. DEPARTMENTAL POWERS	17
OVERSIGHT AND PUBLIC HEARINGS	19
OUTLOOK AND GOALS FOR 2013.....	20
APPENDIX A	21
APPENDIX B	22
APPENDIX C	24

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), 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 New York State Department of Environmental Conservation (DEC). During the 2012 Legislative Session the Committee considered 480 bills, acting favorably on 85, with 21 becoming law.

MAJOR ISSUES OF 2012

A. BUDGET HIGHLIGHTS

The State Fiscal Year (SFY) 2012-13 Enacted Budget included over \$1 billion in funding for environmental programs as well as monies for water and wastewater infrastructure and recycling programs.

Environmental Protection Fund

The Environmental Protection Fund (EPF) received \$134 million. The final EPF budget included funding for traditional EPF programs such as waterfront revitalization, municipal recycling, water quality improvement, and farmland protection. In addition, the Assembly ensured that no less than 25 percent of the EPF funds appropriated for local waterfront revitalization and municipal parks projects 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)

<u>EPF Category</u>	Enacted 2012-13
Solid Waste Account	10.940
Municipal Recycling	6.435
Pollution Prevention Institute	2.100
Secondary Markets	1.000
Natural Resource Damages	.175
Pesticide Database	.960
Landfill Closure/Gas Management	.270
Parks, Recreation & Historic Preservation Account	52.500
Waterfront Revitalization	11.500
Municipal Parks	13.000
Hudson River Park	3.000
Stewardship	16.000
Zoos, Botanical Gardens, & Aquaria	9.000
Open Space Account	70.560
Land Acquisition	17.500
Smart Growth	.300
Farmland Protection	12.000
Agricultural Waste Management	.700
Biodiversity	.500
Albany Pine Bush	2.000
Invasive Species	3.400
Long Island Pine Barrens Planning	1.100
Ocean and Great Lakes	4.728
Water Quality Improvement	2.932
Long Island South Shore Estuary Reserve	0.900
Non-point Source Pollution Control	17.000
Soil and Water Conservation Districts	3.500
Finger Lakes - Lake Ontario Watershed	1.000
Hudson River Estuary Management	3.000
Total	134.000

B. ENVIRONMENTAL QUALITY

Increased Funding for the Environmental Protection Fund

(A.10519 Rules Sweeney; Veto Memo 176)

This legislation would increase the amount of funding available for the Environmental Protection Fund (EPF). The EPF is the primary mechanism for funding the State's environmental programs, including, water quality projects, recycling initiatives and land acquisition.

This legislation would direct existing funds from unclaimed bottle deposits to be deposited to the EPF. The increase would include \$10 million beginning in State Fiscal Year 2013-2014 and increase incrementally until reaching \$56 million in 2018-19 and in each fiscal year thereafter. A detailed funding chart follows.

State Fiscal Year	EPF Funding Increase
2013-14	\$10 million
2014-15	\$20 million
2015-16	\$30 million
2016-17	\$40 million
2017-18	\$50 million
2018-19	\$56 million

Sewage Pollution Right to Know Act

(A.10585-A Rules Sweeney; Chapter 368 of the Laws of 2012)

(A.9420-A Sweeney; Passed the Assembly)

This law will increase the amount of sewage discharge information released to the public. Publicly-owned treatment works and operators of publicly-owned sewer systems will be required to report discharges of untreated or partially-treated sewage, including combined sewage overflows, to the Department of Environmental Conservation within two hours and to the general public within four hours. For discharges meeting the reporting criteria, information will include: volume and treated state of the discharge, the date, time and location of the discharge, the expected duration and a description of the steps being taken to contain the discharge. The Assembly also passed A.9420-A (Sweeney) that contained more stringent reporting requirements; however, that legislation was not passed by the Senate.

Environmental Impact Zone Designation

(A.611 Peoples-Stokes; Passed the Assembly)

This legislation would require DEC to publish a list of "high local environmental impact zones" that would be defined as areas of the State that are most adversely impacted by existing environmental hazards. In compiling the list, 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, amount of pesticides sold and used, proximity of water bodies, and air quality.

Enhancing Environmental Quality Review
(A.334 Paulin; Passed the Assembly)

This legislation would ensure the consideration of emerging environmental science issues in determining the significance of a project or action under the State Environmental Quality Review (SEQR) process. DEC would be required to update annually 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, DEC would be required to consider changes in science and emerging issues in environmental protection, including impacts on sensitive populations, such as children.

C. HAZARDOUS WASTE MANAGEMENT

Mercury Thermostat Collection
(A.3485-A Sweeney; Passed the Assembly)

Mercury has been proven to impair brain development. The Centers for Disease Control and Prevention estimate that between 300,000 and 630,000 infants each year are born in the United States with mercury levels high enough to be associated with IQ loss. Each year, more than two million mercury-containing thermostats are discarded. Most states now ban the sale of new mercury containing thermostats, but despite disposal limitations, only a very small percentage of old thermostats are collected and recycled. The remainder enters the waste stream and poses the potential to pollute the environment.

This legislation would protect the environment and public health by requiring the manufacturers of mercury-containing thermostats to establish a program to facilitate the collection of mercury-containing thermostats from consumers.

D. PESTICIDES MANAGEMENT

Pesticide Container Repair Program Extender
(A.9272 Sweeney; Chapter 24 of the laws of 2012)

In 2010, the Legislature authorized New York businesses to utilize the "Pesticide Container Repair Interim Policy" issued by the United States Environmental Protection Agency (EPA). This law allowed New York retailers to participate in a "minor repair program" for damaged pesticide containers and lawn fertilizers containing pesticides, in order to decrease the amount of general use pesticides that are disposed of unnecessarily as waste. Any repair plan must first be approved by the EPA. The authority for participation provided in the 2010 law was set to expire on March 1, 2012. This law will extend the existing program until March 1, 2014.

Clarification of DEC's Ability to Regulate Certain Pesticides
(A.7706-B Magnarelli; Chapter 305 of the Laws of 2012)

The Environmental Conservation Law (ECL) requires all commercial applications of pesticides to be conducted by a certified applicator. The EPA defines certain pesticides as "minimal risk pesticides" because their ingredients; both active and inert, are demonstrably safe for the intended use. As such, they are exempt from USEPA registration under FIFRA Section 25(b). This law will clarify that, when appropriate, DEC has the authority to exempt minimal risk pesticides from the existing certification requirements provided in section 33-905 of the ECL.

E. NATURAL GAS DRILLING

Treatment of Drilling Waste
(A.7013 Sweeney; Passed the Assembly)

Currently, the regulations promulgated by the Department of Environmental Conservation that govern the waste produced by the oil and natural gas industries exempt "drilling fluids, produced waters, and other wastes associated with the exploration, development or production of crude oil, natural gas or geothermal energy" from being regulated as hazardous waste. This exemption is in place despite the fact that the waste resulting from the exploration, development, extraction and production of crude oil and natural gas may be hazardous in many instances.

This legislation would supersede that regulation and ensure that if waste from these operations meets the definition of hazardous waste, then it be treated in a manner consistent with other hazardous wastes. Failure to classify waste properly that meets this threshold could present a real danger to public health and the environment. If not treated properly, hazardous waste can, among other concerns, lead to contaminated air, drinking water, soil, and food. If waste produced from oil and natural gas activities meets the definition of hazardous waste, it should be subject to the same laws regarding generation, transportation, treatment, storage and disposal as other hazardous wastes.

Ability of Local Governments to Use Zoning to Regulate Natural Gas Drilling
(A.3245 Lifton; Passed the Assembly)

In 1981, the Environmental Conservation Law was amended to provide local governments with the explicit authority to regulate local road use activities associated with natural gas and oil drilling. This legislation also made clear that local governments maintained their authority under the Real Property Tax Law; however, it did not include a specific reference to municipal zoning power. As a result, the ability of local governments to enforce zoning laws was challenged. The NY Court of Appeals concluded that zoning ordinances do not "relate to the regulation" of the industry, as prohibited by the Environmental Conservation Law, but rather regulate the location, construction and use of buildings and land within the town.

This legislation would clarify the statutory language that local governments have the authority, as was affirmed by the Court of Appeals, to enact local zoning laws that pertain to the location of activities such as natural gas and oil drilling.

Health Impact Assessment
(A.10234 Rules Sweeney; Passed the Assembly)

At an Assembly Environmental Conservation Committee hearing held in May 2011, numerous health and academic professionals criticized DEC's proposed draft Supplemental Generic Environmental Impact Study (SGEIS) intended to explore the potential impacts to the environment from gas exploration and development using high-volume hydraulic fracturing and horizontal gas drilling. The health professionals present at the hearing, as well as the New York Nurses Association, indicated that the draft SGEIS did not adequately address potential health impacts.

This legislation would require one of the State's Schools of Public Health within the State University system to conduct a Health Impact Assessment (HIA) of gas exploration and development using high-volume hydraulic fracturing and horizontal gas drilling's effects, direct and indirect, on public health, as well as costs to the state's healthcare network. HIAs are becoming more widely used in formulating government decision making. An HIA utilizes existing data sources such as population data, surveys, risk assessment and literature review to predict the impact on a population from a particular land use decision.

F. FISH AND WILDLIFE

Greater Restrictions on the Introduction of Invasive Species
(A.9422-A Sweeney; Chapter 267 of the Laws of 2012)

Invasive species threaten New York's environment by out-competing native species, diminishing biological diversity, and changing whole ecosystems including those within public parks and waterways. At an Assembly public hearing held in September 2011, on the best methods for preventing the introduction of invasive species and combating the invasive species already present, the myriad of problems associated with invasive species received extensive discussion. In order to help mitigate the devastating environmental and economic impacts of invasive species, this law provides DEC and the Department of Agriculture and Markets with explicit authority to regulate the sale, purchase, possession, introduction, importation and transport of invasive species and establish penalties for those who violate such regulations.

Increased Information Regarding Invasive Species
(A.9581 Sweeney; Chapter 342 of the Laws of 2012)

Invasive species pose significant threats to ecosystems like wetlands, water bodies, forests, meadows and grasslands. These threats not only affect the environment, but can also affect human health and well-being. Therefore, helping prevent the introduction, spread, and growth of invasive species is essential for the protection of New York's environment.

DEC already produces a syllabus that is provided to people who hold hunting, trapping and/or fishing licenses. This law will require information regarding laws regulating invasive species to be included in the fishing and hunting syllabus. As a result, sportspersons will be able to help reduce the effects of invasive species by having an increased awareness of how to control invasive species.

Crossbow Hunting Extension
(A.10583-A Rules Sweeney; Veto Memo 177)

In 2010, the Legislature authorized, until December 31, 2012, the limited use of crossbows for hunting. This legislation would extend until December 31, 2014, the authorization to hunt by means of a crossbow. Further the legislation will permit the Department of Environmental Conservation to revoke a person's hunting license under appropriate circumstances consistent with the Department's authority for other hunting implements.

Restrictions on the Taking of Shark Fins
(A.7707-C Maisel; Passed the Assembly)

Sharks occupy the top of the marine food chain and are a critical part of the ocean ecosystem. Because they are slow to reach reproductive maturity and birth small litters, they cannot rebuild their populations quickly. As a result they are particularly susceptible to decline due to over-fishing. Studies show that the practice of shark finning, where a shark is caught, its fins are cut off and the carcass dumped back into the water, causes tens of millions of sharks to die each year.

This legislation would expand the prohibition on shark finning and prohibit the possession, sale or distribution of shark fins unless such fins meet the following criteria: were taken from a spiny dogfish caught by a licensed commercial fisherman or were taken from a shark caught by a recreational fisherman who has complied with the recreational marine fishing registration requirements.

Snapping Turtle Management
(A.378-A Magee; Passed the Assembly)

Currently, turtles may only be taken by longbow or gun. This legislation would permit snapping turtles to be taken by individuals with a trapping license.

G. ENVIRONMENTAL ENFORCEMENT

Improving New York State's Environmental Compliance **(A.2229 Kavanagh; Passed the Assembly)**

Among the largest polluters in New York State is the State itself. This legislation would remedy this problem by requiring DEC 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.

Environmental Justice Advisory Group **(A.947 Peoples-Stokes; 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, DEC received a grant from the United States Environmental Protection Agency to develop a comprehensive environmental justice program. As part of this process, DEC convened an environmental justice advisory group. In January 2002, the advisory group issued its report. In March 2003, DEC 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 conduct an environmental justice review and address environmental justice.

Ensuring Equitable Environmental Quality Review **(A.2546 Pretlow; 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 a minority community or economically distressed area affected by the action. In addition, the legislation would direct DEC 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.

H. SOLID WASTE MANAGEMENT

Compostable or Recyclable Food Service Ware **(A.2097 Kavanagh; Passed the Assembly)**

Styrofoam is a liquid hydrocarbon that is manufactured commercially from petroleum. Each year Americans throw away an estimated 25,000,000 Styrofoam cups. A single Styrofoam cup can take up to 500 years to disintegrate fully. 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.

Enhancing Statewide Recycling Efforts **(A.1241-A 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 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.

I. PETROLEUM MANAGEMENT

Installation of Spill Detection Equipment **(A.558 Lentol; Passed the Assembly)**

This legislation would require operators of major petroleum facilities to implement plans and to install equipment for the prompt detection of petroleum discharges.

J. WATER CONSERVATION AND QUALITY

Interest Subsidies of the Clean Water State Revolving Fund **(A.9786 Sweeney; Chapter 65 of the Laws of 2012)**

The Clean Water State Revolving Fund (CWSRF) is funded through federal capitalization grants and requires the State to provide matching funds equal to at least twenty percent of the federal capitalization grants. The Environmental Facilities Corporation allocates a portion of the federal capitalization grants and State matching component to provide a reserve fund to secure the repayment of financings made to recipients. This "allocation" is referred to in the statute as a "corpus allocation." The corpus allocation for a financing is equal to at least one-third of the principal amount of each financing outstanding at any given time, excluding portions of the financing used to fund a debt service reserve fund. Currently, recipients who, during the period commencing June 1, 1992 and ending September 30, 2012, (i) submit an application for a CWSRF financing, (ii) close on the CWSRF financing, and (iii) commence construction of the project related to the financing, qualify for a fifty percent corpus allocation. This law will extend, until September 30, 2015, the 50 percent interest rate subsidy and ensure that the subsidy will not revert to one-third interest rate subsidy, effective October 1, 2012.

Seagrass Protection Act **(A.7988-A Sweeney; Chapter 272 of the Laws of 2012)**

New York seagrass beds are a vital habitat and nursery for numerous commercially, recreationally and ecologically important fish and shellfish species. Seagrass beds used to be prevalent, reaching an estimated 200,000 acres in 1930. Today, only approximately 21,803 acres remain. This legislation would provide DEC with specific authority to regulate seagrass areas, including restricting mechanical equipment and limiting pesticides. Many of the provisions contained in the legislation were recommended by the New York State Seagrass Taskforce.

Increased Reimbursement Authorization for Soil and Water Conservation Districts **(A.9464 Gunther; Chapter 316 of the Laws of 2012)**

Soil and Water Conservation districts perform an important role in helping to maintain New York's water quality. A 1974 law established a reimbursement cap for Soil and Water Conservation Districts. The maximum reimbursement rate at that time was \$4,000 per Soil and Water Conservation District. This reimbursement rate has increased very slowly over time and was last increased to \$30,000 in 1996. This legislation would increase the eligible reimbursement rate to \$60,000.

Proper Disposal of Pharmaceutical Products
(A.9421 Sweeney; Passed the Assembly)

Expired, unwanted, or unused pharmaceutical drugs require proper disposal in order to prevent accidental ingestion and/or unintended environmental harm. An extensive water analysis conducted by the United States Geological Survey detected at least one contaminant in approximately 96 percent of the water samples taken from 74 water sources in 25 states and Puerto Rico. Although drug collection events are taking place in some communities, a more coordinated effort is required to help prevent continued contamination. This legislation would establish a demonstration drug disposal program by DEC, in cooperation with the State Police, in State Police facilities representative of rural, suburban and urban areas of the State in order to provide data that could be used to determine the most effective methods of disposal. This legislation passed the Assembly, but the Senate has not yet taken action.

After the passage of this legislation, both the Assembly (A.10623 Rules Cusick) and the Senate passed legislation to create the Internet System for Tracking Over-Prescribing Act (I-STOP) which, if signed into law by the Governor, would include provisions intended to strengthen the regulation of controlled substances and would also require the State Department of Health to establish a program to allow for the safe disposal of unused controlled substances anonymously.

Jamaica Bay Dredging
(A.9871-A Goldfeder; Passed the Assembly)

Due to the increase in vessel size in recent years, waterways such as channels, berthing areas and harbors are being excavated in a process known as dredging to maintain sufficient depth for safe and efficient vessel operation. Jamaica Bay was dredged to supply soil for a number of construction projects and in the process borrow pits were created in the bay. These borrow pits have been identified as an attractive alternative for the disposal of dredge material. This legislation would restrict the types of dredged materials that could be placed in the borrow pits of Jamaica Bay. Any dredged material would be required to: comply with federal unrestricted ocean dumping criteria; have been tested with test results indicating no unacceptable toxicity or bioaccumulation; demonstrate no potential short term (acute) impacts or long-term (chronic) impacts; and, require no special precautionary measures when being dumped.

Long Island Water Quality
(A.10584 Rules Sweeney; Passed the Assembly)

Long Island's groundwater aquifer is the sole source of drinking water for nearly three million residents of Nassau and Suffolk Counties and is highly vulnerable to pollution. Because of the value of this resource to the public health and economic stability of the region, protection of Long Island's groundwater resources has been the subject of substantial federal, state and local investment, legislation and policy initiatives for nearly 40 years. Despite these efforts, recent water quality data clearly demonstrates that Long Island's water resources are in a state of gradual decline. Also, it is now well understood that Long Island's groundwater is functionally interconnected to its surface water resources and that groundwater pollution is rapidly becoming a key management issue in the protection and restoration of Long Island's surface waters, which are integral to the Long Island economy.

The implications of increasing levels of pollution in Long Island's ground and surface water resources are significant and require a comprehensive management and restoration strategy that cannot be accomplished by any one local agency or municipality. Long Island's water resources do not conform to political boundaries and current planning, zoning, and sanitary code regulations are not adequately integrated to accomplish the necessary regional surface and groundwater quality goals. This legislation would create a regional water planning board and comprehensive water conservation and management plan to help achieve regional water quality goals, management solutions and integrated regulatory programs.

Rockland Bergen Bi-State Watershed Flood Protection Act
(A.2206 Zebrowski; Passed the Assembly)

This legislation would create the Rockland Bergen Bi-State Watershed Flood Protection Act. It is intended to address the flood hazards along the various waterways that cross the interstate border region, with a focus on the Hackensack, Mahwah, Ramapo, Saddle Rivers and the Sparkill Brook/Creek.

Neighbor Notification of Proposed Wetland Development
(A.366 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.

Protecting Residents with Private Wells
(A.667-B 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 and require 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.

K. FOREST AND LAND RESOURCES

Conveyance of Certain State Forest Land to NYCO Minerals, Inc.
(A.10641-A Rules Sweeney; Constitutional Amendment – first passage)

NYCO Minerals Inc., is a producer and supplier of the mineral wollastonite (calcium metasilicate), which has commercial application as a reinforcement or additive in ceramics, paints, plastics, friction products and various building products. NYCO Mineral's existing mine in Lewis, produces 60,000 tons of wollastonite annually; however, the mine is approaching the end of its pit life. The adjacent property, which may also contain wollastonite, has been designated as Forest Preserve land. This proposed constitutional amendment, which would require a second passage by the Legislature before going before voters for approval, would authorize NYCO Minerals to conduct exploratory drilling and potentially acquire the adjoining Forest Preserve land, in exchange for the designation of additional Forest Preserve lands of equal or greater value.

Conveyance of Certain State Forest Land to Settle a Title Dispute
(A.10642 Rules Sweeney; Constitutional Amendment – first passage)

Over the past 100 years, the State and private parties have claimed ownership of more than 200 parcels of land, commonly referred to as Township 40, in the Town of Long Lake. The dispute over title stems from whether or not the properties of the private parties were acquired through legal sales or through a prior occupant's adverse possession. Because the lands involved include Forest Preserve land, a constitutional amendment would be required in order to convey title to the private parties.

This proposed constitutional amendment, which would require a second passage by the Legislature before going before voters for approval, would authorize the conveyance of the disputed State Forest Preserve property; however, as a condition of such settlement, land purchased without the use of State-appropriated funds, suitable for incorporation into the Forest Preserve, that provides a net benefit to the Forest Preserve, would have to be provided.

L. CLIMATE CHANGE

Greenhouse Gas Emission Limits

(A.5346-A 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 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 DEC 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 DEC would be required to be less than the 1990 limit and 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 DEC would be decreased by 2.3 percent each year, resulting in an 80 percent reduction by 2050.

M. CHEMICALS

Restrictions on the Use of Harmful Chemicals in Children's Products

(A.3141-A Sweeney; Passed the Assembly)

Currently, New York identifies or prohibits the use of dangerous chemicals on a chemical by chemical basis. Several other states, including Washington, California, and Maine have adopted more comprehensive chemical policies after finding high levels of cadmium, lead and other dangerous chemicals in children's products ranging from crib mattresses to toys. This legislation is modeled after those states and is intended to prevent the use of dangerous chemicals and encourage the use of safer chemical alternatives in children's products. This legislation would require DEC to develop lists of dangerous chemicals and require manufacturers of children's products containing such chemicals to report the use of such chemicals to DEC. The sale of children's products containing hazardous chemicals would be prohibited unless DEC issues a waiver.

Bisphenol A in Receipt Paper

(A.212-B Maisel; Passed the Assembly)

It has been estimated that as many as 33.5 tons of Bisphenol A (BPA) are used in thermal-paper receipts, accounting for up to 2.2 percent of the total weight of the receipt. BPA is a known endocrine disrupter. In March of this year the federal Food and Drug Administration issued a report on BPA that indicated "both the National Toxicology Program at the National Institutes of Health and FDA have some concerns about the potential effects of BPA on the brain, behavior, and prostate gland in fetuses, infants and young children." In 2011, Connecticut banned the sale of receipt paper containing BPA. This legislation follows the model established in Connecticut, and would ban the sale of receipt paper containing BPA beginning October 1, 2014. However, if the U.S. EPA does not identify safe, commercially available alternatives to BPA by June 30, 2014, implementation would be delayed until July 1, 2016.

Cadmium in Children's Products
(A.1158 Sweeney; Passed the Assembly)

Cadmium is a metal that is inexpensive, malleable and highly resistant to corrosion, making it desirable for use in plastics as a stabilizer and in electroplating; however, cadmium interferes with how the body uses calcium and has been associated with harmful health impacts including cancer and kidney disease. An Associated Press story found high levels of cadmium in low-priced children's jewelry for sale in the United States. This legislation would prohibit the sale of cadmium-added novelty products (including children's jewelry) containing cadmium in an amount equal to or in excess of .0075 percent by weight. (A similar standard has been included by other states including California, Connecticut and Maryland.)

Prohibition on the Use of Coal Tar Products
(A.7854-C Rosenthal; Passed the Assembly)

Coal tar products used as pavement sealants contain high levels of Polycyclic Aromatic Hydrocarbons (PAHs). PAHs have been identified as water contaminants by the United States Geological Survey (USGS) and the Environmental Protection Agency. Several states and municipalities have enacted restrictions on the use of coal tar pavement products. Coal tar components are listed as carcinogens in the European Union and in the National Toxicology Program's 11th Report on Carcinogens. In addition, the CDC has identified PAHs as "reasonably anticipated to be human carcinogens." This legislation would prohibit the sale and use of coal tar pavement products containing more than 10,000 milligrams per kilogram of PAH.

Prohibition on the Use of the Flame Retardant TRIS
(A.9045 Sweeney; Passed the Assembly)

TRIS is the common name for a family of chlorinated flame retardants. In the 1970s, TRIS (TDCPP) was used in children's sleepwear as a substitute for TRIS-BP, which was banned by the Consumer Product Safety Commission because of potential health concerns. Subsequent testing on TDCPP caused manufacturers to voluntarily stop using it in children's sleepwear; however, it is used currently in plastics, resins and polyurethane foams found in car seats and other baby products. TDCPP is not chemically bound to these products. As a result, TDCPP is present in indoor air and dust, in the environment, and in human tissue. Younger children, particularly babies, are especially vulnerable because of their smaller and developing bodies. California recently added TDCPP to its Proposition 65 list, which lists "chemicals known to the State of California to cause cancer and birth defects or other reproductive harm," because of animal studies demonstrating its adverse health effects. This legislation would prohibit the use of TDCPP in children's products. Last year, the Legislature banned the use of TRIS (TCEP) in child care products because of the risks TCEP poses to children's health.

Flame Retardant DecaBDE Ban
(A.5798-A 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 in part to 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 found predominantly in the now prohibited pentaBDE and octaBDE. This legislation, which would codify a recent agreement between the United States Environmental Protection Agency and chemical manufacturers, would phase out the manufacture and use of decaBDE by 2013.

N. DEPARTMENTAL POWERS

Availability of Fishing Clinics
(A.10202 Sweeney; Chapter 103 of the Laws of 2012)

DEC conducts fishing clinics to help introduce individuals and families to recreational angling. These clinics help connect New York's citizens to nature, as well as provide instruction to novices seeking to learn how to fish. For clinics designated as free sport fishing clinics by DEC, participants are not required to have a fishing license. Current authority limits the number of free sport fishing clinics that may be held annually per DEC region to four, and specifies that DEC employees must provide at least part of the instruction at the events.

This law, which originated as a Governor's Program Bill, will authorize DEC to expand the number of free sport fishing clinics that may be conducted annually, allowing additional people to be introduced to recreational angling without having to purchase fishing licenses if the clinic is held on a fresh water body. Similarly, if the clinic is held in the marine district, the participant will not be required to sign up for the recreational marine fishing registration to participate in the clinic. In addition, the law will also dispense with the requirement that DEC staff provide the actual instruction and allow organizations designated by DEC to conduct free sport fishing clinics. Clinics conducted by such organizations in such a manner would be undertaken pursuant to guidelines established by DEC.

Amendments to the Northeastern Forest Fire Protection Compact

(A.9652 Sweeney; Chapter 414 of the Laws of 2012)

New York became a member of the Northeastern Interstate Forest Fire Protection Compact in the 1940's, and at that time it was the only fire compact available. Since that time, other compacts have been created and other states, including our neighbors Pennsylvania and New Jersey, are signatories of different compacts.

This law will clarify that mutual aid, for combating, controlling or preventing forest fires, may be extended to another state that is a party to a regional forest fire protection compact, including compacts other than the Northeastern Forest Fire Protection Compact, if the legislature of such other state has given its consent to such mutual aid provisions of the compact.

The Conservationist Magazine

(A.9785 Sweeney; Chapter 36 of the Laws of 2012)

Promotion and marketing are integral components of the magazine industry and help replace lost subscriptions. For example, the Department of Environmental Conservation (DEC), which is responsible for the *Conservationist* magazine, must replace approximately 19,000 subscribers each year to maintain the magazine's current subscriber base. DEC's marketing consultant conducted marketing research that demonstrated sweepstakes are the most effective method to increase renewal and new subscriber response rates. This law will extend, until August 1, 2015, the authorization for DEC to conduct sweepstakes and other activities to increase subscriptions to DEC's the *Conservationist* magazine.

OVERSIGHT AND PUBLIC HEARINGS

In 2012, the Assembly Standing Committee on Environmental Conservation continued its oversight of environmental issues by holding hearings to

The Safety and Effectiveness of Flame Retardants

Children may be more susceptible to the negative health impacts of toxic chemicals, such as those contained in flame retardants, which are present in many children's products. Before even coming into direct contact with these products, "a typical American baby is born with the highest recorded concentrations of flame retardants among infants in the world" according to a July 25th article in the Chicago Tribune.

On September 6th, the Committee, in cooperation with the Assembly Committee on Health, held a hearing in New York City to examine the science surrounding the safety and effectiveness of flame retardant chemicals and to examine the effectiveness of New York's approach to chemical bans in children's products.

The Effectiveness of the New York State Brownfield Cleanup Program

The Brownfield Cleanup Program (BCP) was enacted in 2003 to encourage the remediation and redevelopment of underutilized, contaminated sites throughout New York State. The BCP statute provides protective cleanup standards, liability relief and financial incentives, including tax credits for cleanup and redevelopment costs. The program has resulted in the remediation of 116 sites but has been criticized for failing to target areas most in need of remediation, for high costs and for the absence of geographic parity.

On December 19th the Committee will hold a hearing to solicit input on the State's existing Brownfield Cleanup Program, including an examination of State budget implications and suggestions for modifications to increase the effectiveness of the Program.

OUTLOOK AND GOALS FOR 2013

The Committee looks forward to the 2013 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 monitor natural gas developments. The Committee will consider legislation to protect wetlands, improve water quality and ensure safe drinking water. 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
2012 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 (Favorable)	15	0	15
To Ways & Means	24	0	24
To Codes	34	0	34
To Rules	12	0	12
To Judiciary	0	0	0
Total	85	0	85
<u>Bills Having Committee Reference Changed</u>			
To Agriculture Committee	1	0	1
Total	1	0	1
<u>Senate Bills Substituted or Recalled</u>			
Substituted		9	9
Recalled		1	1
Total		10	10
<u>Bills Defeated in Committee</u>	0	0	0
<u>Bills Held for Consideration With a Roll-Call Vote</u>	42	0	42
<u>Bills Never Reported or Held in Committee</u>	297	36	333
<u>Bills Having Enacting Clause Stricken</u>	9	0	9
<u>Motion to Discharge Lost</u>	0	0	0
TOTAL BILLS IN COMMITTEE	434	46	480
TOTAL NUMBER OF COMMITTEE MEETINGS HELD		8	

APPENDIX B

**ENVIRONMENTAL CONSERVATION BILLS THAT PASSED
BOTH HOUSES**

Assembly Bill	Sponsor	Description	Final Action
A.2594	Englebright	Establishes the Historic Hudson-Hoosic River Partnership	Chapter 46
A.4517	Losquardo	Modifies provisions related to the conveyance of certain land to the State by the Longwood Central School District	Chapter 300
A.7706-B	Magnarelli	Clarifies the ability of the Department of Environmental Conservation to regulate minimal risk pesticides	Chapter 305
A.7988-A	Sweeney	Establishes the Seagrass Protection Act	Chapter 272
A.9046	Cusick	Extends the authorization for the removal of certain reeds on Staten Island	Chapter 34
A.9272	Sweeney	Extends the authorization for the pesticide container repair program	Chapter 24
A.9286-A	Giglio	Includes the Allegheny River and the Cattaraugus Creek in the definition of “inland waterways” for the purposes of the Local Waterfront Revitalization Program	Chapter 133
A.9297	Ryan	Includes the Buffalo River in the definition of “inland waterways” for the purposes of the Local Waterfront Revitalization Program	Chapter 32
A.9422-A	Sweeney	Provides the Department of Environmental Conservation and the Department of Agriculture and Markets with greater authority to regulate invasive species	Chapter 267
A.9464	Gunther	Increases the amount of reimbursement the State can provide to county Soil and Water Conservation Districts	Chapter 316
A.9581	Sweeney	Requires invasive species law to be included in the fishing and hunting syllabus published by the Department of Environmental Conservation	Chapter 342
A.9604-A	Lifton	Authorizes crossbow hunting in Cortland County	Chapter 227

A.9638-A	Kolb	Authorizes rifle hunting in Cayuga County	Chapter 231
A.9652	Sweeney	Clarifies the mutual aid provisions of the Northeastern Forest Fire Protection Compact	Chapter 414
A.9672	Magee	Includes Canadarago Lake in the definition of “inland waterways” for the purposes of the Local Waterfront Revitalization Program	Chapter 147
A.9785	Sweeney	Extends the authority of the Department of Environmental Conservation to promote its magazine, the Conservationist	Chapter 36
A.9786	Sweeney	Extends certain special powers of the Environmental Facilities Corporation	Chapter 65
A.9791	Cahill	Extends certain provisions of the Hudson River Valley Greenway Act	Chapter 152
A.10041-B	Rosenthal	Modifies responsibilities of individuals authorized to keep exotic animals as pets.	Chapter 326
A.10202	Sweeney	Removes the limit on the number of free fishing clinics that can be administered by the Department of Environmental Conservation	Chapter 103
A.10519	Rules (Sweeney)	Increases Funding for the Environmental Protection Fund	Veto 176
A.10583-A	Rules (Sweeney)	Extends provisions related to hunting with crossbows	Veto 177
A.10585-A	Rules (Sweeney)	Establishes the Sewage Pollution Notification Act	Chapter 368
A.10641-A	Rules (Sweeney)	Authorizes the conveyance of certain State Forest Land to NYCO Minerals, Inc.	Constitutional Amendment first passage
A.10642	Rules (Sweeney)	Authorizes the conveyance of certain Forest Preserve Land to settle a title dispute	Constitutional Amendment first passage

APPENDIX C

ENVIRONMENTAL CONSERVATION BILLS THAT PASSED THE ASSEMBLY ONLY

Assembly Bill	Sponsor	Description
A.212	Maisel	Prohibits the use of Bisphenol A in receipt paper
A.334	Paulin	Directs DEC to update the model environmental impact assessment form periodically
A.366	Cusick	Requires notice to neighboring landowners of the intention to develop wetland areas
A.378-A	Magee	Relates to the issuance of trapping licenses for snapping turtles
A.558	Lentol	Requires the installation of equipment for the detection of petroleum discharges
A.611	Peoples-Stokes	Requires DEC to develop and publish a list of high local environmental impact zones
A.667-B	Jaffee	Enacts the “private well testing act”
A.947	Peoples-Stokes	Creates a permanent environmental justice advisory group
A.1158	Sweeney	Authorizes the regulation of cadmium-added novelty consumer products
A.1241-A	Colton	Provides additional specificity on source separation and disposal of recyclable materials
A.2097	Kavanagh	Relates to food service waste reduction
A.2206	Zebrowski	Establishes the Rockland Bergen Bi-State Watershed Flood Prevention and Protection Act
A.2229	Kavanagh	Imposes penalties on State agencies that fail to complete a remediation plan
A.2546	Pretlow	Establishes additional criteria for the siting of environmental facilities in certain areas
A.3082	Lupardo	Modifies provisions related to certain integrated royalty owners
A.3141-A	Sweeney	Restricts the use of harmful chemicals in children’s products
A.3245	Lifton	Allows local governments to enact or enforce zoning restrictions related to oil and gas drilling
A.3485-A	Sweeney	Establishes a mercury-containing thermostat collection program

A.3743	Englebright	Provides that on publicly-accessible municipally owned property where trapping is allowed, signage should be posted at entry points
A.5346-A	Sweeney	Establishes greenhouse gas emission limits and reporting
A.5798-A	Sweeney	Restricts the use of decabromodiphenyl ether in certain products
A.6145	Sweeney	Establishes recycling requirements for polystyrene loosefill packaging, also known as “packing peanuts”
A.7013	Sweeney	Removes an existing regulatory exemption and requires waste from natural gas or oil drilling to be handled as hazardous waste if it meets certain criteria
A.7137-A	Latimer	Increases the available funding for the Environmental Protection Fund
A.7707-C	Maisel	Establishes additional criteria for the possession of shark fins
A.7854-C	Rosenthal	Restricts the use of certain coal tar pavement products
A.9045	Sweeney	Enacts the Tris Free Children and Babies Act
A.9420-A	Sweeney	Enacts the Sewage Right to Know Act
A.9421	Sweeney	Creates a drug disposal program
A.9871-A	Goldfeder	Establishes criteria for the filling of the Jamaica Bay borrow pits
A.10234	Sweeney	Requires a health impact assessment to be conducted for horizontal gas drilling and high volume hydraulic fracturing
A.10519	Rules (Sweeney)	Increases the amount of funding available to the Environmental Protection Fund
A.10584	Sweeney	Relates to special groundwater protection areas
A.10628	Rules (Sweeney)	Modifies certain procedures of the Central Pine Barrens Commission