INTRODUCTION


In New York State, the Department of Environmental Conservation (DEC or DEC), exercising powers derived from Article XIV of the State Constitution, administers a comprehensive statutory scheme of environmental protection, codified in the Environmental Conservation Law.

DEC: ORGANIZATION AND PUBLICATIONS

Organization: www.dec.ny.gov

- Created in 1970 to consolidate state environmental programs.
- It is headed by a Commissioner, appointed by the governor with the advice and consent of the senate.
- The agency is divided into 18 administrative divisions, each with substantive areas of responsibility, and it maintains 9 regional offices.
- Office of the General Counsel: provides legal service and advice to DEC
- Office of Hearings: "environmental analysts" (sitting as ALJs) adjudicate permit applications and enforcement hearings.
- The Freshwater Wetlands Appeals Board and the State Environmental Board are semi-autonomous bodies within the agency.

Statute

- Its major predecessors were the Environmental Conservation Law, L.1970, c.140, and the Conservation Law, L.1911, c.647.
- The State Environmental Quality Review Act (SEQRA), L.1975, c.612, consolidated at ECL Art. 8 (and implemented by 6 NYCRR Part 617), is the state equivalent of the federal National Environmental Policy Act. See also M. Gerrard, ed., Environmental Impact Review in New York.
- The Uniform Procedures Act, ECL Art. 70 (and implemented by 6 NYCRR Part 621), governs the permit process used by DEC in most of its proceedings.
- State Administrative Procedure Act (SAPA), L.1975, c.167
Regulations

- Title 6, NYCRR.
- Notices of proposed and final regulations are published in the weekly New York State Register.

Decisions

- The DEC homepage carries the text of DEC decisions, 1992-
- General counsel: Declaratory Rulings (1983-; supplemented irregularly)
- Commissioner (final decisions based on preliminary ALJ reports):
- Westlaw
- Lexis

Permits

- Directory: NYS Business Permit System www.gorr.state.ny.us; see also the N.Y. Environmental Law: a legal treatise, App. C
- Application notices: Environmental Notice Bulletin (ENB) (published weekly on DEC website); arranged by DEC region

Other publications

- DEC issues many other documents, mostly classified in New York State document collections under "ENV" and indexed by the State Library's Government Information Locator Service and Checklist of state publications.
- The popular bimonthly Conservationist is DEC's official magazine, and its Annual Report is a useful source of information regarding agency activities.

OTHER STATE ENVIRONMENTAL AGENCIES

1. Freshwater Wetlands Appeals Board: Created by the Freshwater Wetlands Act, L.1975, c.614 (consolidated as ECL Art. 24), to review DEC decisions regarding privately owned wetlands. The Board's regulations are found in 6 NYCRR Part 647. Official copies of its decisions are filed in the appropriate county clerk's office, determined by the location of the property at issue. Unofficial copies are available at its main office at the DEC, and at the Albany Law School Library. They are also in Westlaw's NYENV-ADMIN database and on the DEC's Internet site (under "Hearings & Mediation").

2. State Environmental Board: An interagency advisory board, with representatives
of the public, created by L.1970, c.140 (now ECL secs. 5-0101 et seq.), within DEC, to review the agency's activities and advise the Commissioner.

3. Other agencies: New York State has many other agencies with some environmental responsibilities, ranging from the Adirondack Park Agency to the rather less-known Surf Clam/Ocean Quahog Management Board. For useful lists of these agencies, see the N.Y. Environmental Law: a legal treatise, App. C.; and the New York State Directory (annual; good for personnel names and telephone numbers).

JUDICIAL REVIEW

Various environmental agency determinations may be subject to judicial review, usually under CPLR Art. 78. New York Supplement and Official New York Reports print some environmental opinions; these can be found through the use of such usual tools as the West New York digests, N.Y.Jur.2d, or Westlaw and Lexis. A few environmental opinions appear in the daily New York Law Journal (Westlaw and Library). In addition, the BNA Environmental Reporter--Cases (KF3775 .A6 EN89) (check the tables of jurisdictions at the end of each volume, and in the cumulative digest volumes) and the ELI Environmental Law Reporter (KF3775 .A6 E5) (check the table of cases and subject index in the index volume at the end of the set) occasionally print New York opinions; but both these services concentrate on federal materials.

SOME USEFUL RESEARCH PUBLICATIONS

Monographs: Besides the below titles, note also that the NYS Bar Assn. often issues useful coursebooks dealing with environmental issues.

- Dept. of Environmental Conservation, SEQR Handbook
  - ENV 382-4 SEQHS 83-70503

- Gerrard, M., Environmental Impact Review in New York
  - KFN5610 .G47 1990

- Ginsberg, W., Environmental Law and Regulation in New York
  - KFN5610 .G46 2001

- Goldstein, E., The New York Environment Book
  - TD171.3 .N5 G64 1990

- Jessup, D., Guide to State Environmental Programs
  - HC110 .E5 J47 1994
Schaffer Law Library's Guide on New York State Environmental Law

- New York Jur.2d
  - UNCLASSED STACK 207

- Nixon, Hargrave, Devans & Doyle, New York Environmental Law Handbook
  - KFN5610 .T37

  - KFN5610 .N49

- Rubin, M., Ethics and Environmental Law: Case Studies
  - KFN5076.5 .A2 E8

- Selmi, D., State Environmental Law
  - KF3775 .Z95 S45 1989

Looseleaf services
- Environmental Law Reporter (ELI): Provides excellent coverage of federal environmental law; state law usually covered insofar as it interacts with federal regulation.
- Environment Reporter (BNA): Weekly reports filed in annual volumes, with cumulative indexes, covering mainly federal developments, but with some coverage of state matters. Companion Environment Reporter--Cases reports mostly federal, occasionally state, court opinions. Subject volumes print unannotated text of environmental statutes and regulations of all states.

Law review indexes
- Current Law Index: Look first under subject main entry "Environment," and the subsequent headings beginning with that word. Other related subject index terms are cross-referenced under the "Environment" or "Environmental" headings. Remember also to look under the Case and Statute indexes (after the subject index) for articles on particular opinions or statutes.

- Index to Legal Periodicals: The least useful for subject access, ILP at least has the virtue of extending coverage further back in time. The main subject headings are "Environmental Law" and "Pollution." Also look at the Cases and Statutes commented upon sections for articles on particular opinions and statutes.
Current Awareness Newsletters

- *Environmental Law in New York* (Berle, Kass & Case; bimonthly, 1989-)
  - Good coverage of major legal developments
  - KFN5610 .A15 E58

- *Environmental Law Section Journal*
  - NYSBA; quarterly, 1981-
  - Coverage of bar programs and current legal developments

Online services

- Lexis
- Westlaw