New York State Agency Environmental Audit Guidance Manual

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New York State
Department of Environmental Conservation
Pollution Prevention Unit

George E. Pataki, Governor *Erin M. Crotty, Commissioner*

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PREFACE

Primary concerns of the State of New York are to improve the quality of the environment and enhance economic well-being. The New York State Department of Environmental Conservation's (NYSDEC) goal is coherently and comprehensively acting to achieve: reduction in pollutant generation and release, waste minimization, efficient resource use and wise resource consumption. The State Legislature and the Governor recognized that to require local governments, industries, institutions, and commercial establishments to improve the quality of the environment and enhance the well-being of the State, the State, through its agencies, should lead the effort and set an example for others. Consequently, a statute was enacted requiring State agencies annually perform environmental self-audits of each of their facilities, projects (contracts), and operations, and submit these audits to the NYSDEC for review.

This State Agency Environmental Audit (SAEA) Guidance Manual was prepared, and is annually revised, to provide assistance to those performing the self-audit. A set of forms within the manual is to be used to complete the audit. Screening questions are grouped by NYSDEC regulatory program area, followed by more detailed questions and paraphrased abstracts of the environmental statutes and regulations, to help determine applicability of each. **This manual should be made available to each person responsible for completing one or more of the various audit forms. Prior to completing any forms, the instructions and definitions should be read to best understand the audit process.**

WHAT IS THE STATE AGENCY ENVIRONMENTAL AUDIT?

In Autumn of 1987, Section 3-0309 of the Environmental Conservation Law (ECL) was enacted requiring State agencies (including specific public authorities and benefit corporations) conduct environmental audits. This law was amended and renumbered as ECL Section 3-0311. Every year, each agency is required to assess the environmental status of their activities at each of its facilities, projects (contracts) and operations, and submit a report to the NYSDEC identifying the extent to which these activities do not comply with the ECL and NYSDEC regulations, and what is planned to correct the identified violations. Pursuant to amendments enacted in 1991, agencies must audit activities of their contractors and report known significant violations committed by lessees or other third parties, on their property (facilities, projects or operations). This annual report is referred to as the **State Agency Environmental Audit** (SAEA). The scope of the SAEA law covers all physical facilities owned, operated or maintained by an agency, and also includes projects (contracts) and operations directly undertaken by an agency. It does not include projects and operations conducted by third parties where the involvement of an agency is limited solely to issuance of permits and/or financing.

THE LAW

The statute that requires State agencies to conduct environmental audits can be found in Section 3-0311 of the Environmental Conservation Law (ECL).

Section 3-0311. State agency environmental audits.

1. Each state agency as defined in subdivision five of this section shall annually audit the environmental problems created by its operations or the operations of contractors it has hired and over whom it has exercised or is required to exercise direct oversight, acting in fulfillment of their contracts. Such audit shall identify the extent to which these operations are in violation of this chapter, or regulations adopted thereunder. **Each such state agency shall submit a report to the department on or before April first of each year.** The report shall:

    a. describe:
    (1) each identified violation, including the year each violation was first reported to the department;

(2) the progress made in remedying any identified violations, and in remedying the violations identified in the previous year's audit and the past problems previously identified in the department's report dated "January 1990" titled "Past Practices Assessment Report";
(3) disbursements to remedy individual violations or past problems made during the previous year and disbursements recommended to be made or made during the current fiscal year; and
(4) the steps being taken to assure future compliance with state laws and regulations, including any new policies developed to address patterns of violations identified by the audit.

b. rank each violation and past problem based on the threat each poses to the public health or the environment, so that each is placed into one of the following classifications:
(1) presents an imminent substantial threat to the public health or the environment;
(2) presents a potential substantial threat to the public health or the environment;
(3) presents a discernible but not substantial threat to the public health or the environment; or
(4) no evidence of discernible threat to the public health or the environment.

c. include a remedial plan for the correction of all existing identified violations and uncorrected past environmental problems previously identified in the "Past Practices Assessment Report". Such remedial plan shall specify:
(1) the actions the agency intends to take to remedy each violation or problem;
(2) an estimate of the costs, if any, of bringing each violation or problem into compliance, and a total cost estimate for remedying all violations and uncorrected past problems; and
(3) a projected time schedule for remedying each violation or problem.

2. In addition to the audit prepared pursuant to subdivision one of this section, each state agency shall report to the department any violation of this chapter, or regulations adopted thereunder, that presents an imminent substantial, potential substantial, or discernible threat to the public health or the environment, which has been committed on agency property by the agency's lessees or other persons and of which the agency has become aware.

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

The report shall include:

a. a summary of the major categories of violations or uncorrected past problems previously identified in the "Past Practices Assessment Report" dated January, nineteen hundred ninety;

b. a description of each violation or uncorrected past environmental problem, including an indication of the year each violation was first reported to the department and an identification of the rank as determined by each agency, pursuant to paragraph (b) of subdivision one of this section, with any reordering of rankings as determined by the department;

c. a description of the progress made in remedying any reported violations or past environmental problems, and in remedying the violations identified in the previous year's audit, and a listing of disbursements to remedy violations or past problems made during the previous year and disbursements recommended to be made or made during the current fiscal year;

d. a description of enforcement efforts which the department has completed to remedy violations noted in the current or previous year's audit report, including whether the department has taken administrative, civil, or criminal enforcement actions;

e. if the department and the agency have entered into a consent decree regarding the violation or problem, the date the violation or problem was first identified by the department; the date the consent decree was signed; the date by which, according to the consent decree, the violation or problem is to be remedied; and if the remedy date has been extended, the date such extension was granted and the revised remedy date;

f. a description of each agency's remedial plan for the correction of all existing identified violations and uncorrected past environmental problems, specifying:
(1) the actions the agency intends to take to remedy each violation or past problem;
(2) the agency's estimate of the costs, if any, of bringing each violation or problem into compliance, and a total estimate for each agency of the costs of remedying all violations and uncorrected past problems; and
(3) the agency's projected time schedule for remedying each violation or past problem;

g. a determination by the department of the adequacy of each agency's proposed remedial plan:
(1) for violations and past problems that pose an imminent substantial threat to the public health or the environment;
(2) for violations and past problems that pose a potential substantial threat to the public health or the environment; or
(3) that the department has been required to review pursuant to subdivision four of this section prior to the disbursement of any appropriation for such purpose.

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

h. a listing of violations committed by lessees or other persons reported by each state agency pursuant to subdivision two of this section, and the actions the department has taken to cause each such violation to be remedied.

i. The department may, at its discretion, include any of the information listed in paragraphs (b) through (h) of this subdivision or any additional appropriate material within appendices to the report.

4. Within its requested budget, each state agency shall set forth in the aggregate all proposed appropriations for the purposes of remedying its violations of the environmental conservation law or regulations adopted thereunder. The amount requested to remedy each functional category of violation as well as project specific information for each functional category of violation shall also be set forth. A priority criterion to be considered in determining such proposed appropriations shall be the ranking of such violations as determined by the agency pursuant to paragraph (b) of subdivision one of this section, with any reordering of rankings as determined by the department.

Amounts appropriated shall be disbursed for remediation of the violation or environmental problem only upon review and determination by the department of the adequacy of the remedial plan for correction of any such violation or environmental problem.

5. As used in this section, the term "state agency" or "agency" shall mean:

   a. each state department;

   b. Division of Military and Naval Affairs, Division of State Police, Division of Housing and Community Renewal, Division for Youth, Office of General Services, Office of Parks, Recreation and Historic Preservation, and State University of New York;

   c. any other division, board, commission, office, or bureau of the state which is required to obtain a permit or approval from the department or which undertakes an activity for which it must register with the department;

   d. Albany Port District Commission, Battery Park City Authority, Capital District Transportation Authority, Central New York Regional Transportation Authority, Dormitory Authority of the State of New York, Facilities Development Corporation, Metropolitan Transportation Authority (including the operations of all of its operating units), New York State Energy Research and Development Authority, New York State Environmental Facilities Corporation, New York State Olympic Regional Development Authority, New York State Thruway Authority, New York State Urban Development Corporation, Niagara Frontier Transportation Authority, Ogdensburg Bridge and Port Authority, Port Authority of New York and New Jersey, Port of Oswego Authority, Power Authority of the State of New York, Rochester-Genesee Regional Transportation Authority; and

   e. any other major agency, public authority or public benefit corporation which performs a state function and which is identified by the commissioner for the purpose of complying with this section.

6. On or before February fifteenth, nineteen hundred ninety-two and thereafter as may be necessary, the department shall develop guidelines for the preparation of environmental audits by state agencies and for the ranking of violations and problems based on the threat each poses to the public health or the environment, pursuant to paragraph (b) of subdivision one of this section.

Section 22 of the State Finance Law states:

14. a. With respect to any proposed appropriations for the purpose of remedying state agency violations or past problems of the environmental conservation law or regulations adopted thereunder within the proposed budget submitted annually by the governor to the legislature shall, set forth the amount recommended to remedy each functional category of violation. A priority criterion to be considered in determining such recommended appropriations shall be the ranking of such violations and past problems as determined by the agency pursuant to paragraph b of subdivision one of section 3-3011 of the environmental conservation law, with any reordering of rankings as determined by the department of environmental conservation. Amounts appropriated shall be disbursed for remediation of the violation or problem only after review and determination by the department of environmental conservation of the adequacy of the remedial plan pursuant to paragraph g of subdivision three of section 3-3011 of the environmental conservation law.

   b. Within thirty days following the submission of the budget by the governor for each fiscal

year, beginning with the nineteen hundred ninety-three -- ninety-four fiscal year, the director of the budget shall transmit to the chairs of the senate finance committee and the assembly ways and means committee a report which includes project specific information for proposed appropriations for the purposes of remedying state agency environmental violations or problems, as identified pursuant to section 3-0311 of the environmental conservation law, contained within such submitted budget.

REFERENCE AND REQUIREMENTS TABLE

Reg No.	Regulation Name	Contact	Telephone Number	Approval Required	Records Required	Reports Required	Other Requirements
AIR RESOURCES							
01	Architectural Coatings	Daniel Brinsko, Air Quality Planning	518-402-8396		None	None	One time report on package code
02	Asbestos Containing Surface Coating Material	Randy Orr, Stationary Sources	518-402-8403		None	None	N/A
03	Perchloroethylene Dry-Cleaning Facilities	Steve Johnson, Permitting/Compliance, Stationary Sources	518-402-8403	UPA Permit & Certificate	None	None	N/A
03A	Pharmaceutical and Cosmetic Manufacturing Processes	Edward Pellegrini, Stationary Sources	518-402-8403	UPA Permit & Certificate	Yes, keep 5 years	If NYSDEC requests	N/A
03B	Synthetic Organic Chemical Manufacturing	Edward Pellegrini, Stationary Sources	518-402-8403	UPA Permit & Certificate	Yes, keep 2 years	Quarterly	Inspection Log & Leak Detection Repair Plan
03C	Consumer Products	Daniel Brinsko, Air Quality Planning	518-402-8396		None	Once every 3 years (see Regulation)	N/A
04	Fuel Composition and Use-Sulfur Limitations	Mike Jennings	518-402-8403		Yes, keep 3 years	None	Fuel analysis, fuel usage & test results if DEC requests
04A	Fuel Composition and Use-Waste Fuel	Ajay Shah-Reg 1 Sam Lieblich-Reg 2 Robert Stanton-Reg 3 Rick Leone-Reg 4 Michael Stawarz-Reg 5 Thomas Morgan-Reg 6 Reginald Parker-Reg 7 Thomas Marriott-Reg 8 Larry Sitzman-Reg 9 Mike Jennings-C.O.	516-444-0205 718-482-4944 914-256-3048 518-357-2045 518-623-3671 315-785-2513 315-426-7552 716-226-2466 716-851-7130 518-402-8403	UPA Permit & Certificate	Yes, keep 3 years	If NYSDEC requests	N/A
04B	Fuel Composition and Use-Gasoline	Kevin McGarry, Air Quality Planning	518-402-8396		Yes, keep 2 years	If NYSDEC requests	N/A
05	Gasoline Dispensing Sites and Transport Vehicles	Bradford Shaw, Stationary Sources	518-402-8403	Registration	Recommend keep 2 years	If NYSDEC requests	N/A
05A	Emissions from Non-Electric or Non-Diesel Motor Vehicles	James Bologna, Enhanced Inspection/Maintenace	518-402-8401	Certificate (sticker)	None	None	N/A
05C	Idling Prohibition for Heavy Duty Vehicles	Joseph Iannotti, Mobile Sources	518-402-8292		None	None	N/A

Reg No.	Regulation Name	Contact	Telephone Number	Approval Required	Records Required	Reports Required	Other Requirements
05D	Emission Standards for Motor Vehicles and Motor Vehicle Engines	Diana Rivenburgh, Mobile Sources	518-402-8292				
05E*	Inspection and Maintenance Program Audits	James Bologna, Enhanced Inspection/Maintenance	518-402-8401				
05F	Heavy Duty Inspection & Maintenance Program	Joseph Iannotti, Mobile Sources	518-402-8292				
06	Permits and Registrations	Matt Reis, Stationary Sources	518-402-8403	UPA Permit & Certificate	None	None	N/A
06A	Emission Statements	Michael Miliani, Air Quality Planning	518-402-8396		Yes, keep 5 years	Annually	N/A
06B	Air Pollution Episode	Mike Cronin, Stationary Sources	518-402-8403	Certificate	None	None	Episode Action Plan
06C	General Process Emission Sources	John Higgins, Stationary Sources	518-402-8403	UPA Permit & Certificate			
07	General Nuisance	Don Spencer	518-402-8404		None	None	N/A
09	Graphic Arts Facilities	Bradford Shaw, Stationary Sources	518-402-8403	UPA Permit & Certificate	Yes, keep 5 years	If NYSDEC requests	N/A
10	Incinerators	Ronald Stannard, Stationary Sources	518-402-8403	UPA Permit & Certificate	Recommend keep 3 years	Quarterly (infectious waste required annually)	Violation report within 24 hours
11	Indirect Source Permits	Denny Escarpeta, Air Quality Planning	518-402-8398	Permit	None	None	N/A
12	New Source Review in Non-Attainment Areas	Ken Newkirk, Stationary Sources	518-402-8403	UPA Permit & Certificate	None	None	N/A
13	Open Burning	Don Spencer	518-402-8404	Permit	None	None	N/A
14	Petroleum & Volatile Organic Liquid Storage and Transfer	Bradford Shaw, Stationary Sources	518-402-8403	UPA Permit & Certificate	Yes	None	N/A
15	Solvent Metal Cleaning Processes	Bradford Shaw, Stationary Sources	518-402-8403	UPA Permit & Certificate	Yes	If NYSDEC requests	N/A
16	Stationary Combustion Installations	Mike Jennings	518-402-8403	UPA Permit & Certificate	Recommend keep 3 years	If NYSDEC requests	N/A

Reg No.	Regulation Name	Contact	Telephone Number	Approval Required	Records Required	Reports Required	Other Requirements
16A	New Source Performance Standards for Small Steam Generating Units	Mike Jennings	518-402-8403		keep 5 years	semi-annual	
17	Surface Coating Processes	Bradford Shaw, Stationary Sources	518-402-8403	UPA Permit & Certificate	Yes, keep 5 years	If NYSDEC requests	Violation report quarterly
FISH, WILDLIFE & MARINE RESOURCES							
18	Destructive Wildlife - Permit to Take	Lou Berchielli	518-402-8869	Permit	Recommend	As required, by permit	N/A
19	State Agency Fishing Permit (Institutional)	Peggy Sauer	518-402-8927	Authorization	Recommend	If NYSDEC requests	N/A
20	Freshwater Wetlands Protection	Patricia Riexinger	518-402-8848	UPA Permit	None	None	N/A
21	Liberation of Fish and Wildlife	Patrick Festa - Fisheries Randall Stumvoll - Wildlife	518-402-8920 518-402-8919	Permit	Recommend	None	N/A
22	Endangered/Threatened Species License	Chris VonSchilgen	518-402-8985	License	Recommend	None	N/A
23	Protection of Waters	J. Douglas Sheppard	518-402-8874	UPA Permit or MOU	None	None	N/A
24	License to Collect or Possess	Chris VonSchilgen	518-402-8985	License	Recommend	If NYSDEC requests	N/A
40	Wild, Scenic and Recreational Rivers Systems	J. Douglas Sheppard	518-402-8874	UPA Permit	None	None	N/A
41	Marine Aquaculture Permits	Kenneth Koetzner	631-444-0477	Permit	Recommend	If NYSDEC requests	N/A
42	Shellfish Management	Kenneth Koetzner	631-444-0430	Permit	Recommend	If NYSDEC requests	N/A
43	Tidal Wetlands	Karen Chytalo	631-444-0430	UPA Permit or Letter	None	None	N/A
LANDS AND FORESTS							
37A	Protected Native Plants	Jason Denham	518-402-9425	Permit or Authorization	None	None	N/A
38	Off Premises Signs	Tom Wolfe	518-402-9428	Permit	None	None	Maintain log
39	Use of State Lands	Tom Wolfe	518-402-9428	Permit	None	None	Maintain log

Reg No.	Regulation Name	Contact	Telephone Number	Approval Required	Records Required	Reports Required	Other Requirements
40A	Prescribed Fire-Prescribed Burn	Tom Wolfe	518-402-9428	Authorization	Recommend	After each burn	Management Plan
MINERAL RESOURCES							
44	Mined Land Reclamation	C. Bruce McGranahan	518-402-8072	UPA Permit	Recommend	None	Mining Plan & Reclamation Plan
45	Oil and Gas Leases on State Lands	John K. Dahl	518-402-8056		Recommend	None	Annual well permits may be required
46	Oil, Gas and Solution Mining Well Drilling	John K. Dahl	518-402-8056	Permit	Recommend	Annually	Annual well permits may be required
ENVIRONMENTAL PERMITS							
48	State Environmental Quality Review Act (SEQR)	Jack Nasca/ Betty Ann Hughes	518-402-9172/9158		Recommend	None	EIS
49	Section 401 Water Quality Certification	John Cole	518-402-9152	UPA Certification	None	None	N/A
SOLID AND HAZARDOUS MATERIALS							
25	Agency Registration to Apply Pesticides	Bob Lazzara	518-402-8748	Registration	Yes	Annually	N/A
25A	Pesticide Product Registration	Samuel Jackling	518-402-8768	Registration	Recommend	None	N/A
25B	Pesticide Handling, Storage, Disposal & Safety	Bob Lazzara	518-402-8748		Recommend	None	N/A
25C	Prior Notification of Pesticide Applications & Posting of Commercial Lawn Application of Pesticides	Bob Lazzara	518-402-8748		Recommend	None	N/A
26	Commercial Pesticide Applicator Certification	Bob Lazzara	518-402-8748	Certification	Recommend	None	N/A
26A	Pesticide Reporting Law	Margaret O'Neil	518-402-8765		Yes	Annually	N/A
27	Aquatic Pesticide Permit	John Wainwright	518-402-8781	Certification	Recommend	None	N/A
28	Waste Transporter Permit: Transporting Regulated Wastes	David Vitale	518-402-8706	UPA Permit	Recommend keep 3 years	Annually	N/A
30	Waste Transporter Permit: Annual Report	David Vitale	518-402-8706		Recommend keep 3 years	Annually	N/A
31	Hazardous Waste Generators	Michelle Ching	518-402-8633		Yes	LQG Annually	Exception Reports

Reg No.	Regulation Name	Contact	Telephone Number	Approval Required	Records Required	Reports Required	Other Requirements
31A	Hazardous Waste Special Assessments	Wallace Krawitzky	518-402-8629		Yes	None	Quarterly Fee
32	Hazardous Waste Generator Annual Report Requirements	Ernie Robbins	518-402-8730		Hazard. Waste	Annually	Maintain manifests
33	Hazardous Waste Manifesting Program	Richard Hammond	518-402-8738		Yes	None	Manifest document required 3 years
34	Hazardous Waste Management Facility - Permits	James Dolen Larry Nadler	518-402-8610 518-402-8633	UPA Permit	As permit requires	As permit requires	N/A
35	Control of Radioactive Materials	Sandra Hinkel	518-402-8579	Permit	Yes	Annually	Required on notice by NYSDEC
36	Low Level Radioactive Waste Transporter Permit & Manifest System	John Zeh	518-402-8579	Permit	Yes	Annually	Emergency level notification
36A	Waste Transporter Permits: Regulated Medical Waste	Anthony Cava-Reg 1 Ken Brezner-Reg 2 Paul John-Reg 3 Dick Forgea-Reg 4 Dan Steenberge-Reg 5 John Kenna-Reg 6 Larry Gross-Reg 7 Dixon Rollins-Reg 8 Mark Hans or Jim Strickland-Reg 9 David Vitale and Alan Woodard-Central Office	516-444-0375 718-482-4900 914-256-3000 518-357-2234 518-897-1200 315-785-2238 315-426-7400 716-226-2466 716-851-7000 518-402-8706	Registration	Yes (7 years)	Quarterly & Annually	N/A
50A	Landfills	Robert Phaneuf	518-402-8694	UPA Permit	Yes	Quarterly & annually	N/A
50B	Construction and Demolition Debris Landfills	Gerard Wagner	518-402-8694	UPA Permit or Registration	Yes	Quarterly & annually	N/A
50C	Long Island Landfills	Robert Phaneuf	518-402-8694	UPA Permit	Yes	Quarterly & annually	N/A
50D	Landfill Gas Recovery Facility	Robert Phaneuf	518-402-8694	UPA Permit	Yes	Quarterly & annually	N/A
50E	Transfer Stations	Anthony Cava-Reg 1 Daniel Walsh-Reg 2 Paul John-Reg 3 Thomas Cullen-Reg 4 Dan Steenberge-Reg 5 John Kenna-Reg 6 Larry Gross-Reg 7 Daniel David-Reg 8 Mark Hans-Reg 9	516-444-0375 718-482-4996 914-256-3137 518-357-2246 518-897-1241 315-785-2515 315-426-7419 716-226-2466 716-851-7220	UPA Permit or Registration	Yes	Annually	N/A

Reg No.	Regulation Name	Contact	Telephone Number	Approval Required	Records Required	Reports Required	Other Requirements
50F	Recyclables Handling and Recovery Facilities	Dave Vitale	518-402-8706	Registration	Yes	Quarterly & annually	N/A
50G	Land Application Facilities	Sally Rowland	518-402-8678	UPA Permit	Yes	Annually	N/A
50H	Composting Facilities	Sally Rowland	518-402-8678	UPA Permit	Yes	Annually	N/A
50J	Waste Tire Storage Facilities	Chris Glander	518-402-8706	UPA Permit or Registration	Yes	Quarterly & annually	Contingency Plan and O&M Manual
50K	Liquid Storage Facilities	Robert Phaneuf	518-402-8694	UPA Permit	Yes	Quarterly & annually	N/A
50L	Used Oil Management	David O'Brien	518-402-8633	UPA Permit or Registration	Yes	Quarterly & annually	Contingency Plan & Closure Plan
50M	Solid Waste Incinerators and Refuse-Derived Fuel Processing Facilities	Ted Williams	518-402-8693	UPA Permit or Registration	Yes	Quarterly & annually	O&M Manual
50N	Regulated Medical Waste Treatment, Transfer & Storage Facilities	Alan Woodard	518-402-8693	UPA Permit	Recommend	Quarterly & annually	Operation Plan
50P	Construction & Demolition Debris Processing Facilities	Ed Dassatti	518-402-8660	UPA Permit or Registration	Yes	Annually	Contingency Plan and O&M Manual (Tracking document - not kept by Department)
70	Hazardous Waste Reduction	Larry Nadler	518-402-8633		Yes	Annual status & biennial updates	N/A
71	Solid Waste Reduction	Peter Pettit	518-402-8705		Recommend	None	N/A
72	Universal Waste Rule	Mark Moroukian	518-402-8633		Yes	None	N/A
WATER							
52	Coastal Erosion Management	William Daley	518-402-8140	UPA Permit	None	Annually	Local municipality must submit annual report
53	Construction & Repair of Dams & Impoundment Structures	Michael Stankiewicz	518-402-8127	UPA Permit	None	None	N/A
53A	Public Safety Inspection of Dams & Impoundment Structures	Michael Stankiewicz	518-402-8127		None	None	N/A
54	Flood Plain Management	Bill Nechamen	518-402-8146		None	None	N/A
54A	Use of Flood Control Lands	Steve Len	518-402-8142	Permit	None	None	N/A
54B	Operation of a Snowmobile or Motor Vehicle on Flood Control Lands	Steve Len	518-402-8142	Permit	None	None	N/A

Reg No.	Regulation Name	Contact	Telephone Number	Approval Required	Records Required	Reports Required	Other Requirements
54C	Flood Control Lands - Usage Fees	Steve Len	518-402-8142	Permit	None	None	Fees for permit
54D*	Operation and Maintenance of Flood Protection Projects	Steve Len	518-402-8142	None	None	None	N/A
55	Long Island Wells	Bill Spitz	516-444-0405	UPA Permit	Recommend	As permit specifies	N/A
57	Public Water Supply	Mike Holt	518-402-8099	UPA Permit	Recommend	As permit specifies	N/A
58	Wastewater Discharge State Pollutant Discharge Elimination System (SPDES) Permits	Warren Lavery	518-402-8110	UPA Permit	Yes	Annually as specified by SPDES	N/A
58B	Storm Water General State Pollutant Discharge Elimination System (SPDES) Permits	Kenneth Stevens Warren T. Lavery	518-402-8098 518-402-8110	UPA Permit	Recommend	Annually as specified by SPDES	N/A
58C	SPDES Discharge Notification at Sign Posting and Public Notification	Robert Schneck-Reg 1 Tom Lang-Reg 2 Cesare Manfredi-Reg 3 Fred Sievers-Reg 4 Bill Wasilauski-Reg 5 Clarence Shoemaker-Reg 6 Steve Eidt-Reg 7 Tom Pearson-Reg 8 Peter Buechi-Reg 9 Bill Mirabile	631-444-0405 718-482-4930 914-332-1835 518-357-2045 518-623-3671 315-793-2554 315-426-7500 716-226-2466 716-851-7220 518-402-8122				
58D	General SPDES Permit - No. GP-99-01 for Concentrated Animal Feeding Operations (CAFOs)	Joe DiMura	518-402-8117	Permit			
59	Wastewater Treatment Plant Operator Certification	Phil Smith	518-402-8092	Certification	Training record	None	N/A
60	Great Lakes Water Withdrawal Registration	Mike Holt	518-402-8099	Registration	Recommend	None	Registration fee: agricult-annually and others-biannually
ENVIRONMENTAL REMEDIATION							
51	Chemical Bulk Storage	Morris Leno	518-402-9549	Registration	Yes	Yes	Self Inspection Records
51A	Chemical & Hazardous Substance Spills	Morris Leno	518-402-9549		Recommend	After each incident	
51C	Chemical Bulk Storage Fee	Ed Califano	518-402-9549		Recommend	None	Biennial fee
56	Petroleum Bulk Storage	Morris Leno	518-402-9549	Registration	Yes	Yes	Self Inspection Records

Reg No.	Regulation Name	Contact	Telephone Number	Approval Required	Records Required	Reports Required	Other Requirements
56A	Oil & Petroleum Spills	Matt Darcangelo Spill Hotline	518-402-9546 1-800-457-7362		Recommend	After each incident	N/A
56B	Major Onshore Petroleum Facility	Ed Califano Spill Hotline	518-402-9549 1-800-457-7362	License or Certification	Yes	If NYSDEC requests	Contingency Plan; Monthly tax
56C	Petroleum Bulk Storage Fee	Morris Leno	518-402-9549		Recommend	None	Fee every five years
REGULATORY FEES							
08A	Air Quality Control Program Fees	Bonnie M. DeCerce, Revenue Accounting	518-402-9343		Recommend	None	Annual fee
08B	Operating Permit Program Fees for Stationary Air Contamination Sources	CathyJo Rogers	518-402-8451		Recommend	None	Annual fee
29	Waste Transporter Permit: Regulatory Fees	Bonnie M. DeCerce, Revenue Accounting; Household Hazardous Waste Information Hotline; Waste Transporter Permit Information: Barbara Emerick, Division of Solid & Hazardous Materials	518-402-9343 1-800-462-6553 518-402-8705		Recommend	None	Annual fee
31B	Hazardous Waste Generator: Regulatory Fees	Bonnie M. DeCerce, Revenue Accounting	518-402-9343		Recommend	None	Annual fee
34A	Hazardous Waste Management Facility: Regulatory Fee	Bonnie M. DeCerce, Revenue Accounting	518-402-9343		Yes	None	Annual fee
44A	Mined Land Reclamation: Program Fee	Bonnie M. DeCerce, Revenue Accounting	518-402-9343		Recommend	None	Annual fee
58A	Wastewater Discharge (SPDES) Regulatory Fee	Bonnie M. DeCerce, Revenue Accounting	518-402-9343		Recommend	None	Annual fee

* This Regulation applies to the New York State Department of Environmental Conservation Only.

WHAT SHOULD BE IN EACH AGENCY'S ANNUAL REPORT?

1. An assessment of each facility, project (contract), or operation indicating compliance and/or non-compliance with all NYSDEC laws and regulations.

2. A description of each instance of non-compliance, corresponding remedial plan and cost estimate for correction - **new violations and those identified in the previous year's report.**

3. A report of each known discernible violation committed by a third party or lessee on State agency property, or by any party contracted by a State agency.

THE AUDIT PROCESS

1. The audit process is conducted to see if each of the agency's facilities, projects (contracts) and/or operations (fpos) are in compliance with environmental laws/regulations by answering questions in the manual, completing and submitting the appropriate forms as indicated below.

STEP 1: Read the definitions in this section of the manual. If agency is "subject to audit", complete the "State Agency Facility Checklist" for each fpo. Agencies without arrangements to receive/submit data electronically, will receive a computer generated "State Agency Facility Checklist" containing identifying information for each fpo submitted the previous year. **The "State Agency Facility Checklist" is to be completed and submitted for the 2003 Environmental Audit.** A "State Agency Facility Checklist" form, that may be photocopied, is provided in the manual for reporting fpos that should be listed but are not.

STEP 2: For each fpo "subject to regulation", answer the screening questions to see if any environmental regulations apply. This screening process identifies and directs you to the appropriate regulations and additional questions.

STEP 3: If an fpo is in non-compliance (violation) of one or more environmental regulations, a "Non-Compliance Report & Remedial Plan" form is to be completed and submitted for the 2003 Environmental Audit for:

   a. each violation identified as non-compliant as of March 31, 2002 (in the previous audit); and

   b. each new instance of non-compliance (including those identified and corrected) during the 2003 reporting period (4/01/02-3/31/03).

A "Non-Compliance Report & Remedial Plan" form, that may be photocopied, and specific instructions for completing this form, can be found in this section of the manual.

When there are similar violations at many different fpos, one remedial plan covering the violations may be submitted. However, be sure to specify which fpos are covered by such a remedial plan, and whether the cost estimates are total, or per fpo, costs.

2. A "Third-Party Violation" form is to be completed and submitted for each known discernible violation committed by an agency's lessee or by a known or unknown third party. This form can be found at the end of this section.

3. All "State Agency Facility Checklist", "Non-Compliance Report & Remedial Plan", "Third-Party Violation" and "Compliance Status Report" forms used must be returned to **YOUR** agency's environmental audit contact person, who will review them and submit all but the "Compliance Status Report" forms to the NYSDEC.

   Do **NOT** return the "Compliance Status Report" forms to the NYSDEC. These are to aid those performing the audit and should be kept by each agency's environmental audit contact person.

4. **This information MUST be submitted to the NYSDEC for the audit to be considered complete:**

   a. the revised computer generated "State Agency Facility Checklist", or an electronic update of facility information;

   b. "State Agency Facility Checklist" form(s) for fpo(s) not reported in the previous audit which should be reported in this audit, or an electronic update including these facilities;

   c. all "Non-Compliance Report & Remedial Plan" forms, paper or electronic;

   d. all "Third-Party Violation" forms, paper or electronic; and

   e. a transmittal letter signed by the agency's Commissioner or Executive Director or designee, containing **ALL** of the following (see "Sample Transmittal Letter Draft" on next page):
      (1) the number of fpos reporting (**Note:** If the reporting agency does not own or operate any facility, project or operation subject to the 114 regulatory programs identified by the NYSDEC, please state so in the transmittal letter.);
      (2) the number of new fpos (not reported in the 2002 State Agency Environmental Audit);
      (3) the number of "Third-Party Violation" forms being submitted;
      (4) the total number of on-going third-party violations as of March 31st, 2003;
      (5) an estimate of the future cost to bring violations (excluding third-party), into compliance;
      (6) the number of uncorrected violations (excluding third-party) as of March 31st, 2003; and
      (7) the steps being taken to assure future compliance, including any new policies developed to address patterns of violations identified by the audit.

SAMPLE TRANSMITTAL LETTER DRAFT

State Agency Environmental Audit
NYSDEC
625 Broadway
Albany, NY 12233-5250

An audit was performed at our __(1)__ facilities, projects (contracts), and operations, for the period of April 1, 2002 thru March 31, 2003. Of these, __(2)__ is/are newly reported, (not reported in the 2002 State Agency Environmental Audit).

Enclosed, are all required "State Agency Facility Checklist", "Non-Compliance Report & Remedial Plan", and _(3)_ "Third-Party Violation" forms, of _(4)_ third-party violations. It is estimated a total future cost of $_____(5)_____ will be required to bring the _(6)_ uncorrected violation(s) into compliance.

The following steps are being taken to assure future compliance: _(7)_____
_____
_____
_____
_____
_____

Sincerely,

Commissioner, Executive Director or designee

WHAT FORMS ARE COMPLETED FOR FACILITIES, PROJECTS (CONTRACTS), OR OPERATIONS (FPOs), "SUBJECT TO AUDIT"?

Each fpo “subject to audit” must be listed on a "State Agency Facility Checklist”. This includes each fpo "Subject to Regulation" or "Not Subject to Regulation" (see definitions). For those agencies that have not made arrangements to receive and/or submit their data electronically, the NYSDEC will provide a computer generated "State Agency Facility Checklist” identifying each fpo submitted for the 2002 environmental audit. A blank "State Agency Facility Checklist” form (included in this section of the manual) should be used for fpos not reported in 2002, but required to report for 2003.

A "Compliance Status Report” (form included in this section of the manual) assists those performing the audit, allowing the audit to be performed in a systematic fashion using this manual. Using it, is up to the State Agency Environmental Audit Coordinator. The information obtained should be summarized by the State Agency Environmental Audit Coordinator and put on the "State Agency Facility Checklist” form.

A separate "Non-Compliance Report & Remedial Plan” (form included in this section of the manual), must be completed for each instance of non-compliance (new or existing/continuing violation) occurring during the reporting period at each fpo, even if the fpo is now in total compliance or no longer subject to regulation.

A "Third-Party Violation” form (included in this section of the manual) is required to be completed for each known discernible violation committed by an agency's lessee or a known or unknown third party.

HOW IS THE “STATE AGENCY FACILITY CHECKLIST” COMPLETED?

The NYSDEC provides a computer generated "State Agency Facility Checklist” containing the facility, project (contract), or operation (fpo), identification information for each fpo as submitted in 2002. FPOs not reported in 2002, but "Subject to Audit" during the 2003 audit reporting period, should be submitted on a "State Agency Facility Checklist” form (included in this section of the manual). Complete as follows:

1. For the computer generated "State Agency Facility Checklist”, review the identifying information, then edit the second column, “**Reporting Agency’s Facility, Project or Operation (FPO), Identification Information**”, as necessary, without altering the **NYSDEC PPU #** in the first column.

   For newly reported fpo(s):

a. on a blank "State Agency Facility Checklist” form, provide the name of the reporting **agency** at the top of the table;

b. provide the **NYSDEC PPU #** in the first column if it has already been assigned by the NYSDEC, or leave this column blank to be completed by the NYSDEC (NYSDEC PPU #s can be obtained by contacting environmental audit staff at (518) 402-9469;

c. provide any identification number the reporting agency uses for the fpo, next to “**Agency #**” in the second column, “**Reporting Agency’s Facility, Project or Operation (FPO), Identification Information**”, for cross-reference;

d. determine whether a **facility, project** (contract) or **operation** and circle appropriate designation;

e. identify any reporting **agency division** or **region** the fpo is located within;

f. provide the **name** of the fpo;

g. provide the **physical address** of the fpo;

h. circle whether the fpo is located in a **city, town** or **village**, and give the municipality name;

i. provide the name of the **county**, **state** and the **zip code** where the fpo is located;

j. determine which **NYSDEC region** the fpo is located in (see map in this section of the manual) and circle it;

k. provide a complete **mailing address**, if at all different from the physical address supplied; and

l. if contract(s) involved, provide the **contract** number(s) and the name of **contractor**(s).

2. The remainder of the instructions are the same for the computer generated "State Agency Facility Checklist" and newly reported fpos.

   If the fpo is in **total compliance (TC)**, with **ALL** applicable regulations check "**TC**" in the third column, "**Compliance Status**".

   If the fpo has any instance(s) of **non-compliance (NC)**, during this reporting period, check "**NC**".

   If the fpo had any instance(s) of **non-compliance** corrected in the reporting year, check "**NC**". If the facility is in **total compliance** as of March 31st, 2003, also check "**TC**".

   If **not applicable (NA)**, because the fpo is "Not Subject to Regulation" (see definition) check "**NA**".

3. In the fourth column, "**Total of Ranks**", list regulation number(s) and the number of instances of non-compliance for each regulation next to the violation **rank** designated as of March 31st, 2003.

4. In the fifth column, "**FPO Status**", check "**Active**" UNLESS the fpo is no longer "Subject to Audit", because it has been **sold**, **transferred**, **completed**, **closed**, or **discontinued**. Provide the **date** the fpo was sold, transferred, completed, closed, or discontinued, and if **sold** or **transferred**, identify **to** whom it was sold or transferred. If any non-compliance instance(s) occurred before the fpo was sold, transferred, completed, closed, or discontinued, a "Non-Compliance Report & Remedial Plan" is required for each instance.

HOW/WHY IS THE "COMPLIANCE STATUS REPORT" FORM COMPLETED?

A "Compliance Status Report" form is included in this section of the manual to assist those performing the audit. It allows the audit to be performed in a systematic fashion using this manual. The information obtained should be summarized by the reporting agency's State Agency Environmental Audit Coordinator on the "State Agency Facility Checklist".

1. Enter the reporting **agency name** where appropriate;

2. Circle **facility, project or operation (fpo)**;

3. Provide **fpo name**;

4. Supply complete **physical address**, including **municipality** and circle **city, town or village**, a map of the NYSDEC regions is included in this section of the manual;

5. Provide complete **mailing address**, if at all different from physical address;

6. Enter the **NYSDEC PPU#** assigned to the fpo by the NYSDEC PPU;

7. Give the identification **#**(s) of any **contract**(s) involved;

8. If the fpo is subject to the regulatory program, insert “C”, "N1", "N2", "N3" or “N4" in the appropriate regulation’s rank box, as instructed by the questions preceding that regulation (see “Ranks” in “Definitions”);

9. If the necessary NYSDEC approval has been obtained for a regulation, check (√) the appropriate regulation’s “Approval” box, if necessary approval was not obtained and the fpo is not exempt from requiring approval, insert appropriate non-compliance rank in appropriate regulation’s rank box and leave “Approval” box blank;

10. Provide the **name** and **title of** the **person completing** this **form**;

11. **Sign** and **date** the form;

12. Submit completed **Compliance Status Reports** to the reporting agency’s State Agency Environmental Audit Coordinator, Compliance Status Reports should be reviewed and summarized by the reporting agency’s State Agency Environmental Audit Coordinator on the "State Agency Facility Checklist”.

Note: Do not submit Compliance Status Reports to the NYSDEC.

HOW IS THE “NON-COMPLIANCE REPORT & REMEDIAL PLAN” FORM COMPLETED?

For each instance of non-compliance at any time during the 2003 audit reporting period of April 1, 2002 through March 31, 2003, a separate "Non-Compliance Report & Remedial Plan” form (included in this section of the manual) must be completed and submitted to the NYSDEC. In the appropriate areas, type or print the following:

1. the **NYSDEC PPU #**, assigned by the NYSDEC PPU, this number can be found in the first column of the reporting agency’s "State Agency Facility Checklist” next to the appropriate facility, project or operation (fpo), UNLESS the fpo is new to the checklist, in which case this number will have to be assigned by the PPU;

2. the **regulation #**, the number (sometimes including a letter), of the regulation (according to this manual), violated, causing the non-compliance issue;

3. the **instance #**, the number of the occurrence of a different violation of the same regulation at the same fpo ever, example: third different violation of regulation 16 over the course of four audit periods at the same fpo would be instance # 3;

4. the **initial rank**, rank the reporting agency gave the violation when it occurred (see “Priority Ranking Table”);

5. the **final rank**, rank the reporting agency gave the violation as of March 31, 2003 (see

"Priority Ranking Table"), example: "C" if compliant as of 3/31/03;

6. the **agency name**, name of the reporting agency;

7. whether a **facility, project** (contract) **or operation**;

8. the **fpo status**: active, sold, transferred, completed, closed or discontinued;

9. the **status date**, date (year/month/day) fpo was sold, transferred, completed, closed or discontinued, leave blank if "active";

10. the **agency #**, reporting agency's own identification number for the fpo;

11. the **fpo name**, name of the fpo where the violation occurred;

12. the **agency division/region**, reporting agency's division or region the fpo (where the violation occurred) is located within;

13. the **physical address** of the fpo where the violation occurred;

14. the **municipality**, circle "city", "town" or "village", based on where the violation occurred, and provide it's name;

15. the **county**, name of the county where the violation occurred;

16. the **state**, name the state where the violation occurred;

17. the **zip code**, provide the zip code of the non-compliant fpo's physical address;

18. the **NYSDEC region**, the number (1-9) of the region of the NYSDEC where the violation occurred (see "Regional Map of the New York State Department of Environmental Conservation" in this section of the manual);

19. the **mailing address** for the fpo where the violation occurred, supply **city**, **state** and **zip code** on next line where appropriate;

20. the **contract #**, identification number of any contract involved with the violation;

21. the **contractor's name**, name of contractor whose contract is involved with the violation;

22. the **contractor's address**, address of contractor whose contract is involved with the violation;

23. the **regulation name**, name of the regulation (according to this manual) violated, resulting in the non-compliance;

24. the **date and detail**s **of** the **violation** as it occurred;

25. the **year** the **violation** was **first reported in** the **audit**, should be latter year of the reporting period, not necessarily the year the violation occurred in;

26. if not compliant, the **projected compliance date**, date the violation is expected to be completely remediated;

27. **if** the projected compliance **date is different than previously reported, state why** it changed;

28. the **future cost**, expenditures from April 1, 2003 on, to completely remediate the violation;

29. **if** the future **cost has changed** from that previously reported**, state why** it changed;

30. the **funding source,** where the money to pay for remediating the violation is budgeted from;

31. the **cost this reporting year**, expenditures from 4/1/02 through 3/31/03 to remediate the violation;

32. the **total cost to date**, expenditures to remediate the violation from the occurrence of the violation through 3/31/03;

33. if now in **compliance** ("Final Rank" on top of form is "C"), the specific **date** compliance was achieved;

34. **if not compliant**, whether or not the reporting agency **budget**ed **for remedial costs** of the violation, and **how much** was budgeted for the violation for the reporting period of April 1, 2003 through March 31, 2004;

35. **where in the budget** for the reporting period of April 1, 2003 through March 31, 2004, the violation's remedial costs are planned to be paid from (e.g. category, line number, etc.);

36. the header information for page two, as instructed in steps 1., 11., 2. and 5. above;

37. **everything that has been done to correct violation, from occurrence through March 31, 2003**, include specific activities, dates and costs;

38. **everything to be done to correct violation after March 31, 2003**, include specific activities to be undertaken, time schedules, costs and funding details - simply stating intent to correct the violation, or funding problems, is not acceptable;

39. where applicable, **schedule of compliance dates**, the dates **on** which, **or before** which, each listed activity was accomplished;

40. the **appropriate answers** concerning **any enforcement action NYSDEC is taking or has taken** relevant to the violation, including whether **that action has been completed**, any **consent order** identification number and **date** of enforcement action;

41. **other requirement(s) or comment(s)**, any other information regarding the violation, including date(s) and description(s) of any other requirement(s);

42. **other NYSDEC and/or EPA identifier #(s)**, any other number(s) assigned to the violation (petroleum/chemical bulk storage, SPDES, Air Permit, Superfund, Spill, RCRA #, etc.); and

43. the name**, title, telephone number** and **e-mail** address of the **person completing form**.

HOW IS THE "THIRD-PARTY VIOLATION" FORM COMPLETED?

For each known violation committed by an agency's lessee or by a(n) (un)known third party, a "Third-Party Violation" form (included in this section of the manual), must be completed and submitted. There is no requirement to audit reporting agency lessees or other third parties, however, the law requires knowledge of a violation that would be ranked 1, 2 or 3 in the priority ranking system (see "Priority Ranking Table"), be reported to NYSDEC. Type or print the appropriate information following the numbered instructions for completing the "Non-Compliance Report & Remedial Plan" form above, EXCEPT for 20., 21. and 22. Skip 20., and replace 21. and 22. with:

21. the **third party**'s name, name of third party involved with the violation;

22. the **third party's address**, complete address of third party;

Continue following the numbered instructions 23. through 43. for the "Non-Compliance Report & Remedial Plan" form above to complete the "Third-Party Violation" form.

MORE INFORMATION

For additional information concerning the State Agency Environmental Audit, please contact your State Agency's Environmental Audit Coordinator. If (s)he is unable to provide the information desired, (s)he may contact NYSDEC's State Agency Environmental Audit staff in the Pollution Prevention Unit at (518) 402-9469.

The State Agency Environmental Audit Guidance Manual is available on-line, as are the Annual Reports starting with 1997 at http://www.dec.state.ny.us/website/ppu/p2audit.html. Take notice of the year of the guidance manual, currently only the outdated 2002 version is posted. When the 2003 guidance manual for this reporting cycle is available on-line it will replace the older version.

Please do not contact any of the NYSDEC's Regional Office staff for information concerning the requirements of the environmental audit program. The Central Office staff listed should be contacted for information regarding applicability of regulations. Regional Office staff should be contacted directly **only** for additional information on individual reviews of non-compliance reports, or, if directed by Central Office staff.

IMPORTANT NOTE:

All "Compliance Status Report" forms (if used), "State Agency Facility Checklist" forms, "Non-Compliance Report & Remedial Plan" forms, and "Third-Party Violation" forms are to be returned to **your** State Agency's Environmental Audit Coordinator for review. Your State Agency's Environmental Audit Coordinator then submits all **except** any "Compliance Status Report" forms to the NYSDEC.

DEFINITIONS

For the purpose of the State Agency Environmental Audit:

Agency - means:

1. each State department;

2. Division of Military and Naval Affairs; Division of State Police; Division of Housing and Community Renewal; Office of Children and Family Services; Office of General Services; Office of Parks,

Recreation and Historic Preservation; and State University of New York;

3. any other division, board, commission, office, or bureau of the State which is required to obtain a permit or approval from the NYSDEC or which undertakes an activity for which it must register with the NYSDEC;

4. Albany Port District Commission; Battery Park City Authority; Capital District Transportation Authority; Central New York Regional Transportation Authority; Dormitory Authority of the State of New York; Facilities Development Corporation; Metropolitan Transportation Authority (including the operations of all of its operating units), New York State Energy Research and Development Authority; New York State Environmental Facilities Corporation, New York State Olympic Regional Development Authority; New York State Thruway Authority; Empire State Development Corporation (including New York State Department of Economic Development); Niagara Frontier Transportation Authority; Ogdensburg Bridge and Port Authority; Port Authority of New York and New Jersey; Port of Oswego Authority; New York Power Authority; Rochester-Genesee Regional Transportation Authority; and

5. any other major agency, public authority or public benefit corporation which performs a State function and which is identified by the Commissioner of the NYSDEC for the purpose of complying with the State Agency Environmental Audit law.

Facility - means all physical facilities owned, operated or maintained by an agency, including, but not limited to, the fixed assets as listed in the OGS Fixed Asset Building Inventory and Land Improvements Verification Listing, and offices located in buildings owned and operated by parties other than State agencies (including offices located in State office buildings). This means:

1. several buildings on geographically contiguous property, and the property, are considered one facility (for highway, railroad, or canal rights-of-way see "Project (contract)" and "Operation");
2. a building located at a site or property not geographically contiguous with the property of the parent facility is considered a separate facility;
3. if the agency owns the facility and leases it to another State agency or to a party other than a State agency, but remains responsible for operating and/or maintaining any part of the facility or it's equipment (i.e., operating, servicing, repairing, replacing, etc. boilers, petroleum storage tanks, vents, structures, etc.), the agency must report the compliance status of such operation and maintenance activities in the agency's environmental audit report;
4. if lessee is another State agency and under the lease agreement, lessee has the responsibility for the complete operation and/or maintenance of the facility, including any operating, servicing, repairing, or replacing, etc. of any structures, equipment, appurtenances, etc., the lessee must report the compliance status in it's agency's environmental audit report. However, the lessor must report the facility as "Not Subject to Regulation.";
5. if lessee is another State agency and under the lease agreement, lessee has the responsibility for only partial operation and/or maintenance of the facility, including any operating, servicing, repairing, or replacing, etc. of any structures, equipment, appurtenances, etc., the lessee must report the compliance status for it's portion of the operation and/or maintenance in it's agency's environmental audit report, and the lessor must report the compliance status for it's portion of the operation and/or maintenance in it's agency's environmental audit report;
6. if lessee is another State agency and under the lease agreement has no responsibility for any part of the operation and/or maintenance of the facility, lessee is required to report the facility as "Not Subject to Regulation." Compliance status must be reported by the lessor agency.; and
7. if lessee is other than a State agency, there is no requirement the lessee report compliance status, however, the lessor must report any known discernible violations committed by lessee (third-party violations), as well as audit the agency's own activities and operations at the facility.

Additionally, infra-structure areas such as: dams, highway rest areas (including roadside picnic areas),

parkway and/or thruway toll plazas, railroad stations, switch towers, canal locks, etc., are each considered separate facilities. Areas such as campgrounds, boat launching sites, fishermen parking or access areas, fire and/or radio communication towers, etc., that are not part of a park, an environmental multi-use area, or a wildlife preserve, etc., are also each considered separate facilities (a State park, environmental multi-use area, and wildlife preserve, etc. are each considered a separate facility).

Non-Compliance - includes:

1. violation of the Environmental Conservation Law and/or regulations;
2. conducting activities without required permits, certifications, approvals, etc.;
3. any violation of a permit, certification, approval, or regulatory standard, or exceedance of an ambient air or water standard; or
4. violation of requirements of an administrative order, either on consent or after a hearing, or a judicial order.

Not Subject to Regulation - facility, project (contract) or operation (fpo), activities do not require the reporting agency to meet the requirements of any part of the Environmental Conservation Law or any of the NYSDEC's regulations. Place a check next to "NA" in the "Compliance Status" column of the "State Agency Facility Checklist" next to the appropriate fpo.

NYSDEC - The New York State Department of Environmental Conservation.

NYSDEC Approval - a permit, certification, license, authorization, registration, and/or memo of understanding from the NYSDEC the facility, project or operation is required to obtain.

NYSDEC PPU # - The NYSDEC Pollution Prevention Unit (PPU), five digit identification number assigned to a facility, project or an operation for the State Agency Environmental Audit.

Operation - means activities undertaken by an agency (bridge painting and/or repair; vegetation and/or pest control on rights-of-way, property or in buildings; fish stocking; lumbering on state-owned land; etc.). Activities involving pesticide application, solid waste removal, etc. along highway, railroad, canal or electric power transmission rights-of-way or easements, etc. should be considered on a county-wide basis, (e.g., maintenance of all highways or railroad tracks in one county under the jurisdiction of one agency is one operation). Buildings and structures (railroad stations, switch towers, signal towers, etc.) located in the right-of-way may be considered part of the operation of the right-of-way, so long as NYSDEC approval is not required for an activity at the specific building or structure. A highway rest area essentially only a parking area without building(s) or structure(s) is part of the right-of-way, so long as NYSDEC approval is not required for an activity at that rest area, but a rest or service area with one or more building(s) or structure(s) (i.e. public comfort facility, gasoline dispensing station, restaurant, etc.) is considered a separate facility. Trails (hiking, ski, bicycle, etc.) that are not part of a park, environmental multi-use area, or wildlife preserve, etc., are each considered a separate operation.

If an operation is part of a facility, report only the facility on the "State Agency Facility Checklist". If an operation is not part of a facility, is a limited time activity (i.e. less than two years), and is in total compliance, it is not necessary to report it. A non-compliant operation must be reported, as well as each instance of non-compliance.

Operations conducted by other parties, where involvement of the agency is limited solely to issuance of permits and/or financing, are not considered subject to audit. However, an activity conducted by a contractor hired by the agency and over whom the agency exercises, or is required to exercise, direct oversight, must be audited.

Priority Ranking System: The law requires each violation be ranked according to the threat it poses to the public health and/or the environment. The ranks are from 1 to 4, 1 being the greatest threat and 4

constituting no discernible threat. When determining the degree of threat a violation poses to the public health and the environment, many factors must be considered. These factors include environmental setting; potential resources or populations at risk; geography; type, age and construction of facility, project or operation (fpo); toxicity of substances used or stored at fpo; type and magnitude of violation; and the number of related violations at fpo. For example, failure to test an underground storage tank could be ranked “1" or “2" if a bare steel tank, 40 years old and located adjacent to private water supply wells. The same violation could be ranked “3" or “4" if a newer vintage tank, made of fiberglass and in a different location.

When completing the “Non-Compliance Report & Remedial Plan” form, indicate the violation rank(s). An explanation justifying rank should include a discussion of the factors that led to rank selection. This explanation can be provided within the description of the violation. Rank 4, "no evidence of discernible threat", does not include violations for which there is no information regarding the nature of the threat posed. Only violations an agency objectively knows pose no threat to the environment or public health should be ranked “4". Violations for which no evidence is available should be ranked “1", “2" or “3", depending upon the violation and surrounding circumstances, until information justifying a different rank is available. Since NYSDEC must review the rankings of all agencies, rank justification is important in determining the appropriateness of an agency's ranking(s) (see “Priority Ranking Table”).

Project (contract) - means an activity directly undertaken by an agency (including contracts with other parties), if such activity includes construction, re-construction, modification, rehabilitation, restoration, or similar activities (i.e., forest restoration; highway construction and/or major maintenance projects; major road or track repair; major building or grounds modification, repair, rehabilitation or restoration; etc.). If a project is part of a facility, report only the facility on the “State Agency Facility Checklist”. If the project is not part of a facility, is a limited time activity (i.e. less than two years), and is in total compliance, it is not necessary to report it. A non-compliant project must be reported, as well as each instance of non-compliance.

Projects conducted by other parties, where involvement of the agency is limited solely to issuance of permits and/or financing, are not considered subject to audit. Similarly, contracts for services such as computer, copier, or other office equipment maintenance, etc. are not considered subject to audit. However, State functions or responsibilities conducted by a contractor hired by the agency and over whom the agency exercises, or is required to exercise, direct oversight are subject to audit.

Ranks - (see also “Priority Ranking System”)

"C" means the facility, project (contract), or operation is in compliance;
"N1" means the facility, project (contract), or operation is in non-compliance with a regulation and the rank of the violation is "1";
"N2" means the facility, project (contract), or operation is in non-compliance with a regulation and the rank of the violation is "2";
"N3" means the facility, project (contract), or operation is in non-compliance with a regulation and the rank of the violation is "3"; and
"N4" means the facility, project (contract), or operation is in non-compliance with a regulation and the rank of the violation is "4".

State Agency - see “Agency”.

Subject to Audit - facilities, projects (contracts) and/or operations of State agencies required to perform the State Agency Environmental Audit to determine if each met the requirements of the Environmental Conservation Law Section 3-0311.

Subject to Regulation - activity at a State agency facility, project (contract), or operation required to meet the requirements of the Environmental Conservation Law or one or more of the NYSDEC’s

regulations. See “Not Subject to Regulation”.

Third-party violation - a violation committed by lessee(s) or (third) party other than a State agency, on property owned and/or under the jurisdiction/control of the reporting agency.

POLLUTION PREVENTION

Traditionally, the approach to environmental protection has been through laws and regulations seeking to control the discharge of waste to specific environmental media (air, water and land) following waste generation. Although current federal and state laws have made substantial improvements in environmental quality, implementation of such laws based solely on pollution control within individual media leads to a fragmented approach, which has the potential to allow a pollutant discharge from one media to another.

Pollution control technology is expensive, there are capital investment costs, such as those associated with a water treatment plant or air pollution control scrubbers. This equipment has associated annual operation and maintenance costs, as well as costs due to permit fees and liability insurance (for environmental harm). Large investments in environmental control infrastructure made in the 1970's and 1980's contributed to great improvement in environmental quality in this State and country. However, incremental costs for further improvements through additional control technology will be greater than before. Therefore, prevention measures will continue to play a major role in environmental protection by supplementing and/or replacing pollution control as the preferred means to reach environmental goals.

Pollution prevention focuses on ways to avoid creating pollution in the first place. Partnerships need to be developed between State agencies, the New York State Department of Environmental Conservation, the public and other stakeholders to prevent pollution at the source, rather than end-of-pipe control technology and after-the-fact clean-ups. Pollution prevention does not have to require additional resources, it does require a different approach to resources.

ADVANTAGES AND BENEFITS OF POLLUTION PREVENTION

State agencies should practice pollution prevention because it benefits the environment by producing less waste and reducing the transfer of waste from one environmental medium to another. Public health may be improved by reducing occupational exposure to toxic chemicals and toxic releases to the community. Agency productivity can be improved through greater efficiency, wiser energy use, increased product quality and enhanced public image. However, often the greatest incentive to practicing pollution prevention is the agency's bottom line. Financial advantages of pollution prevention are outlined below. By practicing pollution prevention, agencies can reduce or avoid costs due to:

Raw Materials: Reduced operating costs due to reduced amounts of toxic and non-toxic materials needed in the process.

Waste Treatment: Reduced pollution control costs.

Disposal: Less waste is generated thereby reducing waste disposal and remedial costs.

Transportation: Fewer raw materials required and less waste generated means a decrease in transportation costs for these materials.

Compliance: Reduced environmental compliance costs for such items as discharge fees, fines, etc.

Liability/Litigation: Reduced exposure to future liability costs.

Insurance: Lower hazard potential due to fewer toxic chemicals on site means reduced insurance costs.

Accidents/Spills: Reduced chance of accidents and spills if fewer materials are used.

Environmental Administration and Management: Less time spent monitoring and reporting means more time spent on other endeavors.

Occupational Health: Improved occupational environment may lead to reduced downtime and sick leave due to health problems.

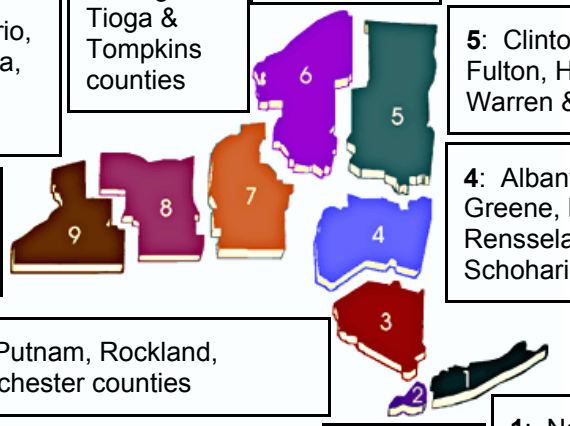
Benefits of pollution prevention go beyond financial advantages alone. Agencies will also benefit in other ways by instituting the following practices:

-employee training and awareness programs;
-preventive maintenance;
-improved housekeeping procedures at facilities, projects and operations;
-improved Standard Operating Procedures;
-conservation of natural resources by minimizing depletion or preventing contamination; and
-avoiding pollutant transfer.

PRIORITY RANKING TABLE

RANK	DEFINITION	DESCRIPTION	EXAMPLE
1	Presents an imminent substantial threat to the public health or the environment.	Activity created a condition that posed, or will very soon pose, a substantial threat to human health or the environment.	Leaking underground petroleum storage tank directly up-gradient from a private water supply well that has contaminated, or will soon contaminate, such well.
2	Presents a potential substantial threat to the public health or the environment.	Activity has potential to create a condition posing a substantial threat to human health or the environment.	Case by case basis.
3	Presents a discernible but not substantial threat to the public health or the environment.	Activity resulted in identifiable harm or threat to human health or the environment, but such harm or threat is not substantial.	Case by case basis.
4	No evidence of discernible threat to the public health or the environment.	Activity has not resulted in any known or measured threat to human health or the environment. Not meant for violations with an absence of evidence regarding the nature of the harm or threat presented, requires objective evidence the violation poses no threat. For violations an agency has no information regarding the nature of the threat posed, the violation would most likely be ranked a “2" or “3", depending on the violation and other factors, until evidence is available to justify a definitive rank otherwise.	Case by case basis.

Regional Map of the New York State Department of Environmental Conservation



7: Broome, Cayuga, Chenango, Cortland, Madison, Onondaga, Oswego, Tioga & Tompkins counties

6: Herkimer, Jefferson, Lewis, Oneida & St. Lawrence counties

8: Chemung, Genesee, Livingston, Monroe, Ontario, Orleans, Schuyler, Seneca, Steuben, Wayne & Yates counties

5: Clinton, Essex, Franklin, Fulton, Hamilton, Saratoga, Warren & Washington counties

9: Allegany, Cattaraugus, Chautauqua, Erie, Niagara & Wyoming counties

4: Albany, Columbia, Delaware, Greene, Montgomery, Otsego, Rensselaer, Schenectady & Schoharie counties

3: Dutchess, Orange, Putnam, Rockland, Sullivan, Ulster & Westchester counties

1: Nassau & Suffolk counties

2: Bronx, Kings, New York, Queens & Richmond counties

2003 STATE AGENCY ENVIRONMENTAL AUDIT - STATE AGENCY FACILITY CHECKLIST

AGENCY:

NYSDEC PPU # **(five numeric digits)**	**Reporting Agency's Facility, Project or Operation (FPO), Identification Information**	**Compliance Status** Total Compliance **(TC),** Non-Compliance **(NC)**, or Not Applicable **(NA) -** if fpo not subject to regulation. Check one:	**Total of Ranks** N1=Non-Compliance Rank 1 N2=Non-Compliance Rank 2 N3=Non-Compliance Rank 3 N4=Non-Compliance Rank 4 C=Compliant as of 3/31/03	**FPO Status** Check "Active" or provide appropriate information.
	Agency #:____________________ Circle: **Facility/Project/Operation** **Agency Division/Region:**____________________ **Name:** ____________________ **Physical Address:**____________________ Circle: **City/Town/Village of** ____________________ **County:**__________**State:**______**Zip Code:**________ Circle: **NYSDEC Region 1, 2, 3, 4, 5, 6, 7, 8 or 9** **Mailing Address** (if different):____________________ **Contract #:**__________**Contractor:**____________________	**TC** _____ **NC** _____ **NA** _____	**N1** ____________ **N2** ____________ **N3** ____________ **N4** ____________ **C** ____________	**Active:**____________ **Date Sold** ____________ **Sold to:**____________ **Date Transferred**____________ **Transferred to:**____________ **Date Completed**____________ **Date Closed**____________ **Date Discontinued**____________
	Agency #:____________________ Circle: **Facility/Project/Operation** **Agency Division/Region:**____________________ **Name:** ____________________ **Physical Address:**____________________ Circle: **City/Town/Village of** ____________________ **County:**__________**State:**______**Zip Code:**________ Circle: **NYSDEC Region 1, 2, 3, 4, 5, 6, 7, 8 or 9** **Mailing Address** (if different):____________________ **Contract #:**__________**Contractor:**____________________	**TC** _____ **NC** _____ **NA** _____	**N1** ____________ **N2** ____________ **N3** ____________ **N4** ____________ **C** ____________	**Active:**____________ **Date Sold** ____________ **Sold to:**____________ **Date Transferred**____________ **Transferred to:**____________ **Date Completed**____________ **Date Closed**____________ **Date Discontinued**____________
	Agency #:____________________ Circle: **Facility/Project/Operation** **Agency Division/Region:**____________________ **Name:** ____________________ **Physical Address:**____________________ Circle: **City/Town/Village of** ____________________ **County:**__________**State:**______**Zip Code:**________ Circle: **NYSDEC Region 1, 2, 3, 4, 5, 6, 7, 8 or 9** **Mailing Address** (if different):____________________ **Contract #:**__________**Contractor:**____________________	**TC** _____ **NC** _____ **NA** _____	**N1** ____________ **N2** ____________ **N3** ____________ **N4** ____________ **C** ____________	**Active:**____________ **Date Sold** ____________ **Sold to:**____________ **Date Transferred**____________ **Transferred to:**____________ **Date Completed**____________ **Date Closed**____________ **Date Discontinued**____________
	Agency #:____________________ Circle: **Facility/Project/Operation** **Agency Division/Region:**____________________ **Name:** ____________________ **Physical Address:**____________________ Circle: **City/Town/Village of** ____________________ **County:**__________**State:**______**Zip Code:**________ Circle: **NYSDEC Region 1, 2, 3, 4, 5, 6, 7, 8 or 9** **Mailing Address** (if different):____________________ **Contract #:**__________**Contractor:**____________________	**TC** _____ **NC** _____ **NA** _____	**N1** ____________ **N2** ____________ **N3** ____________ **N4** ____________ **C** ____________	**Active:**____________ **Date Sold** ____________ **Sold to:**____________ **Date Transferred**____________ **Transferred to:**____________ **Date Completed**____________ **Date Closed**____________ **Date Discontinued**____________

2003 STATE AGENCY ENVIRONMENTAL AUDIT
COMPLIANCE STATUS REPORT *for reporting agency use only.*

AGENCY: _____

FACILITY, PROJECT or OPERATION (FPO)?

FPO ***Name****:* _____

Physical Address*:* _____
Municipality (City, Town or Village): _____ *State:* _____ *Zip Code:* _____
County: _____ *NYSDEC Region:* _____

Mailing Address*:* _____
City: _____ *State:* _____ *Zip Code:* _____
County: _____ *NYSDEC Region:* _____

NYSDEC PPU #*:* _____ ***Contract #*** *(if applicable):* _____

Rank Box Codes
BLANK = regulation does not apply
C = In Compliance
N1 = Non-Compliant, Rank 1
N2 = Non-Compliant, Rank 2
N3 = Non-Compliant, Rank 3
N4 = Non-Compliant, Rank 4

If box is black - approval not required.

REGULATORY PROGRAMS:

AIR

RESOURCES

REGULATION	01	02	03	03A	03B	03C	04	04A	04B	05	05A	05C	05D	05E	05F	06	06A	06B
RANK																		
APPROVAL	■	■				■	■		■			■	■	■	■			

AIR RESOURCES continued

REGULATION	06C	07	09	10	11	12	13	14	15	16	**16A**	**17**
RANK												
APPROVAL												

FISH, WILDLIFE AND MARINE RESOURCES

REGULATION	18	19	20	21	22	23	24	40	41	42	43
RANK											
APPROVAL											

LANDS AND FORESTS

37A	38	39	40A

MINERAL RESOURCES

REGULATION	*44*	*45*	*46*
RANK			
APPROVAL		■	

ENVIRONMENTAL PERMITS

48	*49*
■	

2003 STATE AGENCY ENVIRONMENTAL AUDIT
COMPLIANCE STATUS REPORT

AGENCY NAME: _____

FPO Name: _____

SOLID & HAZARDOUS MATERIALS

REGULATION	*25*	*25A*	*25B*	*25C*	*26*	*26A*	*27*	*28*	*30*	*31*	*31A*	*32*	*33*	*34*	*35*	*36*	*36A*	*50A*	*50B*
RANK																			
APPROVAL																			

SOLID & HAZARDOUS MATERIALS continued

REGULATION	*50C*	*50D*	*50E*	*50F*	*50G*	*50H*	*50J*	*50K*	*50L*	*50M*	*50N*	*50P*	*70*	*71*	*72*
RANK															
APPROVAL															

WATER

REGULATION	*52*	*53*	*53A*	*54*	*54A*	*54B*	*54C*	*54D*	*55*	*57*	*58*	*58B*	*58C*	*58D*	*59*	*60*
RANK																
APPROVAL																

ENVIRONMENTAL REMEDIATION

REGULATION	*51*	*51A*	*51C*	*56*	*56A*	*56B*	*56C*
RANK							
APPROVAL							

REGULATORY FEES

08A	*08B*	*29*	*31B*	*34A*	*44A*	*58A*

Name of Person Completing Form: _____
Title of Person Completing Form: _____
Signature: _____ *Date:* _____

*Do **NOT** submit this form to the NYSDEC.*

2003 STATE AGENCY ENVIRONMENTAL AUDIT
NON-COMPLIANCE REPORT & REMEDIAL PLAN

NYSDEC PPU #: _____ ***REGULATION #:*** ___ ***INSTANCE #:*** ___ ***INITIAL RANK:*** ___ ***FINAL RANK:*** ___

Agency Name:_____

Facility, Project or Operation *(FPO)*:___ *FPO* ***Status:***_____ *Status* ***Date:***_____ ***Agency #:***_____
(yy/mm/dd)

FPO ***Name:***_____*Agency* ***Division/Region***_____

Physical Address:_____ *Municipality (City, Town or Village):*_____
*County:*_____ *State:*____ *Zip Code:*_____ *NYSDEC Region:*____

Mailing Address:_____

*City:*_____*State:*____ *Zip Code:*_____

Contract #:_____ ***Contractor's Name:***_____

Contractor's Address:_____

Regulation Name:_____

Describe the violation in detail, including area affected, concentration, and date of violation:

_____

_____

_____

_____

Year Violation First Reported in Audit:_____

Projected Compliance Date: *Year*_____ *Month*_____*Day*____ *If date is different than previously reported,* ***state why:***_____

_____

Future Cost *(from 4/1/03 on): $*_____*If cost has changed,* ***state why:***_____

_____

Funding Source:_____

Cost this Reporting Year *(4/1/02 through 3/31/03)****:*** *$*_____

Total Cost to Date *(from occurrence through 3/31/03)****:*** *$*_____

If Final Rank is "C", specify ***Compliance Date:*** *Year*_____ *Month*_____*Day*_____

If not compliant, did you ***budget for remedial costs?*** *Yes*____ *No*____ *Specify* ***how much:*** *$*_____,

and ***where in the budget****:* _____

Provide Details of Remedial Measures on Page 2

2003 STATE AGENCY ENVIRONMENTAL AUDIT
NON-COMPLIANCE REPORT & REMEDIAL PLAN

NYSDEC PPU #:_____ FPO Name:_____ REGULATION #:____ FINAL RANK:___

Describe <u>everything</u> that has been done to correct violation, from occurrence through March 31, 2003.

Describe everything to be done to correct violation <u>after</u> March 31, 2003.

<u>Schedule of Compliance Dates:</u>

	<u>Year/Month/Day</u>
Retained consultant and/or Office of General Services	On or before _____
Submitted investigative report and/or preliminary design	On or before _____
Submitted final design	On or before _____
Purchased equipment	On or before _____
Started construction	On or before _____
Completed construction	On or before _____
Obtained operational compliance	On or before _____

<u>Check (√) Appropriate Answers</u>

Is NYSDEC taking, or has NYSDEC taken, any enforcement action? . . . . . **YES _____ NO _____**

If yes, has that action been completed? . . . . . **YES _____ NO _____**

Consent Order #:_____ Date: Year_____ Month_____ Day____

Other Requirement(s) or Comment(s):

Other NYSDEC and/or EPA identifier #(s):_____

Person Completing Form: _____ Title:_____

Telephone Number: (____)_____ **E-Mail:**_____

2003 STATE AGENCY ENVIRONMENTAL AUDIT
THIRD-PARTY VIOLATION

NYSDEC PPU #: _____ ***REGULATION #:*** ___ ***INSTANCE #:*** ___ ***INITIAL RANK:*** ____ ***FINAL RANK:***____

Agency Name:_____

Facility, Project or Operation *(FPO):*___ *FPO* ***Status:***_____ *Status* ***Date:***_____ ***Agency #:***_____
(yy/mm/dd)

FPO ***Name:***_____*Agency* ***Division/Region***_____

Physical Address:_____ *Municipality (City, Town or Village):*_____

*County:*_____ *State:*____ *Zip Code:*_____ *NYSDEC Region:*____

Mailing Address:_____

*City:*_____ *State:*____ *Zip Code:*_____

Third Party:_____

Third Party's Address:_____

Regulation Name:_____

Describe the violation in detail, including area affected, concentration, and date of violation:

_____

_____

_____

_____

Year Violation First Reported in Audit:_____

Projected Compliance Date: *Year*_____ *Month*_____*Day*____ *If date is different than previously*

reported, ***state why:***_____

_____

Future Cost *(from 4/1/03 on): $*_____ *If cost has changed,* ***state why:***_____

_____

Funding Source:_____

Cost this Reporting Year *(4/1/02 through 3/31/03)****:*** *$*_____

Total Cost to Date *(from occurrence through 3/31/03)****:*** *$*_____
If Final Rank is "C", specify ***Compliance Date:*** *Year*_____ *Month*_____*Day*_____

If not compliant, did you ***budget for remedial costs?*** *Yes*____ *No*____ *Specify* ***how much:*** *$*_____,

and ***where in the budget****:* _____

Provide Details of Remedial Measures on Page 2

2003 STATE AGENCY ENVIRONMENTAL AUDIT
THIRD-PARTY VIOLATION

NYSDEC PPU #: _____ FPO Name:_____ REGULATION #: ____ FINAL RANK: ___

Describe <u>everything</u> that has been done to correct violation, from occurrence through March 31, 2003.

Describe everything to be done to correct violation <u>after</u> March 31, 2003.

<u>Schedule of Compliance Dates:</u>

	<u>Year/Month/Day</u>
Retained consultant and/or Office of General Services	On or before _____
Submitted investigative report and/or preliminary design	On or before _____
Submitted final design	On or before _____
Purchased equipment	On or before _____
Started construction	On or before _____
Completed construction	On or before _____
Obtained operational compliance	On or before _____

<u>Check (√) Appropriate Answers</u>

Is NYSDEC taking, or has NYSDEC taken, any enforcement action? . . . . . **YES _____ NO _____**

If yes, has that action been completed? . . . . . **YES _____ NO _____**

Consent Order #:_____ Date: Year_____ Month_____ Day_____

Other Requirement(s) or Comment(s):

Other NYSDEC and/or EPA identifier #(s):_____

Person Completing Form: _____Title: _____

Telephone Number: (____)_____ **E-Mail:_____**

AIR RESOURCES SCREENING QUESTIONS

Note: Regulation 06A is currently in the process of being revised to reflect the provisions of a consent order issued by the State of New York Supreme Court, the current New York State operating permit structure, as well as the requirements defined in the CERR. The final regulation is anticipated to be effective in 2003. Regulations 03C, 15, 16 and 17 are also in the process of being revised. Check with the contact(s) at the end of the regulation if you have any question re: compliance.

(A-1) Have you applied any surface coatings to any architectural structure, inside and/or outside your facility, project or operation (f/p/o)?

Surface coatings include, but are not limited to: paint, asbestos, mastics, tars, pitch, waterproofing, varnish, wood preservatives, primers, sealers, undercoatings, concrete curing compounds, stains, dry fog coatings, graphic arts coatings, multi-color coatings, tile-like coatings, topcoats, shellac, lacquer, bond breakers, swimming pool coatings, high heat resistant coatings, flat coatings, non-flat coatings, etc.

Architectural structures include, but are not limited to stationary objects and structures such as: residential buildings, industrial buildings, warehouses, institutional buildings, office buildings, garages, sheds, barns, lean-tos, bridges, abutments, piers, foundations, footings, towers, light poles and stanchions, swimming pools, fountains, recreational and sports structures and facilities, sidewalks and walkways, patios, pavilions, gazebos, shelters, stations, greenhouses, roadway pavements, parking lot pavements, curbs, roofs, pipes, gates, gantries, signs, playground equipment, etc.

YES _____NO _____

If YES, Regulation 01 may apply to your f/p/o, proceed to question (A-2).

If NO, proceed to question (A-3).

(A-2) Have you applied any surface coating material that contains asbestos or asbestos materials at your f/p/o?

YES _____NO _____

If YES, Regulation 02 may apply to your f/p/o, proceed to question (A-3).

If NO, proceed to question (A-3).

(A-3) Do you do any dry cleaning at your f/p/o?

YES _____NO _____

If YES, Regulations 03 and 08A (Regulatory Fees) may apply to your f/p/o, proceed to question (A-4).

If NO, proceed to question (A-4).

(A-4) Do you conduct any type of pharmaceutical, cosmetic or synthetic organic chemical manufacturing?

YES _____NO _____

If YES, Regulations 03A, 03B, 06B & 08A (Regulatory Fees) may apply to your f/p/o, proceed to question (A-5).

If NO, proceed to question (A-5).

(A-5) Do you have a stationary combustion installation, including boilers, etc. at your f/p/o to produce heat, steam, electric power, mechanical power, etc.?

YES _____NO _____

If YES, Regulations 04, 06B, 16, 08A and 08B (Regulatory Fees) may apply to your f/p/o, proceed to question (A-6).

If NO, proceed to question (A-9).

(A-6) Is a waste fuel used at your f/p/o?

Waste fuel is any waste oil, fuel oil or mixture of these to be burned that contains between 25 and 250 parts per million (by weight) lead and meets the limitations of Table 04A (See Regulation 04A) and does not contain chemical waste. Waste fuel is also any fuel to be burned that does not meet the limitations of Table 04A and/or contains any chemical waste.

Waste oil, as pertaining to this regulation, is used and/or reprocessed engine lubricating oil and/or any other used oil, including but not limited to, fuel oil, engine oil, gear oil, cutting oil, transmission fluid, hydraulic fluid, dielectric fluid, oil storage tank residue, animal oil and vegetable oil, that has not subsequently been re-refined.

YES _____NO _____

If YES, Regulations 04A, 08A (Regulatory Fees), 70 and 71 may apply to your f/p/o, proceed to question (A-7).

If NO, proceed to question (A-7).

(A-7) Is your f/p/o a significant air contamination source?

Significant air contamination source: any air contamination source whose emissions alone or in combination with others, can be expected to have an adverse effect on ambient air quality during an air pollution episode. This category includes, but is not limited to: fossil fuel burning equipment with a maximum operating heat input exceeding 200 million BTU per hour; processes and exhaust or ventilating systems with particulate emissions in excess of 100 lb/hr; and incinerators with a refuse charging capacity of 2,000 lb/hr or more.

YES _____NO _____

If YES, Regulation 06B may apply to your f/p/o, proceed to question (A-9).

If NO, proceed to question (A-8).

(A-8) Did the NYSDEC issue an episode action plan for an existing or potential air pollution episode at your f/p/o?

Air pollution episode: when a combination of circumstances are present that require action to reduce the quantity of contaminants in the atmosphere due to danger to public health and welfare, injury to agricultural crops and livestock, damage to and deterioration of property, hazards to air and ground transportation, or impairment of environmental quality.

YES _____NO _____

If YES, Regulation 06B may apply to your f/p/o, proceed to question (A-9).

If NO, proceed to question (A-9).

(A-9) Does your f/p/o have bulk storage of any volatile motor fuel, including gasoline, gasohol, alcohol, etc.?

YES _____NO _____

If YES, Regulation 04B may apply to your f/p/o, proceed to question (A-10).

If NO, proceed to question (A-10).

(A-10) Do you have a gasoline loading operation (receiving or distributing bulk amounts of fuel) at your f/p/o?

YES _____NO _____

If YES, Regulation 04B may apply to your f/p/o, proceed to question (A-11).

If NO, proceed to question (A-11).

(A-11) Do you dispense gasoline or gasohol (from a gasoline service station or gasoline delivery vehicle) at your f/p/o?

YES _____NO _____

If YES, Regulation 05 may apply to your f/p/o, proceed to question (A-15).

If NO, proceed to question (A-12).

(A-12) Do any employees at your f/p/o operate gasoline powered motor vehicles?

YES ____NO ____

If YES, Regulations 05A, 05C & 05D may apply to your f/p/o, proceed to question (A-13).

If NO, proceed to question (A-13).

(A-13) Does your f/p/o own, operate or lease diesel or non-diesel powered vehicles, or land on which diesel or non-diesel powered vehicles are operated?

YES _____ NO _____

If YES, Regulations 05C, 05D and 05F may apply to your f/p/o, proceed to question (A-14).

If NO, proceed to question (A-14).

(A-14) Does your f/p/o operate 1994, 1996 or newer model-year passenger cars, light-duty trucks, or vehicles with new motor vehicle engines and/or air contaminant emission control systems?

YES _____ NO _____

If YES, Regulation 05D may apply to your f/p/o, proceed to question (A-15).

If NO, proceed to question (A-15).

Model Year: the manufacturer's annual production period that includes January 1st of each calendar year or, if the manufacturer has no annual production period, the calendar year. In the case of any motor vehicle manufactured in two or more stages, the time of manufacturer shall be the date of completion of the chassis.

Air Contaminant Emission Control System: Equipment installed on a motor vehicle/motor vehicle engine for the purpose of reducing the air contaminants emitted from the motor vehicle/motor vehicle engine, or a system or engine change on a motor vehicle, that includes, but is not limited to, exhaust control, fuel evaporation control, and crankcase ventilating systems.

Note: There are some new model-year passenger cars, light-duty trucks, heavy-duty vehicles or vehicles with new motor vehicle engines and/or air contaminant emission control systems that are not required to be registered in New York State, or that are registered or purchased in another State, but are operating in New York State where they are required to meet California Emission Standards. While these vehicles may not violate the letter of the regulation, they violate the spirit of the regulation and would set a poor example by New York State agencies. Therefore, it is suggested that all New York State agencies, having f/p/os that operate new model-year passenger cars, light-duty trucks, heavy-duty vehicles or vehicles with new motor vehicle engines and/or air contamination emission control systems, assure that each of these vehicles meets the limits set in Regulation 05D.

(A-15) Do you have any processes from which air emissions containing fumes, gases, particulates, or other contaminants, etc. reach the outside atmosphere? (See Regulation 06 for list of exemptions related to Part 201 permitting.)

YES _____NO _____

If YES, Regulations 06, 06A, 06B, 08A and 08B (Regulatory Fees) may apply to your f/p/o, proceed to question (A-16).

If NO, proceed to question (A-16).

(A-16) Has your f/p/o submitted a Fuel/Use Industrial Process Emissions Statement to the NYSDEC?

YES _____ NO _____

If YES, Regulation 08B may apply to your f/p/o, proceed to question (A-17).

If NO, proceed to question (A-17).

(A-17) Has your f/p/o caused or allowed any emission of air contaminant(s) that may be injurious to human, plant or animal life, or that unreasonably interfere(s) with the comfortable enjoyment of life or property, or has an opacity, or from which you received any complaint(s) from the public?

YES _____NO _____

If YES, Regulation 07 may apply to your f/p/o, proceed to question (A-18).

If NO, proceed to question (A-18).

(A-18) Do you operate any graphic arts production equipment (printing presses, etc.) at your f/p/o?

YES _____NO _____

If YES, Regulations 06B, 09, 08A and 08B (Regulatory Fees) may apply to your f/p/o, proceed to question (A-19).

If NO, proceed to question (A-19).

(A-19) Do you have any incinerators at your f/p/o?

YES _____NO _____

If YES, Regulations 06B, 10, and 08A (Regulatory Fees) may apply to your f/p/o, proceed to question (A-20).

If NO, proceed to question (A-20).

(A-20) Is your f/p/o, which includes the construction of parking areas, roadways, etc. located in New York City in Manhattan, south of 60th Street?

YES _____NO _____

If YES, Regulation 11 may apply to your f/p/o, proceed to question (A-21).

If NO, proceed to question (A-21).

(A-21) Do you plan to construct any new air pollution emission points?

YES _____NO _____

If YES, Regulation 12 may apply to your f/p/o, proceed to question (A-22).

If NO, proceed to question (A-22).

(A-22) Do you do any open burning of materials, including garbage, rubbish, or brush at your f/p/o?

YES _____NO _____

If YES, Regulation 06B and 13 may apply to your f/p/o, proceed to question (A-23).

If NO, proceed to question (A-23).

(A-23) Does your f/p/o have any fixed roof or external floating roof petroleum storage tanks?

YES _____NO _____

If YES, Regulation 06B and 14 may apply to your f/p/o, proceed to question (A-24).

If NO, proceed to question (A-24).

(A-24) Is your f/p/o a gasoline bulk plant and/or a gasoline loading terminal?

YES _____NO _____

If YES, Regulation 06B and 14 may apply to your f/p/o, proceed to question (A-25).

If NO, proceed to question (A-25).

(A-25) Is solvent metal cleaning performed at your f/p/o? (See Regulation 15 for list of exemptions.)

YES _____NO _____

If YES, Regulations 15 and 08A (Regulatory Fees) may apply to your f/p/o, proceed to question (A-26).

If NO, proceed to question (A-26).

(A-26) Do you apply any surface coatings to any equipment at your f/p/o?

Equipment includes, but is not limited to: appliances, motor vehicles [including cars, trucks, tractors, construction equipment, military equipment (machines and weapons), or farm equipment], furniture and equipment (including office, commercial, and institutional furniture and equipment, residential furniture, shelving, cabinets, racks, etc.), medical equipment and appliances, yard/landscaping equipment (including lawn mowers, snow blowers, chain saws, leaf blowers, weed whackers, shredders, mulchers, etc.), toys, household appliances (including washing machines and clothes dryers, dish washers, stoves, ovens, microwave ovens, toasters, mixers, refrigerators, freezers, etc.).

YES _____NO _____

If YES, Regulations 06, 17 and 08A (Regulatory Fees) may apply to your f/p/o, proceed to question (A-27).

If NO, proceed to question (A-27).

(A-27) Are you required to obtain a permit for the construction and operation of an air emissions source at your f/p/o?

YES _____NO _____

If YES, Regulation 08A (Regulatory Fees) applies to your f/p/o, proceed to “Fish, Wildlife and Marine Resources Program Screening Questions”.

If NO, proceed to “Fish, Wildlife and Marine Resources Program Screening Questions”.

REGULATION 01 QUESTIONS: **ARCHITECTURAL COATINGS**

(A) Is your facility, project or operation (f/p/o), located in the New York City Metropolitan Area?

YES _____NO _____

If NO, leave “Rank” box 01 on “Compliance Status Report” blank, proceed to Regulation 02.

(B) If YES, have architectural coatings (see Regulation 01, Table 01) been applied, or specified for subcontractors working, at your f/p/o?

YES _____NO _____

If NO, leave “Rank” box 01 blank on the “Compliance Status Report”, proceed to Regulation 02.

(C) If YES, do the architectural coatings exceed the volatile organic compound limits listed in Table 01?

YES _____NO _____

If NO, place a "C" in “Rank” box 01 on the “Compliance Status Report”, proceed to Regulation 02.

If YES, place an "N1", "N2", "N3" or "N4" (according to the priority rank of the violation) in “Rank” box 01 on the “Compliance Status Report”, complete a “Non-Compliance Report & Remedial Plan”, then proceed to Regulation 02.

REGULATION 01: **ARCHITECTURAL COATINGS**

LEGAL CITATION: ECL Article 19, 6 NYCRR Part 205.

ABSTRACT OF LAW/REGULATIONS:

Note: The Department intends to revise Part 205 in 2003, changes will take place on 1/1/05.

This regulation limits the Volatile Organic Compounds (VOCs), (i.e. organic solvents and thinners) that can be found in architectural coatings to be used for architectural surfaces in the New York City Metropolitan Area (NYCMA).

No architectural coatings (see Definitions), may be sold, offered for sale or applied that:

1. exceed 250 grams/liter (2.09 lbs/gal.) of VOCs for a coating excluding water and any colorant added to tint bases;

2. exceed 380 grams/liter (3.17 lbs./gal) of VOCs for nonflat architectural coatings (see Definitions), excluding water and any colorant added to tint bases;

3. are a compound or coating recommended for use as a bituminous pavement sealer (except as provided in Table 01), unless it is a water emulsion-type coating; or

4. are any one of the specialty architectural coatings listed in Table 01, in excess of the amounts listed.

APPLICABILITY:

This part applies to any person who sells, offers for sale, or applies any architectural coating within the NYMA, comprised of Bronx, Kings (Brooklyn), New York (Manhattan), Nassau, Queens, Richmond (Staten Island), Rockland, Suffolk, and Westchester counties.

EXEMPTIONS:

Coatings that are exempted from control from this regulation include:

1. architectural coatings supplied in containers with a capacity of less than one quart;

2. architectural coatings registered as pesticides, if registered with the USEPA prior to July 1, 1989 for changes to labeling information to comply with this regulation; and

3. architectural coatings sold in the NYCMA for use in a coating line subject to and meeting the requirements of 6NYCRR Part 228 (see Regulation 17).

DEFINITIONS:

Architectural coatings: any coating applied to stationary structures and their appurtenances, mobile homes, pavements, or curbs and include:

1. coatings used to paint buildings, bridges, street signs including roadway signs and median lines;

2. concrete curing compounds;

3. mastic texture coatings;

4. swimming pool coatings;

5. roof coatings; and

6. wood preservatives.

Architectural surfaces: surfaces of buildings (inside and outside) and any other structure (bridges, towers, pavements, curbs, tanks, swimming pools, roofs, etc.).

Nonflat architectural coating: a coating which registers a gloss of 15 or greater on a gloss meter held at an 85○ angle to the coated surface or 5 or greater on a gloss meter held at a 60○ angle.

TABLE 01
VOLATILE ORGANIC COMPOUND (VOC) LIMITS FOR ARCHITECTURAL COATINGS
(Source: 6NYCRR Part 205)

COATING TYPE	VOC CONTENT (grams/liter)	(pounds/gallon)
Mastic texture coatings	200	1.67
Fire retardant coatings (opaque)	500	4.17
Fire retardant coatings (transparent and translucent)	850	7.10
Traffic Coatings	250	2.09
Roof coatings	300	2.50
Waterproofing mastic coatings	300	2.50
Varnish	450	3.76
Wood preservatives	550	4.59
Primers, sealers, and undercoaters	350	2.92
Quick dry primers, sealers, and undercoaters	500	4.17
Concrete curing compounds	350	2.92
Waterproofing sealers	600	5.01
Stains (semi-transparent)	550	4.59
Stains (opaque)	350	2.92
Dry fog coatings	400	3.34
Graphic arts coatings	450	3.76
Multi-color coatings	600	5.01
Tile-like glaze coatings	550	4.59
Industrial maintenance primers and topcoats	450	3.76
Metallic pigmented coatings	500	4.17
Shellac (clear)	730	6.09
Shellac (pigmented)	550	4.59
Lacquer	680	5.68
Bond Breakers	600	5.01
Swimming pool coatings	600	5.01
High heat resistant coatings	650	5.43
Flat coatings	250	2.09
Nonflat coatings	380	3.17

Note: Part 205 “Architectural Coatings” applies to the NYCMA only, while the EPA National AIM coatings rule applies throughout the entire State of New York. For the NYCMA, whichever rule has the more restrictive limit is the one that governs.

NYSDEC CONTACT:	TELEPHONE NUMBER
Daniel Brinsko, Bureau of Air Quality Planning	518/402-8396

REGULATION 02 QUESTION: **ASBESTOS CONTAINING SURFACE COATING MATERIAL**

(A) Have any surface coatings been applied at your facility, project or operation that contained asbestos or any asbestos containing materials?

YES _____NO _____

If NO, leave “Rank” box 02 blank on the “Compliance Status Report”, proceed to Regulation 03.

If YES, place an "N1", "N2", "N3" or "N4" (according to the priority rank of the violation) in “Rank” box 02 on the “Compliance Status Report”, complete a “Non-Compliance Report & Remedial Plan”, then proceed to Regulation 03.

REGULATION 02: **ASBESTOS CONTAINING SURFACE COATING MATERIAL**

Public Health Law §§ 1271, 1276.

LEGAL CITATION: ECL Articles 14, 15 & 77, and 6NYCRR Part 221.

ABSTRACT OF LAW/REGULATION:

Part 221 prohibits the use of any surface coating material containing asbestos or asbestos containing materials. Also, it is prohibited to engage in or allow surface coating by spraying asbestos or asbestos containing materials. The program has been delegated by the Division of Air Resources to New York State’s Department of Labor for enforcement and includes the Federal NESHAPS program as well.

NYSDEC CONTACT:	TELEPHONE NUMBER
Bureau of Stationary Sources	518/402-8403

NYSDOL CONTACT:	TELEPHONE NUMBER
Mr. Dan Coyle	315/479-3215

REGULATION 03 QUESTIONS: **PERCHLOROETHYLENE DRY-CLEANING FACILITIES**

Note: If your facility, project or operation (f/p/o),is subject to this regulation, it is also subject to Regulation 08A.

(A) Do you operate perchloroethylene dry-cleaning equipment?

YES _____NO _____

If YES, proceed to question (B).

If NO, leave “Rank” box 03 blank on the “Compliance Status Report”, proceed to Regulation 04.

(B) Do you have a properly functioning dry-cleaning machine including emissions control device(s), as required per 6 NYCRR Part 232.6?

YES _____NO _____

If NO, place an "N1", "N2", "N3" or "N4" (according to the priority rank of the violation) in “Rank” box 03 and complete a “Non-Compliance Report & Remedial Plan”, then proceed to Regulation 04.

If YES, leave “Rank” box 03 blank on the “Compliance Status Report”, proceed to question (C).

(C) Is the Posting Notice (6 NYCRR Part 232.18) requirement (see Regulation 03, 2.c.) being met?

YES _____NO _____

If YES, proceed to question (D).

If NO, place an “N1", “N2", “N3", or “N4" (according to the priority rank of the violation) in “Rank” box 03 on the “Compliance Status Report” and complete a “Non-Compliance Report & Remedial Plan”, then proceed to question (D).

(D) If the f/p/o is “Mixed-Use” (contains other operations and/or occupancies in addition to a Perc dry-cleaning machine - for example, it is located in a strip mall, a building which has other occupancies or contains a coin-operated laundromat) has the vapor-barrier/room-enclosure/general exhaust ventilation system been installed by the appropriate date as defined in 6NYCRR Part 232.6 (see Regulation 03 for dates).

YES _____NO _____

If YES, proceed to question (E).

If NO, place an “N1", “N2", “N3", or “N4" (according to the priority rank of the violation) in “Rank” box 03 on the “Compliance Status Report”, complete a “Non-Compliance Report & Remedial Plan”, then proceed to question (E).

(E) Are NYSDEC weekly leak checklists and other periodic NYSDEC operation and maintenance checklists and logs being completed as required? Completed forms and logs to be kept on-site for five years. Note: all necessary forms are available from the NYSDEC contact noted at the end of this regulation.

YES _____NO _____

If YES, proceed to question (F).

If NO, place an “N1", “N2", “N3", or “N4" (according to the priority rank of the violation) in “Rank” box 03 on the “Compliance Status Report”, complete a “Non-Compliance Report & Remedial Plan”, then proceed to question (F).

(F) Has prohibited older generation dry-cleaning equipment been phased-out or retrofitted according to the implementation dates in 6 NYCRR Part 232.6? (See Regulation 03 for dates.)

YES _____NO _____

If NO, place an “N1", “N2", “N3", or “N4" (according to the priority rank of the violation) in “Rank” box 03 on the “Compliance Status Report”, complete a “Non-Compliance Report & Remedial Plan”, then proceed to question (G).

If YES, and you have not answered NO to any of questions (C), (D), (E), (F), (G) or (H), place a “C” in “Rank” box 03 on the “Compliance Status Report” and proceed to question (G).

(G) Has your f/p/o had a 6 NYCRR Part 232.16 compliance inspection performed during the past 12 months, or during the past six months for Mixed-Use facilities with vented dry-cleaning machines? Compliance inspection reports are to be kept on file, on-site for five years and available upon request to the public.

YES_____ NO_____

If YES, proceed to question (H).

If NO, place an "N1", "N2", "N3", or "N4" (according to the priority rank of the violation) in “Rank” box 03 on the “Compliance Status Report”, complete a “Non-Compliance Report & Remedial Plan”, then proceed to question (H).

(H) Are all of the following f/p/o staff certified as per the 6 NYCRR Part 232.14 Dry-cleaning Owner/Manager and Operator training and certification requirements? Each must possess appropriate NYSDEC Certification certificate(s).

YES_____ NO _____

If YES, proceed to Regulation 03A.

If NO, place an "N1", "N2", "N3", or "N4" (according to the priority rank of the violation) in “Rank” box 03 on the “Compliance Status Report”, complete a “Non-Compliance Report & Remedial Plan”, then proceed to Regulation 03A.

REGULATION 03: PERCHLOROETHYLENE DRY-CLEANING FACILITIES

LEGAL CITATION: ECL Article 19 and Sections 3-0301 & 19-0303, and 6 NYCRR Parts 200, 201 & 232.

ABSTRACT OF REGULATION:

The current Part 232 became effective on May 15, 1997, and repealed and replaced the previous regulation. It applies to all new and existing (in operation before 5/15/97) Perchloroethylene (Perc) dry-cleaning facilities in New York State.

The basic scheme of the regulation is to phase-in cleaner Fourth “generation” machines [defined at 6 NYCRR Part 232.2(34)], over time, replacing older technology, more polluting First, Second and Third generation dry-cleaning machines. The oldest technology machines are generally required to be removed from service first.

Part 232 defines and establishes different requirements and implementation schedules for "Mixed-Use" and "Stand-Alone" dry-cleaning facilities. A Mixed-Use facility is located in the same building as another non-dry-cleaning business or residential unit(s), while a Stand-Alone facility does not have any other activity in the building except the Perc dry-cleaning business and minor related activities such as alterations. The phase-out schedule is quicker for facilities which are in "Mixed-Use" buildings relative to those considered Stand-Alone facilities.

Additionally, Mixed-Use facilities are required to enclose their dry-cleaning equipment in a vapor barrier/room enclosure and install a general exhaust ventilation system according to the schedule contained in 6 NYCRR Part 232.5(a)(2). By May 15, 1999, all Mixed-Use facilities must have this equipment installed.

The regulation requires that new dry-cleaning facilities established after the effective date of the regulation can install only new Fourth generation dry-cleaning machines.

For existing, pre-May 15,1997 Perc dry-cleaning facilities, the regulation provides for a rapid phase-out of grossly polluting old vented First generation (a.k.a "transfer") machines. Second generation vented machines are phased-out over a complex schedule (see 6 NYCRR Part 232.6), the last being removed by January 1, 2005, but the vast majority are phased-out by the end of 1999. Older technology Third generation dry-cleaning machines (a.k.a. non-vented "dry-to-dry" machines with primary refrigerated condenser controls) which leave a high residual concentration of Perc in the cleaned clothes, are phased-out of existing facilities over a schedule which ends on January 1, 2005. For existing facilities, several equipment retro-fit and upgrade options were available during the May 15, 1997 through January 1, 2001 period, but after December 31, 1999 only new Fourth generation [see §232.2(34)] dry-cleaning machines can replace earlier generation machines which are taken out of service at an existing dry-cleaning facility.

The regulation requires all facility owners/managers and dry-cleaning machine operators to take a NYS approved training course and pass a certification exam. The regulation also requires specific leak check and other record keeping procedures.

The main features of Part 232 are:

1. Prohibitions:

    a. New self-service (a.k.a. “coin-operated”) dry-cleaning machines after May 15, 1997, existing self-service machines are to be eliminated by November 15, 1997;

    b. New First generation (transfer) machines after May 15, 1997. Existing First generation machines are phased-out according to a schedule in 6 NYCRR Part 232.6; all must be removed by January 1, 2000;

    c. The use of any “dry-to-dry” (Second, Third or Fourth generation) equipment as a transfer machine;

    d. The use of immersion heaters to remove Perc from untreated wastewater effluent from the water separator;

    e. Venting or other release of Perc emissions from dry-cleaning machines or control equipment into the workroom or facility.

2. Control requirements:

a. Mixed-Use facilities must install vapor barriers/room enclosures/general exhaust ventilation systems according to dates specified in the regulation. By May 15, 1999 all Mixed-Use facilities must be equipped with these features. All doors to the vapor barrier/room enclosure are to be kept closed at all times except for when staff is entering or exiting. At the minimum, the general exhaust ventilation system must be operated at all times when the dry-cleaning machine is in operation; this ventilation system must be in operation while the machine is being loaded and unloaded.

b. Stacks venting emissions from existing vented First generation (transfer) and vented Second generation (dry-to-dry) machines must be above the roof and at least 25 feet from any opening in an occupancy by November 15, 1997. Such machines must be subsequently removed from service as per schedule in 6 NYCRR Part 232.6, the last date for removal being January 1, 2000.

c. Posting Notices must be conspicuously displayed at dry-cleaning facilities notifying the public of potential health risks associated with Perc exposure and where to report possible violations.

d. Equipment is to be inspected weekly for leaks and records of leak inspections kept on NYSDEC checklists. Leaks must be repaired immediately or, if not possible, tagged and repaired as per 6 NYCRR Part 232.7. Proper operation and maintenance procedures must be followed and recorded. These and various other records must be kept on-site for at least five years.

e. Dry-cleaning wastewater management requirements and hazardous waste management requirements are imposed.

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3. Equipment standards are different for new (established on or after May 15, 1997), and existing (in operation before that date) facilities, and for adding or replacing dry-cleaning machines. Also, Mixed-Use and Stand-Alone facilities have distinct equipment requirements and different implementation schedules.

a. After May 15, 1997, new Mixed-Use facilities can only be equipped with new Fourth generation, non-vented, dry-cleaning machines, which have a refrigerated condenser and integral carbon adsorber. As of May 15, 1997, new Stand-Alone facilities could only be equipped with Third or Fourth generation, non-vented, dry-cleaning machines. But, after December 31, 1999, the installation of Third generation machines in <u>any</u> Mixed-Use facility is prohibited, only new Fourth generation machines are allowed. Fugitive emissions from any dry-cleaning facility are not to exceed 50 PPM Perc.

b. After May 15, 1997, when replacing or adding additional machines in existing Mixed-Use facilities, only new Fourth generation machines may be installed. After January 1, 1999, when replacing or adding additional machines at existing Stand-Alone facilities, only new Fourth generation machines can be installed. Before January 1, 1999, there were various other compliance options, which are no longer available, for existing Stand-Alone facilities.

c. All First generation (transfer) machines must be removed from all facilities no later than January 1, 2000. Prior to this date, numerous machine replacement and upgrade compliance options existed. However, transfer machines were never allowed to be retrofitted regardless of facility type. Transfer machines at Stand-Alone facilities were to be eliminated by November 15, 1997, or by January 1, 2000, if they had been previously upgraded. Transfer machines at Mixed-Use facilities were to be eliminated by November 15, 1997, or by September 22, 1998, if they had been previously upgraded.

d. All Second generation machines at Stand-Alone and Mixed-Use facilities must have been removed no later than January 1, 2001, with one exception: if an existing Mixed-Use facility had a controlled Second generation machine on the effective date of Part 232 and had upgraded this machine to Third generation machine specifications by the addition of a primary control system (refrigerated condenser) by January 1, 2001, then this machine could continue to operate as a converted Third generation unit until January 1, 2005, when it must be replaced with a new Fourth generation machine.

e. Third generation equipment at existing Stand-Alone facilities must either be replaced by new Fourth generation machines or retrofitted with a door fan that meets a 5 PPM design and 20 PPM in-use Perc emission limit, no later than May 15, 2001. If a door fan is fitted, once a week the concentration at the exhaust stack must be measured using an appropriate colorimetric tube and recorded by the machine operator on a form supplied by the NYSDEC. Such measurement records must be kept on-site for a minimum of five years.

f. At the end of the complete dry-cleaning cycle the residual Perc concentration in the drum of a Fourth generation machine may not exceed 300 PPM.

4. Specific periodic equipment operation, maintenance, monitoring, leak-check testing and record keeping requirements are set forth. Such inspection/testing activities and results are to be recorded on forms supplied by the NYSDEC. Repairs of leaks must be made immediately, if possible; parts necessary to make leak repairs must be ordered promptly and installed as per schedules in 6 NYCRR Part 232.7.

5. Operation and maintenance (O&M) practices are to be followed to minimize Perc emissions. The NYSDEC is to provide O&M checklists setting forth minimal parameters. These records of various O&M procedures are to be kept on-site for five years.

6. Wastewater must be treated by physical separation and double carbon filtration to remove Perc to a concentration of 20 PPB or less, prior to lawful discharge. Discharges must conform with local ordinances and 6 NYCRR Parts 652 and 750-758. Alternatively, untreated Perc-contaminated wastewater, which is a hazardous waste, must be managed in accordance with parts 370-376 of Title 9. If such untreated wastewater is shipped as a hazardous waste, such shipment records are to be kept for five years.

7. Perc-contaminated waste is to be handled as hazardous waste, and must be managed pursuant to 6 NYCRR Parts 370-376. Hazardous waste shipment records are to be kept for five years.

8. Dry-cleaning facilities are to be operated to prevent spills. Spill prevention measures are specified in the regulation. If a spill occurs, specific steps to contain the release must be taken and records kept.

9. Sixty days after the NYSDEC approves the first qualifying equipment testing and certification program, only certified equipment may be sold and installed in the State. The procedure for certifying equipment is set forth in 6 NYCRR Part 232.13.

10. Owners/Managers, dry-cleaning machine operators, and 6 NYCRR Part 232.16 compliance inspectors must be trained and obtain a NYS Certification. Training courses must be approved by the NYSDEC; the content of approved courses is identified in the regulation. A timetable for training is set forth. All facility owners/managers and dry-cleaning machine operators must be trained and certified by December 25, 2000. New facilities must have their staff certified before start-up of operations.

11. Compliance inspection parameters are defined in 6 NYCRR Part 232.16. Compliance inspections are to be performed at facilities by a Registered Compliance Inspector (RCI) or an individual working under the direct supervision of an RCI.

12. The NYSDEC may approve alternative control measures if shown they are at least equal to requirements specified in Part 232.

13. Variances from the requirements of Part 232 may be granted upon written application to the NYSDEC, if it can be shown that compliance would impose an unreasonable economic, technological, or safety burden, and that public health, safety, and welfare will not be adversely affected if the variance is granted.

REQUIRED APPROVAL:

Each Perc dry-cleaning facility is required to obtain either a NYSDEC ASF permit or AFR registration certificate from the NYSDEC. Generally, existing facilities will be able to register, while new facilities, or those making changes not required by Part 232, will need to apply for a state facility permit (ASF). A general permit may be established for this type of operation, for use by those facilities requiring permits. Any facility exceeding major source thresholds set forth in 40 CFR 63 Subpart M, are required to obtain a Title V (ATV) facility permit. All facilities must also comply with the ***initial notification*** and ***compliance report*** requirements of 40 CFR 63 Subpart M, the federal Perc Dry-cleaning NESHAPS.

DEFINITIONS:

Dry-cleaning facility: A facility with one or more dry-cleaning systems.

Dry-cleaning system: All of the following equipment, devices, or apparatus associated with Perc dry-cleaning operations, including, but not limited to: dry-cleaning equipment; filter or purification systems; waste holding, treatment,

or disposal systems; Perc supply systems; dip tanks; pumps; gaskets; piping, ducting, fittings, valves, or flanges that convey Perc-contaminated air; and dry-cleaning control systems.

Dry-cleaning control system: Equipment (e.g., carbon adsorber, refrigerated condenser, azeotropic unit, etc.) or an air cleaning device used to reduce the amount of air pollutant(s) in an air stream, prior to discharge to the atmosphere.

Fourth generation equipment: A dry-to-dry non-vented dry-cleaning machine with both a primary closed-loop refrigerated condenser and a "secondary control system" usually consisting of a drying sensor and an integral carbon adsorber.

Vapor Barrier/Room Enclosure: A room enclosing the dry-cleaning equipment constructed of, or covered with, a material or surface coating impermeable to Perc. All walls, the floor and ceiling must be impervious to Perc. The door to this enclosure must be closed at all times. The Vapor Barrier/Room Enclosure must be equipped with a General Exhaust Ventilation System which introduces fresh outside air, and is capable of exhausting one air-change every five minutes.

For more definitions, see 6 NYCRR Part 232, especially §232.2, Regulation 06.

NYSDEC CONTACT:	TELEPHONE NUMBER
Permitting and Compliance Section, Bureau of Stationary Sources, Division of Air Resources	518/402-8403

REGULATION 03A QUESTIONS: PHARMACEUTICAL AND COSMETIC MANUFACTURING PROCESSES

Note: If your facility, project or operation (f/p/o),is subject to this regulation, it is also subject to Regulation 08A, and may be subject to Regulation 06B.

(A) Does your f/p/o conduct any pharmaceutical or chemical manufacturing processes?

YES _____ NO _____

If NO, leave "Rank" and "Approval" boxes 03A blank on the "Compliance Status Report", proceed to Regulation 03B.

(B) If YES, is your f/p/o located in the New York City Metropolitan Area (NYMA)?

YES _____ NO _____

If NO, proceed to question (D).

(C) If YES, is your f/p/o involved in any synthesized pharmaceutical manufacturing process?

YES _____ NO _____

If YES, proceed to question (S).

If NO, proceed to question (I).

(D) Is your f/p/o located in the Lower Orange County Metropolitan Area?

YES _____ NO _____

If NO, proceed to question (L).

If YES, proceed to question (E).

(E) Is your f/p/o involved in any synthesized pharmaceutical manufacturing process?

YES _____ NO _____

If NO, proceed to question (I).

(F) If YES, does your annual potential to emit VOCs from all sources, regardless of process type, but excluding combustion installations, equal or exceed 100 tons?

YES _____ NO _____

If YES, proceed to question (S).

(G) If NO, does your annual potential to emit VOCs from all sources, regardless of process type, but excluding combustion installations, equal or exceed 10 tons?

YES _____ NO _____

If NO, proceed to question (I).

(H) If YES, did you submit a compliance plan to NYSDEC by November 15, 1993? (See Regulation 03A for compliance plan requirements.)

If YES, proceed to question (S).

If NO, place an "N1, "N2", "N3" or "N4" (according to the priority rank of the violation) in “Rank” box 03A, leave the “Approval” box 03A blank on the “Compliance Status Report”, complete a “Non-Compliance Report & Remedial Plan”, then proceed to question (S).

(I) Is your f/p/o involved in any other pharmaceutical or cosmetic manufacturing process (other than synthesized pharmaceutical manufacturing)?

YES _____ NO _____

If NO, proceed to Regulation 03B.

If YES, proceed to question (J).

(J) Does your annual potential to emit VOCs from all sources, regardless of process type, but excluding combustion installations, equal or exceed 25 tons?

YES _____ NO _____

If NO, proceed to Regulation 03B.

(K) If YES, did you submit a compliance plan to NYSDEC by November 15, 1993? (See Regulation 03A for compliance plan requirements.)

If YES, proceed to question (S).

If NO, place an "N1, "N2", "N3" or "N4" (according to the priority rank of the violation) in “Rank” box 03A, leave the “Approval” box 03A blank on the “Compliance Status Report”, complete a “Non-Compliance Report & Remedial Plan”, then proceed to question (S).

(L) Is your f/p/o located in an area other than the NYMA or the Lower Orange County Metropolitan Area?

YES _____ NO _____

If NO, proceed to Regulation 03B.

(M) If YES, is your f/p/o involved in any synthesized pharmaceutical manufacturing process?

YES _____ NO _____

If NO, proceed to question (P).

(N) If YES, does your annual potential to emit VOCs from all sources, regardless of process type, but excluding combustion installations, equal or exceed 100 tons?

YES _____ NO _____

If YES, proceed to question (S).

If NO, proceed to question (O).

(O) Do your annual potential VOC emissions from all sources, regardless of process type, but excluding combustion installations, equal or exceed 10 tons?

YES _____ NO _____

If NO, proceed to question (P).

If YES, proceed to question (R).

(P) Is your f/p/o involved in any other pharmaceutical or cosmetic manufacturing process (other than synthesized pharmaceutical manufacturing)?

YES _____ NO _____

If NO, proceed to Regulation 03B.

(Q) If YES, do your annual potential VOC emissions from all sources, regardless of process type, but excluding combustion installations, equal or exceed 50 tons?

YES _____ NO _____

If NO, proceed to Regulation 03B.

(R) If YES, did you submit a compliance plan to NYSDEC by November 15, 1993? (See Regulation 03A for compliance plan requirements.)

If YES, proceed to question (S).

If NO, place an "N1, "N2", "N3" or "N4" (according to the priority rank of the violation) in “Rank” box 03A, leave the “Approval” box 03A blank on the “Compliance Status Report”, complete a “Non-Compliance Report & Remedial Plan”, then proceed to question (S).

(S) Do you have a Title V Permit, State Facility Permit, or Minor Facility Registration?

YES _____ NO _____

If YES, place a check in “Approval” box 03A on the “Compliance Status Report”, proceed to question (U).

(T) If NO, are you exempt from obtaining a Title V Permit, State Facility Permit, or Minor Facility Registration?

YES _____ NO _____

If YES, place a check in “Approval” box 03A on the “Compliance Status Report”, proceed to Regulation 03B. (See Regulation 03A for exemptions.)

If NO, place an "N1, "N2", "N3" or "N4" (according to the priority rank of the violation) in “Rank” box 03A, leave “Approval” box 03A blank on the “Compliance Status Report”, complete a “Non-Compliance Report & Remedial Plan”, then proceed to question U.

(U) Are the VOC emissions being controlled and specific requirements for testing and monitoring being met?

YES _____ NO _____

If YES, proceed to question (V).

If NO, place an "N1, "N2", "N3" or "N4" (according to the priority rank of the violation) in “Rank” box 03A on the “Compliance Status Report”, complete a “Non-Compliance Report & Remedial Plan”, then proceed to question (V).

(V) Is there an inspection log(s) on-site that has a complete and up-to-date listing of parameters being monitored, vapor pressure of the VOC at 20°C being controlled for every process, and information on each leak which couldn’t be repaired within one day?

If YES, place a “C” in “Rank” box 03A on the “Compliance Status Report”, proceed to Regulation 03B.

If NO, place an “N1", “N2", “N3" or “N4" (according to the priority rank of the violation) in “Rank” box 03A on the “Compliance Status Report”, complete a “Non-Compliance Report & Remedial Plan”, then proceed to Regulation 03B.

REGULATION 03A: PHARMACEUTICAL AND COSMETIC MANUFACTURING PROCESSES

LEGAL CITATION:* ECL Sections 3-0301, 19-0301 & 19-0303 and 6NYCRR Parts 200, 201 & 233

ABSTRACT OF LAW/REGULATION:

Part 233 regulates the emission of volatile organic compounds (VOC) from pharmaceutical and cosmetic manufacturing facilities. Special requirements for reporting and maintenance of emission records are provided.

REQUIRED APPROVAL:

Owners or operators of facilities, projects or operations (fpos), involving these processes must have a Title V Permit, State Facility Permit, or Air Facility Registration. With the application for an air permit, the owner or operator must include the method or methods that will be used to comply with the requirements of the regulation.

EXEMPTIONS:

1. Fpos that manufacture pharmaceutical or cosmetic products for study rather than eventual sale are exempt if their annual potential to emit Volatile Organic Compounds (VOC) from all sources, regardless of process type, but excluding combustion installations is:

    a. less than 25 tons of VOCs in the New York City Metropolitan Area (NYMA) and the Lower Orange County Metropolitan Area; or

    b. less than 50 tons of VOCs for the remainder of the State.

2. Any reactor, extractor, distillation operation, crystallizer, centrifuge or vacuum dryer with an emission rate potential for volatile organic compounds equal to or less than 15 pounds of VOCs per day.

APPLICABILITY AND REQUIREMENTS:

NYMA includes the counties of Bronx, Kings (Brooklyn), New York (Manhattan), Nassau, Queens, Richmond (Staten Island), Rockland, Suffolk, and Westchester.

In the NYMA a fpo involving a synthesized pharmaceutical manufacturing process must demonstrate compliance with the control requirements before construction is begun. All other pharmaceutical or cosmetic manufacturing processes with an annual potential to emit VOCs from all sources, regardless of process type, but excluding combustion installations, that equal or exceed 25 tons, must submit a compliance plan to the NYSDEC by November 15, 1993 that contains either:

1. a schedule of the steps necessary to achieve compliance with this regulation by June 1, 1995 and the date by which each step will be completed; or

2. a schedule of the steps necessary to limit the annual potential to emit below the applicability criteria, by June 1, 1995, and the date by which each step will be completed.

Lower Orange County Metropolitan Area includes the towns of Blooming Grove, Chester, Highlands, Monroe, Tuxedo, Warwick and Woodbury.

In the Lower Orange County Metropolitan Area a f/p/o involving a synthesized pharmaceutical manufacturing process must be in compliance with the control requirements before construction is begun, if the annual potential to emit VOCs from all sources regardless of process type, but excluding combustion installations, equal or exceed 100 tons. Synthesized pharmaceutical manufacturing processes with an annual potential to emit VOCs from all sources, regardless of process type, but excluding combustion installations, that equal or exceed 10 tons, and all other pharmaceutical or cosmetic manufacturing processes with an annual potential to emit VOCs from all sources, regardless of process type, but excluding combustion installations, that equal or exceed 25 tons, must submit a compliance plan to the NYSDEC by November 15, 1993 that contains either:

1. a schedule of the steps necessary to achieve compliance with this regulation by June 1, 1995 and the date by which each step will be completed.

2. a schedule of the steps necessary to limit the annual potential to emit below the applicability criteria by June 1, 1995, and the date by which each step will be completed.

For f/p/os constructed after November 15, 1993, these requirements must be met upon start-up.

Remainder of New York State

In areas other than the NYMA and the Lower Orange County Metropolitan Area, a f/p/o involving a synthesized pharmaceutical manufacturing process must be in compliance with the control requirements before construction is begun, if the annual potential to emit VOCs from all sources regardless of process type, but excluding combustion installations, equals or exceeds 100 tons. Synthesized pharmaceutical manufacturing processes with an annual potential to emit VOCs from all sources, regardless of process type, but excluding combustion installations, that equal or exceed 10 tons, and all other pharmaceutical or cosmetic manufacturing processes with an annual potential to emit VOCs from all sources, regardless of process type, but excluding combustion installations, that equal or exceed 50 tons, must submit a compliance plan to the NYSDEC by November 15, 1993, that contains either:

1. a schedule of the steps necessary to achieve compliance with this regulation by June 1, 1995 and the date by which each step will be completed; or

2. a schedule of the steps necessary to limit the annual potential to emit below the applicability criteria by June 1, 1995, and the date by which each step will be completed.

For f/p/os constructed after November 15, 1993 these requirements must be met upon start-up.

Facility-wide Reduction Plans ("bubbles") Disallowed

This regulation previously allowed the use of facility-wide emission reduction ("bubble") plans involving synthesized pharmaceutical manufacturing processes covered by provisions of this regulation. These f/p/os must have submitted a compliance plan to the NYSDEC by November 15, 1993, containing a schedule of the steps (including the dates each step will be completed) necessary to achieve compliance by June 1, 1995.

Any process subject to the provisions of this regulation will remain subject even if the emissions fall below the applicability criteria.

Process Equipment

1. The VOC emissions must be controlled from reactors, extractors, distillation operations, crystallizers, centrifuges, and vacuum dryers, that have an emission rate potential of more than 15 pounds per day. When surface condensers are used the following conditions must be achieved:

VOC Vapor Pressure at 20°C (psi)	Allowable Condenser Outlet Gas Temperature (°C)
>5.8	-25
>2.9	-15
>1.5	0
>1.0	10
>0.5	25

9. If the operation of a condenser at the exit temperature specified above results in freezing and consequent plugging of the condenser, the allowable exit temperature may be raised to a maximum of 2°C above the freezing point of the VOC.

10. In cases where the condenser outlet gas temperature is not readily measurable due to negligible gas flow rate, the temperature of the condenser coolant may be used instead of condenser outlet gas temperature as long as the temperature of the condenser coolant does not exceed the allowable condenser outlet gas temperature as shown above.

Air Dryer and Production Equipment Exhaust System

1. The operation of any air dryer or exhaust system that conducts fugitive VOCs from a work area is not permitted, unless the emissions to the outdoor atmosphere are controlled as follows:

a. potential to emit VOCs, equals or exceeds 330 pounds/day - 90% control is required;

b. potential to emit VOCs, less than 330 pounds/day - must reduce emissions to 33 pounds/day.

Transfer of Volatile Organic Compounds (VOC)

For the transfer of VOCs with vapor pressures greater than 4.1 psi at 20°C from trucks or railcars to storage tanks with capacities greater than 2,000 gallons, other than tanks with floating roofs, vapor recovery or equivalent controls, a vapor balance system or equivalent control that provides at least 90% control of the VOC emissions is required.

Storage Tanks

For storage tanks that store VOCs with vapor pressures greater than 1.5 psi at 20°C, pressure/vacuum conservation vents set at 0.03 psi must be installed, unless more effective control equipment is used.

Centrifuges and Filters

Enclose all centrifuges containing VOCs, rotary vacuum filters processing VOCs and any other filters having an exposed liquid surface, where the liquid contains VOCs and exerts a total vapor pressure of 0.5 psi or more at 20°C, unless production, sampling, maintenance, or inspection procedures require operator access.

In-process Tank Requirements

Install covers on openings to in-process tanks containing a VOC compound. Tank openings must remain covered unless production, sampling, maintenance, or inspection procedures require operator access.

Leak Requirements

Repair all leaks from which a liquid containing VOC can be observed running or dripping. The repair must be completed the first time the equipment is off-line for a period of time long enough to complete the repair, but not later than 15 days after the leak is discovered. If the leaking component cannot be repaired until the process is shut down, and a shut down cannot be done within 15 days after the leak is detected, the leaking component must then be repaired before the process is restarted.

Processes may be allowed to operate with a lesser degree of control if the use of a Reasonably Available Control Technology (RACT) controls the emission of VOCs according to the specifications in the Rule.

Testing, Monitoring and Recordkeeping

A. F/p/os must follow specific notification and protocol requirements and test procedures for monitoring, testing and recordkeeping.

B. If an air cleaning device is used, continuous monitors must be installed to measure things such as:

1. exhaust gas temperature of all incinerators;

2. temperature rise across a catalytic incinerator bed;

3. breakthrough of volatile organic compound on a carbon adsorption unit;

4. outlet gas temperature of a refrigerated condenser; and

5. temperature of non-refrigerated condenser coolant supply system.

These monitors must be periodically calibrated and operated at all times that the associated equipment is operating. Other continuous monitoring and control devices may also be required.

C. Records must be maintained, and upon request, be provided to the NYSDEC. These records must be maintained at the f/p/o for a period of five years.

For any leak that cannot be repaired within one day after detection, the following records must be kept: name of the leaking equipment; date and time the leak is detected; action taken to repair the leak; and date and time the leak is repaired.

For a f/p/o not subject to the control requirements of this regulation because its annual potential to emit VOCs is below the applicability criteria, records must still be maintained.

DEFINITIONS:

Annual refers to a period of time based upon a calendar year commencing January 1st and terminating midnight December 31st.

Condenser is a device which cools a gas stream to a temperature at which all or some of the vaporized volatile organic compounds in the gas stream will condense and be removed.

Control system is any number of control devices, including condensers, which are designed and operated to reduce the quantity of volatile organic compounds emitted to the atmosphere.

Cosmetic manufacturing process is any process producing or blending chemicals for use in cosmetic products and/or manufacturing cosmetic products by chemical processes. Cosmetic products include, but are not limited to, colognes, perfumes, and nail polish.

In-process tank is a container used for mixing, blending, heating, reacting, holding, crystallizing, evaporating or cleaning operations in the manufacture of pharmaceuticals.

Pharmaceutical manufacturing process is any process involving the manufacture of pharmaceutical products and intermediates, including but not limited to, the following operations:

1. the manufacture of pharmaceutical products and intermediates by chemical synthesis;
2. the production and separation of medicinal chemicals including, but not limited to, antibiotics and vitamins from microorganisms;
3. the manufacture of botanical and biological products by the extraction of organic chemicals from vegetative materials or animal tissue; or
4. the formulation of pharmaceuticals into various dosage forms, including, but not limited to, tablets, capsules, injectable solutions or ointments, that are to be taken by the patient immediately and in accurate amounts.

Potential to emit is the maximum capacity of an air contamination source to emit any air contaminant under its physical and operational design. Any physical or operational limitation on the capacity of the facility or air contamination source to emit any air contaminant, including air pollution control equipment and/or restriction on the hours of operation, or on the type or amount of material combusted, stored, or processed, shall be treated as part of the design, only if the limitation is contained in enforceable permit conditions. Fugitive emissions, to the extent that they are quantifiable, are included in determining the potential to emit.

Production equipment exhaust system is a device for collecting and directing volatile organic compound fugitive emissions from reactor openings, centrifuge openings, and other vessel openings out of the work area for the purpose of protecting workers from exposure and/or to reduce vapor concentrations below the lower explosive limit.

Reactor is a vat or vessel which may be jacketed to permit temperature control, designed to control chemical reactions.

Separation operation is a process that separates a mixture of liquids and/or solids into two or more components. Specific mechanisms include extraction, centrifugation, filtration and crystallization.

Synthesized pharmaceutical manufacturing process is any process involving the manufacture of pharmaceutical products and intermediates by chemical synthesis. The production and recovery of materials produced via fermentation, extraction of organic chemicals from vegetative materials or animal tissue, and formulation and packaging of the product are not considered to be synthesized pharmaceutical manufacturing processes.

NYSDEC CONTACT: TELEPHONE NUMBER

Edward Pellegrini, Bureau of Stationary Sources 518/402-8403

REGULATION 03B QUESTIONS: **SYNTHETIC ORGANIC CHEMICAL MANUFACTURING**

Note: If your facility, project or operation (f/p/o), is subject to this regulation, it is also subject to Regulation 08A, may be subject to Regulation 06B and to various Federal Regulations in 40 CFR Parts 60 and 63.

(A) Does your f/p/o conduct any synthetic organic chemical manufacturing processes?

YES _____ NO _____

If NO, leave “Rank” and “Approval” boxes 03B blank on the “Compliance Status Report”, proceed to Regulation 03C.

(B) If YES, are the components monitored for leaks according to the specified requirements?

YES _____ NO _____

If YES, proceed to question (C).

If NO, place an "N1, "N2", "N3" or "N4" (according to the priority rank of the violation) in “Rank” box 03B, leave “Approval” box 03B blank on the “Compliance Status Report”, complete a “Non-Compliance Report & Remedial Plan”, then proceed to question (C).

(C) Are leaking components repaired according to the specified requirements?

YES _____ NO _____

If YES, proceed to question (D).

If NO, place an "N1, "N2", "N3" or "N4" (according to the priority rank of the violation) in “Rank” box 03B and leave “Approval” box 03B blank on the “Compliance Status Report”, complete a “Non-Compliance Report & Remedial Plan”, then proceed to question (D).

(D) Do you have a State Facility Permit or Title V Permit?

YES _____ NO _____

If YES, place a check in “Approval” Box 03B on the “Compliance Status Report”, proceed to question (E).

If NO, place an "N1", "N2", "N3" or "N4" (according to the priority rank of the violation) in “Rank” box 03B and leave “Approval” box 03B blank on the “Compliance Status Report”, complete a “Non-Compliance Report & Remedial Plan”, then proceed to question (E).

(E) Is the f/p/o keeping an up-to-date leak detection and repair plan and inspection log as required by 236.5?

YES _____ NO _____

If YES, proceed to question (F).

If NO, place an “N1", “N2", “N3" or”N4" (according to the priority rank of the violation) in “Rank” box 03B on the “Compliance Status Report”, complete a “Non-Compliance Report & Remedial Plan”, then proceed to question (F).

(F) Has the facility been submitting quarterly reports summarizing the leak monitoring and repairs as required in 236.5(e)?

YES _____ NO _____

If YES, place a "C" in “Rank” box 03B on the “Compliance Status Report”, proceed to Regulation 03C.
If NO, place an "N1, "N2", "N3" or "N4" (according to the priority rank of the violation) in “Rank” box 03B on the “Compliance Status Report”, complete a “Non-Compliance Report & Remedial Plan”, then proceed to Regulation 03C.

REGULATION 03B: **SYNTHETIC ORGANIC CHEMICAL MANUFACTURING**

LEGAL CITATION:* ECL Sections 3-0301, 19-0301.1 and 6NYCRR Parts 200, 201 & 236

ABSTRACT OF LAW/REGULATION:

This regulation provides control and repair requirements of components at synthetic organic chemical manufacturing facilities. Components must be monitored for leaks and repairs done according to the regulation. Special requirements for reporting and maintenance of records are provided.

REQUIRED APPROVAL:

A State Facility Permit or Title V Permit must be obtained prior to construction and operation of the process.

CONTROL REQUIREMENTS:

1. The following process unit components must be monitored for leaks, quarterly:

    a. pumps in light liquid service;

    b. compressors in gas/vapor service;

    c. pressure relief valves in gas/vapor service;

    d. valves in light liquid service; and

    e. valves in gas/vapor service.

2. Pumps in light liquid service must be visually inspected each calendar week for evidence of liquids dripping.

3. Pressure relief devices in gas/vapor service must be monitored for leaks within five days of an over-pressure release.

4. Open-ended valves or lines in gas/vapor or light liquid service must be sealed with either a second valve, blind flange, cap, or plug. The sealing device may only be removed while a sample is being taken or during maintenance operations.

    a. When a second valve is used, each open-ended line or valve equipped with a second valve shall be operated in such a manner that the valve on the process fluid end is closed before the second valve is closed.

    b. When a double block-and-bleed system is used, the bleed valve or line may remain open only during operations that require venting of the line between the block valves, but shall be closed at all other times.

    Any leaks detected must be repaired according to the requirements that follow.

REPAIR REQUIREMENTS:

1. When a leaking component is identified the owner or operator must:

    a. affix a weatherproof and readily visible tag to the leaking component bearing an identification number and the date the leak was detected. This tag must not be removed until the component is repaired and passes reinspection;

    b. make an initial attempt to repair the leaking component within five days;

    c. repair the leaking component as soon as practicable, but not later than 15 calendar days after the leak is detected; and

    d. re-monitor all leaking components within 48 hours after repairs have been completed.

2. Delay of repairs will be allowed if replacement parts are not available in time, or if the repair is technically not possible without a process unit shutdown. Repair of such a component must be completed during the next process shutdown and before subsequent start-up.

3. If there are numerous or severe leaks a process unit shutdown may have to be rescheduled to an earlier date.

An alternative method may be allowed for control or repair of component parts if the Reasonably Available Control Technology (RACT) complies with the specifications in the Rule.

EXEMPTIONS:

1. Any components not in gas/vapor or liquid service are exempt if the owner or operator keeps documentation at the facility proving which components are exempt.

2. Any components in vacuum service are exempt if the owner or operator keeps documentation at the facility proving which components are exempt.

3. Any components in process units that produce chemicals listed in Table 03B are exempt if they are not sold and are not used in another process as an intermediate product.

4. Any components in process units that produce chemicals listed in Table 03B are exempt if they are in gas/vapor or light liquid service less than 300 hours per year and the owner or operator keeps documentation at the facility proving which components are exempt.

5. The following requests for waivers must be reviewed before a determination can be made for exemption:

    a. Components that are unsafe to monitor because of extreme temperatures, extreme pressures, or a location more than two meters (6.6 feet) above a permanent support structure may be exempt from quarterly monitoring if the owner or operator requests a waiver that includes a plan to monitor these components at least once per year.

    b. Components constructed to vent the emissions of chemicals to an air cleaning installation may be exempt from quarterly monitoring if the owner or operator requests a waiver that includes a plan to monitor theses components at least once per year. The waiver application must also show that the air cleaning installation has an overall capture and removal efficiency of at least 81%.

DEFINITIONS:

CAS number is the Chemical Abstracts Service registration number assigned to special chemicals, isomers, or mixtures of chemicals.

Component is any piece of process equipment that has the potential to leak a chemical (listed in Table 03B), when monitored as prescribed. These include, but are not limited to: pumps, compressors, valves, open-ended pipes, and pressure relief devices. Excluded are valves that are not externally operated.

Double block-and-bleed system is two block valves connected in series with a bleed valve or line that can vent the line between the two block valves.

In gas/vapor service is any equipment that processes, transfers, or contains a chemical or mixture of chemicals in the gaseous phase having a concentration greater than 10 percent by weight of the chemicals listed in Table 03B.

In heavy liquid service is any equipment that processes, transfers, or contains a fluid and is not in gas/vapor or light liquid service.

In light liquid service is any equipment that processes, transfers, or contains a fluid having a vapor pressure greater than 0.3 kilopascals at 20°C (0.0427 psia at 68°F) and having a concentration greater than 10 percent 10 percent by weight of the chemicals listed in Table 03B.

In vacuum service is equipment operating at an internal pressure at least 5 kilopascals (0.712 psia) below ambient pressure.

Initial attempt to repair means to take rapid action to repair leaks. These include, but are not limited to: tightening or replacing bonnet bolts, tightening packaging bolts or glands, or injecting lubricant into lubricated packaging.

Leak means the emission of a chemical listed in Table 03B, at a concentration greater than or equal to 10,000 parts per million by volume (ppmv) as shown by monitoring. An indication of liquids dripping shall also be considered a leak.

Liquids dripping means any visible leakage from a seal or opening including, but not limited to dripping, spraying, misting, clouding, or ice formation.

Open-ended valve or line is any valve having one side of the valve seat in contact with the process fluid and one side open to the atmosphere either directly or through an open piping. Pressure relief valves are an exception.

Process unit is a unit with components assembled to produce, as an intermediate or final product, one or more of the chemicals listed in Table 03B.

Process unit shutdown means a scheduled work practice or operational procedure that stops production from all or part of a process unit. Process unit shutdowns do not include unscheduled work practice or operational procedures that stop production from all or part of a process unit for less than 24 hours, or the use of spare equipment or technically feasible bypass without stopping production.

Repair means to adjust or otherwise alter a component to eliminate a leak.

Synthetic organic chemical manufacturing facility is a facility that manufactures, as an intermediate or final product, one or more of the synthetic organic chemicals, polymers and resins listed in Table 03B.

TABLE 03B
SYNTHETIC ORGANIC CHEMICALS TO WHICH PART 236 APPLIES

Chemical Name	CAS #
Acetal	105-57-7
Acetaldehyde	75-07-0
Acetaldol	107-89-1
Acetamide	60-35-5
Acetanilide	103-84-4
Acetic Acid	64-19-7
Acetic anhydride	108-24-7
Acetone	67-64-1
Acetone cyanohydrin	75-86-5
Acetonitrile	75-05-8
Acetophenone	98-86-2
Acetyl chloride	75-36-5
Acetylene	74-86-2
Acrolein	107-02-8
Acrylamide	79-06-1
Acrylic acid	79-10-7
Acrylonitrile	107-13-1
Adipic acid	124-04-9
Adiponitrile	111-69-3
Alkyl naphthalenes	
Allyl alcohol	107-18-6
Allyl chloride	107-05-1
Aminobenzoic acid	1321-11-5
Aminoethylethanolamine	111-41-1
p-Aminophenol	123-30-8
Amyl acetates	628-63-7, 123-92-2
Amyl alcohols	71-41-0
Amyl amine	110-58-7
Amyl chloride	543-59-9
Amyl mercaptans	110-66-7
Amyl phenol	1322-06-1
Aniline	62-53-3
Aniline hydrochloride	142-04-1
Anisidine	29191-52-4
Anisole	100-66-3
Anthranilic acid	118-92-3
Anthraquinone	84-65-1
Benzaldehyde	100-52-7
Benzamide	55-21-0
Benzene	71-43-2
Benzenedisulfonic acid	98-48-6
Benzenesulfonic acid	98-11-3
Benzil	134-81-6
Benzilic acid	76-93-7
Benzoic acid	65-85-0
Benzoin	119-53-9
Benzonitrile	100-47-0
Benzophenone	119-61-9
Benzotrichloride	98-07-7
Benzol chloride	98-88-4
Benzol alcohol	100-51-6
Benzylamine	100-46-9
Benzyl benzoate	120-51-4
Benzyl chloride	100-44-7
Benzyl dichloride	98-87-3
Biphenyl	92-52-4
Bisphenol A	80-05-7
Bromobenzene	10-86-1
Bromonaphthalene	27497-51-4

Chemical Name	CAS #
Butadiene	106-99-0
1-butene	106-98-9
n-butyl acetate	123-86-4
n-butyl acrylate	141-32-2
n-butyl alcohol	71-36-3
s-butyl alcohol	78-92-2
t-butyl alcohol	75-65-0
n-butylamine	109-73-9
s-butylamine	13952-84-6
t-butylamine	75-64-9
p-tert-butyl benzoic acid	98-73-7
1,3 butylene glycol	107-88-0
n-butyraldehyde	123-72-8
Butyric acid	107-92-6
Butyric anhydride	106-31-0
Butyronitrile	109-74-0
Caprolactam	105-60-2
Carbon disulfide	75-1-50
Carbon tetrabromide	558-13-4
Carbon tetrachloride	56-23-5
Cellulose acetate	9004-35-7
Chloroacetic acid	79-11-8
m-chloroaniline	108-42-9
o-chloroaniline	95-51-2
p-chloroaniline	106-47-8
Chlorobenzaldehyde	35913-09-8
Chlorobenzene	108-90-7
Chlorobenzoic acid	118-91-2, 535-80-8,74-11-3
Chlorobenzotrichloride	2136-81-4, 2136-89-2, 5216-25-1
Chlorobenzoyl chloride	1321-03-5
Chlorodifluoromethane	25497-29-4
Chlorodifluoroethane	75-45-6
Chloroform	67-66-3
Chloronaphthalene	25586-43-0
o-chloronitrobenzene	88-73-3
p-chloronitrobenzene	100-00-5
Chlorophenols	25167-80-0
Chloroprene	126-99-8
Chlorosulfonic acid	7790-94-5
m-chlorotoluene	108-41-8
o-chlorotoluene	95-49-8
p-chlorotoluene	106-43-4
Chlorotrifluoromethane	75-72-9
m-cresol	108-39-4
o-cresol	95-48-7
p-cresol	106-44-5
Mixed cresols	1319-77-3
Cresylic acid	1319-77-3
Crotonaldehyde	4170-30-0
Crotonic acid	3724-65-0
Cumene	98-82-8

Chemical Name	CAS #
Cumene hydroperoxide	80-15-9
Cyanoacetic acid	372-09-8
Cyanogen chloride	506-77-4
Cyanuric acid	108-80-5
Cyanuric chloride	108-77-0
Cyclohexane	110-82-7
Cyclohexanol	108-93-0
Cyclohexanone	108-94-1
Cyclohexene	110-83-8
Cyclohexylamine	108-91-8
Cyclooctadiene	111-78-4
Decanol	112-30-1
Diacetone alcohol	123-42-2
Diaminobenzoic acid	27576-04-1
Dichloroaniline	95-76-1, 95-82-9, 554-00-7, 608-27-5, 608-31-1, 626-43-7, 27134-27-6, 57311-92-9
m-dichlorobenzene	541-73-1
o-dichlorobenzene	95-50-1
p-dichlorobenzene	106-46-7
Dichlorodifluoromethane	75-71-8
dichloroethyl ether	111-44-41,2
dichloroethane (EDC)	107-06-2
Dichlorohydrin	96-23-1
Dichloropropene	26952-23-8
Dicyclohexylamine	101-83-7
Diethylamine	109-89-7
Diethylene glycol	111-46-6
Diethylene glycol diethyl ether	112-36-7
Diethylene glycol dimethyl ether	111-96-6
Diethylene glycol monobutyl ether	112-34-5
Diethylene glycol monobutyl ether acetate	124-17-7
Diethylene glycol monoethyl ether	111-90-0
Diethylene glycol monoethyl ether acetate	112-15-2
Diethylene glycol monomethyl ether	111-77-3
Diethyl sulfate	64-67-5
Difluoroethane	75-37-6
Diisobutylene	25167-70-8
Diisodecyl phthalate	26761-40-0
Diisooctyl phthalate	27554-26-3
Diketene	674-82-8
Dimethylamine	124-40-3
N, N-dimethylaniline	121-69-7
N, N-dimethyl ether	115-10-6
N, N-dimethylformamide	68-12-2
Dimethylhydrazine	57-14-7
Dimethyl sulfate	77-78-1
Dimethyl sulfide	75-18-3

Chemical Name	CAS #
Dimethyl sulfoxide	67-68-5
Dimethyl terephthalate	120-61-6
3,5-dinitrobenzoic acid	99-34-3
Dinitrophenol	51-28-5
Dinitrotoluene	25321-14-6
Dioxane	123-91-1
Dioxilane	646-06-0
Diphenylamine	122-39-4
Diphenyl oxide	101-84-8
Diphenyl thiourea	102-08-9
Dipropylene glycol	25265-71-8
Dodecene	25378-22-7
Dodecylaniline	28675-17-4
Dodecylphenol	27193-86-8
Epichlorohydrin	106-89-8
Ethanol	64-17-5
Ethanolamines	141-43-5
Ethyl acetate	141-78-6
Ethyl acetoacetate	141-97-9
Ethyl acrylate	140-88-5
Ethylamine	75-04-7
Ethylbenzene	100-41-4
Ethyl bromide	74-96-4
Ethylcellulose	9004-57-3
Ethyl chloride	75-00-3
Ethyl chloroacetate	105-39-5
Ethylcyanoacetate	105-56-6
Ethylene	74-85-1
Ethylene carbonate	96-49-1
Ethylene chlorohydrin	107-07-3
Ethylenediamine	107-15-3
Ethylene dibromide	106-93-4
Ethylene glycol	107-21-1
Ethylene glycol diacetate	111-55-7
Ethylene glycol dimethyl ether	110-71-4
Ethylene glycol monobutyl ether	111-76-2
Ethylene glycol monobutyl ether acetate	112-07-2
Ethylene glycol monoethyl ether	110-80-5
Ethylene glycol monoethyl ether acetate	111-15-9
Ethylene glycol monomethyl ether	109-86-4
Ethylene glycol monomethyl ether acetate	110-49-6
Ethylene glycol monophenyl ether	122-99-6
Ethylene glycol monopropyl ether	2807-30-9
Ethylene oxide	75-21-8
Ethyl ether	60-29-7
2-ethylhexanol	104-76-7
Ethyl orthoformate	122-51-0
Ethyl oxalate	95-92-1
Ethyl sodium oxalacetate	41892-71-1
Formaldehyde	50-00-0
Formamide	75-12-7
Formic acid	64-18-6
Fumaric acid	110-17-8

Chemical Name	CAS #
Furfural	98-01-1
Glycerol	56-81-5
Glycerol dichlorohydri	26545-73-7
Glycerol triether	25791-96-2
Glycine	56-40-6
Glyoxal	107-22-2
Hexachlorobenzene	118-74-1
Hexachloroethane	67-72-1
Hexadecyl alcohol	36653-82-4
Hexamethylenediamine	124-09-4
Hexamethylene glycol	629-11-8
Hexamethylenetetramine	100-97-0
Hydrogen cyanide	74-90-8
Hydroquinone	123-31-9
p-hydroxybenzoic acid	99-96-7
Isoamylene	26760-64-5
Isobutanol	78-83-1
Isobutyl acetate	110-19-0
Isobutylene	115-11-7
Isobutyraldehyde	78-84-2
Isobutyric acid	79-31-2
Isodecanol	25339-17-7
Isooctyl alcohol	26952-21-6
Isopentane	78-78-4
Isophorone	78-59-1
Isophthalic acid	121-91-5
Isoprene	78-79-5
Isopropanol	67-63-0
Isopropyl acetate	108-21-4
Isopropylamine	75-31-0
Isopropyl chloride	75-29-6
Isopropylphenol	25168-06-3
Ketene	463-51-4
Linear alkyl sulfunate	
Linear alkylbenzene (linear dodecylbenzene)	123-01-3
Maleic acid	110-16-7
Maleic anhydride	108-31-6
Malic acid	6915-15-7
Mesityl oxide	141-79-7
Metanilic acid	121-47-1
Methacrylic acid	79-41-4
Methallyl chloride	563-47-3
Methanol	67-56-1
Methyl acetate	79-20-9
Methyl acetoacetate	105-45-3
Methylamine	74-89-5
n-methylaniline	100-61-8
Methyl bromide	74-83-9
Methyl butynol	37365-71-2
Methyl chloride	74-87-3
Methylcyclohexane	108-87-2
Methylcyclohexanone	1331-22-2
Methylene chloride	75-09-2
Methylene dianiline	101-77-9
Methylene diphenyl dilsocyanate	101-68-8
Methyl ethyl ketone	78-93-3
Methyl formate	107-31-3

Chemical Name	CAS #
Methyl isobutyl carbinol	108-11-2
methyl isobutyl ketone	108-10-1
Methyl methacrylate	80-62-6
Methylpentynol	77-75-8
a-methylstyrene	98-83-9
Methyl tert-butyl ether	1634-04-4
Morpholine	110-91-8
a-naphthalene sulfonic acid	85-47-2
b-naphthalene sulfonic acid	120-18-3
a-naphthol	90-15-3
b-naphthol	135-19-3
Neopentanoic acid	75-98-9
o-nitroaniline	88-74-4
p-nitroaniline	100-01-6
o-nitroanisole	91-23-6
p-nitroanisole	100-17-4
Nitrobenzene	98-95-3
Nitrobenzoic acid (o,m and p)	27178-83-2
Nitroethane	79-24-3
Nitromethane	75-52-5
2-Nitrophenol	88-75-5
Nitropropane	25322-01-4
Nitrotoluene	1321-12-6
Nonene	27215-95-8
Nonylphenol	25154-52-3
Octylphenol	27193-28-8
Paraldehyde	123-63-7
Pentaerythritol	115-77-5
n-pentane	109-66-0
1-pentene	109-67-1
Perchloroethylene	127-18-4
Perchloromethyl mercaptan	594-42-3
o-phenetidine	94-70-2
p-phenetidine	156-43-4
Phenol	108-95-2
phenolsulfonic acids	98-67-9, 585-38-6, 609-46-1, 1333-39-7
Phenyl anthranilic acid	91-40-7
Phenylenediamine	106-50-3
Phosgene	75-44-5
Phthalic anhydride	85-44-9
Phthalimide	85-41-6
b-picoline	108-99-6
Piperazine	110-85-0
Polybutenes	9003-29-6, 25036-29-7
Polyethylene	9002-88-4
Polyethylene glycol	25322-68-3
Polypropylene	9003-07-0
Polypropylene glycol	25322-69-4
Polystyrene	9003-53-6
Propionaldehyde	123-38-6
Propionic acid	79-09-4
n-propyl alcohol	71-23-8
Propylamine	107-10-8
Propyl chloride	540-54-5
Propylene	115-07-1

Chemical Name	CAS #
Propylene chlorohydrin	127-00-4
Propylene dichloride	78-87-5
Propylene glycol	57-55-6
Propylene oxide	75-56-9
Pyridine	110-86-1
Quinone	106-51-4
Resorcinol	108-46-3
Resorcylic acid	27138-57-4
Salicylic acid	69-72-7
Sodium acetate	127-09-3
Sodium benzoate	532-32-1
Sodium carboxymethyl cellulose	9004-32-4
Sodium chloroacetate	3926-62-3
Sodium formate	141-53-7
Sodium phenate	139-02-6
Sorbic acid	110-44-1
Styrene	100-42-5
Succinic acid	110-15-6
Succinonitrile	110-61-2
Sulfanilic acid	121-57-3
Sulfolane	126-33-0
Tannic acid	1401-55-4
Terephthalic acid	100-21-0
Tetrachloroethanes	79-34-5
Tetrachlorophthalic anhydride	117-08-8
Tetraethyl lead	78-00-2
Tetrahydronaphthalene	119-64-2
Tetrahydrophthalic anhydride	85-43-8
Tetramethyl lead	75-74-1
Tetramethylenediamine	110-60-1
Tetramethylethylenediamine	110-18-9
Toluene	108-88-3
Toluene-2,4-diamine	95-80-7
Toluene-2, 4-diisocyanate	584-84-9
Toluene disocyanates (mixture)	26471-62-5
Toluenesulfonamide	1333-07-9
Toluenesulfonic acids	104-15-4
Toluenesulfonyl chloride	98-59-9
Toluidines	26915-12-8

Chemical Name	CAS #
Trichlorobenzenes	87-61-6, 108-70-3,120-82-1
1,1,1-trichloroethane	71-55-6
1,1,2-trichloroethane	79-00-5
Trichloroethylene	79-01-6
Trichlorofluoromethane	75-69-4
1,2,3-trichloropropane	96-18-4
1,1,2-trichloro-1,2,2, trifluoro-ethane	76-13-1
Triethylamine	121-44-8
Triethylene glycol	112-27-6
Triethylene glycol dimethyl ether	112-49-2
Triisobutylene	7756-94-7
Trimethylamine	75-50-3
Urea	57-13-6
Vinyl acetate	108-05-4
Vinyl chloride	75-01-4
Vinylidene chloride	75-35-4
Vinyl toluene	25013-15-4
Xylenes (mixed)	1330-20-7
0-xylene	95-47-6
p-xylene	106-42-3
Xylenol	1300-71-6
Xylidine	1300-73-8

Note: Requirements of this regulation apply to all chemicals listed, even if CAS numbers have not been assigned.

REGULATION 03C: **CONSUMER PRODUCTS**

NOTE: If your facility, project or operation is subject to this regulation, it may also be subject to Regulations 25A & 25B.

REGULATION 03C: **CONSUMER PRODUCTS**

LEGAL CITATION: *ECL 19-0301, and 6NYCRR Part 235

NOTE: On 8/21/02 the Department adopted revisions to Part 235 Consumer Products that have a compliance date of 1/1/05. Therefore, the federal program, 40 CFR Part 59 subpart C, is in effect statewide until 1/1/05.

NYSDEC CONTACT: TELEPHONE NUMBER

Bureau of Air Quality Planning: 518/402-8396

REGULATION 04 QUESTIONS: **FUEL COMPOSITION AND USE - SULFUR LIMITATIONS**

(A) Do you operate any stationary combustion installation (boiler) with a maximum operating heat input greater than one million Btu's/hour?

YES _____ NO _____

If NO, leave “Rank” box 04 blank on the “Compliance Status Report”, proceed to Regulation 04A.

(B) If YES, does your stationary combustion installation burn Distillate Fuel Oil, Natural Gas, or Liquified Petroleum Gas (LPG or Propane)?

YES _____ NO _____

If YES, leave “Rank” box 04 blank on the “Compliance Status Report”, proceed to Regulation 04A.

(C) If NO, does the sulfur content of any coal or fuel oil used in this facility, project or operation exceed the levels in Table 04 (see Section R, Regulation 04)? (Information on sulfur content should be available from the New York State Office of General Services or your distributor.)

YES _____ NO _____

If NO, place a "C" in “Rank” box 04 on the “Compliance Status Report”, proceed to Regulation 04A.

If YES, place an "N1", "N2", "N3" or "N4" (according to the priority rank of the violation) in “Rank” box 04 on the “Compliance Status Report”, complete a “Non-Compliance Report & Remedial Plan”, then proceed to Regulation 04A.

REGULATION 04: **FUEL COMPOSITION AND USE - SULFUR LIMITATIONS**

LEGAL CITATION: ECL Article 19, 6NYCRR Part 225-1

ABSTRACT OF LAW/REGULATION:

Part 225-1 "Fuel Composition and Use-Sulfur Limitations" prohibits the sale, offer for sale, purchase, or use of fuel exceeding the permitted sulfur limit in any stationary combustion installation or boilers with the limits for coal and fuel oil based on location of the source in New York State (see Table 04).

Impact offset plans, allowing the use of higher than allowed sulfur in some facilities offset by the use of lower sulfur fuel, are available for stationary combustion sources that through demonstration can prove that their plantwide emission of sulfur dioxide does not exceed that which would be allowed if each source complied with the applicable sulfur dioxide limits or its environmental impact does not increase the annual deposition of sulfates at a location in any sensitive receptor area, (i.e. the Central-Western Adirondack Park, the Western Catskills, and the Hudson Highlands), where the specific limit of sulfates is exceeded.

Owners of stationary combustion installations with a total heat input greater than 250 million Btu's per hour must monitor emissions, fuel use, and fuel sulfur content.

DEFINITIONS:

Sensitive receptor areas: Regions of the State, encompassing geographically significant land areas not wholly contained within any county, that the NYSDEC determines to be susceptible to the impacts of acid deposition, based upon:

1. geological information identifying areas incapable of adequately neutralizing acid deposition;
2. the presence of plant or animal species that are particularly sensitive to acid deposition;
3. existing acid deposition reports and data prepared by agencies of the State or Federal government; or
4. such other information that the NYSDEC determines to be indicative of acid sensitivity.

NYSDEC CONTACT: TELEPHONE NUMBER

Mike Jennings 518/402-8403

TABLE 04
SULFUR IN FUEL LIMITATIONS
(Source: 6NYCRR Part 225)

AREA	OIL (% sulfur by weight)		SOLID FUEL (pounds of sulfur per million BTU gross heat content)
	Residual	Distillate	
New York City	0.30	0.20	0.2 MAX.
Nassau, Rockland & Westchester Counties	0.37	0.37	0.2 MAX.
Suffolk County: Towns of Babylon, Brookhaven, Huntington, Islip and Smithtown	1.00	1.00	0.6 MAX.
Erie County: City of Lackawanna and South Buffalo □□‡	1.10	1.10	1.7 MAX. 1.4 AVG.
Niagara County & Remainder of Erie County	1.50	1.50	1.7 MAX. 1.4 AVG.
Remainder of State	1.50	1.50	2.5 MAX. 1.9 AVG. 1.7 ANNUAL AVG.

‡ South Buffalo is defined as the area in the City of Buffalo south of a line from the intersection of IR 190 and Route 5 and proceeding east along IR 190 to the city limit.

AIR RESOURCES

REGULATION 04A QUESTIONS: **FUEL COMPOSITION AND USE - WASTE FUEL**

Note: If your facility, project or operation (f/p/o), is subject to this regulation, it is also subject to Regulation 08A.

(A) Is any liquid and/or semi-liquid waste fuel being burned at your f/p/o?

YES _____ NO _____

If NO, leave “Rank” box 04A blank on the “Compliance Status Report”, proceed to Regulation 04B.

(B) If YES, is the liquid and/or semi-liquid waste fuel being burned for energy recovery at your f/p/o?

YES _____ NO _____

If NO, place an "N1", "N2", "N3" or "N4" (according to the priority rank of the violation) in “Rank” box 04A on the “Compliance Status Report”, complete a “Non-Compliance Report & Remedial Plan”, then proceed to question (C).

If YES, proceed to question (C).

(C) Does your f/p/o have a Title V Permit, State Facility Permit, or Facility Registration to burn waste fuel? (See Regulation 04A for exemptions.)

YES _____ NO _____

If YES, place a check in the “Approval” box 04A on the “Compliance Status Report”, proceed to question (E).

(D) If NO, are you exempt from obtaining a Title V Permit, State Facility Permit, or Facility Registration?

YES _____ NO _____

If NO, place an "N1", "N2", "N3" or "N4" (according to the priority rank of the violation) in “Rank” box 04A and leave “Approval” box 04A blank on the “Compliance Status Report”, complete a “Non-Compliance Report & Remedial Plan”, then proceed to Regulation 04B.

If YES, place a check in “Approval” Box 04A on the “Compliance Status Report”, proceed to question (E).

(E) Are you required to monitor emissions and/or maintain records of quantity and quality of waste oil received and/or burned?

YES _____ NO _____

If NO, place a "C" in “Rank” box 04A on the “Compliance Status Report”, proceed to Regulation 04B.

If YES, proceed to question (F).

(F) Have you monitored emissions and/or maintained records?

YES _____ NO _____

If YES, place a "C" in “Rank” box 04A on the “Compliance Status Report”, proceed to Regulation 04B.

If NO, place an "N1", "N2", "N3" or "N4" (according to the priority rank of the violation) in “Rank” box 04A on the “Compliance Status Report”, complete a “Non-Compliance Report & Remedial Plan”, then proceed to Regulation 04B.

REGULATION 04A: **FUEL COMPOSITION AND USE - WASTE FUEL**

LEGAL CITATION: ECL Article 19 and Sections 3-0301, 19-0301 & 19-0303 and 6NYCRR Parts 200, 201 & Subpart 225-2.

ABSTRACT OF LAW/REGULATION:

Subpart 225-2 "Fuel Composition and Use -- Waste Fuel" regulates the use of and trade in liquid and semi-liquid waste fuel which are to be burned for energy recovery.

REQUIRED APPROVAL:

A Title V Permit, State Facility Permit, or Facility Registration is required for a new emission source or to modify an existing emission source in which waste fuel is to be burned.

ELIGIBILITY:

Waste fuel "A" may not be burned in any stationary combustion installation, incinerator or process except emission sources located outside New York County (Manhattan) that meet one of these conditions:

1. Stationary combustion installation, with special conditions included in the Permit to Construct and the Certificate to Operate, has a maximum operating heat input of 20 million Btu per hour or greater, and where the combustion efficiency is demonstrated to be at least 99 percent while burning waste fuel "A".

2. Incinerator, with special conditions included in the Permit to Construct and Certificate to Operate, has a furnace capacity that exceeds 2,000 pounds per hour or refuse charged and will burn Type 0, 1, 2, 3 or 4 refuse, and where the combustion efficiency is demonstrated to be at least 99 percent while burning waste fuel "A".

3. Process, with special conditions in the Permit to Construct and Certificate to Operate, and where the combustion efficiency is demonstrated to be at least 99 percent while burning waste fuel "A".

Waste fuel "A" and/or waste fuel "B" may be burned provided the emission sources meet the following conditions:

1. A demonstration that emissions resulting from the use of waste fuel will not contravene any applicable air quality standards and/or cause air pollution.

2. An acceptable fuel analysis which is representative of the waste fuel to be burned.

Fuel oil and waste oil, except such fuel containing 50 ppm or more by weight of polychlorinated biphenyls (PCB), may be blended to meet the limitations of Table 04A. Blending must be performed prior to delivery to the fuel to a facility burning waste fuel "A".

Note: If you collect, transport, store, sell, offer for sale, deliver, exchange in trade, purchase, accept delivery, pick up or accept in trade any waste fuel see Regulations 28, 29, 30, 31, 32, 33 & 34.

EXCEPTIONS:

1. Space heater located in automotive service facilities where the maximum operating heat input is less than one million Btu per hour, the waste oil is generated on site, and the waste oil to be burned contains no chemical waste; and

2. Mobile emission source where the waste oil is generated in the same emission source.

DEFINITIONS:

Chemical waste: Liquid or semi-liquid waste other than waste oil, including but not limited to spent solvents, tars, paints, resins and wastes and sludges from any process.

Combustion efficiency (C.E.): A measure of the completeness of combustion, determined by the measurement of carbon dioxide (CO_2) and carbon monoxide (CO) in flue gas.

$$C.E. = \frac{CO_2 \times 100}{CO_2 + CO}$$

Fuel oil: Any virgin distillate oil, virgin residual oil, re-refined oil or a blend of these.

Reprocessed oil: Any waste oil from which physical and/or chemical contaminants have been removed so that such oil is suitable for productive use.

Re-refined oil: Any waste oil from which physical and/or chemical contaminants have been removed so that it is substantially equivalent to virgin distillate or virgin residual oil.

Total halogens: The total organic and inorganic halides (fluorine, F; chlorine, Cl; bromine, Br; iodine, I), expressed as chloride present in a fuel oil or waste fuel, in parts per million by weight (water free basis).

Waste Fuel "A": Any waste oil, fuel oil or mixture of these to be burned which contains between 25 and 250 parts per million (by weight) lead and which meets the limitations of Table 04A and does not contain chemical waste.

Waste Fuel "B": Any fuel to be burned which does not meet the limitations to Table 04A and/or contains any chemical waste.

Waste oil: Used and/or reprocessed engine lubricating oil and/or any other used oil, including but not limited to, fuel oil, engine oil, gear oil, cutting oil, transmission fluid, hydraulic fluid, dielectric fluid, oil storage tank residue, animal oil and vegetable oil, which has not subsequently been re-refined.

Note: See Regulation 06 for additional definitions.

TABLE 04A
FUEL CONSTITUENTS/PROPERTY

CONSTITUENT/PROPERTY	ALLOWABLE LIMITS
Polychlorinated Biphenyls (PCB)	Less than 50 ppm ‡
Total Halogens	1,000 ppm ‡ maximum
Sulfur	See Regulation o4 for fuel sulfur limitations
Lead	250 ppm ‡ maximum
Gross Heat Content	125,000 (btu/gal) minimum

‡ Parts per million (ppm) by weight (water free basis) of fuel.

NYSDEC REGIONAL CONTACT PERSON:		TELEPHONE NUMBER
Region 1	Ajay Shah	516/444-0206
Region 2	Sam Lieblich	718/482-4944
Region 3	Robert Stanton	914/256-3048
Region 4	Rick Leone	518/357-2045
Region 5	Michael Stawarz	518/623-3671
Region 6	Thomas Morgan	315/785-2513
Region 7	Reginald Parker	315/426-7552
Region 8	Thomas Marriott	716/226-2466
Region 9	Larry Sitzman	716/851-7130
CO	Mike Jennings	518/402-8403

REGULATION 04B QUESTIONS: **FUEL COMPOSITION AND USE - GASOLINE**

(A) Did your facility, project or operation obtain, sell or dispense any gasoline?

YES _____ NO _____

If NO, leave “Rank” box 04B blank on the “Compliance Status Report”, proceed to Regulation 05.

If YES, proceed to question (B).

(B) If gasoline deliveries were made during the period of May 1 through September 15, was the Reid vapor pressure (RVP) of the gasoline greater than 9.0 pounds per square inch (psi)?

YES _____ NO _____

If NO, leave “Rank” box 04B blank on the “Compliance Status Report”, proceed to question (C).

If YES, place an "N1", "N2", "N3" or "N4" (according to the priority rank of the violation) in “Rank” box 04B on the “Compliance Status Report”, complete a “Non-Compliance Report & Remedial Plan”, then proceed to question (C).

(C) Did you sell or dispense any gasoline for use in a motor vehicle?

YES _____ NO _____

If NO, leave “Rank” box 04B blank on the “Compliance Status Report”, proceed to Regulation 05.

If YES, proceed to question (D).

(D) Have you maintained all the necessary records required by this regulation?

YES _____ NO _____

If NO, place an "N1", "N2", "N3" or "N4" (according to the priority rank of the violation) in “Rank” box 04B on the “Compliance Status Report”, complete a “Non-Compliance Report & Remedial Plan”, then proceed to Regulation 05.

If YES, place a "C" in “Rank” box 04B on the “Compliance Status Report”, proceed to Regulation 05.

REGULATION 04B: **FUEL COMPOSITION AND USE - GASOLINE**

LEGAL CITATION: ECL Article 19, 6NYCRR Part 225-3

ABSTRACT OF LAW/REGULATION:

No one is allowed to sell or supply a gasoline to a retailer or a wholesale purchaser-consumer that has a Reid vapor pressure (RVP) greater than 9.0 pounds per square inch (psi) during the period May 1 through September 15 of each year. Records stating the maximum RVP of the gasoline must be maintained on gasoline delivered to or distributed from a facility during this period.

Gasoline must be sampled in accordance with 40 CFR 80 and tested in accordance with ASTM Test Method D 4815-89, prior to its release from the final distribution facility.

DEFINITIONS:

ASTM: American Society for Testing and Materials.

Carbon monoxide (CO): A colorless, odorless, tasteless gas at standard conditions having a molecular composition of one carbon atom and one oxygen atom.

Carbon monoxide control area (control area): The Consolidated Metropolitan Statistical Area (CMSA) in which a carbon monoxide non-attainment area is located or; if the area is not located in a CMSA, the Metropolitan Statistical Area (MSA) in which the area is located or; if an area that was designated as non-attainment is redesignated as attainment for carbon monoxide, that CMSA or MSA as long as is necessary to maintain such standard in that area. The following shall be considered to be a carbon monoxide control area: (a) New York City Consolidated Metropolitan Statistical Area (New York City CMSA). This area consists of the counties of Bronx, Kings, Queens, New York, Richmond, Orange, Rockland, Putnam, Westchester, Nassau and Suffolk. (b) Syracuse Metropolitan Statistical Area (Syracuse MSA). This area consists of the counties of Onondaga, Oswego and Madison.

Carbon monoxide control period (control period): The dates between which a requirement or prohibition of this regulation applies.

Chemical name: The specific or unique chemical(s) from which oxygen is derived. As applied to oxygenates, the name of the oxygenate as given in Table 31B-1, or the technical or common name of the oxygenate.

Conforming gasoline: Any gasoline that conforms with the requirements of this regulation.

Distributor: Any person who transports or stores or causes the transportation or storage of gasoline at any point between a refinery or importer's facility and a retail outlet or wholesale purchaser-consumer's facility.

Ethanol blending plant: Any refinery at which gasoline is produced solely through the addition of ethanol to gasoline, and at which the quality or quantity of gasoline is not altered in any other manner.

Final distribution facility: The stationary facility of a distributor from which gasoline is supplied to a retail outlet or wholesale purchaser-consumer's facility; or the portable container used to transport gasoline if an oxygenate has or will be added to such portable container prior to delivery to a retail outlet or wholesale purchaser-consumer's facility.

Gasoline: A volatile liquid mixture containing hydrocarbons or a blend of this mixture with one or more oxygen containing ashless organic compounds, such as alcohols or ethers, which is suitable for use in motor vehicles with spark-ignition, internal combustion engines and which is commonly or commercially known or sold as gasoline.

Gasoline bulk plant: A gasoline storage and distribution facility with an average daily throughput of 40,000 gallons of gasoline or less.

Gasoline terminal: A gasoline storage and distribution facility with an average daily throughput greater than 40,000 gallons of gasoline or with an emission rate potential of volatile organic compounds of 100 tons per year or greater.

New York City Consolidated Metropolitan Statistical Area (New York CMSA): This area consists of the counties of Bronx, Kings (Brooklyn), Queens, New York (Manhattan), Richmond (Staten Island), Orange, Rockland, Putnam, Westchester, Nassau and Suffolk.

Non-conforming gasoline: Any gasoline that does not conform with the requirements of this regulation.

Numeric allowance: The maximum margin of error in vehicle miles traveled allowed by the US-EPA pursuant to 42 U.S.C. Section 7512a(a)(2)(A). Note: As of November 15, 1992, the numeric allowance is 5 percent for calendar year 1993, 4 percent for 1994, and 3 percent for 1995 and subsequent years.

Oxygen content: The ratio of the weight of oxygen in a unit of gasoline to the total weight of the gasoline multiplied by one hundred, determined through the method specified in this regulation.

Oxygenate: Any substance that, when blended into gasoline, increases the amount of oxygen in that gasoline blend and that is allowed to be used as a gasoline additive.

Oxygenated gasoline: Gasoline to which at least one oxygenate has been added and which complies with the requirements of this regulation.

Refiner: Any person who owns, leases, operates, controls, or supervises a refinery.

Refinery: Any facility, including an ethanol blending plant, that produces gasoline.

Reid Vapor Pressure (RVP): A measure of the vapor pressure of a gasoline in pounds per square inch absolute at 100°F.

Re-seller: Any person who purchases gasoline and resells or transfers it to a retailer or a wholesale purchaser-consumer.

Retail outlet: Any establishment at which gasoline is sold or offered for sale to the general public for use in motor vehicles.

Retailer: Any person who owns, leases, operates, controls or supervises a retail outlet.

Ultimate consumer: The first person who purchases or obtains gasoline for use in motor vehicles.

VMT tracking area: The area in which the vehicle miles traveled (VMT) must be monitored or tracked.

Wholesale purchaser-consumer: Any ultimate consumer of gasoline who purchases or obtains gasoline from a supplier for use in motor vehicles and receives delivery of that product into a storage tank, substantially under the control of that person, of at least 550-gallon capacity.

REFORMULATED GASOLINE (RFG)

BACKGROUND

The 1990 amendments to the federal Clean Air Act primarily focus on the control of emissions from motor vehicles, including the use of clean fuels. The amendments require states to implement specific programs, such as the use of reformulated gasoline (RFG) to bring air quality up to federal health standards. The RFG program is one of the key programs to address motor vehicle emissions of ozone-forming and toxic emissions. Motor vehicles, when considered in the aggregate, are one of the largest sources of air pollution emissions.

WHAT IS RFG?

Gasoline is a blend of hundreds of compounds, including many toxic chemicals such as benzene and heavy metals. RFG, a fuel that contains no heavy metals, is composed of no more than one percent benzene, and must include detergents to help keep engines clean. It must also be at least two percent oxygen by weight, which is achieved by adding an oxygenate -- a chemical that increases oxygen content. The oxygen helps the fuel burn cleaner, releasing fewer pollutants to the air.

Two types of oxygenates are used:

- non-renewable methanol or MTBE (methyl tertiary butyl ether) which is made from natural gas; and
- renewable ethanol or ETBE (ethyl tertiary butyl ether) which is made from corn and other grains.

WHAT IS THE RFG PROGRAM?

The RFG program has two phases. In the first phase, the Clean Air Act Amendments direct that RFG fuel be available for sale, by January 1, 1995, in locations around the country that have the worst ozone problems. These locations are: Baltimore, Chicago, Hartford, Houston, Los Angles, Milwaukee, New York City, Philadelphia, and San Diego. In New York State Dutchess county joined in adopting the RFG program.

In New York State, RFG will be sold in these counties: Bronx, Dutchess, Kings (Brooklyn), Nassau, New York (Manhattan), Orange, Putnam, Queens, Richmond (Staten Island), Rockland, Suffolk and Westchester. Unlike oxygenated gasoline, which is required in some areas only during the winter months to reduce carbon monoxide, RFG will be sold at gasoline dispensing stations throughout the entire year.

The second phase, scheduled for January 1, 2000, requires further gasoline formulation changes to substantially reduce air pollutant emissions from motor vehicles.

HOW WILL RFG IMPROVE AIR QUALITY?

RFG burns more completely than conventional gasolines, thereby reducing the amount of air pollutant emissions from unburned hydrocarbons, nitrogen oxide and carbon monoxide. These emissions can cause respiratory problems in humans. With the RFG program, NYS-DEC expects a reduction in ozone-forming compounds, nitrgen oxide compounds and toxic emissions.

TABLE 04B-1
SPECIFIC GRAVITY AND WEIGHT FRACTION OXYGEN OF COMMON OXYGENATES

Oxygenate	Weight fraction oxygen ($W_{oxygen/oxygenate}$)	Specific gravity at 60°F ($d_{oxygenate}$)
methyl alcohol (methanol)	0.4993	0.7963
ethyl alcohol (ethanol)	0.3473	0.7939
normal propyl alcohol	0.2662	0.8080
isopropyl alcohol	0.2662	0.7899
normal butyl alcohol	0.2158	0.8137
isobutyl alcohol	0.2158	0.8058
secondary butyl alcohol	0.2158	0.8114
tertiary butyl alcohol	0.2158	0.7922
methyl tertiary butyl ether (MTBE)	0.1815	0.7460
tertiary amyl methyl ether (TAME)	0.1566	0.7752
ethyl tertiary butyl ether (ETBE)	0.1566	0.7452
diisopropyl ether (DIPE)	0.1566	0.7300

REGULATION 05 QUESTIONS: **GASOLINE DISPENSING SITES AND TRANSPORT VEHICLES**

(A) Does your facility, project or operation (f/p/o), have one or more gasoline storage tanks with a total capacity of 250 gallons or greater?

YES _____ NO _____

If NO, leave “Rank” box 05 blank on the Compliance Status Report form, proceed to Regulation 05A.

(F) If YES, did any of the equipment requirements as presented in Regulation 05, Table 05-1 through 05-4 apply to the operation of your gasoline dispensing site?

YES _____ NO _____

If YES, proceed to Question (C).

If No, leave “Rank” box 05 blank on the Compliance Status Report form, proceed to Regulation 05A.

(G) Are you required to have a submerged fill?

YES _____ NO _____

If YES, proceed to Question (D).

If NO, proceed to Question (E).

(H) Do you have the submerged fill?

YES ____ NO _____

If YES, proceed to Question (I)

If N0, place an “N1", “N2", N3" or N4" (according to the priority rank of the violation) in “Rank” box 05 on the Compliance Status Report form, complete a “Non-Compliance Report & Remedial Plan” form, then proceed to Question (I)

(I) Are you required to have a Stage 1 vapor collection system?

YES _____ NO _____

If YES, proceed to Question (F).

If NO, proceed to Question (G).

(J) Do you have a Stage 1 vapor collection system?

YES _____ NO _____

If YES, proceed to Question (G).

If NO, place an “N1", N2", “N3" or “N4" (according to the priority rank of the violation) in “Rank” box 05 on the Compliance Status Report form, complete a “Non-Compliance Report & Remedial Plan” form, then proceed to Question (G).

(K) Are you required to have a Stage II vapor collection system?

YES _____ NO _____

If YES, proceed to Question (H).

If NO, proceed to Question (I).

(L) Do you have a Stage II vapor collection system?

YES _____ NO _____

If YES, proceed to Question (I).

If NO, place an “N1", “N2", “N3" or “N4" (according to the priority rank of the violation) in “Rank” box 05 on the Compliance Status Report form, complete a “Non-Compliance Report & Remedial Plan” form, then proceed to Question (I).

(M) Have you registered with the NYSDEC according to the registration schedule as stated in Regulation 05?

YES _____ NO _____

If YES, place a “C” in “Rank” box 05 and place a check in the “Approval” Box 05 on the Compliance Status Report form, then proceed to Regulation 05A.

(N) If NO, are you exempt from the registration requirements? (See Regulation 05 for Exemptions).

YES ____ NO _____

If YES, place a check in the “Approval” Box 05 on the Compliance Status Report form, proceed to Regulation 05A.

If NO, place an “N1", “N2", “N3" or”N4" (according to the priority rank of the violation) in “Rank” box 05 and leave the “Approval” Box 05 blank on the Compliance Status Report form, complete a “Non-Compliance Report & Remedial Plan” form, then proceed to Regulation 05A.

REGULATION 05: GASOLINE DISPENSING SITES AND TRANSPORT VEHICLES

LEGAL CITATION: ECL Article 19 and Sections 3-0301 & 19-0301 and 6NYCRR Parts 200, 201 & 230.

ABSTRACT OF LAW/REGULATION:

Part 230 regulates the emission of volatile organic compounds (VOC) from gasoline service stations and gasoline delivery vehicles depending upon the annual throughput of gasoline through the system involved with unique time frames applicable for complying with the regulation. The regulation also requires specific testing, recordkeeping and reporting requirements for insuring compliance with the requirements of this regulation.

This regulation requires control of the VOC emissions from the loading of gasoline storage from tank trucks at gasoline service stations and also regulates the VOC emissions from the refueling of automobiles from gasoline pumps at service stations. These controls are vapor balance piping at the service stations for control of VOC from the loading of gasoline into tanks from trucks and nozzles and underground plumbing for controlling these emissions from the refueling of automobiles.

APPLICABILITY:

Gasoline dispensing sites with storage tanks with a capacity of 250 gallons or larger, and with an annual throughput as shown in Tables 05-1 through 05-4.

The requirements for proper controls at gasoline dispensing stations for New York City (the counties of Bronx, Kings (Brooklyn), New York (Manhattan), Queens and Richmond (Staten Island) are presented in Table 05-1, the counties of Nassau, Rockland, Suffolk and Westchester are presented in Table 05-2, the Lower Orange County metropolitan area (the towns of Blooming Grove, Chester, Highlands, Monroe, Tuxedo, Warwick and Woodbury) is presented in Table 05-3, and upstate New York is presented in Table 05-4. Control levels are related to the annual throughput of the dispensing station, the station's location, and the installation date of the storage tank.

EXCEPTIONS:

Gasoline tanks with a capacity less than 550 gallons in the New York City metropolitan area and the Lower Orange County metropolitan area that are used for farm-type tractors used only for agricultural purposes or snowplowing are not subject to the requirements for Stage I and/or Stage II vapor collection and vapor control systems as presented in Tables 05-1 through 05-3, but must be equipped for submerged filling.

REQUIRED APPROVAL:

Registration is required according to the following schedule:

1. all gasoline dispensing sites in the New York City Metropolitan area;

2. gasoline dispensing sites located in Bronx, Kings [Brooklyn], New York [Manhattan], Queens, and Richmond [Staten Island] that consist of tanks each with a capacity less than 2,000 gallons must register by January 1, 1995;

3. gasoline dispensing sites located in the Lower Orange County metropolitan area must register by October 15, 1994;

4. gasoline dispensing sites with an annual throughput over 120,000 gallons per year located outside the Lower Orange County and New York City metropolitan area must register by January 1, 1995.

EXEMPTIONS:

Gasoline dispensing sites exempt from the registration requirements of Part 230:

1. Gasoline dispensing sites in the New York City Metropolitan area that were issued permits to construct or certificates to operate before January 1, 1989.

2. Gasoline dispensing sites registered pursuant to Part 612 (Petroleum Bulk Storage).

DEFINITIONS:

Annual throughput: Amount of gasoline transferred into or dispensed from a gasoline dispensing site during 12 consecutive months.

Assist Systems for above ground storage tanks: are systems using a vacuum created by a vapor pump to capture vapors at the nozzle and return them to the gasoline storage tank and/or vapor processor.

Assist Systems with nozzle bellows: are systems using a vacuum created by a vapor pump to capture vapors at the nozzle bellows and return them to the gasoline storage tank.

Assist Systems without nozzle bellows: are systems using a vacuum created by a vapor pump to capture vapors through perforations at the nozzle end and return them to the gasoline storage tank.

Balance Systems: are systems using a vacuum created by the removal of liquid from the gasoline storage tank to capture vapors at the nozzle boot and return them back into the gasoline storage tanks.

Equivalent control: The use of alternate operational and/or equipment controls for the reduction of gasoline vapor emissions, such that the aggregate emissions of gasoline vapor from the facility do not exceed those from the application of defined reasonably available control technology.

Gasoline: a volatile liquid mixture containing hydrocarbons or a blend of this mixture with one or more oxygen containing ashless organic compounds, such as alcohols or ethers, which is suitable for use in motor vehicles with spark-ignition, internal combustion engines and which is commonly or commercially known or sold as gasoline.

Gasoline transportation vehicle: any tank truck, trailer, or railroad tank car, with a capacity of 300 gallons or more, used for the transportation of gasoline.

Inverted Assist Systems with bellowless nozzles for above ground storage tanks: are systems using a vacuum created by a vapor pump or turbine to capture vapors through perforations at the nozzle end and return them to the gasoline storage tank and/or vapor processor. Note: Inverted coaxial hose carries vapors through an inner hose and carries liquid between the inner and outer hose covering, all fittings and components of these inverted systems employ this technology.

Inverted Assist Systems without nozzle bellows: are systems using a vacuum created by a vapor pump or turbine to capture vapors through perforations at the nozzle end and return them to the gasoline storage tank and/or vapor processor. Note: Inverted coaxial hose carries vapors through an inner hose and carries liquid between the inner and outer hose covering, all fittings and components of these inverted systems employ this technology.

Stage I vapor collection system: A system where gasoline vapors are forced from a tank into a vapor-tight gasoline transport vehicle or vapor control system through direct displacement by the gasoline being loaded.

Stage II vapor collection system: A system where at least 90 percent, by weight, of the gasoline vapors that are displaced or drawn from a vehicle fuel tank during refueling are captured and either retained in the storage tanks or destroyed in an emission control device.

Submerged filling: The use of a fill pipe or drop tube whose discharge opening is entirely submerged when the liquid is six inches above the bottom of the container. For containers loaded from the side, submerged filling is defined as the use of a fill pipe whose discharge is entirely submerged when the liquid level is 18 inches, or twice the diameter of the fill pipe, whichever is greater, above the bottom of the container.

Substantially modified: A modification of an existing gasoline-dispensing site which involves the addition of one or more new stationary gasoline storage tanks or the repair, replacement or reconditioning of an existing tank.

Vapor control system: A system that prevents emissions to the outdoor atmosphere from exceeding 4.7 grams per gallon of petroleum liquid loaded.

NYSDEC CONTACT:	TELEPHONE NUMBER
Bureau of Stationary Sources	518/402-8403

TABLE 05-1
STAGE I AND STAGE II
REQUIREMENTS FOR GASOLINE DISPENSING SITES IN NEW YORK CITY, COUNTIES OF BRONX, KINGS (BROOKLYN), NEW YORK (MANHATTAN), QUEENS, & RICHMOND (STATEN ISLAND)
(Source: NYSDEC Approved Equipment List Stage II Vapor Recovery)

		ANNUAL GASOLINE THROUGHPUT FOR FACILITY			
GASOLINE TANK SIZE (Gallons)	**TANK INSTALLATION DATE**	**120,000 or less**	**Over 120,000 but not over 250,000**	**Over 250,000 but less than 500,000**	**500,000 or greater**
less than 250	All years	None	None	None	None
250 or greater but less than 2000	Before 01/01/70	None	Stage I and II by 05/01/99	Stage I and II by 05/01/99	Stage I and II by 05/01/99
250 or greater	01/01/70 to 01/01/79	None	Stage I by 10/01/82 Stage II by 04/15/96	Stage I by 10/01/82 Stage II by 07/01/89	Stage I by 10/01/82 Stage II by 07/01/88
250 or greater	01/02/79 to 06/27/87	Stage I when installed*	Stage I when installed Stage II by 04/15/96	Stage I when installed Stage II by 07/01/89	Stage I when installed Stage II by 07/01/88
250 or greater	After 06/27/87**	I and II Stage when installed*	Stage I and II when installed	Stage I and II when installed	Stage I and II when installed

*Submerged fill only for gasoline tanks with a capacity less than 550 gallons used exclusively for farm tractors which are used for agricultural purposes or for snowplowing.
**Tank installation, replacement or substantially modified date.

TABLE 05-2
STAGE I AND STAGE II
REQUIREMENTS FOR GASOLINE DISPENSING SITES IN THE COUNTIES OF NASSAU, ROCKLAND, SUFFOLK AND WESTCHESTER
(Source: NYSDEC Approved Equipment List Stage II Vapor Recovery)

		ANNUAL GASOLINE THROUGHPUT FOR FACILITY			
GASOLINE TANK SIZE (Gallons)	**TANK INSTALLATION DATE**	**120,000 or less**	**Over 120,000 but not over 250,000**	**Over 250,000 but less than 500,000**	**500,000 or greater**
less than 250	All years	None	None	None	None
250 or greater	Before 01/02/79	Submerged Fill by 10/01/82	Stage I by 10/01/82 Stage II by 04/15/96	Stage I by 10/01/82 Stage II by 07/01/89	Stage I by 10/01/82 Stage II by 07/10/88
250 or greater	01/02/79 to 06/27/87	Stage I when installed*	Stage I when installed Stage II by 04/15/96	Stage I when installed Stage II by 07/01/89	Stage I when installed Stage II by 07/01/88
250 or greater	After 06/27/87	Stage I and II when installed*	Stage I and II when installed	Stage I and II when installed	Stage I and II when installed

*Submerged fill only for gasoline tanks with a capacity less than 550 gallons used exclusively for farm tractors which are used for agricultural purposes or for snowplowing.

TABLE 05-3
STAGE I AND STAGE II
REQUIREMENTS FOR GASOLINE DISPENSING SITES IN THE LOWER ORANGE COUNTY METROPOLITAN AREA (INCLUDES THE TOWNS OF BLOOMING GROVE, CHESTER, HIGHLANDS, MONROE, TUXEDO, WARWICK, AND WOODBURY)
(Source: NYSDEC Approved Equipment List Stage II Vapor Recovery)

		ANNUAL GASOLINE THROUGHPUT FOR FACILITY		
GASOLINE TANK SIZE (Gallons)	**TANK INSTALLATION DATE**	**120,000 or less**	**Over 120,000 but not over 1,200,000**	**Over 1,200,000**
less than 250	All years	None	None	None
250 or greater	Before 11/16/90	Submerged Fill by 06/01/95	Stage I by 06/01/95 Stage II by 04/15/96	Stage I and II by 04/15/95
250 or greater	11/16/90 to 10/15/94	Submerged Fill by 06/01/95	Stage I and II by 10/15/94	Stage I and II by 10/15/94
250 or greater	After 10/15/94**	Stage I and II when installed*	Stage I and II when installed	Stage I and II when installed

*Submerged fill only for gasoline tanks with a capacity less than 550 gallons used exclusively for farm tractors which are used for agricultural purposes or for snowplowing.
**Tank installation, replacement or substantially modified date.

TABLE 05-4
STAGE I AND STAGE II
REQUIREMENTS FOR GASOLINE DISPENSING SITES IN THE UPSTATE AREAS
(Source: NYSDEC Approved Equipment List Stage II Vapor Recovery)

	ANNUAL GASOLINE THROUGHPUT FOR FACILITY	
GASOLINE TANK SIZE (Gallons)	**120,000 or less**	**Over 120,000**
less than 250	None	None
250 or greater	None	Stage I by 06/01/95

Owners of sites over 120,000 gallons/year should anticipate that Stage II may be required upstate in a future Part 230 revision. Owners installing new storage tanks should consider installing vapor recovery piping between the dispensers and storage tanks during the storage tank construction project.

REGULATION 05A QUESTIONS: EMISSIONS FROM MOTOR VEHICLES PROPELLED BY GASOLINE ENGINES

(A) Is your facility, project or operation (f/p/o), located in the New York Metropolitan Air Quality Control Region, which includes the counties of Suffolk, (except Fisher's Island), Nassau, Kings (Brooklyn), Queens, Richmond (Staten Island), New York (Manhattan), Bronx, Westchester and Rockland?

YES _____ NO _____

If NO, leave “Rank” box 05A blank on the Compliance Status Report form, proceed to Regulation 05C.

(B) If YES, do any employees at your f/p/o operate gasoline powered motor vehicles? (Refer to Section R, Regulation 05A for motor vehicle exemptions.)

YES _____ NO _____

If NO, leave “Rank” box 05A blank on the Compliance Status Report form, proceed to Regulation 05C.

(C) If YES, are your f/p/o's vehicles subject to a vehicle exhaust emissions test as part of the annual vehicle inspection? (Refer to Section R, Regulation 05A for exemptions).

YES _____ NO _____

If YES, proceed to Question (D).

If NO, leave “Rank” box 05A blank on the Compliance Status Report form, proceed to Regulation 05C.

(D) As the result of the annual vehicle inspection, have all of your f/p/o's vehicles passed the vehicle exhaust emissions test, and have inspection certificates (stickers) been placed on the windshields? (Refer to Section R, Regulation 05A, Table 05A-1 for limits).

YES _____ NO _____

If NO, proceed to Question (E).

If YES, place a "C" in “Rank” box 05A, and place a check in the “Approval” Box on the Compliance Status Report form, then proceed to Regulation 05C.

(E) Have the required adjustments, repairs or replacements been made to any vehicle(s) that did not pass the vehicle exhaust emissions test?

YES _____ NO _____

(F) Have the vehicle(s) been retested for vehicle exhaust emissions?

YES _____ NO _____

(G) Have the vehicle(s) passed the vehicle exhaust emissions retest?

YES _____ NO _____

(H) Have the vehicle(s) that failed the vehicle exhaust emissions retest received a repair related waiver pursuant to §79.25 of the New York State Motor Vehicle Department’s regulations.

(I) Has the combined vehicle safety/emissions inspection certificate (sticker) been placed on the windshield of each vehicle indicating that each vehicle meets the emission limits?

YES _____ NO _____

If you answered YES to all of Questions (E), (F), (G) and (H), place a "C" in “Rank” box O5A, and place a check in the “Approval” Box on the Compliance Status Report form, then proceed to Regulation 05C.

If you answered NO to any or all of Questions (E), (F), (G) or (H), place an "N1", "N2", "N3" or "N4" (according to the priority rank of the violation) in the “Rank” box 05A on the Compliance Status Report form, complete a “Non-Compliance Report & Remedial Plan” form, then proceed to Regulation 05C.

REGULATION 05A: EMISSIONS FROM NON-ELECTRIC OR NON-DIESEL MOTOR VEHICLES

LEGAL CITATION: ECL Title 3, Sections 19-0301 & 0305 and 6NYCRR Part 217-1.

ABSTRACT OF LAW/REGULATION:

217-1.3 Motor vehicle exhaust and emission standards and inspection procedure. (a) In accordance with the applicability set forth in Section 217-1.2, no person who owns, operates, or leases a non-electric or non-diesel powered motor vehicle subject to the requirements of this section shall operate said vehicle, or allow or permit it to be operated, in such a manner that:

(1) it emits carbon monoxide (CO), oxides of nitrogen (NO_X), or hydrocarbons (HC) in the exhaust in excess of standards specified in tables 1a and 1b; or

(2) for gasoline powered motor vehicles only, the gas cap fails to meet the minimum standard contained in table 2 of this Subpart; or

(3) for model year 1996 and newer motor vehicles, the on-board diagnostic system[fails to identify an emission related malfunction or];

(i) fails to function as designed; or

(ii) fails to complete diagnostic routines for necessary supported emission control systems; or

(iii) indicates that the Malfunction Indicator Light fails to illuminate at the starter switch Key-On-Engine-Off position; or

(iv) the Malfunction Indicator Light is illuminated when the engine is running; or

(v) the Malfunction Indicator Light is commanded to be illuminated; or [and]

(4) the combined carbon monoxide (CO) and carbon dioxide (CO2) emission from the vehicle tailpipe is less than 6.0 percent.

(b) In accordance with the applicability set forth in Section 217-1.2, any person who owns, operates, or leases a non-electric or non-diesel powered motor vehicle subject to the requirements of this section shall have adjustments, repairs, or replacements made to said vehicle to ensure that the requirements of subdivision 217-1.3(a) are met unless an emission inspection waiver is issued by the Department of Motor Vehicles pursuant to Section 79.25 of 15 NYCRR Part 79.

(c) In accordance with the applicability set forth in Section 217-1.2, no person who owns, operates, or leases a non-electric or non-diesel powered motor vehicle subject to the requirements of this section shall operate said vehicle, or allow or permit it to be operated, in such a manner that:

(1) for gasoline powered vehicles, the gas cap fails to meet the minimum standard contained in table 2; or [and]

(2) for model year 1996 and newer motor vehicles, the on-board diagnostic system[fails to identify an emission related malfunction or];

(i) fails to function as designed[.], or
(ii) fails to complete diagnostic routines for necessary supported emission control systems,or
(iii) indicates that the Malfunction Indicator Light fails to illuminate at the starter switch Key-On-Engine-Off position, or
(iv) the Malfunction Indicator Light is illuminated when the engine is running, or
(v) the Malfunction Indicator Light is commanded to be illuminated.

Existing Part 217-1.3(d) through Part 217-1.3(f), Tables 1a to Table 2, remain the same.
Existing Part 217-1.4 remains the same.

APPLICABILITY:

All non-electric and non-diesel motor vehicles, registered or primarily operated in the **New York metropolitan enhanced inspection and maintenance region,** which includes the countries of Suffolk (except Fisher's Island), Nassau, Kings, Queens, Richmond, New York, Bronx, Westchester and Rockland, must have a vehicle exhaust emissions test performed at an official **high** enhanced emissions inspection station as part of the annual vehicle safety inspection.

All non-electric or non-diesel powered motor vehicles registered or primarily operated in any county in New York State **not** included in the New York metropolitan enhanced inspection and maintenance region must have an emissions test performed at an official **low** enhanced emissions inspection station as part of the annual vehicle safety inspection.

REQUIRED APPROVAL:

A sticker secured from the Department of Motor Vehicles by an official inspection station, issued by such station and affixed to a vehicle as prescribed by regulation to evidence the satisfactory completion of an inspection of that vehicle in compliance with Article V of the Vehicle and Traffic Law and Part 79.

EXEMPTIONS:

The following vehicles, which are subject to a safety inspection, are exempt from the high and low-enhanced emissions testing portion of the annual inspection:

(1) vehicles more than 26 model years old;

(2) diesel and electric vehicles;

(3) motor vehicles propelled by a two cycle spark ignition engine designed to burn a mixture of gasoline with oil;

(4) vehicles being sold as "new" or "demonstrator" as defined by Section 78.2 are exempt for 2 model years; and

(5) vehicles registered as historical vehicles.

The following are excluded from the term "motor vehicle" and do not need an emissions/safety inspection according to Part 79.2 (d):

(1) fire vehicles except ambulances;

(2) tractors used exclusively for agricultural purposes;

(3) vehicles inspected by or operating under a certificate of inspection authorized by the State Department of Transportation or the Federal Department of Transportation except vehicles registered as school cars (operation under a certificate of operating authority issued by either agency, without an inspection having been made, does not constitute operating under such certificate of inspection);

(4) vehicles with a Gross Vehicle Weighting Rate of more than 8,500 pounds of a municipally owned and operated transit system;

(5) farm vehicles registered under subdivision 13 of Section 401 of the Vehicle and Traffic Law. Farm vehicles are those operated upon a public highway connecting by the most direct route any farms or portions of a farm under single or common ownership or operation;

(6) vehicles subject to inspection and licensing by local authorities, provided such inspection by such local authorities conforms with the standards established by the Commissioner of Motor Vehicles;

(7) house trailers or mobile homes when sold for purposes other than registration and operation on highways, until such time as these vehicles are to be registered for operation on the highways;

(8) vehicles not registered in New York State;

(9) special purpose commercial vehicles including vehicles with "STATE" or "OFFICIAL" plates which would be registered as special purpose commercial vehicles if they were privately owned and registered. These special purpose commercial vehicles have the following body types: agricultural spreader or sprayer, earth mover, feed processing machine, fire vehicle, power shovel, road building

machine, road roller, road sweeper, sand spreader, snow plow, tractor crane, truck crane, truck with small wheels (such as a forklift), well driller and well servicing rig; and

(10) motorcycles and limited use motorcycles are excluded from the term “motor vehicle” for the purposes of Part 79.2 but are subject to the provision of Part 80 of the Commissioner’s (Department of Motor Vehicles) Regulations entitled “Motorcycle Inspection” (an annual motorcycle safety inspection is required according to Part 80).

DEFINITIONS:

Official High Enhanced Emissions Inspection Station: Any person, association or corporation issued a license to conduct both vehicle safety and high enhanced exhaust emission inspection **in** the New York Metropolitan Area.

Official Low Enhanced Emissions Inspection Station: Any person, association or corporation issued a license to conduct both safety and vehicle low enhanced emissions inspection in areas geographically **outside** of the New York Metropolitan Area.

Model year: The manufacturer’s annual production period for each engine family which includes January 1st of such calendar year, or, if the manufacturer has no production period, the calendar year. In the case of any motor vehicle manufactured in two or more stages, the time of manufacture shall be the date of completion of the chassis.

NYSDEC CONTACT: TELEPHONE NUMBER

Bureau of Enhanced Inspection and Maintenance 518/402-8401

REGULATION 05C QUESTIONS: **IDLING PROHIBITION FOR HEAVY DUTY VEHICLES**

(A) Does your facility, project or operation (f/p/o), own, operate or lease any diesel or non-diesel powered heavy duty vehicles including bus(es) or truck(s), or own, operate or lease land on which any diesel or non-diesel powered heavy duty vehicles including bus(es) or truck(s) (owned or controlled by your f/p/o) operate(s)? **(Heavy duty vehicle means an on-road vehicle that has a GVWR exceeding 8,500 pounds and is designed primarily for transporting persons or property.)**

YES _____ NO _____

If NO, proceed to Regulation 05D.

If YES, proceed to Question (B).

(B) Have any of these diesel or non-diesel powered heavy duty vehicles including bus(es') or truck(s') engines idled for more than five continuous minutes when the heavy duty vehicle was not in motion? **(Refer to Regulation 05C for Exemptions.)**

YES _____ NO _____

If YES, place an "N1", "N2", "N3" or "N4" (according to the priority rank of the violation) in the "Rank" box 05C on the “Compliance Status Report”, complete a "Non-Compliance Report & Remedial Plan".

If NO, place a "C" in "Rank" box O5C on the “Compliance Status Report”, proceed to Regulation 05D.

Note: The existing diesel vehicle idle regulation Subpart 217-3 was amended and now includes a 5 minute idle restriction for **all** heavy duty vehicles, both diesel and non-diesel fueled vehicles, subject to exemptions. The amended regulation became effective on October 30, 2002.

REGULATION 05C: **IDLING PROHIBITION FOR HEAVY DUTY VEHICLES**

LEGAL CITATION: ECL Sections 3-0301 & 19-0303 and 6NYCRR Subpart 217-3.

ABSTRACT OF LAW/REGULATION:

Section 217-3.2 states "no person who owns, operates or leases a heavy duty vehicle including a bus or truck, the motive power for which is provided by a diesel or non-diesel fueled engine or who owns, leases or occupies land and has the actual or apparent dominion or control over the operation of a heavy duty vehicle including a bus or truck present on such land, the motive power for which said heavy duty vehicle is provided by a diesel or non-diesel fueled engine, shall allow or permit the engine of such heavy duty vehicle to idle for more than five consecutive minutes when the heavy duty vehicle is not in motion, except as otherwise permitted by section 217-3.3."

APPLICABILITY:

This Part applies to all on-road heavy duty vehicles propelled by diesel or non-diesel fueled engines, excluding marine vessels. Heavy duty vehicle means a vehicle that has a GVWR exceeding 8,500 pounds and is designed primarily for transporting persons or properties.

EXEMPTIONS (section 217-3.3):

Situations when Section 217-3.2 would not apply are:

a. A diesel or non-diesel fueled heavy duty vehicle including a bus or truck is forced to remain motionless because of traffic conditions over which the operator has no control.

b. Regulations adopted by Federal, State or local agencies require that a specific temperature be maintained for passenger comfort. Idling time is allowed to be increased beyond five continuous minutes, only to the extent necessary to comply with such regulations.

c. A diesel or non-diesel fueled engine is being used to provide power for an auxiliary purpose, such as loading, discharging, mixing or processing cargo; controlling cargo temperature; construction; lumbering; oil or gas well servicing; farming; or when operation of the engine is required for the purpose of maintenance.

d. Fire, police and public utility trucks or other vehicles are performing emergency services.

e. Trucks owned or operated by persons who are mining and quarrying are being used within the boundaries of their own property.

f. A diesel fueled truck remains motionless for a period longer than two hours, and the outside temperature, during this time, is continuously below 25°F.

g. A heavy duty diesel vehicle, as defined in Subdivision 217-5.1(o), that is queued for or is undergoing a state authorized periodic or roadside diesel emissions inspection pursuant to Subpart 217-5.

h. A hybrid electric vehicle, as defined in Subdivision 217-5.1(r), idling for the purpose of providing energy for battery or other form of energy storage recharging.

i. Heavy duty vehicles used for agricultural purposes on a farm.

j. Electric powered vehicles.

NYSDEC CONTACT:	TELEPHONE NUMBER
Bureau of Mobile Sources	(518) 402-8292

REGULATION 05D QUESTIONS: EMISSION STANDARDS FOR MOTOR VEHICLES AND MOTOR VEHICLE ENGINES

(A) Did your facility, project or operation (f/p/o), purchase and/or operate new passenger cars, light-duty trucks, medium-duty vehicles, heavy-duty vehicles or vehicles with new motor vehicle engines, and/or air contaminant emission control systems? (See Regulation 05D Definitions.) Note: 1995 model-year vehicles are exempt.

YES _____ NO _____

If NO, proceed to Regulation 05E.

(B) If YES, are your f/p/o's new 1994, 1996 and newer model-year passenger cars, light-duty trucks, or vehicles with new motor vehicle engines and/or air contaminant emission control systems or 2004 and newer medium-duty vehicles, motor vehicle engines, and air contaminant emission control systems, or 2005 and subsequent model-year motor vehicles which are heavy-duty otto-cycle engines or vehicles which use such engines, or 2005 and subsequent model-year motor vehicles which are heavy duty diesel engines or vehicles which use such engines required to meet California Emission Standards? (See Regulation 05D Exemptions.)

YES _____ NO _____

If NO, proceed to Regulation 05E.

(C) If YES, are your new passenger cars, light-duty trucks, medium-duty vehicles, heavy-duty vehicles or vehicles with new motor vehicle engines and/or air contaminant emission control systems registered in the State of New York?

YES _____ NO _____

If YES, proceed to question (D).

If NO, proceed to Regulation 05E.

Note: There are some new model-year passenger cars, light-duty trucks, heavy-duty vehicles or vehicles with new motor vehicle engines and/or air contaminant emission control systems that are not required to be registered in New York State, or that are registered or purchased in another State, but are operating in New York State, where they are required to meet California Emission Standards. While these vehicles may not violate the letter of the regulation, they violate the spirit of the regulation, and would set a poor example by New York State agencies. Therefore, it is suggested that all New York State agencies, having f/p/os that operate new model-year passenger cars, light-duty trucks, heavy-duty vehicles or vehicles with new motor vehicle engines and/or air contaminant emission control systems, assure that each of these vehicles meets the limits set in Regulation 05D.

(D) At the time your f/p/o obtained possession of new passenger cars, light duty trucks, medium-duty vehicles, heavy-duty vehicles or vehicles with new motor vehicle engines and/or air contaminant emission control systems, did the emission sticker displayed under the engine hood of each vehicle state that each vehicle meets California or 50-state emission standards or is a Federal vehicle certified for sale in California for each vehicle's model year?

YES _____ NO _____

If YES, place a "C" in "Rank" box 05D on the "Compliance Status Report", proceed to Regulation 05E.

If NO, place an "N1", "N2", "N3" or "N4" (according to the priority rank of the violation) in "Rank" box 05D on the "Compliance Status Report", complete a "Non-Compliance Report & Remedial Plan", then proceed to Regulation 05E.

REGULATION 05D: EMISSION STANDARDS FOR MOTOR VEHICLES AND MOTOR VEHICLE ENGINES

LEGAL CITATION: ECL Sections 1-0101, 3-0301,19-0103, 19-0105, 19-0301, 19-0303, 19-0305, 71-2103, 71-2105 and 6NYCRR Part 218

ABSTRACT OF LAW/REGULATION:

In order to reduce air contaminants that cause ozone smog and increase the risk of cancers, Part 218 sets emission limits for all new passenger cars, light-duty trucks, medium-duty vehicles or vehicles with new motor vehicle engines and/or air contaminant emission control systems (see Definitions) that are offered for sale or lease or sold or leased for registration in New York State.

APPLICABILITY:

Part 218 applies to any person or agency who sells or registers, offers for sale or lease, imports, delivers, purchases, rents, leases, acquires or receives, in New York State:

(1) a new or used motor vehicle;

(2) a new motor vehicle engine; or

(3) a motor vehicle with a new motor vehicle engine.

For the purposes of this Part, any vehicle that has an odometer reading of less than 7,500 miles is considered to be a new vehicle, and any vehicle that has an odometer reading of 7,500 miles or more is not considered to be a new vehicle.

EXEMPTIONS:

Part 218 does not apply to any vehicles that are:

1. (a) sold to a dealer;

   (b) sold for the purpose of being wrecked or taken apart; or

   (c) sold only for off-highway use;

   (d) sold for registration outside of New York State; or

   (e) sold after the effective date of Part 218 (May 28, 1992), if the vehicle was registered in New York State before the effective date;

2. (a) acquired by a resident of New York State for the purpose of replacing a vehicle which was damaged beyond reasonable repair, or became unable to be operated, or was stolen while out of New York State; provided that the replacement vehicle is acquired out of New York State at the time the previously owned vehicle was either damaged, stolen or became unable to be operated;

3. transferred by inheritance;

4. transferred by court order;

5. having a certificate of conformity, stating that the emission control device installed in a particular vehicle has been adapted to operate within the emission limits for that type of vehicle, and that the vehicle was originally registered in another state by a resident of that state who:

   (a) subsequently establishes residence in New York State; and

   (b) upon registration of the vehicle in New York State, provides satisfactory evidence to the New York State Department of Motor Vehicles of their previous residence and registration;

6. emergency vehicles; or

7. military tactical vehicles and equipment

8. 1995 model-year (by court order)

9. purchased with an odometer reading of greater than 7,500 miles.

10. over 6,000 lbs. GVW.

REQUIREMENTS:

All 1993, 1994 and 1996 or subsequent model-year passenger cars, light-duty trucks, or vehicles with a new motor vehicle engine and/or air contaminant emission control system are required to have a sticker displayed under the engine hood which states that each vehicle is certified to California Emission Standards, 50-state standards, or is a federal vehicle certified for sale in California and, therefore, meet emission limits for New York State. In addition, all 2004 and subsequent model-year medium-duty motor vehicles, motor vehicle engines and air contaminant emission control systems, all 2005 and subsequent model-year motor vehicles which are heavy-duty otto-cycle engines or vehicles which use such engines, and all 2005 and subsequent model-year motor vehicles which are heavy duty diesel engines or vehicles which use such engines are required to have a sticker displayed under the engine hood which states that each vehicle is certified to California Emission Standards, 50-state standards, or is a federal vehicle certified for sale in California and, therefore, meet emission limits for New York State.

In addition, any 1993, 1994, 1996 or subsequent model-year passenger cars or light-duty trucks which have never been titled are required to have the manufacturer's proof of emissions, stating that each vehicle meets California Emission Standards, 50-state standards, or is a federal vehicle certified for sale in California, in order to register each vehicle in New York State.

DEFINITIONS:

ACP: Alternative compliance plan.

Add-on Part: Any aftermarket part which is not a modified part or a replacement part.

Aftermarket Part: Any part of an air contaminant emission control system sold for installation on a vehicle after the original retail sale of the vehicle.

Air Contaminant Emission Control System: Equipment designed for installation on a motor vehicle or motor vehicle engine for the purpose of reducing the air contaminants emitted from the motor vehicle or motor vehicle engine, or a system or engine change on a motor vehicle or motor vehicle engine which causes a reduction of air contaminants emitted from the motor vehicle or motor vehicle engine that includes, but is not limited to, exhaust control systems, fuel evaporation control systems, and crankcase ventilating systems.

California Standards: Those standards for motor vehicles and motor vehicle engines that the State of California has adopted and other states are permitted to adopt.

CARB: California Air Resources Board.

Certification: A finding by the California Air Resources Board (CARB) that motor vehicles, motor vehicle engines, or air contaminant emission control systems have satisfied the criteria adopted by CARB for the control of specific air contaminants from motor vehicles.

Certified Device: Air contaminant emission control system for which a certification has been issued by CARB or NYSDEC.
Consolidated Part: A part designed to replace a group of original equipment parts.

Curb Weight: The actual or the manufacturer’s estimated weight of the vehicle in operational status with all standard equipment, and weight of the fuel at nominal tank capacity, and the weight of optional equipment; incomplete light-duty trucks shall have the curb weight specified by the manufacturer.

Diesel-cycle: Powered by an engine where the primary means of controlling power output is by limiting the amount of fuel that is injected into the combustion chambers of the engine.

Emergency Vehicle - A vehicle as defined in section 165 of the California Vehicle Code.

Emissions-related Part: Any automotive part, which affects any regulated emissions from a motor vehicle or motor vehicle engine, that is subject to California or Federal emissions standards.

Emission Standards: Specific limits on the discharge of air contaminants into the atmosphere.

Engine Family: Basic classification unit of a manufacturer's product line used for the purpose of test fleet selection.

Established Place of Business: A place actually occupied continuously or at regular periods for business use.

Fuel Evaporative Emissions: Vaporized fuel emitted into the atmosphere from the fuel system of a motor vehicle.

Fuel System: The combination of fuel tank(s), fuel lines and carburetor, or fuel injector, and includes all vents and fuel evaporative emission control systems or devices.

Gross Vehicle Weight Rating (GVWR): the curb weight of the vehicle including the full payload.

Heavy-duty Engine: An engine which is used to propel a heavy-duty vehicle.

Heavy-duty Vehicle: Any motor vehicle having a manufacturer's gross vehicle weight rating greater than 6,000 pounds, except passenger cars.

Hybrid Electric Vehicle (HEV): An electric vehicle with an auxiliary internal combustion motor and generator which allows the driver to charge the electrical drive system while driving.

Independent low volume manufacturer: A manufacturer as defined in California Code of Regulations, Title 13, section 1900(b)(21).

Intermediate Volume Manufacturer: Any pre-2001 manufacturer with California sales between 3,001 and 60,000 new light- and medium-duty vehicles per model-year based on the average number of vehicles sold by the manufacturer each model-year from 1989 to 1993; any 2001 through 2002 model-year manufacturer with California sales between 4,501 and 60,000 new light- and medium-duty vehicles per model-year based on the average number of vehicles sold by the manufacturer each model-year from 1989 to 1993; and any 2003 and subsequent model-year manufacturer with California sales between 4,501 and 60,000 new light- and medium-duty vehicles based on the average number of vehicles sold for the three previous consecutive model-years for which a manufacturer seeks certification. For a manufacturer certifying for the first time in California, model-year sales shall be based on projected California sales.

Large Volume Manufacturer: Any 2000 and subsequent model-year manufacturer that is not a small volume manufacturer, or an independent low volume manufacturer, or an intermediate volume manufacturer.

LEV: A low-emission vehicle.

Light-duty Truck: Any 2000 and subsequent model-year motor vehicle rated at 8,500 pounds gross vehicle weight or less, and any other motor vehicle, rated at 6,000 pounds gross vehicle weight or less, that is designed primarily to transport property, or is a derivative of such a vehicle, or is available with special features to operate and use off-street or off-highway.

Loaded Vehicle Weight (LVW): The vehicle curb weight plus 300 pounds.

Medium-Duty Vehicle: Any 1992 through 2006 model-year heavy-duty, low-emission, ultra-low emission, super-ultra-low emission or zero-emission vehicle, certified to the appropriate standards having a manufacturer's gross vehicle weight rating of 14,000 pounds or less; any 1995 through 2002 model-year heavy-duty vehicle certified to the appropriate standards having a manufacturer's gross vehicle weight rating of 14,000 pounds or less, and any 2000 and subsequent model heavy-duty, low-emission, ultra-low emission, super-ultra-low emission or zero-emission vehicle certified to the appropriate standards having a manufacturer's gross vehicle weight rating between 8,501 and 14,000 pounds.

Military Tactical Vehicles and Equipment: Motor vehicles owned by the U.S. Department of Defense and/or the U.S. military services and used in combat, combat support, combat service support, tactical or relief operations, or training for such operations.

Model-Year: The manufacturer's annual production period for each engine family that includes January 1 of each calendar year or, if the manufacturer has no annual production period, the calendar year. In the case of any motor vehicle manufactured in two or more stages, the time of manufacture shall be the date of completion of the chassis.

Modified Part: Any aftermarket part intended to replace an original equipment emissions-related part, and which is not functionally identical to the original equipment part in all respects which in any way affect emissions, excluding a consolidated part.

Motor Vehicle: A vehicle which is self-propelled.

New Motor Vehicle: A motor vehicle, the legal title of which has never been transferred to the ultimate purchaser (see Definition).

New Motor Vehicle Engine: A new engine in a motor vehicle.

Offset Vehicle: A vehicle which has been certified by the State of California.

PZEV: Partial ZEV as defined in California Code of Regulation, Title 13, section 1962.

Passenger Car: Any motor vehicle designed to transport people, and is designed to carry twelve people or less.

Quarterly Reporting: Reporting based upon the following calendar periods: January 1-March 31, April 1-June 30, July 1-September 30, October 1-December 31.

Replacement Part: Any aftermarket part (see Definition) which is intended to replace an original equipment emissions-related part, and that is functionally identical to the original equipment part in all respects which in any way affect emissions (including durability) , or a consolidated part.

Sale: The transfer of title to a motor vehicle or motor vehicle engine, to the ultimate or subsequent purchaser.

Small Volume Manufacturer: Any 2001 and subsequent model-year manufacturer with California sales less than 4,500 new passenger cars, light-duty trucks, medium-duty vehicles, heavy-duty vehicles and heavy-duty engines based on the average number of vehicles sold for the three previous consecutive model-years for which a manufacturer seeks certification; however, for manufacturers certifying for the first time in California, model-year sales shall be based on projected California sales.

Subgroup: A set of motor vehicles within an engine family distinguishable by characteristics contained in the manufacturer’s application for certification of the California standards.

SULEV: A super-ultra-low-emission vehicle.

TLEV: A transitional-low-emission vehicle.

ULEV: An ultra-low-emission vehicle.

Ultimate Purchaser: With respect to any new motor vehicle or new motor vehicle engine, the first person who, in good faith, purchases a new motor vehicle or new motor vehicle engine for purposes other than resale.

Used Motor Vehicle: Any motor vehicle which is not a new motor vehicle.

Useful Life: Period of use to be determined by NYSDEC consistent with requirements of the California Code of Regulations.

Vehicle: A device by which any person or property may be propelled, moved, or drawn upon a highway, except a device moved only by human power or used only upon fixed rails or tracks.

ZEV: Zero Emission Vehicle.

Zero Emission Vehicle Sales Mandate: Beginning in model-year 2005, each manufacturer's sales fleet of passenger cars and light-duty trucks from 0-3750 lbs. "Loaded Vehicle Weight" (LVW), produced and delivered for sale in New York, must, at a minimum, contain at least 10 percent "Zero Emission Vehicles" (ZEVs) subject to the same requirements set forth in California Code of Regulations using New York specific vehicle numbers.

NYSDEC CONTACT:	TELEPHONE NUMBER
Bureau of Mobile Sources	518-402-8292

REGULATION 05E: **INSPECTION AND MAINTENANCE PROGRAM AUDITS**

***Note: THIS REGULATION APPLIES TO THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION (NYSDEC) ONLY.**

LEGAL CITATION: ECL Sections 3-0301 & 19-0303 and 6NYCRR Part 217.1.

ABSTRACT OF LAW/REGULATION:

The NYSDEC shall periodically conduct equipment audits of the official emissions inspection stations.

APPLICABILITY:

All official motor vehicle emissions inspection stations shall be subject to audits, by persons designated by the NYSDEC, to determine conformance with this Part 217-4.

AUDIT REQUIREMENTS:

NYSDEC personnel shall conduct quality control evaluations of the required test equipment, including the following:

(1) A gas audit using gases of know concentrations at least as accurate as those required for regular equipment quality control and comparing these concentrations to actual readings.

(2) A check for tampering, worn instrumentation, blocked filters, and other conditions that would impede accurate sampling.

(3) A check for critical flow in critical flow Constant Volume Sampling System units.

(4) A check of the optimization of the Flame Ionization Detector fuel-air ration using methane.

(5) A leak check.

(6) A check to determine that station gas bottles used for calibration purposes are properly labeled and within the relevant tolerances.

(7) Functional dynamometer checks addressing coast-down, roll speed and roll distance, inertia weight selection, and power absorption.

(8) A check of the system's ability to accurately detect background pollutant concentrations.

(9) A check of the pressure measuring devices used to perform the evaporative canister pressure test.

(10) A check of the purge flow metering system.

(11) A check of the idle test equipment.

(12) A check of computer logic requirements.

(13) A check that appropriate cutpoints are used.

ENFORCEMENT:

All duties and obligations are enforceable pursuant to Article 71 of the Environmental Conservation Law.

DEFINITIONS:

Official motor vehicle emissions inspection station: A facility that has obtained a license from the Commissioner of Motor Vehicles, under Section 303 of the Vehicle and Traffic Law, to perform motor vehicle emissions inspections in New York State.

NYSDEC CONTACT: TELEPHONE NUMBER

Bureau of Enhanced Inspection and Maintenance 518/402-8401

AIR RESOURCES

REGULATION 05F QUESTIONS: **HEAVY DUTY INSPECTION & MAINTENANCE PROGRAM**

(A) Does your facility, project or operation (f/p/o) own, operate, register, lease, or rent heavy duty diesel vehicles (HDDVs)? A HDDV is an on-road vehicle that has a GVWR greater than 8,500 lbs. which is powered by a diesel engine.

YES _____ NO _____

If YES, proceed to question (B).

If NO, leave "Rank" box 05F blank on the “Compliance Status Report”, proceed to Regulation 06.

(B) Are your f/p/o’s HDDVs exempt from the regulation requirements? **(Refer to Regulation 05F for exemptions.)**

YES _____ NO _____

If YES, leave "Rank" box 05F blank on the “Compliance Status Report”, proceed to Regulation 06.

If NO, proceed to question (C).

(C) Are your f/p/o’s HDDVs located, stationed, or registered in the New York City Metropolitan Area, which includes the counties of Suffolk, Nassau, Kings (Brooklyn), Queens, Richmond (Staten Island), New York (Manhattan), Bronx, Westchester and Rockland?

YES _____ NO _____

If YES, proceed to question (D).

If NO, proceed to question (E).

(D) Have all of your f/p/o’s HDDVs that are required to have an annual emissions inspection at the time of the vehicle’s annual safety inspection been annually emissions inspected, passed the HDDV exhaust emissions test, and have inspection certificates (stickers) been placed on the windshields? (Refer to Regulation 05F, Table 05F-1 for smoke opacity standards).

YES _____ NO _____

If YES, leave “Rank” box 05F blank on the “Compliance Status Report”, proceed to question (E).

If NO, place an "N1", "N2","N3", or "N4" (according to the priority rank of the violation) in "Rank" box 05F on the “Compliance Status Report”, complete a "Non-Compliance Report & Remedial Plan", then proceed to question (E).

(E) Have any of your f/p/o’s HDDVs been emissions inspected at a roadside inspection?

YES _____ NO _____

If YES, proceed to Question (F).

If NO, and you answered “YES” to question (D), place a "C" in "Rank" box 05F, and place a check in the "Approval" box on the “Compliance Status Report”, then proceed to Regulation 06.

(F) Did the HDDV pass the roadside inspection?

YES _____ NO _____

If YES, and you have not already determined your f/p/o to be non-compliant for this regulation, place a "C" in "Rank" box 05F, and place a check in the "Approval" box on the “Compliance Status Report”, proceed to Regulation 06.

If NO, place an "N1", "N2","N3", or "N4" (according to the priority rank of the violation) in "Rank" box 05F on the “Compliance Status Report”, complete a "Non-Compliance Report & Remedial Plan", then proceed to Regulation 06.

REGULATION 05F: HEAVY DUTY INSPECTION & MAINTENANCE PROGRAM

LEGAL CITATION: ECL Sections 19-0320 & 71-2103 and 6NYCRR Subpart 217-5

ABSTRACT OF LAW/REGULATION:

Subpart 217-5 establishes an inspection and maintenance (I & M) program for heavy duty diesel vehicles (HDDVs). HDDVs are defined as those on-road diesel engine powered vehicles with a GVWR exceeding 8500 lbs. However, some vehicles in this weight class are exempt as noted below. The I & M Program consists of two major components: 1) an annual exhaust emission inspection for HDDVs registered in the New York City Metropolitan Area (NYCMA) and 2) a roadside emission inspection for HDDVs operating on New York State roadways. The NYCMA includes the following counties: Suffolk, Nassau, Kings, Queens, Richmond, New York, Bronx, Westchester and Rockland. Both the annual and roadside inspections may include, by a certified inspector, a visual inspection to verify that the vehicles emission control equipment is functional, a check for tampering and an opacity (smoke) test. Smoke opacity standards have been established for this program as noted below in Table 05F-1. Should a HDDV fail an emissions inspection, penalties will be assessed. Roadside and/or annual inspection penalties do not apply to school buses or municipally owned HDDVs for a first violation provided the vehicle is repaired and the violation corrected within 30 days of the cited violation. Municipally owned HDDVs are defined as those vehicles owned by a county, town, city or village. The annual emissions inspection is required at the time of the vehicle's annual safety inspection. Further information on the HDDV I & M Program is available at "www.dec.state.ny.us/website/dar/bms/hddv.html".

TABLE 05F-1
Smoke Opacity Standards for HDDVs

Engine Model Year	Maximum Opacity (percent)
1973 and older	70
1974-1990	55
1991 and Newer	40

APPLICABILITY:

HDDVs operating on New York State roadways are subject to a roadside emissions inspection regardless of where the vehicle is registered. The annual emissions inspection requirement applies only to those HDDVs registered in the NYCMA; however, even if the HDDV is not registered in the NYCMA, New York State agencies which have HDDVs stationed and/or located in the NYCMA should obtain an annual emissions inspection. While this category of vehicles may not violate the letter of the regulation regarding annual emission inspections, they do violate the spirit of the regulation and would set a poor example by New York State agencies. There are certain classes of exempt vehicles as noted below.

EXEMPTIONS:

This subpart applies to all HDDVs except for:

(1) authorized emergency vehicles;

(2) vehicles as defined in subparagraphs 401.7(E)(2), 401.7(F)(a) and subdivision 401.13 of the VTL;

(3) agricultural trucks;

(4) farm type tractors and all terrain type vehicles used exclusively for agriculture or mowing purposes, or for snow plowing, other than for hire, farm equipment, including self-propelled machines used exclusively in growing, harvesting or handling farm produce, and self-propelled caterpillar or crawler-type equipment while being operated on the contract site, and timber harvesting equipment such as harvesters, wood chippers, forwarders, log skidders, and other processing equipment used exclusively off highway for timber harvesting and logging purposes;

(5) marine vessels;

(6) hybrid electric vehicles using diesel engines as a power source; and

(7) military designated vehicles, meaning any motor vehicle owned by the U.S. Department of Defense and/or the U.S. military services and used in combat, combat support, combat service support, tactical or relief operations, or for training for such purposes.

REGULATION 06 QUESTIONS: **PERMITS AND REGISTRATIONS**

NOTE: **If your facility, project or operation (f/p/o), is subject to this regulation, it is also subject to Regulation 08A, and may be subject to Regulation 06B.**

(A) Does your f/p/o have any air emission sources and processes that are required to have an Air Permit (i.e., Title V Permit, State Facility Permit, or Registration Certificate)?

YES _____ NO _____

If NO, leave “Rank” box 06 blank on the Compliance Status Report form, proceed to Regulation 06A.

(B) If YES, do you have an air permit for all air emission sources and processes subject to permitting requirements as per Regulation 06?

YES _____ NO _____

If YES, place a "C" in “Rank” box 06 and place a check in the “Approval” box 06 on the Compliance Status Report form, then proceed to Regulation 06A.

(C) Are you exempt from Air Permitting requirements? [See Regulation 06 for exemptions.]

YES _____ NO _____

If YES, place a "C" in box 06 and place a check in the “Approval” box 06 on the Compliance Status Report form, then proceed to Regulation 06A.

If NO, place an "N1", "N2", "N3" or "N4" (according to the priority rank of the violation) in “Rank” box 06 and leave the “Approval” box 06 blank on the Compliance Status Report form, complete a “Non-Compliance Report & Remedial Plan” form, then proceed to Regulation 06A.

REGULATION 06: **PERMITS AND REGISTRATIONS**

LEGAL CITATION: ECL Article 19 and Sections 3-0301 & 19-0303 and 6NYCRR Part 201.

ABSTRACT OF LAW/REGULATIONS:

This regulation specifies permitting and registration requirements for sources emitting air contaminants in New York State. Permit types include registrations (Subpart 201-4), state facility permits (Subpart 201-5) and Title V facility permits (Subpart 201-6). "Capping" from some permitting requirements may be done under Subpart 201-7. Some operations are specifically exempted from permitting requirements. These operations are listed in Subpart 201-3. Pertinent definitions appear primarily on Parts 200 and 201, although definitions in other appropriate regulations may apply as well.

REQUIRED APPROVAL:

Depending on the following criteria, a source owner must obtain one of the following permits or certificates prior to construction of a new source or modification of an existing permitted source:

Title V Permit - The following facilities and sources are subject to the requirement to obtain a Title V facility permit:

(1) facilities classified as major stationary sources,

(2) any nondeferred or nonexempted sources subject to a New Source Performance Standard 9 (NSPS) under 40 CFR Part 60,

(3) any nondeferred or nonexempted sources subject to requirements to regulate hazardous air pollutants (HAPs) under Section 112 of the Act,

(4) any source subject to acid rain requirements (i.e., Title IV facilities), and

(5) any source otherwise required to obtain a Title V permit by the EPA or the state.

State Facility Permit - Air contamination sources that are not exempt or trivial pursuant to Subpart 201-3, or registered pursuant to Subpart 201-4, or subject to Title V based on potential to emit pursuant to Subpart 201-6 in the following categories are required to obtain a state facility permit. These include:

(1) stationary sources requiring an emissions cap for the purposes of avoiding the requirement to obtain a Title V permit or comply with an applicable requirement,

(2) stationary sources subject to a Department-approved variance,

(3) new, nonmajor facilities subject to an NSPS (including those that have been deferred from the requirement to obtain a Title V permit), and

(4) new, nonmajor facilities that emit a HAP, except for facilities subject to Reasonably Available Control Technology (RACT) requirements for VOCs (under Parts 226, 228, 229, 230, 233 and 234).

Registration Certificates - Air contamination sources not subject to the requirements to apply for and operate under a Title V or State Facility permit and that are not considered to be exempt or trivial pursuant to Subpart 201-3 are required to obtain a registration certificate from the Department as follows:

(a) Gasoline dispensing sites subject to Part 230,

(b) Facilities with existing sources subject to a New Source Performance Standard whose emissions do not exceed Title V thresholds or for which the requirement to obtain a Title V permit has been deferred,

(c) Facilities with existing sources emitting HAPs as listed under Section 112 of the Act whose emissions do not exceed Title V thresholds or for which the requirement to obtain a Title V permit has been deferred,

(d) Sources whose potential to emit has been “capped-by-rule” under section 201-7.3, and

(e) Sources whose emissions do not exceed one half of the Title V thresholds regardless of their potential to emit.

EXEMPTIONS:

Part 201 provides for the following activities to be exempt from permitting requirements at non-Title V facilities, but must be included in the Title V permit applications:

Combustion

(1) stationary or portable combustion installations where the furnace has a maximum rated heat input capacity less than 10 million BTU/hr burning fossil fuels, other than coal, and coal and wood fired stationary combustion units with a maximum heat input less than 1 million BTU/hr. This exemption includes unit space heaters, which burn waste oil as defined in 6 NYCRR 225-2 and generated on-site, alone or in conjunction with used oil generated by a do-it-yourself oil changer as defined in 6NYCRR Subpart 374-2.

(2) stationary or portable combustion installations located outside of any severe ozone non-attainment areas, where the furnace has a maximum rated heat input capacity less than 20 million BTU/hr burning fossil fuels other than coal, where the construction of the combustion installation commenced before June 9, 1989.

(3) stationary or portable internal combustion engines which meet the following criteria:
(i) are diesel or natural gas powered, and located within any severe ozone nonattainment area, and have maximum mechanical power rating of less than 225 brake horsepower, or
(ii) are diesel or natural gas powered, and located outside of any severe ozone nonattainment areas, and have maximum mechanical power rating of less than 400 brake horsepower or;
(iii) are gasoline powered and have a maximum mechanical power rating of less than 50 brake horsepower;

(4) stationary or portable internal combustion engines which are temporarily located at a facility for a period not to exceed 30 days per calendar year, where the total combined maximum mechanical power rating for all affected units is less than 1000 brake horsepower;

(5) gas turbines with a heat input at peak load less than 10 million BTU per hour;

(6) emergency power generating units installed for use when the usual sources of heat, power, water and lighting are temporarily unobtainable, or which are installed to provide power to fire-fighting equipment, where each individual unit operates less than 500 hours per year, and excluding those units under contract with a utility to provide peak shaving generation to the grid;

Combustion-Related

(7) non-contact water cooling towers and water treatment systems for process cooling water and other water containers designed to cool, store or otherwise handle water that has not been in direct contact with gaseous or liquid process streams;

Agricultural

(8) feed and grain milling, cleaning, conveying, drying and storage operations including grain storage silos, where such silos exhaust to an appropriate emission control device, excluding grain terminal elevators with permanent storage capacities over 2.5 million U.S. bushels, and grain storage elevators with capacities above 1 million bushels;

(9) equipment used exclusively to slaughter animals, but not including other equipment at slaughterhouses, such as rendering cookers, boilers, heating plants, incinerators, and electrical power generating equipment;

Commercial - Food Service Industries

(10) flour silos at bakeries, provided all such silos are exhausted through an appropriate emission control device;

(11) emissions from flavorings added to a food product where such flavors are manually added to the product;

Commercial - Graphic Arts

(12) screen printing inks/coatings or adhesives which are applied by a hand-held squeegee. A hand-held squeegee is one that is not propelled through the use of mechanical conveyance and is not an integral part of the screen printing process;

(13) graphic arts processes at facilities located outside the New York City metropolitan area whose facility-wide total emissions of volatile organic compounds from inks, coatings, adhesives, fountain solutions and cleaning solutions doesn't exceed 20 pounds per day;

(14) graphic label and/or box labeling operations where the inks are applied by stamping or rolling;

(15) graphic arts processes which are specifically exempted from regulation under Part 234 of this Title, with respect to emissions of volatile organic compounds which are not given an A rating;

Commercial - Other

(16) gasoline dispensing sites with an annual throughput less than 120,000 gallons located outside any severe ozone non-attainment areas;

(17) surface coating and related operations which use less than 25 gallons per month of coating materials (paints) and cleaning solvents, combined, subject to the following:

(i) the facility is located outside of any severe ozone nonattainment area,

(ii) all abrasive cleaning and surface coating operations are performed in an enclosed building where such operations are exhausted into appropriate emission control devices,

(18) abrasive cleaning operations which exhaust to an appropriate emission control device;

(19) ultraviolet curing operations;

Municipal/Public Health Related

(20) ventilating systems for landfill gases, where the systems are vented directly to the atmosphere, and the ventilating system has been required by, and is operating under, the conditions of a valid Part 360 permit, or Order on Consent;

Storage Vessels

(21) distillate and residual fuel oil storage tanks with storage capacities below 300,000 barrels;

(22) pressurized fixed roof tanks which are capable of maintaining a working pressure at all times to prevent emissions of volatile organic compound to the outdoor atmosphere;

(23) external floating roof tanks which are of welded construction and are equipped with a metallic-type shoe primary seal and a secondary seal from the top of the shoe seal to the tank wall;

(24) external floating roof tanks which are used for the storage of a petroleum or volatile organic liquid with a true vapor pressure less than 4.0 psi (27.6 kPa), are of welded construction and are equipped with one of the following:

(i) a metallic-type shoe seal;

(ii) a liquid-mounted foam seal;

(iii)a liquid-mounted liquid-filled type seal; or

(iv) equivalent control equipment or device;

(25) storage tanks, with capacities under 10,000 gallons, except those subject to either Part 229 or Part 233 of this Chapter;

(26) horizontal petroleum storage tanks;

(27) storage silos storing solid materials, provided all such silos are exhausted through an appropriate emission control device;

Industrial

(28) processing equipment at existing sand and gravel and stone crushing plants which were installed or constructed before August 31, 1983, where water is used other than for dust suppression, such as wet conveying, separating and washing;

(29) all processing equipment at sand and gravel mines or quarries that:

(i) are permanent or fixed installations with a maximum rated processing capacity of 25 tons of minerals per hour or less; or

(ii) are mobile (portable) installations with a maximum rated processing capacity of 150 tons of minerals per hour or less;

(30) mobile (portable) stone crushers with maximum rated capacities below 150 tons of minerals per hour which are located at non-metallic mineral processing operations;

(31) surface coating operations which are specifically exempted from regulation under Part 228 of this title, with respect to emissions of volatile organic compounds which are not given an A rating;

(32) pharmaceutical tablet branding operations;

(33) thermal packaging operations, including but not limited to, therimage labeling, blister packing, shrink wrapping, shrink banding, and carton gluing;

(34) powder coating operations;

(35) all tumblers used for the cleaning and/or deburring of metal products without abrasive blasting;

(36) presses used exclusively for molding or extruding plastics except where halogenated carbon compounds or hydrocarbon solvents are used as foaming agents;

(37) concrete batch plants where the cement weigh hopper and all bulk storage silos are exhausted through fabric filters, and the batch drop point is controlled by a shroud or other emission control device;

(38) cement storage operations where materials are transported by screw or bucket conveyors;

(39) non-vapor phase cleaning equipment:

(i) with an open surface area of 11 square feet or less and an internal volume of 93 gallons or less or, having an organic solvent loss of 3 gallons per day or less, or

(ii) using only organic solvents with an initial boiling point of 300 degrees F or greater at atmospheric pressure, or

(iii) using materials with a volatile organic compound content of 2 percent or less, by volume;

Miscellaneous

(40) ventilating and exhaust systems for laboratory operations;

(41) exhaust or ventilating systems for the melting of gold, silver, platinum and other precious metals;

(42) exhaust systems for paint mixing, transfer, filling or sampling and/or paint storage rooms or cabinets, provided the paints stored within these locations are stored in closed containers when not in use;

(43) exhaust systems for solvent transfer, filling or sampling, and/or solvent storage rooms provided the solvent stored within these locations are stored in closed containers when not in use;

(44) research and development activities, including both stand-alone and activities within a major stationary source, until such time as the Administrator completes a rulemaking to determine how the permitting program should be structured for these activities;

(45) the application of odor counteractants and/or neutralizers.

TRIVIAL ACTIVITIES:

Part 201 provides for the certain activities to be exempt from permitting requirements and does not require that they be included in a facility permit application subject to the following:

(a) Proof of eligibility - The owner and/or operator of an emission source or unit that is listed as being trivial in this Part may be required to certify it operates within the specific criteria described in this Subpart. The owner or operator of any such emission source must maintain all required records on-site for a period of five years and make them available to representatives of the Department upon request. Department representatives must be granted access to any facility which contains emission sources or units subject to this Subpart, during normal operating hours, for the purpose of determining compliance with this and any other state and federal air pollution control requirements, regulations, or law.

(b) Maintenance of control equipment - The owner and/or operator of any emission source or unit that is listed as being trivial in this Part, on the basis of the use of appropriate emission control devices, shall operate and maintain such devices in a manner consistent with good engineering practices. Failure to do so constitutes a violation of this Part.

(c) The category headings used in the following listing of trivial activities are strictly for organizational purposes and are not intended to be definitive.

The following activities are trivial, exempt from permitting requirements and do not need to be included in facility permit applications:

Combustion

(1) boiler water treatment operations;

Domestic/Work Station Comfort and Related

(2) any emission source or process constructed or operated at a domestic residence for domestic use;

(3) vacuum cleaning systems used exclusively for office type areas at industrial facilities, or commercial or residential housekeeping;

(4) ventilating systems used exclusively for temperature and humidity control of buildings for the comfort of people living or working within the building except those systems which have applicable requirements under Title VI of the Act;

(5) exhaust systems for the storage of portable containers, drums, and bags of chemicals in rooms, buildings and warehouses, subject to the following:

(i) the rooms, buildings and warehouses subject to this exemption are solely for the purpose of chemical storage, and no mixing, transfer or filling operations with the exception of sampling for quality assurance/quality control purposes, take place within such areas, and

(ii) the chemicals stored in such areas are maintained in sealed containers;

(6) smoking rooms and areas;

(7) bathroom/toilet vents;

(8) beauty salons and barber shops;

(9) laundry dryers, extractors, or tumblers used to clean fabrics with water solutions of bleach and detergents, where the emissions of such operations are controlled by appropriate emission control devices;

Mobile Sources and Mobile Source Related

(10) engine exhaust emissions and/or refueling emissions generated from mobile and portable powered vehicles and equipment used for the propulsion or operation of passengers and/or freight transportation vehicles, marine vehicles and equipment, construction and off-road vehicles and equipment, farm vehicles and equipment, competition and entertainment vehicles and equipment, and/or any other type of mobile or portable engine powered vehicles or equipment when these vehicles or equipment are operated anywhere outside of an enclosed facility for the purpose of their design and intended use or for compliance assessment with any safety or emission control or inspection programs sanctioned by New York State, the federal government or any governmental entity empowered to carry out such activities;

(11) engine exhaust emissions and/or refueling emissions generated from mobile and portable powered vehicles and equipment such as competition and entertainment vehicles and equipment, farm vehicles and equipment, construction and off-road vehicles and equipment, automobiles, motor- cycles, trucks, busses, marine vehicles and equipment, small engine powered tools and equipment, or any other type of mobile or portable engine powered vehicles or equipment which are collected and/or vented in any manner through any opening in a facility when these vehicles and equipment are operated in the facility for the purposes of their design and intended use, public safety, comfort or entertainment, facility maintenance, vehicle or equipment repair, adjustment or testing, or compliance assessment with any safety or emission control or inspection programs sanctioned by New York State, the federal government, or any governmental entity empowered to carry out such activities;

(12) the use of products such as antifreeze and fuel additives for the purpose of maintaining motor vehicles;

(13) fugitive emissions related to movement of passenger vehicles provided the emissions are not counted for applicability purposes and any required fugitive dust control plan or its equivalent is submitted;

Agricultural

(14) ventilating systems used in buildings to house animals;

Commercial - Food Service Industries

(15) emissions from process, exhaust or ventilating systems in bakeries and restaurants which derive over fifty percent of their revenues from retail sales on premises;

(16) non-conveyorized bakery ovens (this includes batch ovens, which are defined as a non-conveyor belt oven operating a single baking cycle in which a determinate amount of product is cooked at one baking);

(17) bakery ovens used exclusively to produce baked goods leavened chemically in the absence of yeast;

(18) process or exhaust or ventilating systems involved in the preparation of food, food blanching or cooking in water;

(19) process, exhaust or ventilating systems or stationary combustion installations exclusively involved in the production of maple syrup;

Commercial - Graphic Arts

(20) lead melting pots used in printing establishments;

(21) blueprint machines;

(22) photocopying, photographic processing or related equipment;

(23) letter press operations;

(24) heat sealing operations which are used to seal and separate polyethylene and polypropylene bags;

Commercial - Other

(25) batch process kilns used for firing ceramic ware, subject to the following:

(i) the exhaust stream does not contain emissions of fluorides, lead, and/or beryllium, and

(ii) the total heat input is less than 1 million BTU/hr

Municipal/Public Health Related

(26) equipment used exclusively to generate ozone for water treatment processes;

(27) air stripping processes utilized on public drinking water supplies;

(28) air strippers and soil vents used to remediate gasoline spills, where the air stripper or soil vent is located at a state funded site, or required under the provisions of an Order on Consent or stipulation agreement, and the operation of the air strippers or soil vents are conducted under the supervision of the Department and are properly controlled as required by the Department;

(29) air strippers and soil vents required under the provisions of an Order on Consent or stipulation agreement, or in operation at a superfund site;

(30) air strippers and soil vents operating for test purposes to qualify and quantify air emissions for remediation projects and for a time period acceptable to the regional air pollution control engineer;

(31) emissions from the storage and application of road salt (calcium chloride or sodium chloride);

(32) all process emission sources located at private, public, or vocational education institutions, where the emissions are the result of teaching and training exercises, and the institution is not engaged in the manufacture of products for commercial sale in commerce, except in a de minimis manner;

(33) emergency relief vents, stacks and ventilating systems except any with the potential to emit vinyl chloride located at a facility where ethylene dichloride, vinyl chloride and/or polyvinyl chloride are produced;

(34) snow plowing, street sweeping, sanding and ashing of streets and roads to abate traffic hazards;

(35) emergency road flares;

(36) road and lot paving and striping operations;

(37) public or private roadways, parking lots;

(38) manhole covers;

(39) sewers;

(40) storm drains and vents;

(41) solid waste dumpsters, including handling equipment and associated activities;

(42) excavation for repair of underground utility lines such as water, electric, or natural gas;

(43) asbestos demolition & removal work subject to 40 CFR Part 61, Subpart M &/or 12 NYCRR Part 56;

Storage Vessels

(44) storage vessels, tanks and containers with a capacity of less than 750 gallons,

Maintenance and Construction Related Activities

(45) the following activities are considered trivial when they occur strictly for maintenance or construction activities: plastic pipe welding, soldering, brazing, cutting torches, janitorial activities, steam cleaning, water washing, acid and caustic washing activities, miscellaneous use of solvents, adhesives and caulking, miscellaneous sandblasting, non-asbestos insulation removal, application of refractory and insulation, the periodic use of air for clean-up, and, the process of demolition and rebricking boilers, smelters, furnaces and kilns (this does not include the subsequent operation of such equipment), the surface coating of equipment and buildings as is related to maintenance and construction, and activities which occur for maintenance of grounds such as lawn care, weed control and pest control;

(46) excavation for new construction;

Industrial

(47) degreasing units which exclusively use non-hazardous air pollutant acids;

(48) degreasing units which exclusively use caustics (e.g., potassium hydroxide and sodium hydroxide);

(49) remote reservoir parts cleaners whose use of solvent is contained to the immediate cleaning of the part, after which time the solvent is drained through a drain opening, not to exceed 16 square inches, and is returned to a remote reservoir containing the solvent;

(50) equipment used exclusively for surface preparation and cleaning which uses water-based cleaners containing two percent or less of volatile organic compounds by volume;

(51) solvent cleaning of parts and equipment performed exclusively by hand wiping or hand cleaning;

(52) hand-held or manually operated equipment used for buffing, polishing, carving, cutting, drilling, machining, routing, sanding, sawing, surface grinding or turning ceramic art work, ceramic precision parts, leather, metal parts, plastics, fiberboard, fiberglass, masonry, carbon, glass, graphite, wood or rubber;

(53) manual surface coating/painting processes which exclusively use brushes, rollers, or aerosol cans;

(54) hand-held or manually operated welding, brazing, and soldering equipment;

(55) acetylene, butane, and propane torches;

(56) equipment used for hydraulic or hydrostatic testing;

(57) equipment lubricating systems, including metal cutting coolants and oils;

(58) pneumatic starters used to start reciprocating engines, turbines, and other equipment;

(59) instrument air systems, excluding fuel-fired compressors;

(60) air vents from air compressors and pneumatically operated equipment emitting ambient air;

(61) drum washing operations, where such operations are necessary to meet Resource Conservation and Recovery Act (RCRA) standards;

(62) vacuum producing devices where only ambient air and the oil emissions from the vacuum producing mechanism itself are exhausted;

(63) woodworking operations where no surface coating takes place, provided such operations exhaust to a sawdust collection system controlled by an appropriate emission control device;

(64) sawmills, provided all processes are located at least 500 feet from any recreational area, school, or private residence and all residues from debarking, planing, sawing, etc., are contained in such a manner as to minimize fugitive emissions;

(65) equipment used to mix and package soaps, vegetable oil, grease, animal fat, and nonvolatile aqueous salt solutions, provided appropriate lids and covers are utilized;

(66) drop hammers or hydraulic presses for forging or metal-working;

(67) transportable chemical containers including rail cars, portable tanks, totes and trailers;

Miscellaneous

(68) open fires;

(69) fire training activities;

(70) fire suppression systems;

(71) fecal incinerators with a charging rate not exceeding 10 pounds per hour, such as those used on certain vehicles or other special cases;

(72) paint mixing operations located at retail paint, hardware or department stores where the paint is sold in five gallon or smaller containers;

(73) rifle and pistol ranges;

(74) aircraft de-icing operations;

(75) contaminant detectors, sampling devices and recorders;

(76) emissions from natural gas odoring activities;

(77) battery charging areas except those located at battery manufacturing plants;

(78) incubators;

(79) the venting of compressed natural gas, butane or propane gas cylinders;

(80) coal car thaw-pit burners;

(81) consumer use of office equipment and products, not including printers or businesses primarily involved in photographic reproductions;

(82) consumer use of paper trimmers/binders;

(83) blacksmith forges;

(84) carbon dioxide lasers, used only on metals and other materials which do not emit hazardous air pollutants in the process;

(85) laser trimmers using appropriate emission control devices;

(86) environmental chambers not using hazardous air pollutant gases;

(87) shock chambers;

(88) humidity chambers;

(89) solar simulators;

(90) process water filtration systems and demineralizers;

(91) demineralized water tanks and demineralizer vents;

(92) steam leaks;

(93) steam vents;

(94) emissions of the following pollutants:
- water vapor
- oxygen
- carbon dioxide
- nitrogen
- inert gases such as argon, helium, neon, krypton and xenon
- hydrogen
- simple asphyxiants including methane and propane
- trace constituents included in raw materials or byproducts, where the constituents are less than 1% by weight for any regulated air pollutant, or 0.1% by weight for any carcinogen listed by the United States Department of Health and Human Services' Seventh Annual Report on Carcinogens (1994).

DEFINITIONS (For a complete listing, consult section 200.1, subpart 201-2 and the specific rules that apply to your facility):

Air Contaminant or Air Pollutant is a chemical, dust, compound, fume, gas, mist, odor, smoke, vapor, pollen or any combination thereof.

Air contamination is the presence in the outdoor atmosphere of one or more air contaminants which contribute or which are likely to contribute to a condition of air pollution.

Air contamination source or Emission Source is any apparatus, contrivance or machine capable of causing emission of any air contaminant to the outdoor atmosphere, including any appurtenant exhaust system, air cleaning device, but excepting an indirect source of air contamination as defined in 6NYCRR Part 203. Where a process at an emission unit uses more than one apparatus, contrivance or machine in combination, the combination may be considered a single emission source.

Air pollution is the presence in the outdoor atmosphere of one or more contaminants in quantities, of characteristics and of a duration which are or may be injurious to human, plant or animal life or to property or which unreasonably interfere with the comfortable enjoyment of life and property.

Attainment area is any area of the State meeting all National Ambient Air Quality Standards (NAAQS) for a specific air contaminant as designated pursuant to Section 107(d) of the Federal Clean Air Act.

Confined process is any process whose emissions are contained or captured in a hood and then conveyed through a duct, vent or stack prior to discharge to the outer atmosphere.

Distillate oil is a fuel oil consisting of distilled fractions and having a kinematic viscosity of 5.8 centistokes or less at 100 degrees Fahrenheit. This includes ASTM grade numbers 1 and 2 fuel oil, ASTM grade numbers 1-D and 2-D diesel fuel oil and proposed ASTM grade numbers 1-GT and 2-GT gas turbine fuel oil.

Emission is the release of any air contaminant into the outdoor atmosphere from an emission source.

Emission point is any conduit, chimney, duct, vent, flue, stack or opening of any kind through which air contaminants are emitted to the outdoor atmosphere.

Emission unit is any part or activity of a stationary facility that emits or has the potential to emit any federal or state regulated air pollutant. An emission unit is represented as a grouping of processes (activities + emission sources) for any of the following:

(1) a single actual emission point; or
(2) a group of actual emission points provided that the appropriate compliance assurance methods can be demonstrated to the satisfaction or the Department, or
(3) a process that cannot be associated with one emission point or a group of emission points.

In defining an emission unit, the following restrictions apply:

a. a defined emission source can only be cited in one emission unit,
b. a defined emission point can only be cited in one emission unit,
c. a defined emission point can only be cited in one issued permit, and
d. a defined emission unit can only be cited in one issued permit

Equivalent opacity is the opacity measured by methods acceptable to the NYSDEC when a specific emission source is emitting air contaminants at, or less than, the mass emission standards, as corroborated by emission tests acceptable to the NYSDEC.

Exhaust and/or ventilation system is any system that removes air contaminants from a process and transports them from their point of generation to the outdoor atmosphere.

Facility all emission sources located at one or more adjacent or contiguous properties owned or operated by the same persons under common control.

Fossil fuel burning equipment is any furnace, steam, hot-air or hot-water generating equipment or any other device, exclusive of process equipment in which the fuel burned is coal, oil, gas, or other fossil fuels.

Fuel is a solid, liquid or gaseous combustible material.

Fugitive emissions is emissions of air contaminants which could not reasonably pass through a stack, vent, chimney or other functionally equivalent opening.

Garbage is the animal and vegetable waste resulting from the handling, preparation, cooking and serving of food.

Heat input is the heat released (exothermic heat of chemical reaction) due to the combustion of fuel. It includes only the weight rate (e.g., lb/hr) of the fuel fired multiplied by the caloric value of the fuel.

Incinerator is any structure or furnace in which combustion takes place and refuse is used as a fuel, alone or in conjunction with fossil fuel.

Lowest achievable emission rate (LAER) is the most stringent emission limitation achieved in practice, or which can reasonably be expected to occur in practice for a category of emission sources taking into consideration each air contaminant that must be controlled. In no event shall the application of this term permit a proposed new source or modification to emit any air contaminant in excess of the amount permitted under any applicable emission standard established under 6NYCRR or 40CFR.

L.P. gas is a petroleum hydrocarbon, such as propane, butane or isobutane that is normally a gas but which can be compressed and condensed to a liquid.

Maximum operating heat input is the maximum heat input in million Btu per hour at which a stationary conbustion installation is anticipated to be operated or at which it actually has been operated.

Operator is any person who leases, operates, controls, or supervises a facility at which air contaminants are emitted.

Outdoor atmosphere is the atmosphere outside of & surrounding all buildings, structures, stacks or exterior ducts.

Owner is any person who has legal or equitable title to an emission source, or of the control equipment at such source.

Particulates are any air or gas-borne materials, except water, which exist as a liquid or solid.

Person is an individual, trust, firm, joint stock company, public or private corporation, partnership, copartnership, association, political subdivision of a state or any interstate body, municipality, commission, governmental agency, department, division or bureau of the State, industry, association, estate or any other legal entity whatsoever.

Process is any activity involving one or more emission sources that emits or has the potential to emit any federal or state regulated air pollutant.

Smoke is an air contaminant consisting of small gas-borne particles emitted by an air contamination source in sufficient number to be observable.

Stack is any conduit, chimney, duct, vent, flue or opening of any kind arranged to conduct air contaminants to the outdoor atmosphere.

Volatile organic compound (VOC) is any compound of carbon that has a vapor pressure greater than 0.10 mm (0.0039 inches) of Mercury (Hg) at a temperature of 20 degrees C (68 degrees F) and pressure of 760 mm (30 inches) of Mercury (Hg), excluding the following: carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, ammonium carbonate, methane, ethane, 1.1.1 trichloroethene (methyl chloroform), trichlorotrifluoroethane (CFC-113), dichlorodifluoromethane (CFC-12), chlorodifluoromethane (CFC-22), trifluoromethane (FC-23), 1.2-dichlorotetrefluoroethane (CFC-114), and chloropenta-fluoroethane (CFC-115).

Additional definitions may be found in 6NYCRR Part 200.1

NYSDEC CONTACT: TELEPHONE NUMBER

Matt Reis, Bureau of Stationary Sources 518/402-8403

REGULATION 06A QUESTIONS: **EMISSION STATEMENTS**

Note: Regulation 06A is currently in the process of being revised to reflect the provisions of a consent order issued by the State of New York Supreme Court, the current New York State operating permit structure, as well as the requirements defined in the CERR. The final regulation is anticipated to be effective in 2003, check with the contact at the end of this regulation if you have any question re: compliance. If your facility, project or operation (f/p/o), is subject to this regulation, it is also subject to Regulation 08A.

(A) Does your f/p/o emit any regulated air pollutants/contaminants (see Section R, Regulation 06A for definition) resulting from the operations at your f/p/o?

NOTE: See Section R, Regulation 06A, Tables 06A-3, 06A-4 and 06A-5 for list of pollutants/contaminants.

YES _____ NO _____

If NO, leave "Rank" box 06A blank on the Compliance Status Report form, proceed to Regulation 06B.

If YES, proceed to Question (B).

(B) Is your f/p/o required to report emissions from air pollution sources resulting from the operations at your f/p/o? (See Section R, Regulation 06A for Exemptions).

YES _____ NO _____

If NO, leave "Rank" box 06A blank on the Compliance Status Report form, proceed to Regulation 06B.

If YES, proceed to Question (C).

(C) Is your f/p/o located in an area in New York State classified as a "Non-Attainment Area for Ozone"? (See Section R, Regulation 06A Applicability).

YES _____ NO _____

If YES, proceed to Question (D).

If NO, proceed to Question (E).

(D) If YES, do the air emissions resulting from your f/p/o have the potential to emit any regulated air pollutant at a rate that equals, or is greater than, thresholds for the non-attainment areas of New York State? (See Section R, Regulation 06A, Table 06A-1).

YES _____ NO _____

If NO, leave "Rank" box 06A blank on the Compliance Status Report form, proceed to Regulation 06B.

If YES, proceed to Question (F).

(E) Since your f/p/o is considered to be in an "Attainment Area for Ozone", do the air emissions resulting from your f/p/o have the potential to emit any regulated air pollutant at a rate that equals, or is greater than, thresholds for the attainment areas of New York State? (See Section R, Regulation 06A, Table 06A-2)

YES _____ NO _____

If NO, leave "Rank" box 06A blank on the Compliance Status Report form, proceed to Regulation 06B.

If YES, proceed to Question (F).

(F) Has your f/p/o received from the NYSDEC, an annual Fuel/Use Industrial Process Emissions Statement for each f/p/o that emits regulated air pollutants required to be reported?

YES _____ NO _____

If NO, proceed to Question (H).

(G) If YES, has a duly authorized representative of your f/p/o completed the Fuel/Use Industrial Process Emissions Statement according to the instructions provided with the Statement and Section R, Regulation 06A?

YES _____ NO _____

If YES, place a "C" in “Rank” box 06A on the Compliance Status Report form, proceed to Regulation 06B.

(H) If NO, has a representative from your f/p/o contacted the Bureau of Air Quality Planning at the NYSDEC to request a Fuel/Use Industrial Process Emissions Statement for each f/p/o that emits regulated air pollutants required to be reported?

YES _____ NO _____

If YES, place a check in “Rank” box 06A on the Compliance Status Report form, complete a “Non-Compliance Report & Remedial Plan” form indicating your f/p/o's duly authorized representative has contacted the NYSDEC, then proceed to Regulation 06B.

If NO, place an "N1", "N2", "N3", or "N4" (according to the priority rank of the violation) in “Rank” box 06A on the Compliance Status Report form, complete a “Non-Compliance Report & Remedial Plan” form, then proceed to Regulation 06B.

REGULATION 06A: **EMISSION STATEMENTS**

LEGAL CITATION: ECL 30-0301, 19-0301, 0303, 0305, 72-0303 and 6 NYCRR Part 202.

ABSTRACT OF LAW/REGULATION:

Part 202(a) requires that facilities, projects or operations, located in nonattainment areas for ozone, (see Regulation 06A for description of ozone non-attainment areas) submit a Fuel Use/Industrial Process Emissions Statement to NYSDEC. This Emissions Statement must be submitted for any calendar year in which the facility, project or operation has the potential to emit any **regulated air pollutant** (see Definitions) at a rate that equals, or is greater than, the major source thresholds for that area. The following tables list the reportable limits, pollutants and substances:

- Table 06A-1 for Facility Reporting Thresholds in Nonattainment Areas;
- Table 06A-3 for a list of Reportable Hazardous Air Pollutants; and
- Tables 06A-4 and 06A-5 for lists of Class I and Class II Substances.

Part 202(b) requires that facilities, projects or operations, located in an attainment area for ozone, (all areas of New York State that are not classified as ozone nonattainment areas) submit an emissions statement to NYSDEC. This Emissions Statement must be submitted for any calendar year in which the facility, project or operation has the potential to emit any regulated air pollutant (see Definitions) that equals, or is greater than, the major source thresholds for that area. The following tables list the reportable limits, pollutants and substances:

- Table 06A-2 for Facility Reporting Thresholds in Attainment Areas;
- Table 06A-3 for a list of Reportable Hazardous Air Pollutants; and
- Tables 06A-4 and 06A-5 for lists of Class I and Class II Substances.

Note: Regulation 06A is currently in the process of being revised to reflect the provisions of a consent order issued by the State of New York Supreme Court, the current New York State operating permit structure, as well as the requirements defined in the CERR. The final regulation is anticipated to be effective in 2003, check with the contact at the end of this regulation if you have any question re: compliance. If your facility, project or operation (f/p/o), is subject to this regulation, it is also subject to Regulation 08A.

APPLICABILITY:

Part 202(a) applies to facilities, projects or operations located in the New York Consolidated Metropolitan Statistical Area. This area is classified as a **"severe" non-attainment area**, and includes the counties of Suffolk (except Fisher's Island), Nassau, Kings (Brooklyn), Queens, Richmond (Staten Island), New York (Manhattan), Bronx, Westchester and Rockland, as well as the southern portion of Orange County, which includes the towns of Blooming Grove, Chester, Highlands, Monroe, Tuxedo, Warwick and Woodbury. In addition, this part applies to several upstate counties classified as **"marginal" non-attainment areas**, which includes Dutchess, Putnam, Greene, Albany, Rensselaer, Saratoga, Schenectady, Montgomery, Jefferson, Erie and Niagara.

Part 202(b) applies to any owner or operator of a facility, project or operation located in any other area of New York State. This area is classified as an **attainment area**, and includes the northern portion of Orange County (those towns not in the Lower Orange County Metropolitan Area) and all other counties not indicated as being in a non-attainment area.

EXEMPTIONS:

(1) sources subject to standards of performance for new residential wood heaters; and

(2) sources subject to asbestos standards for demolition and renovation.

(3) on-road internal combustion engine emissions from mobile sources such as: automobiles, trucks and buses;

(4) off-road internal combustion engine emissions from mobile sources such as: lawn and garden equipment, agricultural equipment, logging equipment, light mobile commercial equipment (including generator sets, pumps, air and gas compressors, welders, pressure washers), industrial equipment

(including forklifts, aerial lifts, sweepers, and scrubbers), construction equipment, airport service equipment, recreational equipment, recreational marine equipment, commercial marine vessels;

(5) asphalt paving;

(6) commercial/consumer solvent use; including household products, toiletries, aerosol products, rubbing compounds, windshield washing fluids, polishes and waxes, nonindustrial adhesives, space deodorants, moth control, laundry detergents and treatment;

(7) emissions from research and development activities at major facilities, as long as the emission rate does not exceed 0.1 pounds per hour and/or 100 pounds per year of any contaminant from an emission point, and 1000 pounds per year of all contaminants at a facility, project or operation;

(8) emissions from activities exempt from permitting at major facilities, projects or operations, as long as the emission rate does not exceed 0.1 pounds per hour and/or 100 pounds per year of any contaminant from an emission point, and 1000 pounds per year of all contaminants at a facility, project or operation;

(9) emissions of individual chemicals (identified by chemical abstract number or CAS). At major facilities, projects or operations, less than 10 pounds per year may be reported as less than 10 pounds. For purposes of calculating emission fees, chemicals reported as less than 10 pounds will be treated as though 10 pounds of the chemical was emitted.

REQUIREMENTS:

A. Fuel/Use Industrial Process Emissions Statement Content: The Department provides instructions for completing the Emissions Statements that apply to each facility, project or operation when that statement is mailed annually to each facility, project or operation. These instructions include control equipment identification code(s) and estimated emissions method code(s). Emissions Statements must include the following:

(1) Certification by a duly authorized representative of the facility, project or operation, who must sign a form provided by NYSDEC, stating that, after reasonable observation of, and or gathering of information on the operations, he/she believes that the statements and information in the document are true, accurate and complete. The certification must include:

- the full name;
- the title;
- the original signature;
- the date of signature; and
- the telephone number of the duly authorized representative.

(2) Facility information, consisting of:

(a) verification of full name of facility;

(b) verification of parent company name;

(c) verification of street address (physical location of the facility);

(d) verification of four digit SIC code(s) for the facility; (see Definitions)
(e) calendar year reportable emissions;

(f) total facility fuel use and fuel sulfur content and heat value (for combustion installations); and

(g) fugitive emissions.

(3) Emission point information, consisting of:

(a) average hours of operation per day (peak ozone and carbon monoxide seasons); (see Definitions)

(b) average days of operation per week (peak ozone and carbon monoxide seasons); (see Definitions)

(c) weeks of operation per year (seasonal and annual);

(d) hours of operation per year;

(e) percentage annual throughput (percentage of annual activity by season); and verification of latitude and longitude. (see Definitions)

(4) Process information, consisting of:

(a) maximum heat input (for combustion installations); (see Definitions)

(b) quantity of fuels consumed (for combustion installations);

(c) estimated actual annual reportable emissions, for each air regulated air pollutant emitted, (in units of pounds per year);

(d) estimated emissions method (see Requirements for Emissions Statement Methods and Procedures;

(e) emission factor(s) (if used to determine actual emissions); (see Definitions)

(f) primary and secondary control equipment identification code(s);

(g) control efficiencies achieved by the control equipment (see Definitions). The control efficiency should reflect the total control efficiency from all control equipment for a specific air contaminant (e.g., VOCs and NO_x). If the actual control efficiency is unavailable, the design efficiency or the control efficiency limit imposed by a permit must be used;

(h) annual process rate;

(i) peak ozone season daily process rate.

NOTE: Petroleum, volatile organic liquid, and fuel storage and distribution facilities must provide the following additional information:

•tank capacity (including maximum and average liquid height, and working volume); and

•throughput associated with tanks and loading racks (including turnovers per year).

B. Fuel/Use Industrial Process Emissions Statement - Methods and Procedures: Emissions statements must be submitted to the Department on or before April 15 of each year reporting emissions for the previous calendar.

(1) For each instance, the owner or operator must utilize one of the following emissions estimation methods to represent actual emissions emitted during the calendar year:

(a) Stack samples or other emission measurements;

(b) Material balance using knowledge of the process (see Definitions).

(c) National emission factors;

(d) Best engineering judgement (including manufacturers' guarantees);

(e) State or local agency emission factors approved by EPA;

(f) Standard EPA emission factors (SCC emission factor). The Department shall assign the SCC to a particular facility. A source owner may request the Department to change an assigned SCC;

(g) Other published emission factors (please provide); and

(h) Other (please specify).

NOTE: Emissions testing is generally not necessary for determining emissions to meet the requirements of this regulation. Available monitoring or testing data that has been approved and verified by the Department, and is still applicable to the operations during the reporting period, should be used to calculate emissions for this reporting requirement. However, in the absence of approved monitoring or testing data, the facility should use an emissions estimation method to determine accurate emissions data.

(2) If a facility, project or operation is already required to use a specific monitoring method to show that compliance with other requirements has been met, NYSDEC may require that emissions estimates for similar processes be based on the information obtained from that same monitoring method. The NYSDEC may reject the use of a proposed monitoring method for monitoring emissions from a particular process if it can be shown that the method does not produce accurate emissions measurements.

(3) The facility, project or operation may request that information provided in emissions statements be classified as a trade secret. NYSDEC will determine if the information is considered inaccessible to the public or other industries. Data elements not considered to be confidential include: emissions, estimated emissions method, and the Source Classification Code (SCC).

C. Record Keeping Requirements:

(1) Each reportable facility, project or operation must maintain the following records for at least five years:

(a) a copy of each emissions statement submitted to the NYSDEC; and

(b) records indicating how information provided in the Emissions Statement was determined, including calculations, data, measurements, and estimates used.

(2) These records must be available at the facility upon request by representatives of the NYSDEC during the facility's, project's or operation's normal business hours.

DEFINITIONS:

Air Contaminant: A dust, fume, gas, mist, odor, smoke, vapor, pollen or any combination of these.

Air Contamination Source or Emission Source: Any apparatus, mechanical device or machine capable of causing emission of any air contaminant to the outdoor atmosphere, including any backup exhaust system, air cleaning device or emission point. (An exception to this is an indirect source of air contamination such as a facility, project or operation, the construction of which results in vehicle movement, such as a shopping center). Where more than one apparatus, mechanical device or machine is connected to a single emission point, their combined emissions shall be considered a single air contamination source.

Actual Emissions: The actual rate of emission of an air contaminant after control equipment has been applied, including fugitive emissions, and emissions during upset and downtime (inactive time) conditions. Actual emissions are based on actual operating conditions (i.e., actual material usage, actual operating rate).

Annual: Refers to a period of time based upon a calendar year commencing January 1st and ending midnight December 31st.

Attainment Area: Any area of the State meeting all National Ambient Air Quality Standards (NAAQS) for a specific air contaminant. (Note: a list of such areas may be requested from any office of the Department of Environmental Conservation.)

Class I and II Stratospheric Ozone Depleting Substances: Any compound or material listed in Tables 06A-4 and 06A-5.

Control Efficiency: Effectiveness of an air cleaning device: stated as the percentage of the actual total emissions of an air contaminant prevented from being emitted into the outdoor atmosphere by the air cleaning device.

Control Equipment Identification Code: The code which identifies the control devices used for emission statement reporting purposes.

Emission Factor: An average value that compares the quantity of an air contaminant released to the atmosphere, to the activity associated with the release of that air contaminant. It is usually expressed as the weight of air contaminant divided by a unit weight, volume, distance or duration of the activity that emits the air contaminant (e. g., kilograms of particulate emitted per megagram of coal combusted). Emission factors are averages of available data of acceptable quality, generally without considering the influence of various process parameters such as temperature and reactant concentrations.

Emission Test: Any method of collecting stack samples or samples of emissions from an air contamination source and analyzing such samples for air contaminants.

Estimated Emissions Method Code: The code which identifies how emissions were determined for emission statement reporting purposes. Emissions must be calculated using the methods described by these codes.

Fugitive Emissions: Releases of air contaminants to the outdoor atmosphere that are not emitted through an emission point.

Hazardous Air Pollutant: Any compound or material listed in Table 06A-3.

Material Balance: Comparing the inputs with the outputs of a process to determine the emissions. For example, a certain chemical used in a process may be emitted to the atmosphere, retained in the product, destroyed in the process, or physically removed for reprocessing or disposal.

Maximum operating heat input: The maximum heat input in million BTU's per hour at which a stationary combustion installation is expected to be operated, or at which it actually has been operating. This heat input will be the permissible operating limit as specified on a permit to construct or certificate to operate.

Peak Carbon Monoxide Season: The months of January, February and December in a given year.

Peak Ozone Season: June 1 through August 31 in a given year.

Percent Annual Throughput: The percent of the total yearly operation of an emission point which occurs during each of the following periods:

- January through February and December;
- March through May;
- June through August; and
- September through November.

Potential to Emit: The maximum ability of an air contamination/pollution source to emit any air contaminant by its physical and operational design. Any physical or operational limitation on the ability of the facility or air contamination source to emit any air contaminant (including restrictions on air pollution control equipment, hours of operation, or the type or amount of material combusted, stored or processed) shall be treated as part of the design, only if the limitation is contained in the permit Fugitive emissions, to the extent that they are able to be measured, are included in determining the potential to emit.

Process Rate: The actual or estimated annual fuel, process, or solid waste operating rate, or quantity per calendar year of any raw material consumed, or product generated through the use of the process.

(a) For a stationary internal combustion unit or any other fuel burning equipment, the annual process rate is the quantity of fuel burned per year.

(b) For an incinerator, this is the quantity of refuse burned per year.

(c) For an industrial process, this is generally based on the amount of product produced or the amount of raw material consumed.

Regulated Air Contaminant/Pollutant: The following are regulated air pollutants for the purposes of this Part:

(1) Nitrogen oxides (NO_x) and any volatile organic compounds (VOCs);

(2) Any air pollutant or contaminant for which a national ambient air quality standard (NAAQS) has been put into law, including PM-10 (particulates), sulfur dioxide, carbon monoxide, nitrogen dioxide, ozone and lead;

(3) Any air pollutant or contaminant that is subject to any limit in the law for New Source Performance Standards (NSPS) in Federal Regulations 40 CFR Part 60;
(4) Any Class I or II stratospheric ozone depleting substance (refer to Tables 06A-4 and 06A-5);
(5) Any hazardous air pollutant (see Table 06A-3).

Reportable Emissions: Emissions of regulated air pollutants actually emitted at the facility, project or operation.

Reportable Facility, Project or Operation: A facility, project or operation that is greater than the limits in Tables 06A-1 and 06A-2.

"SCC" or Source Classification Code: The code that identifies a specific process, the units of the activity level, and emission factors related to process activity levels. Emissions may be calculated by multiplying the emission factor for each SCC and the activity level.

"SIC" Code: The Standard Industrial Classification code devised by the United States Office of Management and Budget to classify establishments according to the type of economic activity in which they are engaged.

TABLE 06A-1
FACILITY REPORTING THRESHOLDS -- NONATTAINMENT AREAS

AIR CONTAMINANT	THRESHOLDS (tons/year)
Volatile Organic Compounds ("VOC")	25
Oxides of Nitrogen ("NO_x")	25
Carbon Monoxide ("CO")	100
Sulfur Dioxide ("SO2")	100
Particulate Matter, diameters less than 10 microns ("PM10")	100
Lead and its compounds ‡	5
Any one hazardous air pollutant	10
Combination of hazardous air pollutants	25
Any other regulated air pollutant	100

‡ lead and its compounds measured as elemental lead

TABLE 06A-2
FACILITY REPORTING THRESHOLDS -- ATTAINMENT AREAS
(OZONE TRANSPORT REGION)

AIR CONTAMINANT	THRESHOLDS (tons/year)
Volatile Organic Compounds ("VOC")	50
Oxides of Nitrogen ("NO_x")	100
Carbon Monoxide ("CO")	100
Sulfur Dioxide ("SO2")	100
Particulate Matter, diameters less than 10 microns ("PM10")	100
Lead and its compounds ‡	5
Any one hazardous air pollutant	10
Combination of hazardous air pollutants	25
Any other regulated air pollutant	100

‡ lead and its compounds, measured as elemental lead

TABLE O6A-3

REPORTABLE HAZARDOUS AIR POLLUTANTS

Chemical Name	CAS #
Acetaldehye	75070
Acetamide	60355
Acetonitrile	75058
Acetophenone	98862
2-Acetylaminofluorene	53963
Acrolein	107028
Acrylamide	79061
Acrylic acid	79107
Acrylonitrile	107131
Allyl chloride	107051
4-Aminobiphenyl	92671
Aniline	62533
o-Anisidine	90040
Asbestos	1332214
Benzene (including benzene from gasoline)	71432
Benzidine	92875
Benzotrichloride	98077
Benzyl chloride	100447
Biphenyl	92524
Bis (2-ethylhexyl) phthalate (DEHP)	117817
Bis(chloromethyl)ether	542881
Bromoform	75252
1,3-Butadiene	106990
Calcium cyanamide	156627
Caprolactam	105602
Captan	133062
Carbaryl	63252
Carbon disulfide	75150
Carbon tetrachloride	56235
Carbonyl sulfide	463581
Catechol	120809
Chloramben	133904
Chlordane	57749
Chlorine	7782505
Chloroacetic acid	79118
2-Chloroacetophenone	532274
Chlorobenzene	108907
Chlorobenzilate	510156
Chloroform	67663
Chloromethyl methyl ether	107302
Chloroprene	126998
Cresols/Cresylic acid (isomers and mixture)	1319773
o-Cresol	95487
m-Cresol	108394
p-Cresol	106445
Cumene	98828
2,4-D, salts and esters	94757
DDE	3547044
Diazomethane	334883
Dibenzofurans	132649
1,2-Dibromo-3-chloropropane	96128
Dibutylphthalate	84742
1,4-Dichlorobenzene (p)	106467
3,3-Dichlorobenzidene	91941
Dichloroethyl ether (Bis (2-chloroethyl) ether)	111444
1,3-Dichloropropene	542756
Dichlorvos	62737
Diethanolamine	111422
N,N-Diethyl aniline (N,N-Dimethylaniline)	121697

Chemical Name	CAS #
Diethyl sulfate	64675
3,3-Dimethoxybenzidine	119904
Dimethyl aminoazobenzene	60117
3,3-Dimethyl benzidine	119937
Dimethyl carbamoyl chloride	79447
Dimethyl formamide	68122
1,1-Dimethyl hydrazine	57147
Dimethyl phthalate	131113
Dimethyl sulfate	77781
4,6-Dinitro-o-cresol, and salts	534521
2,4 Dinitrophenol	51285
2,4-Dinitrotoluene	121142
1,4-Dioxane (1,4-Diethyleneoxide)	123911
1,2-Diphenylhydrazine	122667
Epichlorohydrin (1-Chloro-2,3-epoxypropane)	106898
1,2-Epoxybutane	106887
Ethyl acrylate	140885
Ethyl benzene	100414
Ethyl carbamate (Urethane)	51796
Ethyl chloride (Chloroethane)	75003
Ethylene dibromide (Dibromoethane)	106934
Ethylene dichloride (1,2-Dichloroethane)	107062
Ethylene glycol	107211
Ethylene imine (Aziridine)	151564
Ethylene oxide	75218
Ethylene thiourea	96457
Ethylidene dichloride (1,1-Dichloroethane)	75343
Formaldehyde	50000
Heptachlor	76448
Hexachlorobenzene	118741
Hexachlorobutadiene	87683
Hexachlorocyclopentadiene	77474
Hexachloroethane	67721
Hexamethylene-1, 6-diisocyanate	822060
Hexamethylphosphoramide	680319
Hexane	110543
Hydrazine	302012
Hydrochloric acid	7647010
Hydrogen fluoride (Hydrofluoric acid)	7664393
Hydroquinone	123319
Isophorone	78591
Lindane (all isomers)	58899
Maleic anhydride	108316
Methanol	67561
Methoxychlor	72435
Methyl bromide (Bromomethane)	74839
Methyl chloride (Chloromethane)	74873
Methyl chloroform (1,1,1-Trichloroethane)	71556
Methyl ethyl ketone (2-Butanone)	78933
Methyl hydrazine	60344
Methyl iodide (Iodomethane)	74884
Methyl isobutyl ketone (Hexone)	108101
Methyl isocyanate	624839

Chemical Name	CAS #
Methyl methacrylate	80626
Methyl tert butyl ether	1634044
4,4-Methylene bis (2-chloroaniline)	101144
Methylene chloride (Dichloromethane)	75092
Methylene diphenyl diisocyanate (MDI)	101688
4,4-Methylenedianiline	101779
Naphthalene	91203
Nitrobenzene	98953
4-Nitrobiphenyl	92933
4-Nitrophenol	100027
2-Nitropropane	79469
N-Nitroso-N-methylurea	684935
N-Nitrosodimethylamine	62759
N-Nitrosomorpholine	59892
Parathion	56382
Pentachloronitrobenzene (Quintobenzene)	82688
Pentachlorophenol	87865
Phenol	108952
p-Phenylenediamine	106503
Phosgene	75445
Phosphine	7803512
Phosphorus	7723140
Phthalic anhydride	85449
Polychlorinated biphenyls (Aroclors)	1336363
1,3-Propane sultone	1120714
beta-propiolactone	57578
Propionaldehyde	123386
Propoxur (Baygon)	114261
Propylene dichloride (1,2-Dichloropropane)	78875
Propylene oxide	75569
1,2-Propylenimine (2-Methyl aziridine)	75558
Quinoline	91225
Quinone	106514
Styrene	100425
Styrene oxide	96093
2,3,7,8-Tetrachlorodibenzo-p-dioxin	1746016
1,1,2,2-Tetrachloroethane	79345
Tetrachloroethylene (Perchloroethylene)	127184
Titanium tetrachloride	7550450
Toluene	108883
2,4-Toluene diamine	95807
2,4-Toluene diisocyanate	584849
o-Toluidine	95534
Toxaphene (chlorinated camphene)	8001352
1,2,4-Trichlorobenzene	120821
1,1,2-Trichloroethane	79005
Trichloroethylene	79016
2,4,5-Trichlorophenol	95954
2,4,6-Trichlorophenol	88062
Triethylamine	121448
Trifluralin	1582098
2,2,4-Trimethylpentane	540841
Vinyl acetate	108054
Vinyl bromide	593602

Chemical Name	CAS #
Vinyl chloride	75014
Vinylidene chloride (1,1-Dichloroethylene)	75354
Xylenes (isomers and mixture)	1330207
o-Xylenes	95476
m-Xylenes	108383
p-Xylenes	106423
Antimony Compounds	0
Arsenic Compounds (inorganic including arsine)	0
Beryllium Compounds	0
Cadmium Compounds	0
Chromium Compounds	0
Cobalt Compounds	0
Coke Oven Emissions	0
Cyanide Compounds †1	0
Glycol ethers †2	0

Lead Compounds	0
Manganese Compounds	0
Mercury Compounds	0
Fine mineral fibers †3	0
Nickel Compounds	0
Polycylic Organic Matter †4	0
Radionuclides (including radon) †5	0
Selenium Compounds	0

NOTE: For all listings above which contain the word "compounds" and for glycol ethers, the following applies. Unless otherwise specified, these listings are defined as including any unique chemical substance that contains the named chemical (i.e., antimony, arsenic, etc.) as part of that chemical's infrastructure.

†1 X'CN where X = H' or any other group where a formal dissociation may occur. For example KCN or Ca(CN)2.

†2 Includes mono- and di- ethers of ethylene glycol, diethylene glycol, and triethylene glycol R-(OCH2CH2) n-OR' where:

- n = 1, 2, or 3
- R = alkyl or aryl groups
- R' = R, H, or groups which, when removed, yield glycol ethers with the structure: R-(OCH2CH)n-OH.
- Polymers are excluded from the glycol category.

†3 Includes mineral fiber emissions from facilities manufacturing or processing glass, rock or slag fibers (or other mineral derived fibers) of average diameter 1 micrometer or less.

†4 Includes organic compounds with more than one benzene ring, and which have a boiling point greater than or equal to 100 degrees C.

†5 A type of atom which spontaneously undergoes radioactive decay.

TABLE 06A-4 CLASS I SUBSTANCES
GROUP I chlorofluorocarbon- 11 (CFC-11) chlorofluorocarbon- 12 (CFC-12) chlorofluorocarbon-113 (CFC-113) chlorofluorocarbon-114 (CFC-114) chlorofluorocarbon-115 (CFC-115)
GROUP II halon-1211 halon-1301 halon-2402
GROUP III chlorofluorocarbon- 13 (CFC-13) chlorofluorocarbon-111 (CFC-111) chlorofluorocarbon-112 (CFC-112) chlorofluorocarbon-211 (CFC-211) chlorofluorocarbon-212 (CFC-212) chlorofluorocarbon-213 (CFC-213) chlorofluorocarbon-214 (CFC-214) chlorofluorocarbon-215 (CFC-215) chlorofluorocarbon-216 (CFC-216) chlorofluorocarbon-217 (CFC-217)
GROUP IV carbon tetrachloride
GROUP V methyl chloroform

This list shall also include the isomers of the substances listed above, other than 1,1,2-trichloroethane (an isomer of methyl chloroform).

TABLE 06A-5

CLASS II SUBSTANCES

hydrochlorofluorocarbon- 21	(HCFC-21)
hydrochlorofluorocarbon- 22	(HCFC-22)
hydrochlorofluorocarbon- 31	(HCFC-31)
hydrochlorofluorocarbon-121	(NCFC-121)
hydrochlorofluorocarbon-122	(NCFC-122)
hydrochlorofluorocarbon-123	(NCFC-123)
hydrochlorofluorocarbon-124	(NCFC-124)
hydrochlorofluorocarbon-131	(NCFC-131)
hydrochlorofluorocarbon-132	(NCFC-132)
hydrochlorofluorocarbon-133	(NCFC-133)
hydrochlorofluorocarbon-141	(NCFC-141)
hydrochlorofluorocarbon-142	(NCFC-142)
hydrochlorofluorocarbon-221	(NCFC-221)
hydrochlorofluorocarbon-222	(NCFC-222)
hydrochlorofluorocarbon-223	(NCFC-223)
hydrochlorofluorocarbon-224	(NCFC-224)
hydrochlorofluorocarbon-225	(NCFC-225)
hydrochlorofluorocarbon-226	(NCFC-226)
hydrochlorofluorocarbon-231	(NCFC-231)
hydrochlorofluorocarbon-232	(NCFC-232)
hydrochlorofluorocarbon-233	(NCFC-233)
hydrochlorofluorocarbon-234	(NCFC-234)
hydrochlorofluorocarbon-235	(NCFC-235)
hydrochlorofluorocarbon-241	(NCFC-241)
hydrochlorofluorocarbon-242	(NCFC-242)
hydrochlorofluorocarbon-243	(NCFC-243)
hydrochlorofluorocarbon-244	(NCFC-244)
hydrochlorofluorocarbon-251	(NCFC-251)
hydrochlorofluorocarbon-252	(NCFC-252)
hydrochlorofluorocarbon-253	(NCFC-253)
hydrochlorofluorocarbon-261	(NCFC-261)
hydrochlorofluorocarbon-262	(NCFC-262)
hydrochlorofluorocarbon-271	(NCFC-271)

This list shall also include the isomers of the substances listed above.

NYSDEC CONTACT: TELEPHONE NUMBER:

Michael Miliani, Bureau of Air Quality Planning (518)402-8396

REGULATION 06B QUESTIONS: **AIR POLLUTION EPISODE**

(A) Is your facility, project or operation (f/p/o), a significant air contamination source?

NOTE: A significant air contamination source exists when the emissions alone, or in combination with others, can be expected to have an adverse effect on ambient air quality during an air pollution episode. See Regulation 06B for definition of significant air contamination source.

YES _____ NO _____

If NO, proceed to Question (B).

If YES, proceed to Question (C).

(B) Did NYSDEC ever issue an episode action plan for your f/p/o?

YES _____ NO _____

If NO, leave “Rank” box 06B blank on the Compliance Status Report form, proceed to Regulation 07.

If YES, proceed to Question (E).

(C) If the NYSDEC requested you submit an episode action plan, did you do so within 90 days?

YES _____ NO _____

If YES, proceed to Question (D).

If NO, place an "N1, "N2", "N3" or "N4" (according to the priority rank of the violation) in “Rank” box 06B on the Compliance Status Report form, complete a “Non-Compliance Report & Remedial Plan” form, then proceed to Question (D).

(D) Did you obtain a Certificate of Approval for your episode action plan?

YES _____ NO _____

If YES, place a "C" in “Rank” box 06B and place a check in the “Approval” box on the Compliance Status Report form, then proceed to Question (E).

If NO, proceed to Question (G).

(E) Was an air pollution episode ever declared at your f/p/o?

YES _____ NO _____

If YES, proceed to Question (F).

If NO, proceed to Regulation 07.

(F) Did you take whatever actions were prescribed in the action plan when an air pollution episode was in effect?

If YES, place a "C" in “Rank” box 06B on the Compliance Status Report form, proceed to Regulation 07.

If NO, place an "N1, "N2", "N3" or "N4" (according to the priority rank of the violation) in “Rank” box 06B on the Compliance Status Report form, complete a “Non-Compliance Report & Remedial Plan” form, then proceed to Regulation 07.

(G) Was an air pollution episode ever declared at your f/p/o?

YES _____ NO _____

(H) Did you take whatever actions were prescribed in the action plan when an air pollution episode was in effect?

YES _____ NO _____

If YES, and you answered NO to Question (G), place a “C”, “N1", “N2", “N3" or “N4" in “Rank” box 06B, then proceed to Regulation 07.

If YES, and you answered YES to Question (G), place a "C" in “Rank” box 06B on the Compliance Status Report form, then proceed to Regulation 07.

If NO, and you answered YES to Question (G), place an "N1, "N2", "N3" or "N4" (according to the priority rank of the violation) in “Rank” box 06B on the Compliance Status Report form, complete a “Non-Compliance Report & Remedial Plan” form, then proceed to Regulation 07.

If NO, and you answered NO to Question (G), place an "N1, "N2", "N3" or "N4" (according to the priority rank of the violation) in “Rank” box 06B on the Compliance Status Report form, complete a “Non-Compliance Report & Remedial Plan” form, then proceed to Regulation 07.

REGULATION 06B: **AIR POLLUTION EPISODE**

LEGAL CITATION: ECL Sections 14, 15 & 77 and 6NYCRR Part 207.

ABSTRACT OF LAW/REGULATION:

Episodes of high air pollution and the subsequent increases in mortality and morbidity have been well documented over the last several years. Investigations conducted after occurrences of high air pollution have shown that the very young, the elderly, and the sick were affected most. Most instances of high air pollution are associated with peculiar weather conditions, although industrial accidents can also precipitate the adverse build-up of pollutants. Stagnating high pressure systems have the potential for causing the accumulation of air contaminants near ground level by preventing mixing of the lower air masses into upper levels. This reduction in mixing is triggered by two interrelated mechanisms -- one, wind velocity is reduced, and two, very stable air prevents the natural rising of warm air from ground level upward.

To thoroughly prevent air pollution emergencies, it is necessary to employ two systems. First, an adequate air quality and meteorologic data system must be established to warn of the build-up of concentrations where substantial endangerment to health may occur. The second system must regulate emissions from sources or groups of sources at the various alert and warning stages so as to prevent the impending contaminant build-up.

Part 207 requires control measures for an air pollution episode. When weather conditions, usually when air stagnation occurs, and/or the concentration of an air contaminant or contaminants become excessively high, immediate action is necessary to prevent further increases in air contamination or damage to life, property or environmental quality, a "Forecast", "Alert I", "Alert II" or "Emergency" stage of an air pollution episode may exist.

The lowest stage, Forecast, is declared to indicate the prevalence of certain weather conditions that are conducive to the accumulation of air pollutants. Usually an air stagnation advisory is issued by the National Weather Service. This is a "watch" stage as no significant adverse air pollution concentrations would have developed at this time. Voluntary action on the part of everyone would be requested to reduce unnecessary air pollution emissions from homes, automobiles and other vehicles. Open burning would be banned with the exception of camp and cooking fires. All owners of significant air pollution sources would be notified of the air pollution episode.

The next stage, Alert I, is declared when air pollutants significantly increase. All open burning would have to cease and all on-site incineration would be banned. In addition, all significant air contamination sources would have to operate according to their episode action plans until further notice by NYSDEC. Furthermore, the public, particularly those people with existing cardio-respiratory disease, would be advised to: stay indoors, if possible; not to smoke; avoid staying in rooms where others smoke; avoid any undue exertion; call their physician if there are any unusual symptoms; and to watch for news releases for further announcements. In addition, the following voluntary air pollution abatement by the public to reduce automobile emissions would be requested by NYSDEC: avoid unnecessary driving; avoid rush hour traffic; use car pools or public transportation; avoid prolonged idling; and avoid rapid acceleration.

The third stage, Alert II, is declared when air pollutants increase significantly above those that triggered the declaration for an Alert I episode. The prohibitions and advice indicated for the Alert I stage remain in effect and the NYSDEC would order specific air pollution sources to close or shut-down their operations and governmental agencies would be required to curtail all non-essential traffic in the problem area when carbon monoxide, ozone or nitrogen dioxide are above the Alert II criteria. In addition, employers are requested to allow employees with cardio-respiratory problems time off from work. Typical pollution abatement actions required would be: switching to low-sulfur fuel; reduced production and electrical load; utility electrical load switching and possible voltage reductions; reduction of incineration; and curtailing or temporarily terminating industrial processes.

The last stage, Emergency, is declared when air pollutants increase to very high and serious concentrations that seriously jeopardize the health of susceptible people. The prohibitions and advice indicated for the Alert II stage remain in effect and the NYSDEC would order the termination of operations of stationary air pollution sources with less than 99% cleaning efficiency and order all other stationary sources to operate according to their Episode Action Plan - Emergency Stage. In addition, the operation of all gasoline motor vehicles, except franchised buses, refuse collection, fire, police, hospital and public utility vehicles performing essential or emergency services would be terminated. Also, employers would be requested to close establishments and reduce the usage of fuel and electricity. Furthermore, those people with cardio-respiratory disease would be advised to: stay home; close windows; not to smoke; avoid rooms where others are smoking; avoid activities that may raise dust such as starting a furnace, using a fire place,

dusting furniture, or extensive vacuuming; no undue physical activity; in some cases, bed rest; use medication promptly as directed; and if in difficulty, consult a physician.

An episode may also exist when a single accident, occurrence or condition has resulted or is likely to result in damage to life, property or environmental quality. Once designated, an episode or any stage of an episode shall remain in effect until terminated by NYSDEC.

REQUIRED APPROVAL:

A Certificate of Approval is required for an air pollution episode action plan.

REQUIREMENTS:

1. Any person who owns a significant air contamination source shall submit a proposed episode action plan to NYSDEC (within 90 days of DEC's request) that contains detailed steps that will be taken to reduce air contaminant emissions during each stage of an air pollution episode.

2. Any person may submit a proposed episode action plan to NYSDEC whether or not the air contamination source covered by the plan is a significant air contamination source. The plan, if approved, would prescribe the steps to be taken by the source owner during an air pollution episode.

3. Any person who owns a significant air contamination source or voluntarily submits an episode action plan to NYSDEC must (within 90 days of DEC's request) submit a proposed modification of the action plan to accommodate advances in technology or knowledge of contamination effects.

4. The NYSDEC may issue an episode action plan to any person who fails to submit an acceptable plan or plan modification within the required time.

5. Within 60 days of the approval or issue of an episode action plan, a hearing shall be granted (upon petition) to the significant air contamination source owner.

6. The episode action plan must be available at a convenient location for review, by NYSDEC, at any time.

Any person who owns an air contamination source for which an episode action plan has been issued or approved shall take whatever actions are prescribed by the plan when an air pollution episode is in effect.

CONTROL ACTIONS FOR SIGNIFICANT SOURCES:

There are several control actions a source owner/operator may take during each stage of an air pollution episode. These actions may be economically undesirable for normal operations but represent feasible operating modes during the relatively limited time of an air pollution episode. The practicability of implementing specific control actions depends on numerous factors characteristic of the industry, process, installation or location. Possible control actions to be taken by the owner/operator of a significant air contamination source are:

Combustion Installations

1. Switching to low sulfur fuel;
2. Curtailing electrical energy output (utilities). It is preferable to operate designated individual units at full capacity and temporarily terminate other units rather than reducing generating capacity of individual units to achieve overall curtailment of electrical energy output;

3. Shifting of electrical load (utilities). It is possible to shift electrical load within and between power systems. Specific control actions may include shifting hydroelectric or nuclear power; shifting to generating units utilizing low sulfur fuel; shifting to generating units equipped with more effective gas cleaners; or shifting to systems located outside of the area affected by the air pollution episode;

4. Reducing steam load demands;

5. Increasing gas cleaning efficiencies.

Off-Site Incinerators

1. Curtailing charging rates by specific amounts or temporarily terminating incinerator operations. During the Emergency Stage operation of off-site incinerators shall be terminated;

2. Providing additional storage capacity for refuse; and

3. Bypassing incineration temporarily and transporting refuse directly to refuse disposal area (sanitary landfill).

Processes, Exhaust and/or Ventilating Systems

1. Bituminous Concrete Asphalt Plants

   A. Switching to 0.3% sulfur fuel used in driers during the Alert I Stage in areas of the state other than the New York City Metropolitan Area and continuing to use low sulfur fuel during subsequent stages, if permitted to continue to operate; and

   B. Curtailing production by specific amounts or temporarily terminating processes. During the Alert I Stage, the drier shall be shut down if it is part of a single production system at a contiguous plant site located in an area of the state where any ambient air quality standard for particulate or sulfur dioxide is being exceeded. If more than one production system is located at the plant site, driers shall be shut down or operations curtailed to 50% of normal operating capacity. During the Alert II Stage all operations at plant location shall be terminated. If the particulate emissions from driers and other units are treated by air cleaning equipment operating at 99%+ overall efficiency, no curtailment or termination of operation is required for such sources during the Alert I Stage. During the Alert II and Emergency Stages, all operations shall remain shut down or be terminated without exception.

2. Other Processes

   A. Curtailing production by specific amounts or temporarily terminating processes. At the start of the Alert I Stage, operations should be curtailed to 50% of normal operating capacity. During the Alert II Stage and Emergency Stage operations may have to be terminated. If a source is provided with air cleaning or other control equipment operating at 99%+ efficiency for all contaminants, no curtailment or termination of operation may be required for such source; and

   B. Increasing gas cleaning efficiencies.

DEFINITIONS:

Air pollution emergency means an episode involving a combination of circumstances which requires **immediate action** to reduce the quantity of contaminants in the atmosphere due to danger to public health and welfare, injury to agricultural crops and livestock, damage to and deterioration of property, hazards to air and ground transportation, or impairment of environmental quality.

Significant air contamination source is any air contamination source whose emissions alone or in combination with others can be expected to have an adverse effect on ambient air quality during an air pollution episode. This category includes, but is not limited to: fossil fuel burning equipment with a maximum operating heat input exceeding 200 million BTU per hour; processes and exhaust or ventilating systems with particulate emissions in excess of 100 lb/hr; incinerators with a refuse charging capacity of 2,000 lb/hr or more.

NYSDEC CONTACT: TELEPHONE NUMBER

Bureau of Stationary Sources 518/402-8403

REGULATION 06C QUESTIONS: **GENERAL PROCESS EMISSION SOURCES**

Note: If your facility, project or operation (f/p/o), is subject to this regulation, it is also subject to Regulation 08A, and may be subject to Regulation 06B.

(A.) Does your f/p/o have any operation that emits any chemical, dust, compound, fume, gas, mist, odor, smoke, vapor, pollen or any combination thereof into the outdoor atmosphere (excluding open fires, fossil fuel combustion emission sources, and the incineration of refuse other than production waste) in which the chemical, biological and/or physical properties of the material(s) are changed, or in which the material(s) is conveyed or stored and vented from a non-mobile emission source?

YES_____ NO_____

If No, leave "Rank" box 06C blank on the Compliance Status Report form, proceed to Regulation 07.

(B.) If YES, do you have an air permit for all air emission sources and processes subject to permitting requirements as per Regulation 06?

YES_____ NO_____

If YES, place a "C" in "Rank" box 06C and place a check in the "Approval" Box 06C on the Compliance Status Report form, then proceed to Regulation 07.

REGULATION 06C: **GENERAL PROCESS EMISSION SOURCES**

Legal Citation: ECL Article 19 and Sections 3-0301 & 19-0303 and 6NYCRR Part 212

Part 212 Abstract: **General Process Emissions Sources**

This regulation provides control requirements for sources not covered under more specific regulations, (see 212.7). The control requirements are based on the relative toxicity of the air pollutants emitted and the amount in pounds per hour emitted. Limits on the amount of general particulates, namely dust or solid contaminants, are based on the date of construction of the source permitted, and are also regulated by this Part.

PART 212 GENERAL PROCESS EMISSION SOURCES

(Statutory authority: Environmental Conservation Law, §§3-0301, 19-0301, 19-0303)

Sec.
212.1 Definitions
212.2 Determination of environmental rating
212.3 Emissions from existing emission sources
212.4 Emissions from new emission sources and/or modifications
212.5 Determining applicable emission standards
212.6 Opacity of emissions limited
212.7 Exceptions
212.8 Compliance schedules
212.9 Tables
212.10 Reasonably available control technology for major facilities
212.11 Sampling and monitoring

§ 212.1 Definitions.

(a) For the purpose of this Part, the general definitions in Part 200 of this Title apply.

(b) For the purpose of this Part, the following definitions also apply:

(1) Emission rate potential. The maximum rate at which a specified air contaminant from an emission source would be emitted to the outdoor atmosphere in the absence of any control equipment. The emission rate potential of a specified air contaminant from an emission source is calculated by dividing the weight of such contaminant (expressed in pounds) that would be emitted to the outdoor atmosphere during maximum emission conditions in the absence of any control equipment, by the duration (expressed in hours) of such emissions. When an air contaminant is emitted for a period equal to or less than one hour, the emission rate potential is the weight of the contaminant emitted in the absence of any control equipment, divided by one hour, except that for any toxic air contaminant specified by the commissioner, the duration of emissions used in calculating the emission rate potential may be less than one hour. The maximum emission rate used for calculating the emission rate potential is not the emission rate during catastrophic or emergency conditions.

(2) Environmental rating. A rating assigned by the department indicated by the letter A, B, C or D, which considers the potential environmental effects of an air contamination source on its surroundings.

(3) Lower Orange County metropolitan area. The area including the towns of Blooming Grove, Chester, Highlands, Monroe, Tuxedo, Warwick and Woodbury.

(4) New York City metropolitan area. All of the city of New York and Nassau, Suffolk, Westchester and Rockland Counties.

(5) Overall removal efficiency. The total reduction of volatile organic compound emissions considering the efficiency of both the capture system and of the subsequent destruction and/or removal of these air contaminants by the control equipment prior to their release into the atmosphere.

(6) Potential to emit. The maximum capacity of an air contamination source to emit any air contaminant under its physical and operational design. Any physical or operational limitation on the capacity of the facility or air contamination source to emit any air contaminant, including air pollution control equipment and/or restriction on the hours of operation, or on the type or amount of material combusted, stored, or processed, shall be treated as part of the design only if the limitation is contained in enforceable permit conditions. Fugitive emissions, to the extent that they are quantifiable, are included in determining the potential to emit.

(7) Process. Any industrial, commercial, agricultural or other activity, operation, manufacture or treatment in which chemical, biological and/or physical properties of the material or materials are changed, or in which the material(s) is conveyed or stored without changing the material(s) (where such conveyance or storage system is equipped with a vent(s) and is non-mobile), and which emits air contaminants to the outdoor atmosphere. Processes do not include open fires, operation of combustion installations, and incineration or refuse other than by-products or wastes from processes.

(8) Process weight. The total weight of all materials introduced into a process which may cause air contaminant emissions to the outdoor atmosphere. Solid fuel used in a process is considered part of the process weight, but liquid and/or gaseous fuel, uncombined water and combustion air are not.

(9) Process weight per hour. The total process weight for any emission source divided by the number of hours during which air contaminants are emitted by such source to the outdoor atmosphere. For continuous processes, process weight should be determined on a daily basis.

(10) Reasonably available control technology (RACT). Lowest emission limit that a particular source is capable of meeting by application of control technology that is reasonably available, considering technological and economic feasibility.

§212.2 Determination of environmental rating.

When an application is made for a permit to construct or for a certificate to operate for a process emission source, the commissioner will issue an environmental rating for each air contaminant from each emission point in accordance with Table 1 of this Part.

§212.3 Emissions from existing emission sources.

Emissions of air contaminants to the outdoor atmosphere from any process emission source are restricted as follows:

(a) No person will cause or allow emissions that violate the requirement specified in Table 2, Table 3 or Table 4 of this Part for the environmental rating issued by the commissioner; or

(b) In instances where determination of permissible emission rate using process weight is not applicable (see Table 5) and for an environmental rating of B or C, no person will cause or allow emissions of solid particulates that exceed 0.15 grains of particulates per cubic foot of exhaust gas, corrected for dilution air and expressed at standard conditions on a dry gas basis.

§212.4 Emissions from new sources and/or modifications.

Emissions from any process emission source for which an application for a permit to construct is received by the department after July 1, 1973, are restricted as follows:

(a) except as required under section 201.8 of this Title, no person shall cause or allow emissions that exceed the applicable permissible emission rate as determined from Table 2, Table 3 or Table 4 of this Part for the environmental rating issued by the commissioner; or

(b) for gases and liquid particulates with an environmental rating of A, B, or C and for solid particulates with an environmental rating of A, where the emission rate potential is not shown in Table 2 the permissible emission rate shall be specified by the commissioner; or

(c) In instances where determination of permissible emission rate using process weight is not applicable (see Table 5) and for an environmental rating of B or C, no person will cause or allow emissions of solid particulates that exceed 0.050 grains of particulates per cubic foot of exhaust gas, expressed at standard conditions on a dry gas basis, except as provided in Section 201.6 of this Title.

§212.5 Determining applicable emission standards.

(a) Where air contaminants from two or more devices or contrivances are emitted to the outdoor atmosphere through a single emission point, the permissible emission rate or degree of air cleaning required is determined by using the sum of the process weights or emission rate potentials for all such devices or contrivances.

(b) Where air contaminants from a single device or contrivance are emitted to the outdoor atmosphere through more than one emission point, the sum of the emissions from all such emission points shall not exceed the quantity that would be permitted if said emissions were through a single emission point.

(c) Where air contaminants from two or more devices or contrivances are emitted to the outdoor atmosphere through a single emission point and the applicable emission standard for one or more of such devices or contrivances if vented separately to the outdoor atmosphere is a concentration standard (grains per standard cubic foot), the permissible emission rate through such emission point shall not exceed the quantity that would be allowed if said emissions were through separate emission points.

(d) Where a source owner can demonstrate to the satisfaction of the commissioner that he will apply best available control technology, the commissioner may specify a less restrictive permissible emission rate, emission standard or degree of air cleaning for such source than required under this Part provided that the less restrictive requirement is equivalent to that which can be achieved through the application of best available control technology.

(e) A process emission source, subject to the Federal new source performance standards in 40 CFR part 60, the national emission standards for hazardous air pollutants in 40 CFR part 61, or to the polychlorinated biphenyl disposal criteria in 40 CFR part 761 satisfies the requirements of this Part for the contaminant regulated by the Federal standard if the source owner can demonstrate that the source is in compliance with the respective Federal regulation.

(f) Owners and/or operators of facilities which have limited the facility's annual potential to emit nitrogen oxides or volatile organic compounds below applicability levels through federally and state enforceable special conditions in permits to construct and/or certificates to operate under the provisions of subdivision 212.10(d) of this Part must maintain annual actual emissions below these limitations. Nitrogen oxide and volatile organic compound emission points at these facilities are not subject to the control requirements in subdivision 212.9(b) if the emissions are not given an A rating.

§212.6 Opacity of emissions limited.

(a) No person will cause or allow emissions having an average opacity during any six consecutive minutes of 20 percent or greater from any process emission source, except only the emission of uncombined water.

(b) Upon written application by a source owner or operator, the commissioner, at his discretion may accept for an emission source an equivalent opacity standard exceeding the opacity standard of subdivision(a) of this section, if the source owner can demonstrate through acceptable tests for such source that he is in compliance with all applicable emission requirements other than the opacity standard and that the source and any associated emission control equipment is being operated and maintained in a manner acceptable to the commissioner. An equivalent opacity standard for an emission source will only be granted where reasonably available control technology, as determined by the commissioner, has been utilized. In such cases, the source owner or operator will not cause or allow emissions to exceed the equivalent opacity.

§212.7 Exceptions.

The following process emission sources are not subject to the provisions of this Part:

(a) process emission sources which are exempt under section 201.6 of this Title;

(b) kilns and clinker coolers in portland cement plants subject to Part 220 of this Title with respect to emissions which are not given an A rating;

(c) ferrous jobbing foundry melting furnaces in operation on or prior to February 6, 1968 with respect to particulate emissions only;

(d) by-product coke oven batteries subject to Part 214 of this Title with respect to emissions which are not given an A rating;

(e) gasoline, petroleum, and volatile organic liquid storage and transfer facilities subject to Part 229 or Part 230 of this Title, with respect to volatile organic compound emissions which are not given an A rating;

(f) process emission sources other than kilns and clinker coolers in a portland cement plant with respect to opacity of emissions only;

(g) process emission sources in a sulfuric or nitric acid plant which are regulated by Part 224 of this Title with respect to emissions of nitrogen oxides, oxides of sulfur, sulfuric acid mist and smoke;

(h) process emission sources in a petroleum refinery subject to Part 223 of this Title with respect to sulfur compound emissions and emissions of volatile organic compounds which are not given an A rating;

(i) process emission sources from which emissions of oxides of sulfur are attributable only to sulfur in fuel with respect to emissions of oxides of sulfur;

(j) solvent metal cleaning processes subject to Part 226 of this Title with respect to emissions of volatile organic compounds which are not given an A rating;

(k) iron and/or steel processes subject to Part 216 of this Title;

(l) surface coating operations subject to Part 228 of this Title or coatings exempt from Part 228 pursuant to subdivision 228.1(h) with respect to emissions of volatile organic compounds which are not given an A rating;

(m) process emission sources with respect to emissions of carbon monoxide and volatile organic compounds produced solely by incomplete combustion of any fuel, except where material is heated, burned, combusted or otherwise chemically changed under oxygen-deficient conditions by design;

(n) perchloroethylene dry cleaning facilities subject to Part 232 of this Title;

(o) pharmaceutical and cosmetic manufacturing processes subject to Part 233 of this Title or processes exempt from Part 233 pursuant to subdivision 233.1(g) with respect to emissions of volatile organic compounds which are not given an A rating;

(p) graphic arts processes subject to Part 234 of this Title or inks exempt from Part 234 pursuant to subdivision 234.1(h) with respect to emissions of volatile organic compounds which are not given an A rating;

(q) primary aluminum reduction plant processes subject to Part 209 of this Title with respect to opacity and emissions of total fluorides; and

(r) process emission sources with respect to emissions of nitrogen oxides produced by catalytic oxidizers used as air pollution control equipment.

§212.8 Compliance schedules.

(a) Process emission sources which commence construction before November 16, 1985 in the New York City metropolitan area which are subject to Table 3 of this section are required to comply with the applicable emission standard within six months after the expiration date of the last certificate to operate issued prior to November 15, 1985. Process emission sources which commence construction after November 15, 1985 in the New York City metropolitan area which are subject to Table 3 of this Part must comply with the applicable standard upon start-up.

(b) An application for a certificate to operate for process emission sources at bakeries subject to this Part must be submitted to the Department by October 20, 1994.

§212.10 Reasonably available control technology for major facilities.

(a)(1) Owners and/or operators of facilities located in the Lower Orange County or New York City metropolitan areas with an annual potential to emit of 25 tons or more of nitrogen oxides or 25 tons or more of volatile organic compounds must comply with the requirements of this section.

(2) Owners and/or operators of facilities located outside of the Lower Orange County and New York City metropolitan areas with an annual potential to emit of 100 tons or more of nitrogen oxides or 50 tons or more of volatile organic compounds must comply with the requirements of this section.

(3) Owners and/or operators of facilities located in the Lower Orange County or New York City metropolitan areas with an annual potential to emit of 25 tons or more of nitrogen oxides or facilities located outside of the Lower Orange County or New York City metropolitan areas with an annual potential to emit 100 tons or more of nitrogen oxides may petition the Environmental Protection Agency (EPA) for an exemption from the reasonably available control technology requirements for nitrogen oxide emission points in this section. The facility is eligible for the exemption if the owner and/or operator demonstrates that net ozone air quality benefits are greater in the absence of reductions of nitrogen oxides from the facility. Nothing in this paragraph shall exempt owners and/or operators of facilities which petition the Environmental Protection Agency for an exemption from complying with the applicable requirements of this section by the May 31, 1995 deadline absent approval of the exemption.

(b) Owners and/or operators of emission points subject to this Part which emit nitrogen oxides or volatile organic compounds located at facilities described in subdivision 212.10(a) must submit a compliance plan to the Department by October 20, 1994. The compliance plan must either include the reasonably available control technology (RACT) analysis required by subdivision 212.10(c) or a plan to limit the annual potential to emit below the applicability levels pursuant to subdivision 212.10(d).

(c) (1) The compliance plan must identify reasonably available control technology (RACT) for each emission point which emits nitrogen oxides for major nitrogen oxide facilities or volatile organic compounds for major volatile organic compound facilities. The compliance plan must identify the emission points which do not employ reasonably available control technology (RACT), and a schedule for implementation of RACT must be included in the plan. A RACT analysis is not required for emission points with nitrogen oxide and volatile organic compound emission rate potentials less than 3.0 pounds per hour and actual emissions in the absence of control equipment less than 15.0 pounds per day at facilities located in the Lower Orange County and New York City metropolitan areas. A RACT analysis is not required for emission points with nitrogen oxide and volatile organic compound emission rate potentials less than 3.0 pounds per hour at facilities located outside of the Lower Orange County and New York City metropolitan areas. Reasonably available control technology as approved by the Department must be implemented on each emission point subject to this section by May 31, 1995.

(2) Compliance plans which include construction of emission control equipment must include a milestone date no later than December 20, 1994 for submission of permit to construct applications to the Department for emission control equipment. The compliance plans must include milestone dates for commencement of construction, completion of construction, and completion of emissions testing of emission control equipment.

(3) Reasonably available control technology compliance plans for nitrogen oxide emission points must include technically feasible control strategies to minimize nitrogen oxide formation and emission control equipment alternatives. These process specific RACT demonstrations which are acceptable to the Department will be submitted to the United States Environmental Protection Agency for approval as a revision to the State Implementation Plan by the Department.

(4) (i) Volatile organic compound emission points which are equipped with a capture system and a control device with an overall removal efficiency of at least 81% are equipped with reasonably available control technology.

(ii) Surface coating processes which are not subject to Part 228 of this Title which use a surface coating with a maximum volatile organic compound content of 3.5 pounds VOC per gallon as applied (minus water and excluded VOC) as calculated according to the formula in paragraph 228.2(b)(11) are equipped with reasonably available control technology.

(iii) Where the facility owner or operator can show to the satisfaction of the Department that an emission point cannot achieve an overall removal efficiency of 81% or use coatings not exceeding 3.5 pounds VOC per gallon as applied (minus water and excluded VOC) for reasons of technological or economic feasibility, the Department may accept a lesser degree of control upon submission of satisfactory evidence that the facility owner or operator will apply reasonably available control technology. These process specific RACT demonstrations which are acceptable to the Department will be submitted to the United States Environmental Protection Agency for approval as a revision to the State Implementation Plan by the Department.

(d) The owner or operator of any facility with federally and state enforceable conditions in certificates to operate which limit its annual potential to emit nitrogen oxides and volatile organic compounds below the applicability levels of subdivision 212.10(a) by May 31, 1995 is exempt from the RACT analysis and implementation requirements of this section. Records must be maintained by the owner or operator at the facility on a monthly basis which verify the facility's annual actual emissions. Upon reasonable request, these records must be submitted to the Department in a format acceptable to the Department. An exceedance of the annual potential to emit conditions for any calendar year must be reported by the owner or operator to the Department within thirty days of the end of that calendar year.

(e) Any facility that is subject to this section after May 31, 1995 will remain subject to these provisions even if the annual potential to emit nitrogen oxides or volatile organic compounds later fall below the applicability threshold.

(f) Owners and/or operators of emission points located at facilities described in subdivision 212.10(a) which commence construction after August 15, 1994 must submit a RACT demonstration for nitrogen oxides and volatile organic compound emissions with each application for a permit to construct. Reasonably available control technology must be implemented on these emission points when operation commences. A RACT analysis is not required for new emission points with nitrogen oxide and volatile organic compound emission rate potentials less than 3.0 pounds per hour and actual emissions in the absence of control equipment less than 15.0 pounds per day at facilities located outside of the Lower Orange County and New York City metropolitan areas.

§212.11 Sampling and monitoring.

(a) Owners and/or operators of any source which is required by the Department to demonstrate compliance with this Part must comply with the notification requirements and must conduct capture efficiency and/or stack emissions testing using acceptable procedures pursuant to Part 202 of this Title.

(b) Owners and/or operators of any source equipped with the following emissions control equipment must install continuous monitors and data recorders for the required parameter by June 1, 1995. Continuous monitors must be operated at all times when the associated process equipment is operating except during any quality assurance and routine maintenance activities. Each monitor must be operated according to a quality assurance program approved by the Department. Alternative monitoring methods may be employed subject to Department approval.

(1) The exhaust gas temperature must be monitored from thermal or catalytic incinerators.
(2) The temperature rise across catalytic incinerator beds must be monitored.
(3) The volatile organic compound outlet concentrations must be monitored from fixed-bed carbon adsorption units.
(4) The outlet gas temperature must be monitored from refrigerated condensers.
(5) Other parameters must be monitored if required by conditions on the permit to construct or certificate to operate for the source.

(c) For the purpose of ascertaining compliance with this Part, the Department may obtain or require the owner or operator of a process emission source to provide a sample of any type 5 or 6 refuse (see Table 1 of Appendix 2 of Part 219 for classifications of refuse) where such refuse is an input material of the process.

TABLE 06C-1
ENVIRONMENTAL RATING

RATING	CRITERIA
A	An air contaminant whose discharge results, or may result, in serious adverse effects on receptors or the environment. These may be of a health, economic, or aesthetic nature or any combination of these.
B	An air contaminant whose discharge results, or may result, in only moderate and essentially localized effects; or where the multiplicity of sources of the contaminant in any given area require an overall reduction of the atmospheric burden of that contaminant.
C	An air contaminant whose discharge may result in localized adverse effects of an aesthetic or nuisance nature.
D	An air contaminant whose discharge will not result in measurable or observable effects on receptors, nor add to an existing or predictable atmospheric burden of the contaminant which may cause adverse effects, considering properties and concentrations of the emissions, isolated conditions, stack height and other factors.

Note: To obtain the rating of the General Process Emissions Source, contact the Air Resources staff in the NYSDEC Regional Office in which your facility/project/operation activity is located.

TABLE 06C-2

DEGREE OF AIR CLEANING REQUIRED FOR GASES AND LIQUID PARTICULATE EMISSIONS (ENVIRONMENTAL RATING A, B, C OR D) AND SOLID PARTICULATE EMISSIONS (ENVIRONMENTAL RATING A OR D) BUT EXCLUDING VOLATILE ORGANIC COMPOUND EMISSIONS IN THE NEW YORK CITY METROPOLITAN AREA‡

		EMISSION RATE POTENTIAL (LB/HR)								
Environmental Rating	Less than 1.0	1-10	10-20	20-100	100-500	500-1,000	1,000-1,500	1,500-4,000	4,000-10,000	10,000 and greater
A	‡‡	99% OR GREATER OR BEST AVAILABLE CONTROL TECHNOLOGY								
B	‡‡	‡‡	90%	91%	94%	96%	96%	97%	98%	99% or greater
C	‡‡	‡‡	70%	75%	85%	90%	90%	93%	95%	98% or greater
D	NO AIR CLEANING REQUIRED									

‡ See Table 06C-3 for degree of air cleaning required for volatile organic compounds emissions in the New York City Metropolitan Area.
‡‡ Degree of air cleaning required shall be specified by NYSDEC.

TABLE 06C-3
DEGREE OF AIR CLEANING REQUIRED FOR PROCESS EMISSION SOURCES EMITTING VOLATILE ORGANIC COMPOUNDS IN THE NEW YORK CITY METROPOLITAN AREA

	EMISSION RATE POTENTIAL (LB/HR)		
Environmental Rating	Less than 1.0	1.0 - 3.5	Greater than 3.5
A	‡	99% or Greater or Best Available Control Technology	
B or C	‡	‡	Reasonably Available Control Technology
D	No air cleaning required		Reasonably Available Control Technology

‡ Degree of air cleaning required will be specified by NYSDEC.

TABLE 06C-4
PERMISSIBLE EMISSION RATES BASED ON PROCESS WEIGHT FOR SOLID PARTICULATE EMISSIONS (ENVIRONMENTAL RATING B OR C)

Process Weight Per Hour (LB/HR)	Existing Source	Permissible Emission Rate (LB/HR) New Source or Modification
100	0.51	0.51
500	1.5	1.5
1,000	2.4	2.4
5,000	6.8	6.8
10,000	11	11
25,000	20	20
50,000	32	32
75,000	42	42
100,000	51	51
250,000	58	0.030 grain per standard cubic foot of undiluted exhaust gas on a dry basis.
500,000	64	
750,000	68	
1,000,000	71	
2,000,000	78	
5,000,000	88	

To determine values of permissible emission rate not shown in table:
for all process weight sources up to 100,000 lb/hr, use $E = 0.024P^{0.67}$;
for existing process weight sources in excess of 100,000 lb/hr, use $E = (39P^{0.082})-50$
where E = permissible emission rate; P = process weight in lb/hr.

TABLE 06C-5
PROCESSES FOR WHICH PERMISSIBLE EMISSION RATE IS BASED ON PROCESS WEIGHT

A. Stone dryers (asphalt concrete plants)
B. Expanded aggregate kilns (lightweight aggregate plants)
C. Continuous process material dryers emitting solid particulates and water only
D. Brass and bronze melting furnaces
E. Ferro alloy production furnaces
F. Lime kilns
G. Glass production furnaces
H. Graphitizing and silicon carbide furnaces
I. Gypsum dryers
J. Primary aluminum reduction furnaces

REGULATION 07 QUESTIONS: **GENERAL NUISANCE**

(A) Does your facility, project or operation (f/p/o), cause or allow emission of air contaminants of such quantity, characteristic or duration that may be injurious to human, plant or animal life or that unreasonably interfere with the comfortable enjoyment of life or property?

YES _____ NO _____

(B) Did your f/p/o cause or allow an emission of any material having an opacity equal to or greater than 20 percent (six minute average) except for one continuous six-minute period per hour of not more than 57 percent opacity, that was not exempted by your permit?

YES _____ NO _____

(C) Did you receive complaints from the public regarding air emissions from your f/p/o's activities?

YES _____ NO _____

If you answered NO to all three Questions (A), (B) and (C), leave “Rank” box 07 blank on the Compliance Status Report form, then proceed to Regulation 09.

If you answered YES to one or more of Questions (A), (B) or (C), have you eliminated or controlled these emissions and have the complaints stopped?

YES _____ NO _____

If YES, place a "C" in “Rank” box 07 on the Compliance Status Report form, proceed to Regulation 09.

If NO, place an "N1", "N2", "N3" or "N4" (according to the priority rank of the violation) in “Rank” box 07 on the Compliance Status Report form, complete a “Non-Compliance Report & Remedial Plan” form, then proceed to Regulation 09.

REGULATION 07: **GENERAL NUISANCE**

LEGAL CITATION: ECL Sections 3-0301, 19-0301 & 19-0303 and 6NYCRR Part 211.

ABSTRACT OF LAW/REGULATION:

Part 211 prohibits the emission of air contaminants in such quantities, characteristics or duration that will interfere with the enjoyment of life or property. It also sets aside requirements for opacity, presence of smoke that limits the visibility of nearby structures, of emissions for open fires and for those sources where no other opacity requirements are found in other regulations. Asphalt emissions are also specified.

This regulation is often used to handle complaints from the public where there may be perceived public harm or where no other more specific regulation would regulate the source.

No person shall cause or allow emissions of air contaminants to the outdoor atmosphere of such quantity, characteristic or duration which are injurious to human, plant or animal life or to property, or which unreasonably interfere with the comfortable enjoyment of life or property. Notwithstanding the existence of specific air quality standards or emission limits, this prohibition applies, but is not limited to, any particulate, fume, gas, mist, odor, smoke, vapor, pollen, toxic, or deleterious emission, either alone or in combination with others.

Except as permitted by a specific part of this regulation (see Regulation 06) and for open fires for which a restricted burning permit has been issued (see Regulation 13), no person shall cause or allow any contamination source to emit any material having an opacity equal to or greater than 20 percent (six minute average) except for one continuous six-minute period per hour of not more than 57 percent opacity.

The use of volatile organic compounds to liquify asphalt used for paving is prohibited, except for:

1. asphalt used in the production of long-life stockpile material for pavement patching and repair;
2. asphalt applied at low ambient temperature from October 16th to May 1st; and
3. asphalt used as a penetrating prime coat for the purpose of preparing an untreated absorbent surface to receive an asphalt surface.

The amount of volatile organic compounds in emulsified asphalt as determined by testing methods at the ASTM, may not exceed the following amounts in percent by weight:

1. two percent for ASTM grades RS-1, SS-1, SS-1h, CSS-1, and CSS-1h;
2. three percent for ASTM grades RS-2, CRS-1, CRS-2, HFRS-2, and HFMS-2h
3. ten percent for ASTM grades MS-2 and HFMS-2; and
4. twelve percent for ASTM grades VMS-2 and CMS-2h.

DEFINITIONS:

Asphalt:: The dark brown to black cementious material (solid, semi-solid or liquid in consistency) of which the main constituents are bitumens which occur naturally or as a residue of petroleum refining.

Cutback asphalt:: Any asphalt which has been liquified by blending with petroleum solvents (diluents) or, in the case of some slow cure asphalts (road oils), which have been produced directly from the distillation of petroleum.

Penetrating prime coat: An application of low viscosity asphalt to an absorbent surface in order to prepare it for paving with an asphalt concrete.

NYSDEC CONTACT: TELEPHONE NUMBER

Don Spencer 518/402-8404

REGULATION 09 QUESTIONS: **GRAPHIC ARTS FACILITIES**

NOTE: If your facility, project or operation (f/p/o), is subject to this regulation, it is also subject to Regulation 08A, and may be subject to Regulation 06B.

(A) Do you operate graphic arts production equipment at your f/p/o? [Graphic arts production processes include packaging rotogravure, publication rotogravure, flexographic, offset lithographic printing and screen printing processes.]

YES _____ NO _____

If NO, leave “Rank” box 09 blank on the Compliance Status Report form, proceed to Regulation 10.

(B) If YES, is your f/p/o located in the New York City Metropolitan Area?

YES _____ NO _____

If NO, proceed to Question (D).

If YES, does your f/p/o include a screen printing process?

YES _____NO _____

If NO, proceed to Question (I).

(C) If YES, did you submit a compliance plan to NYSDEC by November 15, 1993? [See Regulation 09.]

YES _____ NO _____

If YES, proceed to Question (I).

If NO, place an "N1", "N2", "N3" or "N4" (according to the priority rank of the violation) in “Rank” box 09 and leave the “Approval” box blank on the Compliance Status Report form, complete a new “Non-Compliance Report & Remedial Plan” form, then proceed to Question (I).

(D) Is your f/p/o located in the Lower Orange County Metropolitan Area (see Regulation 09 for definition)?

YES _____ NO _____

If NO, proceed to Question (G).

(E) If YES, do your annual potential VOC emissions from all sources, regardless of process type, but excluding combustion installations, equal or exceed 25 tons per year?

YES _____ NO _____

If NO, proceed to Question (K).

(F) If YES, did you submit a compliance plan to NYSDEC by November 15, 1993? [See Regulation 09.]

YES _____ NO _____

If YES, proceed to Question (I).

If NO, place an "N1", "N2", "N3" or "N4" (according to the priority rank of the violation) in “Rank” box 09 and leave the “Approval” box blank on the Compliance Status Report form, complete a new “Non-Compliance Report & Remedial Plan” form, then proceed to Question (I).

(G) Do your annual potential VOC emissions from all sources, regardless of process type, but excluding combustion installations, equal or exceed 50 tons per year?

YES _____ NO _____

If NO, proceed to Question (K).

(H) If YES, did you submit a compliance plan to NYSDEC by November 15, 1993? [See Regulation 09.]

YES _____ NO _____

If YES, proceed to Question (I).

If NO, place an "N1", "N2", "N3" or "N4" (according to the priority rank of the violation) in “Rank” box 09 and leave the “Approval” box blank on the Compliance Status Report form, complete a new “Non-Compliance Report & Remedial Plan” form, then proceed to Question (I).

(I) Do you have a Title V Permit or State Facility Permit for the air contaminant source?

YES _____ NO _____

If YES, place a check in the “Approval” box 09 on the Compliance Status Report form, proceed to Question (K).

(J) If NO, are you exempt from obtaining a Title V Permit or State Facility Permit? [see Regulation 09.]

YES _____ NO _____

If YES, place a check in the “Approval” box 09 on the Compliance Status Report form, proceed to Question (K).

If NO, place an "N1", "N2", "N3" or "N4" (according to the priority rank of the violation) in “Rank” box 09 and leave the “Approval” box blank on the Compliance Status Report form, complete a new “Non-Compliance Report & Remedial Plan” form, then proceed to Question (K).

(K) Are the volatile organic compounds (VOCs) emissions being controlled and required reports submitted to NYSDEC?

YES _____ NO _____

If YES, place a "C" in “Rank” box 09 on the Compliance Status Report form, proceed to Regulation 10.

If NO, place an "N1", "N2", "N3" or "N4" (according to the priority rank of the violation) in “Rank” box 09 on the Compliance Status Report form, complete a new “Non-Compliance Report & Remedial Plan” form, then proceed to Regulation 10.

REGULATION 09: **GRAPHIC ARTS FACILITIES**

LEGAL CITATION: Environmental Conservation Law, §§ 3-0301, 19-0301, 19-0303 and 6 NYCRR Parts 200, 201 & 234.

ABSTRACT OF LAW/REGULATIONS:

Part 234 applies to all facilities, projects and operations that operate packaging rotogravure, publication rotogravure, flexographic, offset lithographic or screen printing processes. These types of presses are used to print colors and designs on various substrates including paper, plastic bags, plastic film, and metal. The products are then used for various packaging materials such as paper and plastic grocery bags, food labels, candy bar wrappers and signs.

REQUIRED APPROVAL:

Owners or operators of facilities, projects or operations involving these processes must have a Title V facility permit, a State facility permit, or a registration unless exempt. With the application for a Title V facility permit or State facility permit, the owner or operator must include the method or methods that will be used to comply with the requirements of this regulation.

EXEMPTIONS:

1. Conductive inks that are applied at screen printing processes in the production of electronic circuits that permit electric current flow through the printed line or pattern;

2. Sterilization indicating inks that are applied at screen printing processes used to monitor the sterilization of medical instruments, autoclave efficiency, and the thermal processing of foods for the prevention of spoilage;

3. Inks that are applied by proof presses; or

4. Low-use specialty inks and/or coatings where the plantwide total annual usage is equal to or less than 55 gallons provided that:

    a. each specialty ink and/or coating must be approved by the NYSDEC prior to application to a substrate;

    b. records that document the annual usage must be maintained on an as used basis in a format acceptable to the NYSDEC; and

    c. the facility's permits are modified to identify any coating(s) approved by the NYSDEC that are exempt from this regulation.

APPLICABILITY:

Graphic Arts facilities located in the New York City Metropolitan Area do not have applicability thresholds for this regulation (all facilities, projects and operations must comply with this regulation regardless of the amount they emit).

Any owner or operator of a packaging rotogravure, publication rotogravure, flexographic, offset lithographic printing process, or screen printing process at any facility, located in the lower Orange County Metropolitan area, for which the annual potential to emit volatile organic compounds from all sources regardless of process type, but excluding combustion installations, equal or exceed 25 tons per year of VOCs must be in compliance.

Any owner or operator of a packaging rotogravure, publication rotogravure, flexographic, offset lithographic printing process, or screen printing process at any facility for which the annual potential to emit volatile organic compounds from all sources regardless of process type, but excluding combustion installations, equals or exceeds 50 tons per year of VOCs must be in compliance.

CONTROL REQUIREMENTS:

This rule requires either the use of complying inks/coatings/adhesives or the use of Reasonably Available Control Technology (RACT) to control emission of VOCs according to the specifications in the rule.

TESTING, MONITORING AND RECORDKEEPING

A. The results of any analysis/procedure used for establishing compliance with this regulation must be provided to the NYSDEC:

1. when control equipment is used to comply, acceptable test methods must be used to demonstrate the overall removal efficiency. If control equipment other than VOC/solvent recovery is used, a facility must demonstrate both the efficiency of the capture system and the subsequent destruction and/or removal of these air contaminants by the control equipment prior to their release to the atmosphere.

2. when complying inks are used to comply, acceptable analytical methods must be used to perform a solvent/volatile analysis. Certification of the composition of the ink solvent/volatiles by the ink manufacturer may be substituted for the analysis if supported by actual batch records.

Facilities, projects and operations must permit NYSDEC to obtain ink/fountain solution samples to determine compliance during reasonable business hours.

B. Facilities, projects and operations must maintain and, upon request, provide the NYSDEC with purchase, usage and/or production records of the coating material, including solvents. These records must be maintained at the facility, project or operation for a period of five years.

C. If an air cleaning device is used, installation of continuous monitors must be installed to measure things such as exhaust gas temperature, temperature rise across catalytic incinerator beds or breakthrough of volatile organic compounds on a carbon adsorption unit. These monitors must be periodically calibrated, and operated at all times that the associated control equipment is operating. Other continuous monitoring or recording devices may be required, as well.

D. For a facility, project or operation not subject to the control requirements of this regulation because its annual potential to emit volatile organic compounds is below the applicability criteria, records must be kept, as well.

PROHIBITION OF SALE OR SPECIFICATION

This regulation prohibits the sale or specification of non-complying coatings or inks. This prohibition does not apply to coatings/inks at printing processes where control equipment has been installed to demonstrate compliance and coatings at printing processes that have been granted variances for reasons of technological and economic infeasibility. Vendors must, upon request, provide users with certification of the volatile organic compound content of the coating/ink supplied.

HANDLING, STORAGE AND DISPOSAL OF VOLATILE ORGANIC COMPOUNDS (VOCS)

A. Open containers cannot be used as follows:

1. to store or dispose of cloth or paper impregnated with VOCs and/or solvents that are used for surface preparation, cleanup or ink/coating removal;

2. to store or dispose surface coatings and/or inks unless production, sampling, maintenance or inspection procedures require operational access; or

3. to store fresh VOCs or dispose of spent surface coatings/inks, spent VOCs and/or solvents.

This provision does not apply to the actual device or equipment designed for the purpose of applying an ink or coating material to a substrate.

DEFINITIONS:

Excluded Volatile Organic Compounds are any of the compounds expressly excluded from the definition of volatile organic compound (VOC) (see Regulation 06 for definition).

Flexographic printing process is the application of words, designs, and pictures to a substrate by means of a roll printing technique in which the pattern to be applied is raised above the printing roll and the image carrier is made of rubber or other elastomeric materials.

Fountain solution is a solution of water, volatile organic compounds, gum arabic, etchant, and surfactants used for wetting lithographic press plates.

Lower Orange County Metropolitan Area includes the towns of Blooming Grove, Chester, Highlands, Monroe, Tuxedo, Warwick and Woodbury.

New York City Metropolitan Area includes the counties of Bronx, Kings (Brooklyn), New York (Manhattan), Nassau, Queens, Richmond (Staten Island), Rockland, Suffolk and Westchester.

Nonreactive volatiles are any of the compounds expressly excluded from the definition of volatile organic compounds (see Regulation 06 for definition) and water.

Nonvolatile material is the solid portion of ink as determined by an analytical method acceptable to the NYSDEC.

Offset lithographic printing process is the application of words, designs and pictures to a substrate by means of a planographic roll printing technique that involves the use of an image plate, where the image area is chemically maintained and a blanket cylinder transfers the ink to the substrate.

Packaging rotogravure printing process is the printing upon paper, paperboard, metal foil, plastic film, and other substrates that are, in subsequent operations, formed into either wallpaper or packaging products and labels for articles to be sold.

Publication rotogravure printing process is the printing upon paper that is subsequently formed into books, magazines, catalogs, brochures, directories, newspaper supplements and other types of printed materials.

Roll printing process is the application of words, designs and pictures to a substrate, usually by means of a series of hard rubber or steel rolls each with only partial coverage.

Rotogravure printing process is the application of words, designs, and pictures to a substrate by means of a roll printing technique that involves an intaglio or recessed image area in the form of cells.

For additional definitions see Regulation 06.

NYSDEC CONTACT: TELEPHONE NUMBER

Bureau of Stationary Sources 518/402-8403

REGULATION 10 QUESTIONS: **INCINERATORS**

Note: If your facility, project or operation (f/p/o), is subject to this regulation, it is also subject to Regulation 08A, and may be subject to Regulation 06B.

(A) Do you operate any incinerators at your f/p/o (see Regulation 10 for definition)?

YES _____ NO _____

If NO, leave “Rank” box 10 blank on the “Compliance Status Report”, proceed to Regulation 11.

(B) If YES, do you have a Title V Permit or State Facility Permit for the incinerator? (There are NO Exemptions.)

YES _____ NO _____

If YES, place a "C" in “Rank” box 10 and place a check in the “Approval” box 10 on the “Compliance Status Report”, then proceed to Regulation 11.

If NO, place an "N1", "N2", "N3" or "N4" (according to the priority rank of the violation) in “Rank” box 10 and leave the “Approval” box 10 blank on the “Compliance Status Report”, complete a “Non-Compliance Report & Remedial Plan”, then proceed to Regulation 11.

REGULATION 10: **INCINERATORS**

LEGAL CITATION: ECL Article 19 and Sections 3-0301 & 19-0303 and 6NYCRR Parts 200, 201 & 219

ABSTRACT OF LAW/REGULATIONS:

Part 219 regulates the permitting of municipal solid waste, regulated medical waste, crematory and miscellaneous incinerators.

Incinerators burning municipal waste: Subpart 219.2 regulates new municipal solid waste incinerators, setting emission limits for particulates, hydrogen chloride, nitrogen oxides, dioxin, and, through health risk evaluation, various toxic compounds. There are also operational requirements for opacity, carbon monoxide and temperature. This regulation is applied in conjunction with recently finalized federal new source performance standards for municipal waste combustors and federal prevention of significant deterioration regulations, where applicable. New incinerators at state agencies burning materials that are similar to municipal solid waste would be subject to this subpart.

Part 200 regulates, through incorporation by reference, federal Emission Guidelines 40 CFR 60, Subpart Cb, (including emission limitations, testing, monitoring, recordkeeping and reporting requirements) for existing large municipal waste combustors (MWC). Large MWCs are those with a unit charging capacity greater than 250 tons per day (tpd). The department has recently incorporated by reference federal Emission Guidelines 40 CFR 60, Subpart BBBB, for existing small MWCs. Small MWCs are those with a unit charging capacity of 35 to 250 tpd.

Hospitals burning regulated medical waste: Subpart 219.3 regulates new and existing incinerators burning regulated medical waste. Emission limits are set for particulates, hydrogen chloride, and toxics through health risk evaluation. There are also design and operational requirements. The requirement for new incinerators has been effective since January 1, 1989. The Part 219 regulated medical waste regulations have been revised to establish new and more stringent requirements for existing medical waste incinerators. These regulations were developed in response to a federal directive and will require compliance by such existing incinerators by October 2002. All incinerators at state agencies burning regulated medical waste are subject to this subpart.

Human and veterinary crematories: Subpart 219.4 applies to new and existing human and animal crematories burning human and animal bodies, body parts and associated animal bedding. The requirements are abbreviated from those for 219.2 and 219.3.

REQUIRED APPROVAL:

A Permit to Construct must be obtained prior to the construction of an incinerator. A Certificate to Operate must be obtained prior to the operation of the incinerator.

DEFINITIONS:

Commercial waste: Solid waste generated by stores, offices, institutions, restaurants, warehouses, and nonmanufacturing activities at industrial sites.

Incinerator: Any structure or furnace in which combustion takes place and refuse is used as fuel, alone or in conjunction with fossil fuel.

Medical/infectious waste: Any waste generated in the diagnosis, treatment, or immunization of human beings or animals, in research pertaining thereto, or in the production or testing of biologicals that is listed below:

(i) Cultures and stocks of infectious agents and associated biologicals, including: cultures from medical and pathological laboratories; cultures and stocks of infectious agents from research and industrial laboratories; wastes from the production of biologicals; discarded live and attenuated vaccines; and culture dishes and devices used to transfer, inoculate, and mix cultures.

(ii) Human pathological waste, including tissues, organs, and body parts and body fluids that are removed during surgery or autopsy, or other medical procedures, and specimens of body fluids and their containers.

(iii) Human blood and blood products including:

(a) liquid waste human blood;
(b) products of blood;
(c) items saturated and/or dripping with human blood; or
(d) items that were saturated and/or dripping with human blood that are now caked with dried human blood; including serum, plasma, and other blood components, and their containers, which were used or intended for use in either patient care, testing and laboratory analysis or the development of pharmaceuticals. Intravenous bags are also included in this category.

(iv) Sharps that have been used in animal or human patient care or treatment or in medical, research, or industrial laboratories, including hypodermic needles, syringes (with or without the attached needle), pasteur pipettes, scalpel blades, blood vials, needles with attached tubing, and culture dishes (regardless of presence of infectious agents). Also included are other types of broken or unbroken glassware that were in contact with infectious agent, such as used slides and cover slips.

(v) Animal waste including contaminated animal carcasses, body parts, and bedding of animals that were known to have been exposed to infectious agents during research (including research in veterinary hospitals), production of biologicals or testing of pharmaceuticals.

(vi) Isolation wastes including biological waste and discarded materials contaminated with blood, excretions, exudates, or secretions from humans who are isolated to protect others from certain highly communicable diseases, or isolated animals known to be infected with highly communicable diseases.

(vii) Unused sharps including the following unused, discarded sharps: hypodermic needles, suture needles, syringes, and scalpel blades.

The definition of medical/infectious waste does not include hazardous waste identified or listed under the regulations in Part 373 of this Title; household waste, as defined in Part 360 of this Title; ash from incineration of medical/infectious waste, once the incineration process has been completed; human corpses, remains, and anatomical parts that are intended for interment or cremation; and domestic sewage materials.

Municipal solid waste: All materials or substances discarded from single and multiple family dwellings, and other residential sources; similar types of materials from institutional, commercial and industrial sources; concurrently incinerated sewage sludge but not hazardous waste as defined in 6NYCRR Part 371.

Refuse: All waste material, including but not limited to garbage, rubbish, incinerator residue, street cleanings, dead animals, and offal.

AIR RESOURCES

REGULATION 11 QUESTIONS: **INDIRECT SOURCE PERMITS**

(A) Is your facility, project or operation (f/p/o), located in New York City (Manhattan) south of 60th Street?

YES _____ NO _____

If NO, leave “Rank” box 11 blank on the “Compliance Status Report”, proceed to Regulation 12.

(B) If YES, do you have any indirect sources of air contamination?

YES _____ NO _____

If NO, leave “Rank” box 11 blank on the “Compliance Status Report”, proceed to Regulation 12.

(C) If YES, do you have an indirect air contaminate source permit? (There are NO Exemptions.)

YES _____ NO _____

If YES, place a "C" in “Rank” box 11 and place a check in the “Approval” Box 11 on the “Compliance Status Report”, then proceed to Regulation 12.

If NO, place an "N1", "N2", "N3" or "N4" (according to the priority rank of the violation) in “Rank” box 11 and leave the “Approval” box 11 blank on the “Compliance Status Report”, complete a “Non-Compliance Report & Remedial Plan”, then proceed to Regulation 12.

AIR RESOURCES

REGULATION 11: **INDIRECT SOURCE PERMITS**

LEGAL CITATION: ECL Sections 3-0301, 19-0301 & 19-0303 and 6NYCRR Part 203

ABSTRACT OF LAW/REGULATION:

An indirect source of air contamination or indirect source is defined as any facility, structure or installation, the construction or operation of which results or may result directly or indirectly in associated vehicular movements that contribute to ambient concentrations of any air contaminant for which there is an ambient air quality standard.

This regulation applies to indirect sources, specifically, highways and roads, and State or Federally owned parking facilities, that are located within the County of New York (Manhattan), south of 60th Street.

REQUIRED APPROVAL:

Part 203 requires a permit for the construction or modification of an indirect source of air contamination in New York County, south of 60th Street.

NYSDEC CONTACT: TELEPHONE NUMBER

Denny Escarpeta, Bureau of Air Quality Planning 518/402-8398

REGULATION 12 QUESTIONS: **NEW SOURCE REVIEW IN NON-ATTAINMENT AREAS**

Note: If your facility, project or operation (f/p/o), is subject to this regulation, it is also subject to Regulation 08A.

A Federal rule exists, 40 CFR 52.21, entitled the Prevention of Significant Deterioration which provides requirements for control of the criteria air pollutants at major sources of these contaminants in the respective attainment areas.

This regulation is used to preserve and protect those areas meeting the national ambient air quality standards and to prevent significant air quality deterioration by limiting construction of new major sources and major modifications at existing sources.

(A) Are you proposing a new major facility or does your f/p/o have any major source projects proposed to be constructed or modified or that are being constructed or modified that will emit the air contaminants in such quantities as described in Tables 12-1 and 12-2 (see Regulation 12)?

YES _____ NO _____

If NO, leave “Rank” box 12 blank on the Compliance Status Report form, proceed to Regulation 13.

(B) If YES, do you have a Preconstruction Permit and an Operating Permit for the air contamination source? (There are NO Exemptions.)

YES _____ NO _____

If YES, place a "C" in “Rank” box 12 and place a check in the “Approval” Box 12 on the Compliance Status Report form, then proceed to Regulation 13.

If NO, place an "N1", "N2", "N3" or "N4" (according to the priority rank of the violation) in “Rank” box 12 and leave the “Approval” Box 12 blank on the Compliance Status Report form, complete a “Non-Compliance Report & Remedial Plan” form, then proceed to Regulation 13.

REGULATION 12: **NEW SOURCE REVIEW IN NONATTAINMENT AREAS**

LEGAL CITATION: ECL Sections 3-0301, 19-0301(1)(a) & 19-0303 and 6NYCRR Parts 200, 201 & 231

ABSTRACT OF LAW/REGULATION:

Part 231 provides the requirements for control of the criteria air pollutants [Nitrogen Oxides, PM-10 and VOC] at major sources of these contaminants in the respective non-attainment areas.

This regulation is used to control construction of new major sources and major modifications of existing sources in areas of New York State where the air quality exceeds the national ambient standards and is used as a tool to ultimately achieve compliance with said ambient standards.

Particulate Matter (PM-10) Non-Attainment areas in New York State:

1. Major Facility Size: 100 tons/year.

    A. New York City: County of New York (Manhattan).

Note: The United States Environmental Protection Agency has designated the New York City area as in attainment of the national ambient air quality standard for CO. As a result, NYSDEC has removed the metropolitan carbon monoxide nonattainment area (NYC) from the definition of nonattainment areas in 6 NYCRR Part 200.1.

Ozone Non-Attainment Areas in New York State:

1. Severe, offset ratio 1.3 to 1: Major facility size 25 tons/year for NO_x & 25 tons/year for VOCs:

    A. New York City Metropolitan Area: Counties of Bronx, Kings (Brooklyn), New York (Manhattan), Nassau, Queens, Richmond (Staten Island), Rockland, Suffolk, and Westchester;

    B. Lower Orange County Metropolitan Area: includes towns of Blooming Grove, Chester, Highlands, Monroe, Tuxedo, Warwick and Woodbury;

2. Moderate, offset ratio 1.15 to 1: Major facility size 100 tons/year for NO_x & 50 Tons/year for VOCs.

    A. Poughkeepsie Metropolitan Area: Dutchess, Putnam and Upper Orange Counties (those towns not in the Lower Orange County Metropolitan Area);

3. Marginal, offset ratio 1.15 to 1: Major facility size 100 tons/year for NO^x & 50 Tons/year for VOCs.

    A. Albany-Troy-Schenectady Metropolitan Area: Albany, Greene, Montgomery, Rensselaer, Saratoga, Schenectady, Niagara and Erie Counties;

    B. Essex County: Whiteface Mountain area (above 4,500 feet);

    C. Jefferson County

Ozone Transport Region

4. Moderate Non-Attainment, offset ratio 1.15 to 1, Major facility size 100 tons/year for No_x and 50 tons/year for VOCs.

    A. All other counties not classified under Ozone Non-Attainment Areas in New York State are to be designated as Moderate Non-Attainment as set by the Ozone Transport Commission in the Clean Air Act Amendments of 1990.

REQUIRED APPROVAL:

A Preconstruction Permit is required prior to construction and an Operating Permit is required prior to the operation of the air contaminant source.

NYSDEC CONTACT: TELEPHONE NUMBER

Bureau of Stationary Sources 518/402-8403

REGULATION 13 QUESTIONS: **OPEN BURNING**

(A) Was there any open burning of materials including garbage, rubbish, or brush at your facility, project or operation (f/p/o)?

YES _____ NO _____

If NO, leave “Rank” box 13 blank on the “Compliance Status Report”, proceed to Regulation 14.

(B) If YES, did your f/p/o have an open burning permit? (There are NO exemptions.)

YES _____ NO _____

If YES, place a "C" in “Rank” box 13 and place a check in the “Approval” box 13 on the “Compliance Status Report”, then proceed to Regulation 14.

If NO, place an "N1", "N2", "N3" or "N4" (according to the priority rank of the violation) in “Rank” box 13 and leave the “Approval” box blank on the “Compliance Status Report”, complete a “Non-Compliance Report & Remedial Plan”, then proceed to Regulation 14.

REGULATION 13: **OPEN BURNING**

LEGAL CITATION: ECL Article 19 and 6NYCRR Part 215

ABSTRACT OF LAW/REGULATION:

Part 215 "Open Fires" regulates the burning of materials by towns, agencies and private citizens including rubbish, paper and materials generated by land clearing for other than agricultural purposes.

Specific prohibitions of open burning under this regulation include the burning of:

1. garbage; refuse at a refuse disposal site; rubbish for salvage;

2. on-site disposal of rubbish generated by residential activities in any city or village; and in any town with a total town population, including incorporated or unincorporated areas, of greater than 20,000; or

3. on-site disposal of rubbish generated by industrial or commercial activities other than agricultural.

REQUIRED APPROVAL:

Burning is permitted on a restricted basis for the following type of sources:

1. land clearing and/or demolition material consisting of wood, tree trimmings, leaves or brush, generated by land clearing or demolition for the erection of any structure, for the construction or modification of any highway, railroad, power or communication line or pipeline or the development or modification of a recreational area or park where the burning is done on-site, or at a designated burn site in accordance with its permit;

2. burning of yard wastes at an appropriate burning area where the burning is done in accordance with its permit;

3. burning on-site, in areas of the state designated by the Commissioner, of paper, paper products, cartons, tree trimmings, leaves or lawn and garden debris; and

4. burning at an appropriate site of toxic, explosive or dangerous materials done in accordance with its permit where no other method of disposal is possible.

NYSDEC CONTACT: TELEPHONE NUMBER:

Don Spencer 518/402-8404

REGULATION 14 QUESTIONS: PETROLEUM AND VOLATILE ORGANIC LIQUID STORAGE AND TRANSFER

Note: If your facility, project or operation (f/p/o), is subject to this regulation, it is also subject to Regulation 08A, and may be subject to Regulation 06B.

(A) Does your f/p/o have any stationary fixed roof petroleum liquid storage tanks with a capacity of 40,000 gallons or more? (See “fixed roof tank” and petroleum liquid” definitions).

YES _____ NO _____

If NO, proceed to Question (D).

If YES, proceed to Question (B).

(B) Does your stationary fixed roof petroleum liquid storage tank have a pressurized fixed roof capable of maintaining a working pressure at all times to prevent emissions of volatile organic compounds (VOC) to the outdoor atmosphere?

YES _____ NO _____

If NO, proceed to Question (C).

If YES, proceed to Question (D).

(C) Does the tank have internal floating roof or equivalent control, and does the tank have vapor collection and vapor control systems that are maintained and operated in such a way as to ensure the integrity and efficiency of the system?

YES _____ NO _____

If YES, proceed to Question (D).

If NO, place an "N1", "N2", "N3" or "N4" (according to the priority rank of the violation) in “Rank” box 14 on the Compliance Status Report form, complete a “Non-Compliance Report & Remedial Plan” form, then proceed to Question (D).

(D) Do you have any external floating roof petroleum storage tanks with a capacity of 40,000 gallons or more?

YES _____ NO _____

If NO, proceed to Question (H).

If YES, proceed to Question (E).

(E) Is the external floating roof tank made of welded construction and equipped with a metallic-type shoe primary seal and a secondary seal from the top of the shoe seal to the tank wall?

YES _____ NO _____

If NO, proceed to Question (F).

If YES, proceed to Question (H).

(F) Does the petroleum stored in your external floating roof petroleum storage tank have a true vapor pressure less than 4.0 psia, and is the tank made of welded construction and equipped with one of the following: a metallic-type shoe seal, a liquid-mounted foam seal, a liquid-mounted liquid-filled type seal, or equivalent control equipment or device?

YES _____ NO _____

If NO, proceed to Question (G).

If YES, proceed to Question (H).

(G) Do your external floating roof petroleum storage tanks meet all of these requirements:

(1) Have the tanks been fitted with a continuous rim-mounted secondary seal extending from the floating roof to the tank wall?

YES _____ NO _____

(2) Do all seal closure devices meet these requirements:

(a) no visible holes, tears or openings in the seal or seal fabric;
(b) the seal is intact and uniformly in place around the circumference of the floating roof between the floating roof and the tank wall; and
(c) for vapor-mounted primary seals, the accumulated area of gaps exceeding one-eighth inch in width between the secondary seal and the tank wall are less than or equal to 1.0 square inch per foot of tank diameter?

YES _____ NO _____

(3) Did the roof float on the liquid at all times, off the leg supports, except during initial fill and when the tank is completely emptied and subsequently refilled?

YES _____ NO _____

(4) Are all openings in the external floating roof, except automatic bleeder vents, rim space vents and leg sleeves, equipped with projections into the tank that remain below the liquid surface at all times, and covers, seals or lids in the closed position except when the openings are in actual use?

YES _____ NO _____

(5) Are automatic bleeder vents closed at all times except when the roof is floated off or landed on the roof leg supports, and rim vents set open when the roof is being floated off the leg supports or at least 90% of the area of the opening?

YES _____ NO _____

(6) Are emergency roof drains provided with slotted membrane fabric covers, or equivalent, that cover at least 90% of the opening?

YES _____ NO _____

(7) Is an annual inspection performed, including a visual inspection of the secondary seal?

YES _____ NO _____

(8) Are annual measurements of the secondary seal gap performed when the floating roof is equipped with a vapor-mounted primary seal?

YES _____ NO _____

(9) Are records maintained of the dates and results of the annual inspections and annual secondary seal gap measurements?

YES _____ NO _____

If you answered "YES" to all nine questions (G1), (G2), (G3), (G4), (G5), (G6), (G7), (G8) and (G9), proceed to Question (H).

If you answered "NO" to any one or more of the nine questions (G1), (G2), (G3), (G4), (G5), (G6), (G7), (G8) or (G9), place an "N1", "N2", "N3" or "N4" (according to the priority rank of the violation) in “Rank” box 14 on the Compliance Status Report form, complete a “Non-Compliance Report & Remedial Plan” form, then proceed to Question (H).

(H) Does your f/p/o have any volatile organic liquid (VOL) storage tanks?

YES _____ NO _____

If NO, proceed to Question (AA).

If YES, proceed to Question (I).

(I) Do you have any VOL storage tanks with a capacity of less than 10,000 gallons?

YES _____ NO _____

If NO, proceed to question (L).

If YES, proceed to Question (J).

(J) Answer question (J1) or (J2) depending on the location of the f/p/o:

(1) If your f/p/o is located within the New York City Metropolitan Area or Lower Orange County Metropolitan Area, does it have a Potential To Emit VOCs from all sources regardless of process type, excluding combustion installations, of greater than or equal to 25 tons per year?

YES _____ NO _____

(2) If your f/p/o is located elsewhere, does it have a Potential To Emit VOCs from all sources regardless of process type, excluding combustion installations, of greater than or equal to 50 tons per year?

YES _____ NO _____

If NO, proceed to question (L).

If YES, proceed to Question (K).

(K) Are all of your VOL storage tanks with capacity less than 10,000 gallons equipped with conservation vents?

YES _____ NO _____

If YES, proceed to Question (L).

If NO, place an "N1", "N2", "N3" or "N4" (according to the priority rank of the violation) in “Rank” box 14 on the Compliance Status Report form, complete a “Non-Compliance Report & Remedial Plan” form, then proceed to Question (L).

(L) Do you have any VOL storage tanks with a capacity greater than or equal to 10,000 gallons and less than 20,000 gallons?

YES _____ NO _____

If NO, proceed to question (O).

If YES, proceed to Question (M).

(M) Answer question (M1) or (M2) depending on the location of the f/p/o:

(1) If your f/p/o is located within the New York City Metropolitan Area or Lower Orange County Metropolitan Area, does it have a Potential To Emit VOCs from all sources regardless of process type, excluding combustion installations, of greater than or equal to 25 tons per year?

YES _____ NO _____

(2) If your f/p/o is located elsewhere, does it have a Potential To Emit VOCs from all sources regardless of process type, excluding combustion installations, of greater than or equal to 50 tons per year?

YES _____ NO _____

If NO, proceed to question (O).

If YES, proceed to Question (N).

(N) Are all of your VOL storage tanks with capacity between 10,000 and 20,000 gallons equipped with submerged fill?

YES _____ NO _____

If YES, proceed to Question (O).

If NO, place an "N1", "N2", "N3" or "N4" (according to the priority rank of the violation) in “Rank” box 14 on the Compliance Status Report form, complete a “Non-Compliance Report & Remedial Plan” form, then proceed to Question (O).

(O) Do you have any fixed roof VOL storage tanks with a capacity greater than or equal to 20,000 gallons and less than 40,000 gallons?

YES _____ NO _____

If NO, proceed to question (R).

If YES, proceed to Question (P).

(P) Do any of the 20,000 to 40,000 gallon fixed roof tanks contain VOL with a maximum true vapor pressure greater than or equal to 4.0 pounds per square inch absolute (psia)?

YES _____ NO _____

If NO, proceed to question (R).

If YES, proceed to Question (Q).

(Q) Are all of your VOL storage tanks with capacity between 20,000 and 40,000 gallons and a maximum true vapor pressure greater than or equal to 4.0 psia equipped with an internal floating roof with liquid-mounted primary seals and gasketed fittings, or equivalent control?

YES _____ NO _____

If YES, proceed to Question (R).

If NO, place an "N1", "N2", "N3" or "N4" (according to the priority rank of the violation) in “Rank” box 14 on the Compliance Status Report form, complete a “Non-Compliance Report & Remedial Plan” form, then proceed to Question (R).

(R) Do you have any fixed roof or internal floating roof VOL storage tanks with a capacity greater than or equal to 40,000 gallons?

YES _____ NO _____

If NO, proceed to question (U).

If YES, proceed to Question (S).

(S) Do any of the 40,000 gallon and greater fixed roof and internal floating roof tanks contain VOL with a maximum true vapor pressure greater than or equal to 1.0 pound per square inch absolute (psia)?

YES _____ NO _____

If NO, proceed to question (U).

If YES, proceed to Question (T).

(T) Have all of your fixed roof and internal floating roof VOL storage tanks with capacity greater than or equal to 40,000 gallons and a maximum true vapor pressure greater than or equal to 1.0 psia been equipped with an internal floating roof with liquid-mounted primary seals and gasketed fittings, or equivalent control? (Vapor-mounted primary seals are not considered to be equivalent control.)

YES _____ NO _____

If YES, proceed to Question (U).

If NO, place an "N1", "N2", "N3" or "N4" (according to the priority rank of the violation) in “Rank” box 14 on the Compliance Status Report form, complete a “Non-Compliance Report & Remedial Plan” form, then proceed to Question (U).

(U) Do you have any external floating roof VOL storage tanks with a capacity greater than or equal to 40,000 gallons?

YES _____ NO _____

If NO, proceed to question (AA).

If YES, proceed to Question (W).

(W) Do any of the 40,000 gallon and greater external floating roof tanks contain VOL with a maximum true vapor pressure greater than or equal to 1.5 pounds per square inch absolute (psia)?

YES _____ NO _____

If NO, proceed to question (AA).

If YES, proceed to Question (X).

(X) Have all of your external floating roof VOL storage tanks with capacity greater than or equal to 40,000 gallons and a maximum true vapor pressure greater than or equal to 1.5 psia been equipped with control equipment as follows:

(1) Mechanical shoe primary seal and rim-mounted secondary seal, or equivalent.

YES _____ NO _____

(2) Liquid-mounted primary seal and rim-mounted secondary seal, or equivalent.

YES _____ NO _____

If you answered “YES” to <u>either</u> Question (X1) or (X2), proceed to Question (AA).

If you answered “NO” to both Questions (X1) and (X2), place an "N1", "N2", "N3" or "N4" (according to the priority rank of the violation) in “Rank” box 14 on the Compliance Status Report form, complete a “Non-Compliance Report & Remedial Plan” form, then proceed to Question (AA).

(AA) Do you have a gasoline bulk plant?

YES _____ NO _____

If NO, proceed to Question (GG).

If YES, proceed to Question (BB).

(BB) Is your gasoline bulk plant provided with a system for submerged filling of gasoline transport vehicles?

YES _____ NO _____

If YES, proceed to Question (CC).

If NO, place an "N1", "N2", "N3" or "N4" (according to the priority rank of the violation) in “Rank” box 14 on the Compliance Status Report form, complete a “Non-Compliance Report & Remedial Plan” form, then proceed to Question (CC).

(CC) Do you load gasoline from a gasoline bulk plant into gasoline transport vehicle(s) that deliver such gasoline to a gasoline-dispensing site required to be equipped with a Stage I vapor collection system?

If NO, proceed to Question (GG).

If YES, proceed to Question (DD).

(DD) Does the gasoline bulk plant meet the following requirements:

(1) the gasoline bulk plant provides for submerged filling of the gasoline transport vehicles?

YES _____ NO _____

(2) the gasoline bulk plant has vapor collection system to control gasoline vapors that are displaced during the loading of a gasoline bulk plant storage tank and/or during the loading of the gasoline transport vehicles?

YES _____ NO _____

(3) the pressure vacuum relief valves and hatch covers for the storage tanks and gasoline transport vehicles, and associated vapor and liquid lines used during dispensing operations at the gasoline bulk plant, do not leak, and the pressure relief valves on the storage tanks and gasoline transport vehicles are adjusted to release at not less than 0.7 psia unless a State or local fire code requires a lower pressure?

YES _____ NO _____

(4) the vapor collection system is maintained and operated in such a way as to ensure the efficiency and integrity of the system?

YES _____ NO _____

If you answered "YES" to all four Questions (DD1), (DD2), (DD3) & (DD4), proceed to Question (EE).

If you answered "NO" to any one or more of the four Questions (DD1), (DD2), (DD3) or (DD4), place an "N1", "N2", "N3" or "N4" (according to the priority rank of the violation) in “Rank” box 14 on the Compliance Status Report form, complete a “Non-Compliance Report & Remedial Plan” form, then proceed to Question (EE).

(EE) Does the vapor collection system, that is required at your gasoline bulk plant consist of:

(1) a vapor space connection on the stationary storage tanks equipped with vapor-tight fittings that automatically and immediately close upon disconnection to prevent the release of gasoline vapors?

YES _____ NO _____

(2) a connecting pipe or hose equipped with vapor-tight fittings that automatically and immediately close upon disconnection to prevent the release of volatile organic compounds when loading is through means other than hatches?

YES _____ NO _____

(3) a vapor space connection on the gasoline transport vehicles equipped with vapor-tight fittings that automatically close upon disconnection to prevent the release of gasoline vapors when loading is through means other than hatches?

YES _____ NO _____

(4) a connecting device between the gasoline transport vehicle and the dispensing equipment that interrupts the flow of gasoline to prevent overfilling and spillage?

YES _____ NO _____

(5) a system that prevents the flow of gasoline into transport vehicles unless the fuel product line and vapor collection system are both connected so as to prevent liquid product leaks or vapor loss?

YES _____ NO _____

If you answered YES to all five questions (EE1), (EE2), (EE3), (EE4) and (EE5), proceed to question (FF).

If you answered "NO" to any one of more of the five Questions (EE1), (EE2), (EE3), (EE4) or (EE5), place an "N1", "N2", "N3" or "N4" (according to the priority rank of the violation) in “Rank” box 14 on the Compliance Status Report form, complete a “Non-Compliance Report & Remedial Plan” form, then proceed to Question (FF).

(FF) Is the design of the connecting devices required to control gasoline vapor emissions while loading gasoline transport vehicles at your gasoline bulk plant standardized to provide compatibility among different bulk plants and transport vehicles; or connecting adapters provided and used?

YES _____ NO _____

If YES, proceed to Question (GG).

If "NO", place an "N1", "N2", "N3" or "N4" (according to the priority rank of the violation) in “Rank” box 14 on the Compliance Status Report form, complete a “Non-Compliance Report & Remedial Plan” form, then proceed to Question (GG).

(GG) Do you have a gasoline loading terminal?

YES _____ NO _____

If NO, proceed to Question (OO).

If YES, proceed to Question (HH).

(HH) Does the gasoline loading terminal have facilities which load petroleum liquids to marine delivery vessels?

YES _____ NO _____

If NO, proceed to Question (LL).

If YES, proceed to Question (II).

(II) Does the marine vessel loading facility load more than 15,000 gallons of gasoline per day?

YES _____ NO _____

If YES, proceed to Question (KK).

If NO, proceed to Question (JJ).

(JJ) Is your marine vessel loading facility equipped with a vapor balance system or other control system and operates it such that it does NOT have an open operating system to the atmosphere during transfer and it does NOT return the vapors to a floating roof tank?

YES _____ NO _____

If YES, proceed to Question (LL).

If NO, place an "N1", "N2", "N3" or "N4" (according to the priority rank of the violation) in “Rank” box 14 on the Compliance Status Report form, complete a “Non-Compliance Report & Remedial Plan” form, then proceed to Question (LL).

(KK) Is your marine vessel loading facility equipped with a vapor control system it operates such that it reduces the total VOC emissions to the atmosphere by 90% by weight?

YES _____ NO _____

If YES, proceed to Question (LL).

If NO, place an "N1", "N2", "N3" or "N4" (according to the priority rank of the violation) in “Rank” box 14 on the Compliance Status Report form, complete a “Non-Compliance Report & Remedial Plan” form, then proceed to Question (LL).

(LL) Is your gasoline loading terminal equipped with vapor collection and vapor control systems?

YES _____ NO _____

If YES, proceed to Question (MM).

If NO, place an "N1", "N2", "N3" or "N4" (according to the priority rank of the violation) in “Rank” box 14 on the Compliance Status Report form, complete a “Non-Compliance Report & Remedial Plan” form, then proceed to Question (NN).

(MM) (1) Are the vapor collection and vapor control systems operating in good working order?

YES _____ NO _____

(2) Do the gasoline vapor collection and control systems capture gasoline vapors during loading and unloading of gasoline transport vehicles, and do they condense, absorb, adsorb, or combust the gasoline vapors so emissions do not exceed 0.67 pounds per 1,000 gallons of gasoline loaded and/or unloaded.

YES _____ NO _____

(3) Do the hatch loading systems include a loading arm with a vapor collection system adapter, a vapor-tight seal between the adapter and hatch, and a method of preventing drainage of liquid gasoline from the loading arm when it is removed from the hatch or for complete drainage of the loading arm before such removal?

YES _____ NO _____

(4) Do the bottom loading systems include a connecting pipe or hose equipped with vapor-tight fittings that automatically immediately close upon disconnection to prevent the release of gasoline vapors?

YES _____ NO _____

(5) Does the terminal have a connecting device that is installed between the gasoline transport vehicle and the dispensing equipment that interrupts the flow of gasoline to prevent overfilling and spillage?

YES _____ NO _____

(6) Does the terminal have a system installed that prevents the flow of gasoline into gasoline transport vehicles unless the fuel product line and vapor collection system are both connected so as to prevent liquid product leaks vapor loss?

YES _____ NO _____

If you answered "YES" to all six Questions (MM1), (MM2), (MM3), (MM4), (MM5) and (MM6), proceed to Question (NN).

If you answered "NO" to any one or more of the six Questions (MM1), (MM2), (MM3), (MM4), (MM5) or (MM6), place an "N1", "N2", "N3" or "N4" (according to the priority rank of the violation) in “Rank” box 14 on the Compliance Status Report form, complete a “Non-Compliance Report & Remedial Plan” form, then proceed to Question (NN).

(NN) Is the design of any connecting devices required to control gasoline vapor emissions while loading gasoline transport vehicles to your gasoline loading terminal standardized to provide compatibility among different loading terminals and transport vehicles; or are connecting adapters provided and used?

YES _____ NO _____

If YES, then proceed to Question (OO).

If NO, place an "N1", "N2", "N3" or "N4" (according to the priority rank of the violation) in “Rank” box 14 on the Compliance Status Report form, complete a “Non-Compliance Report & Remedial Plan” form, then proceed to Question (OO).

(OO) Do you have a current Title V facility permit or State facility permit for all of the items listed in (A), (D), (H), (AA) and (GG) that were answered with a “YES”?

YES _____ NO _____

If YES, and you have not placed an "N1", "N2", "N3" or "N4" (according to the priority rank of the violation) in “Rank” box 14 on the Compliance Status Report form, place a "C" in it, and place a check in Approval box 14, then proceed to Regulation 15.

If NO, place an "N1", "N2", "N3" or "N4" (according to the priority rank of the violation) in “Rank” box 14 on the Compliance Status Report form, complete a “Non-Compliance Report & Remedial Plan” form, then proceed to Regulation 15.

If you answered “NO” to (A), (D), (H), (AA) and (GG) above, leave “Rank” box 14 blank, and proceed to Regulation 15.

REGULATION 14: PETROLEUM AND VOLATILE ORGANIC LIQUID STORAGE AND TRANSFER

LEGAL CITATION: ECL Article 19-0301 and 6 NYCRR Part 229

ABSTRACT OF LAW/REGULATION:

Part 229 regulates the emission of volatile organic compounds (VOC) from storage tanks for petroleum and volatile organic liquids. Depending upon their capacity, location, and product stored, the controls required by this portion of the regulation range from conservation vents to vapor collection and control systems. Part 229 also regulates the transfer of gasoline to gasoline transport vehicles (e.g, tank trucks and railroad tank cars) and marine delivery vessels (barges and tankers). That part of the rule requires control ranging from submerged filling of the transport vehicles to vapor collection and control equipment, i.e., afterburners or refrigeration units on the loading racks.

APPLICABILITY:

1. Petroleum liquids storage tanks with a capacity of 40,000 gallons or more anywhere in the State.

2. Potentially any size volatile organic liquids storage tanks. The rule applies to various size tanks where the potential to emit VOCs from all sources, except combustion installations, at the facility is above certain thresholds or the vapor pressure of the VOL is above other thresholds. The thresholds vary depending on where the facility is located. See Table 14-1.

3. All gasoline bulk plants

   Gasoline may not be loaded into any gasoline transport vehicle from any gasoline bulk plant unless the gasoline bulk plant provides for at least submerged filling of the gasoline transport vehicles. If the gasoline is to be delivered to a gasoline-dispensing site required by Part 230 to have a Stage I vapor collection device, then the bulk plant must also have a vapor collection system that returns the vapors displaced by transport vehicle loading to the bulk plant's storage tank.

4. All gasoline loading terminals

   Gasoline may not be loaded into any gasoline transport vehicle from any gasoline loading terminal unless the gasoline loading terminal is equipped with a vapor collection and control system. The vapor collection and control system must capture gasoline vapors during loading and unloading of transport vehicles and must control the emissions of the vapors to a standard of 0.67 pounds per 1,000 gallons of gasoline loaded or unloaded.

The VOL storage tank rules apply differently in the following areas:

1. New York City metropolitan area: Counties of Bronx, Kings (Brooklyn), New York (Manhattan), Nassau, Orange, Queens, Richmond (Staten Island), Rockland, Suffolk, and Westchester;

2. Lower Orange County metropolitan area: includes the towns of Blooming Grove, Chester, Highlands, Monroe, Tuxedo, Warwick and Woodbury;

3. The rest of New York State (Subdivision 229.1(d) lists other non-attainment areas solely for the purpose of determining compliance deadlines for existing facilities. Since the last deadline was June 1, 1995, all facilities outside the NYC and Lower Orange County metro areas are subject to the same requirements).

PROHIBITIONS AND REQUIREMENTS:

1. Fixed roof tanks cannot be used to store petroleum liquid unless:

   a. they have been retro-fitted with an internal floating roof or equivalent control; and

   b. if the equivalent control is vapor collection and vapor control systems, they must be maintained and operated in such a way as to ensure the integrity and efficiency of the system.

2. External floating roof tanks cannot be used to store petroleum liquid unless:

   a. the tanks have been fitted with a continuous rim-mounted secondary seal extending from the floating roof to the tank wall, or equivalent control;

   b. all seal closure devices meet the following requirements:
      - there are no visible holes, tears or openings in the seal or seal fabric;
      - the seal is intact and uniformly in place around the circumference of the floating roof between the floating roof and the tank wall; and
      - for vapor-mounted primary seals, the accumulated area of gaps exceeding one-eighth inch (0.32 cm) in width between the secondary seal and the tank wall must not exceed 1.0 square inch per foot of tank diameter (21.2 cm^2 per meter);

   c. the roof is to be floating on the liquid at all times, off the leg supports, except during initial fill and when the tank is completely emptied and subsequently refilled;

   d. all openings in the external floating roof, except automatic bleeder vents, rim space vents and leg sleeves, equipped with projections into the tank wall must remain below the liquid surface at all times, and covers, seals or lids must be in the closed position except when the openings are in actual use;

   e. automatic bleeder vents are closed at all times except when the roof is floated off or landed on the roof leg supports, and rim vents are set to open when the roof is being floated off the leg supports or at the manufacturer's recommended setting;

   f. emergency roof drains are provided with slotted membrane fabric covers, or equivalent, that cover at least 90 percent of the area of the opening;

   g. an annual inspection is performed by the owner or his agent, including a visual inspection of the secondary seal;

   h. annual measurements of the secondary seal gap are performed by the owner or his agent when the floating roof is equipped with a vapor-mounted primary seal. Measurements are to be made of the length and width of all gaps around the entire circumference of the secondary seal in each place where a one-eighth inch uniform diameter probe passes freely between the seal and tank wall, and summing the area of the individual gaps; and

   i. records are maintained of the dates and results of the annual inspections and annual secondary seal gap measurements.

3. Tanks with a capacity less than 10,000 gallons located at facilities in the New York City and Lower Orange County Metropolitan Areas with annual potential to emit VOC from all sources regardless of type, but excluding combustion installations, greater than or equal to 25 tons/year cannot be used to store volatile organic liquids unless the tanks are equipped with conservation vents. This same standard only applies to facilities with a VOC Potential to Emit greater than or equal to 50 tons/year in the rest of the State.

4. Tanks with capacities greater than or equal to 10,000 gallons and less than 20,000 gallons located at facilities in the New York City and Lower Orange County metropolitan areas with annual VOC Potential to Emit greater than or equal to 25 tons per year cannot be used to store volatile organic liquids unless the tanks are equipped with submerged fill. As with the smaller tanks, this standard applies upstate to facilities with VOC PTE greater than or equal to 50 tons per year.

5. Fixed roof tanks with capacities greater than or equal to 20,000 gallons cannot be used to store volatile organic liquids with a maximum true vapor pressure of 4.0 psia or greater unless they have been equipped with an internal floating roof with a liquid-mounted primary seal and gasketed fittings, or equivalent control. Replacement of other types of seals with the liquid mounted ones may only be performed when the tank is cleaned and gas-freed for other purposes. Fixed roof tanks with a capacity greater than or equal to 40,000 gallons must have the same equipment installed if the VOL stored has a maximum true vapor pressure of 1.0 psia or greater.

6. External floating roof tanks with capacities greater than or equal to 40,000 gallons cannot be used to store volatile organic liquids with a maximum true vapor pressure of 1.5 psia or greater unless they have been equipped with control equipment as follows:

a. External floating roof storage tanks with a mechanical shoe primary seal must be equipped with a rim-mounted secondary seal, or equivalent control;

b. External floating roof tanks with vapor-mounted primary seals must instead be equipped with a liquid-mounted primary seal and a rim-mounted secondary seal, or equivalent control.

c. External floating roof tanks with liquid-mounted seals must be equipped with rim-mounted secondary seals, or equivalent control.

7. Gasoline bulk plants

a. Gasoline may not be loaded from any gasoline bulk plant into any gasoline transport vehicle that delivers such gasoline to a gasoline-dispensing site required to be equipped with a Stage 1 vapor collection system, unless:
   - the gasoline bulk plant provides for submerged filling of the gasoline transport vehicles;
   - the gasoline bulk plant has a vapor collection system to control gasoline vapors that are displaced during the loading of a gasoline bulk plant storage tank and/or during the loading of gasoline transport vehicles;
   - the pressure vacuum relief valves and hatch covers for storage tanks and gasoline transport vehicles, and associated vapor and liquid lines used during dispensing operations at the gasoline bulk plant, do not leak, and the pressure relief valves on storage tanks and gasoline transport vehicles are adjusted to release at not less than 0.7 psia unless a State or local fire code requires a lower pressure; and
   - the vapor collection system is maintained and operated in such a way as to ensure the efficiency and integrity of the system;

b. A vapor collection system required at a gasoline bulk plant consists of:
   - a vapor space connection on the stationary storage tank equipped with vapor tight fittings that automatically and immediately close upon disconnection to prevent the release of gasoline vapors;
   - a connecting pipe or hose equipped with vapor-tight fittings that automatically and immediately close upon disconnection to prevent the release of volatile organic compounds when loading is through means other than hatches. Hatch-loading systems must include a loading arm with a vapor collection adapter, a vapor-tight seal between the adapter and hatch, and a method of preventing drainage of liquid gasoline from the loading arm when it is removed from the hatch or for complete drainage of the loading arm before such removal;
   - a vapor space connection on the gasoline transport vehicle equipped with vapor-tight fittings that automatically and immediately close upon disconnection to prevent the release of gasoline vapors when loading is through means other than hatches;
   - a connecting device between the gasoline transport vehicle and the dispensing equipment that interrupts the flow of gasoline to prevent overfilling and spillage; and
   - a system that prevents the flow of gasoline into gasoline transport vehicles unless the fuel product line and vapor collection system are both connected so as to prevent liquid product leaks or vapor loss;

c. The design of any connecting devices required to control gasoline vapor emissions while loading gasoline transport vehicles at a gasoline bulk plant must be standardized to provide compatibility between different bulk plants and transport vehicles; or connecting adapters must be provided and used. The owner or operator of the gasoline bulk plant is responsible for ensuring that the adapter is properly connected before dispensing gasoline. Connecting adapters must be adequate to ensure that the vapor collection system is vapor-tight.

d. Gasoline may not be loaded from any gasoline bulk plant into any gasoline transport vehicle unless the gasoline bulk plant provides for submerged filling of the gasoline transport vehicles.

8. Gasoline loading terminals

a. Gasoline may not be loaded from any gasoline loading terminal into any gasoline transport vehicle unless the gasoline loading terminal is equipped with gasoline vapor collection and vapor control systems.

b. The gasoline vapor collection and vapor control systems must be in good working order and must satisfy these requirements:
   - The gasoline vapor collection and control systems must capture gasoline vapors during loading and unloading of gasoline transport vehicles, and must condense, absorb, adsorb, or combust the gasoline vapors so emissions do not exceed 0.67 pounds per 1,000 gallons of gasoline loaded or unloaded. Any equivalent control system is acceptable. Test methods acceptable to the NYSDEC must be used to determine compliance with this standard. Test methods described in Appendix A of the Federal regulation 40 CFR Part 60 are considered to be acceptable methods.
   - Hatch-loading systems must include a loading arm with a vapor collection system adapter, a vapor-tight seal between the adapter and hatch, and a method of preventing drainage of liquid gasoline from the loading arm when it is removed from the hatch or for complete drainage of the loading arm before such removal.
   - Bottom-loading systems must include a connecting pipe or hose equipped with vapor-tight fittings that will automatically and immediately close upon disconnection to prevent the release of gasoline vapors.
   - A connecting device must be installed between the transport vehicle and the dispensing equipment that interrupts the flow of gasoline to prevent overfilling and spillage.
   - A system must be installed that prevents the flow of gasoline into gasoline transport vehicles unless the fuel product line and vapor collection system are both connected so as to prevent liquid product leaks or vapor loss.

c. Loading of marine delivery vessels at gasoline loading terminals is a special case. Gasoline cannot be loaded from a gasoline loading terminal to a marine delivery vessel unless the loading terminal meets the following requirements:
   - Facilities loading 15,000 gallons of gasoline or less per day must be equipped with and operate a vapor balance system or other control system. Such a vapor balance system must have no open operating system to the atmosphere during transfer and must not return vapors to any tank equipped with a floating roof.
   - Facilities loading more than 15,000 gallons of gasoline per day must be equipped with and operate a vapor control system which reduces the total VOC emissions to the outdoor atmosphere by 90 percent by weight.

EXEMPTIONS:

The following exemptions are explicitly stated in 229.1(f)

1. Pressurized fixed roof tanks, that are capable of maintaining a working pressure at all times to prevent emissions of volatile organic compounds to the outdoor atmosphere.

2. External floating roof tanks that are of welded construction and are equipped with a metallic-type shoe primary seal and a secondary seal from the top of the shoe to the tank wall.

3. External floating roof tanks that :

   A. are used for the storage of a petroleum liquid with a true vapor pressure less than 4.0 psia (27.6 kPa), are welded construction; and

   B. are equipped with one of the following:
      - a metallic-type shoe seal,
      - a liquid-mounted foam seal,
      - a liquid-mounted liquid-filled seal, or
      - an equivalent control.

4. Horizontal petroleum or volatile organic liquid storage tanks.

5. Petroleum or volatile organic liquids storage tanks storing waxy, heavy crudes, vessels storing crude oil or condensate prior to custody transfer, or vessels located at bulk gasoline plants controlled by a vapor balance system.

6. Volatile organic liquid storage tanks subject to Part 233 (Pharmaceutical and Cosmetic Manufacturing Processes).

The following storage tanks are not addressed by any of the standards and may be considered to be exempt:

1. Fixed roof tanks with a capacity of less than 40,000 gallons storing petroleum liquids.

2. External floating roof tanks with a capacity of less than 40,000 gallons storing petroleum liquids.

3. Volatile organic liquid storage tanks with capacities less than 20,000 gallons that are located at facilities with volatile organic compounds potential to emit less than 25 tons per year in the New York City and Lower Orange County Metropolitan Areas.

4. Volatile organic liquid storage tanks with capacities less than 20,000 gallons that are located at facilities with volatile organic compounds potential to emit less than 50 tons per year in areas other than the New York City and Lower Orange County Metropolitan Areas.

5. Fixed roof storage tanks with capacities greater than or equal to 40,000 gallons storing volatile organic liquids with a maximum true vapor pressure less than 1.0 psia.

6. Fixed roof storage tanks with capacities greater than or equal to 20,000 gallons and less than 40,000 gallons storing volatile organic liquids with a maximum true vapor pressure less than 4.0 psia.

7. External floating roof tanks with capacities greater than or equal to 40,000 gallons storing volatile organic liquids with a maximum true vapor pressure less than 1.5 psia.

DEFINITIONS:

Annual throughput is the amount of petroleum or volatile organic liquid transferred into or dispensed from your facility, project or operation during 12 consecutive months.

Daily throughput is the average daily amount of petroleum or volatile organic liquid transferred into or dispensed from your facility, project or operation. The daily throughput is calculated by dividing the annual throughput by the number of workdays during the 12-month period from January 1 to December 31.

Equivalent control is the use of alternate operational and/or equipment controls that have been approved by the NYSDEC for the reduction of petroleum or volatile organic liquid vapor emissions such that the aggregate emissions of petroleum or volatile organic liquid vapor from the facility, project or operation do not exceed those from the application of defined reasonably available control technology.

External floating roof is a cover or roof in an open-top tank that rests or floats upon the petroleum or volatile organic liquid in the tank and is equipped with one or more closure seals between the roof edge and tank wall.

Fixed roof storage tank is a petroleum or volatile organic liquid storage vessel consisting of a vertical steel cylindrical shell with a permanent affixed roof.

Gasoline is any petroleum distillate having a Reid vapor pressure of four pounds per square inch (28 kilopascals) or higher, used as a motor fuel.

Gasoline bulk plant is a gasoline storage and distribution facility with an average daily throughput of 20,000 gallons of gasoline or less. A gasoline dispensing site subject to Part 230 is not considered a gasoline bulk plant.

Gasoline loading terminal is a gasoline storage and distribution facility with an average daily throughput greater than 20,000 gallons of gasoline. A gasoline dispensing site subject to Part 230 is not considered to be a gasoline loading terminal.

Internal floating roof tank is a fixed roof tank with a cover or roof that rests or floats upon the petroleum or volatile organic liquid in the tank and is equipped with one or more closure seals between the roof edge and tank wall.

Liquid-mounted seal is a primary seal mounted in continuous contact with the liquid between the tank wall and the floating roof around the circumference of the tank.

Marine deliver vessel is a vessel which is specifically constructed or converted to transport liquid cargo in tanks, which is designed to move on water, including but not limited to barges and tankers. This does not include water borne vessels containing only tanks designed to carry liquid necessary for the operation of the vessel.

Metallic shoe seal is a petroleum or volatile organic liquid storage vessel seal, that consists of a metal sheet held vertically against the tank wall by springs or weighted levers and is connected by braces to the floating roof. A flexible coated fabric spans the annular space between the metal sheet and the floating roof.

Petroleum liquid is any crude oil, condensate, and any finished or intermediate products manufactured or extracted in a petroleum refinery whose true vapor pressure is between 1.5 and 12 psia at 70 degrees (10.5-83 kilopascals). Petroleum liquids do not include Nos. 2 through 6 fuel oils or those volatile organic compounds that are given an environmental rating of "A" pursuant to 6 NYCRR Part 212 (See Regulation 06).

Potential to emit is the maximum capacity of an air contamination source to emit any contaminant under its physical and operational design. Any physical or operational limitations in the capacity of the facility or air contamination source to emit any air contaminant, including air pollution control equipment and/or restriction of hours of operation, or on the type or amount of material combusted, stored, or processed, shall be treated as part of the design only if the limitation is contained in enforceable permit conditions. Fugitive emissions, to the extent that they are quantifiable , are included in determining the potential to emit.

True vapor pressure is the equilibrium partial pressure exerted by a petroleum or volatile organic liquid at 70°F. True vapor pressure of a petroleum or volatile organic liquid is to be determined by methods acceptable to NYSDEC. The methods described in Bulletin 2517 of the American Petroleum Institute (API) are considered to be acceptable methods for determining the true vapor pressure for petroleum liquids.

Vapor-mounted seal is a primary seal, mounted so there is a ring-shaped vapor space beneath the seal, bounded by the bottom of the primary seal, the tank wall, the liquid surface and the floating roof.

Volatile organic liquid is any organic liquid including, but not limited to, liquids that produce vapors which participate in atmospheric photochemical reactions, or which are measured by an applicable test method, but excluding petroleum liquids. The following are not considered to be volatile organic liquids for the purpose of this regulation: Gasoline, Nos. 2 through 6 fuel oil, commercial and military grades of diesel and aviation fuels and those compounds specifically exempted from the definition of volatile organic compound in Part 200.

Table 14-1 Volatile Organic Liquid Storage Tank Rule Applicability

	New York City and Lower Orange County Metro Areas	**The Remainder of NYS**
<10,000 Gallons	VOC PTE ≥ 25 TPY: 229.3(e)(2)(v) VOC PTE < 25 TPY: exempt	VOC PTE ≥ 50 TPY: 229.3(e)(2)(v) VOC PTE < 50 TPY: exempt
10,000 - 20,000 Gallons	VOC PTE ≥ 25 TPY: 229.3(e)(2)(iv) VOC PTE < 25 TPY: exempt	VOC PTE ≥ 50 TPY: 229.3(e)(2)(iv) VOC PTE < 50 TPY: exempt
Fixed roof 20,000 - 40,000 Gallons	Vapor Pressure ≥ 4.0 psia: 229.3(e)(1) V.P. < 4.0 psia: exempt	Vapor Pressure ≥ 4.0 psia: 229.3(e)(1) V.P. < 4.0 psia: exempt
Fixed roof ≥40,000 Gallons	Vapor Pressure ≥ 1.0 psia: 229.3(e)(1) V.P. < 1.0 psia: exempt	Vapor Pressure ≥ 1.0 psia: 229.3(e)(1) V.P. < 1.0 psia: exempt
External Floating Roof ≥40,000 Gallons	Vapor Pressure ≥ 1.5 psia: 229.3(e)(2)(i)-(iii) V.P. < 1.5 psia: exempt	Vapor Pressure ≥ 1.5 psia: 229.3(e)(2)(i)-(iii) V.P. < 1.5 psia: exempt

NYSDEC CONTACT: TELEPHONE NUMBER

Bureau of Stationary Sources 518/402-8403

AIR RESOURCES

REGULATION 15 QUESTIONS: **SOLVENT METAL CLEANING PROCESSES**

Note: This regulation is being revised and may become effective soon. Please contact the NYSDEC for more details.

Also, if your facility, project or operation (f/p/o), is subject to this regulation, it is also subject to Regulation 08A, and may be subject to Regulation 06B.

(A) Is solvent metal cleaning performed at your f/p/o?

YES _____ NO _____

If NO, leave “Rank” box 15 blank on the Compliance Status Report form, proceed to Regulation 16.

(B) If YES, was the process operated & maintained in accordance with proper standards? (See Regulation 15.)

YES _____ NO _____

If YES, then proceed to Question (C).

If NO, place an "N1", "N2", "N3" or "N4" (according to the priority rank of the violation) in “Rank” box 15 on the Compliance Status Report form, complete a “Non-Compliance Report & Remedial Plan” form, then proceed to Question (C).

(C) Do you have a Title V Permit or State Facility Permit?

YES _____ NO _____

If YES, place a "C" in “Rank” box 15 and place a check in the “Approval” box on the Compliance Status Report form, then proceed to Regulation 16.

If NO, proceed to Question (D).

(D) Are you exempt from obtaining a Title V Permit or State Facility Permit? (See Regulation 15.)

YES _____ NO _____

If YES, place a check in the “Approval” box 15 on the Compliance Status Report form, proceed to Question (E).

If NO, place an "N1", "N2", "N3" or "N4" (according to the priority rank of the violation) in “Rank” box 15 and leave the “Approval” box blank on the Compliance Status Report form, complete a “Non-Compliance Report & Remedial Plan” form, then proceed to Question (E).

(E) Do you maintain a record of solvent consumption?

YES _____ NO _____

If YES, place a "C" in “Rank” box 15 on the Compliance Status Report form, proceed to Regulation 16.

If NO, place an "N1", "N2", "N3" or "N4" (according to the priority rank of the violation) in “Rank” box 15 on the Compliance Status Report form, complete a “Non-Compliance Report & Remedial Plan” form, then proceed to Regulation 16.

REGULATION 15: **SOLVENT METAL CLEANING PROCESSES**

LEGAL CITATION: Environmental Conservation Law §§ 3-0301, 19-0301, 19-0303, Article 19 and 6NYCRR Parts 200, 201 & 226.

Note: This regulation is being revised and may become effective soon. Please contact the NYSDEC for more details.

ABSTRACT OF LAW/REGULATION:

No person shall conduct solvent metal cleaning unless:

1. the solvent in stored in covered containers and waste solvent is transferred or disposed in such manner that less than 20 percent of the waste solvent (by weight) can evaporate into the atmosphere.

2. the equipment used in solvent metal cleaning is maintained to minimize leaks and fugitive emissions.

3. the equipment used in solvent metal cleaning displays a conspicuous summary of proper operating procedures consistent with minimizing emissions of volatile organic compounds.

4. the equipment covers are closed when the solvent metal cleaning unit is not in service.

5. a record of solvent consumption shall be maintained for each year and made available to the NYSDEC.

These devices are required by a source owner conducting solvent metal cleaning:

1. For cold cleaning degreasing:

    a. a cover shall be provided that can be operated easily;

    b. the drainage facility shall be internal (under cover), if practical; and

    c. a control system that limits VOC emissions to those achievable with equipment having a freeboard ratio greater than or equal to 0.7, or a water cover where the solvent is insoluble in and heavier than water, where the solvent being used has a vapor pressure greater than 33mm Mercury (Hg) at 38°C (100°F) or where the solvent is heated above 50°C (120°F).

2. For open-top vapor degreasing:

    a. the cover shall be operated easily without disturbing the vapor zone;

    b. safety switches shall shut off sump pump if the condenser malfunctions and shall shut off the pump if vapor level drops excessively; and

    c. one of the following shall be provided:
        (1) a freeboard ratio that is greater than or equal to 0.75, and a powered or mechanically assisted cover if the top opening is greater than 10 square feet;
        (2) a refrigerated chiller;
        (3) local exhaust ventilation and an adsorption or other system for collection of volatile organic compounds; or
        (4) an enclosed design whereby the cover is open only when the dry part is entering or exiting the degreaser.

3. For conveyorized degreasing:

    a. one of the following shall be provided:
        (1) a refrigerated chiller; or

(2) local exhaust ventilation and an adsorption or other system for collection of volatile organic compounds;

b. a drying tunnel, rotating basket or other device acceptable to the NYSDEC shall be provided that prevents carry-out of liquid and vapor;

c. safety switches shall be provided that shut off the system when a malfunction would cause excessive emissions;

d. minimize openings at the entrance and exit to silhouette work and conveyor; and

e. covers shall be provided to close the unit during downtime.

These operating practices are required by a source owner conducting solvent metal cleaning:

1. For cold cleaning degreasing clean parts shall be drained at least 15 seconds or until dripping ceases.

2. For open-top vapor degreasing:

a. minimize solvent carryout by the following measures:
(1) rack parts to allow full drainage;
(2) move parts in and out of degreaser tank at less than 11 feet per minute;
(3) degrease the work load in the vapor zone at least 30 seconds or until condensation ceases;
(4) tip out any pools of solvent before removal; and
(5) dry parts for at least 15 seconds or visually dry before removal;

b. degrease only nonporous or non-adsorbent material;

c. work loads shall not occupy more than half of degreaser tank open-top area; and

d. spray only below the vapor level.

3. For conveyorized degreasers:

a. exhaust ventilation rate shall not exceed 125 percent of the minimum ventilation rate required for the protection of workers in the vicinity of the degreaser;

b. minimize carry-out emissions by:
(1) proper racking for best drainage; and
(2) conveyor speed at less than 11 feet per minute; and

c. water shall not be visibly detectable in the solvent leaving in the water separator.

REQUIRED APPROVAL:

A Title V facility permit, a State facility permit or a registration is required prior to construction and operation of the process.

EXEMPTIONS:

Exemptions are allowed for degreasers under a minimum size or utilizing non-volatile compounds as described below:

1. conveyorized degreasers smaller than 22 square feet of air/vapor interface;

2. open-top degreasers smaller than 11 square feet of open area; and
3. solvent cleaning process utilizing 1,1,1 trichloroethane (methyl chloroform), trichlorotrifluroethane (freon 113) and methylene chloride.

DEFINITIONS:

Cold cleaning degreasing is a batch process of solvent metal cleaning by spraying, brushing, flushing or immersion while maintaining the solvent below its boiling point. Wipe cleaning is not included in this definition.

Conveyorized degreasing is a continuous process of solvent metal cleaning by operating with either cold or vaporized solvents.

Freeboard height is the distance from the top of the vapor zone to the top of the degreaser tank. On cold cleaners, it is the distance from the liquid level to the lip of the tank.

Freeboard ratio is the freeboard height divided by the width of the degreaser tank.

Open-top vapor degreasing is the process of solvent metal cleaning by condensing hot solvent vapor on the colder metal parts.

Solvent metal cleaning is the process of cleaning soils from metal surfaces by using a volatile organic compound.

NYSDEC CONTACT: TELEPHONE NUMBER

Bureau of Stationary Sources 518/402-8403

REGULATION 16 QUESTIONS: **STATIONARY COMBUSTION INSTALLATIONS**

Note: The NYSDEC is currently working on revisions to the 6 NYCRR Subpart 227-2 regulation. The proposed changes may be effective in 2003.

If your facility, project or operation (f/p/o), is subject to this regulation, it is also subject to Regulation 08A, and may be subject to Regulation 06B.

(A) Are there any boilers at your f/p/o with a maximum operating heat input greater than 1 million BTU/hour capable of burning solid fuels (wood or coal) or with a maximum operating heat input greater than 10 million BTU/hour capable of burning residual fuel oil, distillate fuel oil, natural gas, or liquified petroleum gas (LPG or propane)?

YES _____ NO _____

If NO, leave “Rank” box 16 blank on the Compliance Status Report form, proceed to Regulation 17.

(B) If YES, do you have a Title V Permit, State Facility Permit, or Facility Registration?

YES _____ NO _____

If YES, proceed to Question (C).

If NO, place an "N1", "N2", "N3" or "N4" (according to the priority rank of the violation) in “Rank” box 16 and leave the “Approval” box 16 blank on the Compliance Status Report form, complete a “Non-Compliance Report & Remedial Plan” form, then proceed to Question (C).

(C) Is your f/p/o located in NYC, Long Island, Westchester, Rockland counties, or in the Towns of Blooming Grove, Chester, Highlands, Monroe, Tuxedo, Warwick, or Woodbury?

YES ____ NO _____

If Yes, this f/p/o is in the Severe non-attainment area for Ozone, proceed to Question (D).

If NO, proceed to Question (E).

(D) Does your f/p/o have the potential to emit 25 tons or more of NO_x per year?

YES ____ NO _____

If YES, your facility is subject to NO_x RACT (Reasonably Available Control Technology), proceed to Question (F).

If NO, proceed to Regulation 17.

(E) Does your f/p/o have the potential to emit 100 tons or more of NO_x per year?

YES ____ NO ____

If YES, your f/p/o is subject to NO_x RACT (Reasonably Available Control Technology), proceed to Question (F).

If NO, proceed to Regulation 17.

(F) Are the only sources of NO_x emissions from your f/p/o small boilers?

YES _____ NO _____

If YES, no compliance plan was required, proceed to Regulation 17.

If NO, proceed to question (G).

(G) Did your f/p/o submit a Nitrogen Oxide (NO_x) RACT (Reasonably Available Control Technology) Compliance Plan to NYSDEC by March 15, 1994? [See Regulation 16 NO_x RACT for requirements.]

YES _____ NO _____

If YES, place a "C" in “Rank” box 16 and place a check in the “Approval” box 16 on the Compliance Status Report form, then proceed to Regulation 17.

If NO, place an "N1", "N2", "N3" or "N4" (according to the priority rank of the violation) in “Rank” box 16 and leave the “Approval” box 16 blank on the Compliance Status Report form, complete a “Non-Compliance Report & Remedial Plan” form, then proceed to Regulation 17.

REGULATION 16: **STATIONARY COMBUSTION INSTALLATIONS**

LEGAL CITATION: ECL Sections 3-0301, 17-0303, 19-0301 & 19-0303 and 6NYCRR Parts 200, 201 & 227.

Note: The NYSDEC is currently working on revisions to the 6 NYCRR Subpart 227-2 regulation. The proposed changes may be effective in 2003.

ABSTRACT OF LAW/REGULATIONS:

Part 227 regulates the particulate emissions, nitrogen oxides and opacity from stationary combustion installations (boilers) based on maximum operating heat input, the type of fuel used, and the date of construction of the boiler. Any owner or operator of an existing major stationary source of oxides of nitrogen in New York State must use Reasonably Available Control Technology (RACT) to control emissions of oxides of nitrogen. A compliance plan must be submitted to NYSDEC by March 15, 1994 that identifies whatever measures are necessary to achieve compliance with this regulation for each combustion installation at the facility by May 31, 1995. The plan must include a schedule of compliance steps or a demonstration of full compliance.

NO_x RACT SYNOPSIS:

1. Existing major NO_x facilities have potential NO_x emissions greater than or equal to:
   a. 25 tons per year in the severe non-attainment area; and
   b. 100 tons per year in the remainder of the state.
2. Time schedule:
   a. Compliance plans, schedules for capping, and/or schedules for shutdown are due to be submitted to NYSDEC by May 15, 1994;
   b. Applications for a Permit to Construct are due to be submitted by July 15, 1994;
   c. Applications for renewal for a Certificate to Operate are due to be submitted to NYSDEC by February 15, 1995; and
   d. Implementation of the NO_x RACT is due by May 31, 1995;
3. Existing major Nox facilities have potential Nox emissions greater than or equal to:
   a. 25 tons per year in the severe non-attainment area; and
   b. 100 tons per year in the remainder of the state.
   c. Very Large Boilers (>250 million Btu/hour)

	Boiler Configuration (pounds per million Btu)			
Fuel Type	Tangential	Wall	Cyclone	Stoker
Gas Only	0.20	0.20	N/A	N/A
Gas/Oil	0.25	0.25	0.43	N/A
Coal Wet Bottom	1.00	1.00	0.60	N/A
Coal Dry Bottom	0.42	0.45	N/A	0.30 ‡

‡ = 0.33 if firing at least 25% of other solid fuels (TDF, wastewood).

d. Large Boilers (>100 - 250 million Btu/hour)

Boiler Configuration (pounds per million Btu) Fuel Type	Limit
Gas Only	0.20
Gas/Oil	0.30
Pulverized Coal	0.50
Coal (Overfeed Stoker)	0.30 ‡

‡ = 0.33 if firing at least 25% of other solid fuels (TDF, wastewood).

e. Mid-Size Boilers (>50 - 100 million Btu/hour)
- Gas and distillate oil units required to install low NO_x burners (LNB). Residual oil units required to install LNB and utilize at 10% FGR; or
- Meet the following emission limits (pounds/million Btu): Gas only - 0.10; Distillate oil - 0.12; Residual oil - 0.30.
- Boilers not listed above, will have RACT determined on a case-by-case basis.

f. Small Boilers (50 million Btu/hour or less) -- require annual tune-ups.

g. Combustion turbines

Type Turbine	Emission Limits (ppmvd 15% O_2) Gas	Other Fuels
Simple Cycle/Regenerative	50	100
Combined Cycle	42	65

h. Internal Combustion Engines (ICE)*

Type Burn	Emission Limit
Rich burn	2.0 grams/brake-horsepower
Lean burn-gas	3.0 grams/brake-horsepower
Lean burn-other fuels	9.0 grams/brake-horsepower

4. Fuel Switching and Weighted system average allowed. Higher unit specific limits for units unable to meet limits above can be approved by the NYSDEC. Repowering* option exists if agreed by December 31, 1994 to shutdown by May 31, 1999.

5. Very Large Boilers and combined cycle turbines >250 million Btu/hour need CEMS. Large Boilers, mid-size boilers choosing to meet limits, the rest of the turbines, and ICE's will stack test to verify NO_x emissions.

* - The NYSDEC is currently working on revisions to these sections of the 6 NYCRR Subpart 227-2 regulation. The proposed changes may be effective in 2003.

PROHIBITIONS:

1. Construction of hand fired bituminous coal installations are prohibited.

2. Emission into the outdoor atmosphere of particulates in excess of the following are prohibited:

a. 0.10 pound per million Btu heat input from any stationary combustion installation with a maximum operating total heat input exceeding 250 million Btu per hour using oil, coal tar, or any liquid fuel derived from coal; or
b. 0.20 pound per million Btu heat input from any stationary combustion installation with a maximum operating total heat input exceeding 50 million Btu per hour but no greater than 250 Btu per hour using oil (other than distillate oil), coal tar, or any liquid fuel derived from coal; or

c. 0.10 pound per million Btu heat input from any stationary combustion installation with a maximum operating total heat input exceeding 250 million Btu per hour using coal and/or wood, coke, or any solid fuel derived from coal; or

d. the permissible emission rates specified in Table 16 from any stationary combustion installation burning coal and/or wood, coke, or any solid fuel derived from coal.

3. If two or more simultaneously operated furnaces are connected to a common air cleaning device and/or stack, the total heat input of all furnaces connected to the device and/or stack shall be the heat input for the purpose of computing the permissible emission rate.

4. a. No person shall operate a stationary combustion installation which exhibits greater than 20 percent opacity (six minute average), except for one six-minute period per hour of not more than 27 percent opacity.

b. Compliance with the opacity standard may be determined by:
(1) conducting observations in accordance with Reference Method 9;
(2) evaluating Continuous Opacity Monitoring System (COMS) records and reports; and/or
(3) considering any other credible evidence.

REQUIRED APPROVAL:

A Title V Permit, State Facility Permit, or Facility Registration is required prior to construction of a stationary combustion installation.

TABLE 16
PERMISSIBLE EMISSION RATES FOR STATIONARY COMBUSTION INSTALLATIONS BURNING SOLID FUEL

Total heat input ‡ (million Btu/hr)	Permissible emission rate (lb/million Btu)	Total heat input ‡ (million Btu/hr)	Permissible emission rate (lb/million Btu)
1 to 10	0.60	600	0.25
20	0.55	700	0.24
30	0.50	800	0.24
40	0.45	900	0.23
50	0.44	1,000	0.23
60	0.42	2,000	0.19
70	0.40	3,000	0.18
80	0.39	4,000	0.17
90	0.38	5,000	0.16
100	0.37	6,000	0.15
200	0.32	7,000	0.15
300	0.29	8,000	0.14
400	0.28	9,000	0.14
500	0.26	10,000	0.14

‡ Installations having a total heat input less than one million Btu/hr are exempted.

NYSDEC CONTACT: TELEPHONE NUMBER

Mike Jennings 518/402-8403

REGULATION 16A QUESTIONS: NEW SOURCE PERFORMANCE STANDARDS FOR SMALL STEAM GENERATING UNITS

(A) Are you proposing or has a new small steam generating unit (boiler) been constructed or modified after June 9, 1989 that has a maximum design heat input capacity greater than 2.9 Megawatts (10 million Btu/ hour), but less than 29 Megawatts (100 million Btu/ hour)?

YES _____ NO _____

If YES, your steam unit/boiler is subject to the New Source Performance Standards contained within the Federal Regulation 40 CFR 60 Subpart Dc, proceed to Question (B).

If NO, leave “Rank” box 16A blank on the Compliance Status Report form, proceed to Regulation 17.

(B) Do you have a Permit (Title V, State Facility or Registration) which allows you to construct and operate this new steam generating unit?

YES _____ NO _____

If YES, place a “C” in “Rank” box 16A and place a check in the “Approval” box 16A on the Compliance Status Report form, then proceed to Question (C).

If NO, place an “N1", “N2", “N3" or “N4" (according to the priority rank of the violation) in “Rank” box 16A and leave the “Approval” box 16A blank on the Compliance Status Report form, then proceed to Question (C).

(C) Have you submitted Initial Notification letters to the Administrator (EPA) and the NYSDEC? (See definition of “Initial Notification”.)

YES _____ NO _____

If YES, place a “C” in “Rank” box 16A on the Compliance Status Report form, proceed to Question (D).

If NO, place an “N1", “N2", “N3" or “N4" (according to the priority rank of the violation) in “Rank” box 16A on the Compliance Status Report form, proceed to Question (D).

(D) Has the new small steam generation unit been in operation for more than six (6) months?

If YES, proceed to Question (E).

If NO, proceed to Question (F).

(E) Have performance tests for each applicable standard been conducted with written reports submitted to the Administrator (EPA) and the NYSDEC?

YES _____ NO _____

If YES, place a “C” in “Rank” box 16A on the Compliance Status Report form, proceed to Question (F).

If NO, place an “N1", “N2", “N3" or “N4" (according to the priority rank of the violation) in “Rank” box 16A on the Compliance Status Report form, proceed to Question (F).

(F) Does the new steam generating unit have the capability to combust coal?

YES _____ NO _____

If YES, contact the appropriate NYSDEC Regional Air Office for information regarding standards for Sulfur Dioxide and Particulate Matter, proceed to Question (G)

If NO, proceed to Question (G).

(G) Does the new small steam generating unit have the capability to combust oil (Distillate #2 or Residual #4 or #6)?

YES _____ NO _____

If YES, proceed to Question (H).

If NO, proceed to Question (K).

(H) Has a Distillate #2 or Residual #4 or #6 oil with a Sulfur content greater than 0.5 weight % been combusted in the new steam generating unit?

YES _____ NO _____

If YES, place an “N1", “N2", “N3" or “N4" (according to the priority rank of the violation) in “Rank” box 16A on the Compliance Status Report form, proceed to Question (I).

If NO, place a “C” in “Rank” box 16A on the Compliance Status Report form, proceed to Question (I).

(I) Does the new small steam generating unit (boiler) have the ability to combust a Residual #4 or #6 Fuel Oil, Coal or Wood and have a maximum design heat input capacity greater than 8.7 Megawatts (30 million Btu/hour)?

YES _____ NO _____

If YES, proceed to Question (J).

If NO, proceed to Regulation 17.

(J) Has the facility installed, calibrated, maintained and operated a Continuous Emissions Monitoring System for measuring opacity (visible emissions) discharged to the atmosphere?

YES _____ NO _____

If YES, place a “C” in “Rank” box 16A on the Compliance Status Report form, proceed to Regulation 17.

If NO, place an “N1", “N2", “N3" or “N4" (according to the priority rank of the violation) in “Rank” box 16A on the Compliance Status Report form, proceed to Regulation 17.

REGULATION 16A: NEW SOURCE PERFORMANCE STANDARDS FOR SMALL STEAM GENERATING UNITS

LEGAL CITATION: 40 CFR 60 Subpart Dc

ABSTRACT OF LAW/REGULATION:

Subpart Dc regulates the standard of performance for small industrial-commercial-institutional steam generating units. Depending upon size of the new/reconstructed boiler and fuels combusted in the device various standards apply. Requirements for Sulfur Dioxide and Particulate Matter standards range from monitoring and fuel selection/sampling to installation and maintenance of Continuous Emission Monitor Systems (CEMS).

APPLICABILITY:

1. New, modified or reconstructed boilers that are installed/reconstructed after June 9, 1989 and have a maximum design heat input capacity between 2.9 Megawatts (10 million Btu/hour) and 29 Megawatts (100 million Btu/hour).
2.
3. Boilers that meet the applicability under paragraph 1 are not subject to the sulfur dioxide (SO_2) or particulate matter (PM) emission limits, performance testing or monitoring requirements under this Subpart during periods of combustion research (See definition of "combustion research").

PROHIBITIONS AND REQUIREMENTS:

Notification and Record Keeping

1. The owner shall submit to the Administrator (EPA) written notification as follows:

   a. A notification of the date construction, or reconstruction, of a boiler begins, postmarked no later than 30 days after that date.

   b. A notification of the actual date of initial startup of the boiler, postmarked no later than 15 days after that date.

   c. A notification of any physical or operational change to an existing boiler that may increase the emission rate of any air pollutant to which a standard applies (ie. SO_2 or PM). This letter should be postmarked 60 days prior to the change or as soon as practicable and must include the exact changes being made, present and proposed control systems if any, productive capacity before and after the change and the expected date of completion of the change.
   d. A notification of the date upon which demonstration of the CEMS performance begins as outlined in 40CFR60.13(c), postmarked no later than 30 days prior to the start of the demonstration.
   e. A notification of the anticipated date for conducting the opacity observations required by 40CFR60.11(e)(1) of this part , postmarked no later than 30 days prior to the day of observations.
   f. A notification that Continuous Opacity Monitor System (COMS) data results will be used to determine compliance with the applicable opacity standard during a performance test required by 40CFR60.8 in lieu of Method 9 observation data as allowed by 40CFR60.11(e)(5) of this part, postmarked no later than 30 days prior to the performance test.

2. The owner will maintain records of the occurrence and duration of any startup, shutdown or malfunction in the operation of the affected boiler; any malfunction of air pollution control equipment or any periods where a COMS or CEMS is inoperative.
3. Each owner required to install a COMS/CEMS must submit excess emission and monitoring systems performance reports and/or summary report forms (See Figure 16A.1) to EPA semi-annually. All reports must be postmarked by the 30th day following the end of each six (6) month period. Written reports of excess emissions must include the following:

   a. The magnitude of excess emissions computed in accordance with 40CFR60.13(h), any conversion factors used and the date and time of the start and finish of each time period of excess emissions as well as the amount of time the boiler was in use during that reporting period.

b. Specific identification of each period of excess emissions that occurs during startups, shutdowns and malfunctions of the boiler unit as well as the nature and cause of any malfunction, the corrective action taken or preventative measures adopted.

c. The date and time identifying each period during which the CEMS/COMS was inoperative except zero and span checks as well as the nature of repairs or adjustments.

d. When no excess emissions have occurred or the CEMS/COMS has been inoperative, repaired or adjusted, such information must be stated in the report.

4. The summary report form must contain the information and be in the format shown in Figure 16A.1 unless otherwise specified by EPA. One summary report must be submitted for each pollutant monitored at each affected unit.

1. If the total duration of excess emissions for the reporting period is less than 1% of the total operating time for the reporting period and CEMS/COMS downtime is less than 5% of the total operating time for the reporting period, only the summary report form shall be submitted and the excess emission report need not be submitted unless requested by EPA.

2. If the total duration of excess emissions for the reporting period is 1% or greater of the total operating time for the reporting period or the total CEMS/COMS downtime is 5% or greater of the total operating time for the reporting period, the summary report form and excess emission report shall both be submitted.

5. a. An owner or operator who is required to submit excess emissions and monitoring systems performance reports (and summary reports) on a quarterly (or more frequent) basis may reduce the frequency of reporting for that standard to semiannual if the following conditions are met:
1. For 1 full year (e.g., 4 quarterly or 12 monthly reporting periods) the affected facility's excess emissions and monitoring systems reports submitted to comply with a standard under this part continually demonstrate that the facility is in compliance with the applicable standard.
2. The owner continues to comply with all record keeping and monitoring requirements specified in this subpart and the applicable standard.
3. The EPA does not object to a reduced frequency of reporting for the affected facility.

6. Any owner must maintain a file of all measurements, including continuous monitoring system, monitoring device, and performance testing measurements; all continuous monitoring system performance evaluations; all continuous monitoring system or monitoring device calibration checks; adjustments and maintenance performed on these systems or devices; and all other information required by this part recorded in a permanent form suitable for inspection. The file must be retained for at least two years following the date of such measurements, maintenance, reports, and records.

Performance tests

Within 60 days after achieving the maximum production rate at which the boiler will be operated, but not later than 180 days after initial startup of such facility the owner or operator of such facility shall conduct performance tests for each applicable standard and furnish the EPA a written report of the results of such performance tests.

Standard for sulfur dioxide

1. On and after the date on which the performance test is completed or required to be completed under §60.8 of this part, whichever comes first, no owner or operator of an affected boiler shall cause to be combusted in the boiler a fuel oil that has greater than 0.5 weight percent sulfur.

2. Fuel oil sulfur limits may be determined based on a certification from the fuel supplier, as described under §60.48c(f)(1) or (2) as applicable. Fuel supplier certification must include the following information:

a. For distillate oil (fuel oil #2)
1. Name of oil supplier
2. A statement from supplier that the oil complies with the specifications under the definition of distillate oil in §60.41c

b. For residual oil (fuel oil #4 or #6)
    1. Name of oil supplier
    2. Location of the oil when sample was drawn
        a. As delivered
        b. Oil in storage at supplier
        c. Oil in storage at refinery
        d. Other location
    3. The sulfur content of the oil
    4. The method used to determine the sulfur content of the oil

3. The SO_2 emission limits and fuel oil sulfur limits under this section (contained within Federal Regulation 40 CFR 60.42c) apply at all times including periods of start-up, shutdown and malfunction.

Standard for particulate matter

1. On and after the date on which the initial performance test is completed or is required to be completed under §60.8 of this part, whichever comes first, no owner or operator of an affected facility which combusts coal, wood or oil and a heat capacity greater than 8.7 Megawatts (30 million Btu/hour) shall cause to be discharged into the atmosphere from that affected facility any gases that exhibit greater than 20 percent opacity (6-minute average), except for one 6-minute period per hour of not more than 27 percent opacity.

2. The owner or operator of an affected facility that combusts coal, wood or residual oil (fuel oil #4 or #6) and a heat capacity greater than 8.7 Megawatts (30 million Btu/hour) shall install, calibrate, maintain and operate a CEMS/COMS (Continuous Emission Monitoring System/Continuous Opacity Monitoring System) for measuring the opacity of the emissions discharged to the atmosphere and record the output of the system.

3. The PM emission limits and opacity standards under this section (contained within Federal Regulation 40 CFR 60.43c) apply at all times including periods of start-up, shutdown and malfunction.

Figure 16A.1
Summary Report-Gaseous and Opacity Excess Emission and Monitoring System Performance

Pollutant (Circle One-SO_2 NOX TRS H_2S CO Opacity)
Reporting period dates: From _____ to _____
Company:
Emission Limitation
Address:
Monitor Manufacturer and Model No.
Date of Latest CMS Certification or Audit
Process Unit(s) Description:
Total source operating time in reporting period [1]

Emission data summary [1]	CMS performance summary [1]
1. Duration of excess emissions in reporting period due to: a. Startup/shutdown _____ b. Control equipment problems_____ c. Process problems _____ d. Other known causes _____ e. Unknown causes _____ 2. Total duration of excess emission 3. Total duration of excess emissions x (100) [Total source operating time] _____%[2]	1. CMS downtime in reporting period due to: a. Monitor equipment malfunctions _____ b. Non-Monitor equipment malfunctions _____ c. Quality assurance calibration _____ d. Other known causes _____ e. Unknown causes _____ 2. Total CMS Downtime _____ 3. [Total CMS Downtime] x (100) [Total source operating time] _____%[2]

[1] For opacity, record all times in minutes. For gases, record all times in hours.
[2] For the reporting period: If the total duration of excess emissions is 1 percent or greater of the total operating time or the total CMS downtime is 5 percent or greater of the total operating time, both the summary report form and the excess emission report described in §60.7(c) shall be submitted.
On a separate page, describe any changes since last quarter in CMS, process or controls.

I certify that the information contained in this report is true, accurate, and complete.

Name

Signature

Title

Date

DEFINITIONS:

Annual capacity factor means the ratio between the actual heat input to a steam generating unit from an individual fuel or combination of fuels during a period of 12 consecutive calendar months and the potential heat input to the steam generating unit from all fuels had the steam generating unit been operated for 8,760 hours during that 12-month period at the maximum design heat input capacity. In the case of steam generating units that are rented or leased, the actual heat input shall be determined based on the combined heat input from all operations of the affected facility during a period of 12 consecutive calendar months.

Coal means all solid fuels classified as anthracite, bituminous, subbituminous, or lignite by the American Society for Testing and Materials in ASTM D388-77, "Standard Specification for Classification of Coals by Rank" (incorporated by reference-see §60.17); coal refuse; and petroleum coke. Synthetic fuels derived from coal for the purpose of creating useful heat, including but not limited to solvent-refined coal, gasified coal, coal-oil mixtures, and coal-water mixtures, are included in this definition for the purposes of this subpart.

Coal refuse means any by-product of coal mining or coal cleaning operations with an ash content greater than 50 percent (by weight) and a heating value less than 13,900 kilojoules per kilogram (kJ/kg) (6,000 Btu per pound (Btu/lb) on a dry basis.

Cogeneration steam generating unit means a steam generating unit that simultaneously produces both electrical (or mechanical) and thermal energy from the same primary energy source.

Combined cycle system means a system in which a separate source (such as a stationary gas turbine, internal combustion engine, or kiln) provides exhaust gas to a steam generating unit.

Combustion research means the experimental firing of any fuel or combination of fuels in a steam generating unit for the purpose of conducting research and development of more efficient combustion or more effective prevention or control of air pollutant emissions from combustion, provided that, during these periods of research and development, the heat generated is not used for any purpose other than preheating combustion air for use by that steam generating unit
(i.e., the heat generated is released to the atmosphere without being used for space heating, process heating, driving pumps, preheating combustion air for other units, generating electricity, or any other purpose).

Conventional technology means wet flue gas desulfurization technology, dry flue gas desulfurization technology, atmospheric fluidized bed combustion technology, and oil hydrodesulfurization technology.

Distillate oil means fuel oil that complies with the specifications for fuel oil numbers 1 or 2, as defined by the American Society for Testing and Materials in ASTM D396-78, "Standard Specification for Fuel Oils" (incorporated by reference-see §60.17).

Dry flue gas desulfurization technology means a sulfur dioxide (SO_2) control system that is located between the steam generating unit and the exhaust vent or stack, and that removes sulfur oxides from the combustion gases of the steam generating unit by contacting the combustion gases with an alkaline slurry or solution and forming a dry powder material. This definition includes devices where the dry powder material is subsequently converted to another form. Alkaline reagents used in dry flue gas desulfurization systems include, but are not limited to, lime and sodium compounds.

Duct burner means a device that combusts fuel and that is placed in the exhaust duct from another source (such as a stationary gas turbine, internal 117 combustion engine, kiln, etc.) to allow the firing of additional fuel to heat the exhaust gases before the exhaust gases enter a steam generating unit.

Emerging technology means any SO_2 control system that is not defined as a conventional technology under this section, and for which the owner or operator of the affected facility has received approval from the Administrator to operate as an emerging technology under §60.48c(a)(4).

Federally enforceable means all limitations and conditions that are enforceable by the Administrator, including the requirements of 40 CFR Parts 60 and 61, requirements within any applicable State implementation plan, and any permit requirements established under 40 CFR 52.21 or under 40 CFR 51.18 and 40 CFR 51.24.

Fluidized bed combustion technology means a device wherein fuel is distributed onto a bed (or series of beds) of limestone aggregate (or other sorbent materials) for combustion; and these materials are forced upward in the device by the flow of combustion air and the gaseous products of combustion. Fluidized bed combustion technology includes, but is not limited to, bubbling bed units and circulating bed units.

Fuel pretreatment means a process that removes a portion of the sulfur in a fuel before combustion of the fuel in a steam generating unit.

Heat input means heat derived from combustion of fuel in a steam generating unit and does not include the heat derived from preheated combustion air, recirculated flue gases, or exhaust gases from other sources (such as stationary gas turbines, internal combustion engines, and kilns).

Heat transfer medium means any material that is used to transfer heat from one point to another.

Initial Notification means any number of letters submitted to both the Environmental Protection Agency regional office and the New York State Department of Environmental Conservation regional office that contains information pertinent to the proposal, construction or initial start-up of an affected facility, a modification to a boiler, a demonstration of CEMS performance, the anticipated date for opacity observations or any other such notification as outlined in the section.

Maximum design heat input capacity means the ability of a steam generating unit to combust a stated maximum amount of fuel (or combination of fuels) on a steady state basis as determined by the physical design and characteristics of the steam generating unit.

Natural gas means (1) a naturally occurring mixture of hydrocarbon and nonhydrocarbon gases found in geologic formations beneath the earth's surface, of which the principal constituent is methane, or (2) liquefied petroleum (LP) gas, as defined by the American Society for Testing and Materials in ASTM D1835-86, "Standard Specification for Liquefied Petroleum Gases" (incorporated by reference-see §60.17).

Noncontinental area means the State of Hawaii, the Virgin Islands, Guam, American Samoa, the Commonwealth of Puerto Rico, or the Northern Mariana Islands.

Oil means crude oil or petroleum, or a liquid fuel derived from crude oil or petroleum, including distillate oil and residual oil.

Potential sulfur dioxide emission rate means the theoretical SO_2 emissions (nanograms per joule [ng/J], or pounds per million Btu [lb/million Btu] heat input) that would result from combusting fuel in an uncleaned state and without using emission control systems.

Process heater means a device that is primarily used to heat a material to initiate or promote a chemical reaction in which the material participates as a reactant or catalyst.

Residual oil means crude oil, fuel oil that does not comply with the specifications under the definition of distillate oil, and all fuel oil numbers 4, 5, and 6, as defined by the American Society for Testing and Materials in ASTM D396-78, "Standard Specification for Fuel Oils" (incorporated by reference-see §60.17).

Steam generating unit means a device that combusts any fuel and produces steam or heats water or any other heat transfer medium. This term includes any duct burner that combusts fuel and is part of a combined cycle system. This term does not include process heaters as defined in this subpart.

Steam generating unit operating day means a 24-hour period between 12:00 midnight and the following midnight during which any fuel is combusted at any time in the steam generating unit. It is not necessary for fuel to be combusted continuously for the entire 24-hour period.

Wet flue gas desulfurization technology means an SO_2 control system that is located between the steam generating 118 unit and the exhaust vent or stack, and that removes sulfur oxides from the combustion gases of the steam generating unit by contacting the combustion gases with an alkaline slurry or solution and forming a liquid material. This definition includes devices where the liquid material is subsequently converted to another form. Alkaline reagents used in wet flue gas desulfurization systems include, but are not limited to, lime, limestone, and sodium compounds.

Wet scrubber system means any emission control device that mixes an aqueous stream or slurry with the exhaust gases from a steam generating unit to control emissions of particulate matter (PM) or SO_2.

Wood means wood, wood residue, bark, or any derivative fuel or residue thereof, in any form, including but not limited to sawdust, sanderdust, wood chips, scraps, slabs, millings, shavings, and processed pellets made from wood or other forest residues.

NYSDEC CONTACT: TELEPHONE NUMBER

Mike Jennings 518/402-8403

AIR RESOURCES

REGULATION 17 QUESTIONS: **SURFACE COATING PROCESSES**

Note: This regulation is being revised and the revisions may become effective soon. Please contact the NYSDEC for more details.

If your facility, project or operation (f/p/o), is subject to this regulation, it is also subject to Regulation 08A.

(A) Did you paint or apply any surface coatings described in Table 17-1 or 17-2 during the reporting year?

YES _____ NO _____

If NO, leave "Rank" box 17 blank on the “Compliance Status Report”, proceed to Regulation 18.

If Yes, proceed to question (B).

(B) Is your f/p/o located in the New York City Metropolitan Area?

YES _____ NO_____

If YES, proceed to question (M).

If NO, proceed to question (C).

(C) Is your f/p/o located in the Lower Orange County Metropolitan Area?

YES _____ NO _____

If NO, proceed to question (I).

If YES, proceed to question (D).

(D) Does your f/p/o include a Group I type surface coating activity?

YES _____ NO _____

If NO, your f/p/o must include only Group II type surface coating activities, proceed to question (G).

If YES, proceed to question (E).

(E) Does your annual potential to emit VOCs from all sources, regardless of process type, but excluding combustion installations, equal or exceed 10 tons per year?

YES _____ NO _____

If NO, place a "C" in "Rank" box 17 and proceed to Regulation 18.

(F) If YES, did you submit a compliance plan to NYSDEC by November 15, 1993?

YES _____ NO _____

If YES, place a "C" in "Rank" box 17 and proceed to question (M).

If NO, place an "N1", "N2", "N3" or "N4" (according to the priority rank of the violation) in "Rank" box 17 on the “Compliance Status Report”, complete a new "Non-Compliance Report & Remedial Plan", then proceed to question (M).

(G) Does your annual potential to emit VOCs from all sources, regardless of process type, but excluding combustion installations, equal or exceed 25 tons per year?

YES_____ NO _____

If NO, place a "C" in "Rank" box 17 and proceed to Regulation 18.

(H) If YES, did you submit a compliance plan to NYSDEC by November 15, 1993?

YES _____ NO _____

If YES, place a "C" in "Rank" box 17 and proceed to question (M).

If NO, place an "N1", "N2", "N3" or "N4" (according to the priority rank of the violation) in "Rank" box 17 on the "Compliance Status Report", complete a new "Non-Compliance Report & Remedial Plan", then proceed to question (M).

(I) If you have <u>any</u> Group I type processes, does your annual potential to emit VOCs from all sources, regardless of process type, but excluding combustion installations, equal or exceed 10 tons per year?

YES_____ NO _____

If NO, place a "C" in "Rank" box 17 and proceed to Regulation 18.

(J) If YES, did you submit a compliance plan to NYSDEC by November 15, 1993?

YES _____ NO _____

If YES, place a "C" in "Rank" box 17 and proceed to question (M).

If NO, place an "N1", "N2", "N3" or "N4" (according to the priority rank of the violation) in "Rank" box 17 on the "Compliance Status Report", complete a new "Non-Compliance Report & Remedial Plan", then proceed to question (M).

(K) If you have <u>only</u> Group II type processes, does your annual potential to emit VOCs from all sources, regardless of process type, but excluding combustion installations equal or exceed 50 tons per year?

YES _____ NO _____

If NO, place a "C" in "Rank" box 17 and proceed to Regulation 18.

(L) If YES, did you submit a compliance plan to NYSDEC by November 15, 1993?
YES _____ NO _____

If YES, place a "C" in "Rank" box 17 and proceed to question (M).

If NO, place an "N1", "N2", "N3" or "N4" (according to the priority rank of the violation) in "Rank" box 17 on the "Compliance Status Report", complete a new "Non-Compliance Report & Remedial Plan", then proceed to question (M).

(M) Do you have a Title V facility permit or State facility permit?

YES _____ NO _____

If NO, proceed to question (N).

If YES, proceed to question (O).

(N) Are you exempt from obtaining a Title V facility permit or State facility permit? (See Regulation 17 for exemptions.)

YES _____ NO _____

If YES, place a check in the "Approval" box 17 on the “Compliance Status Report”, proceed to question (O).

If NO, place an "N1", "N2", "N3" or "N4" (according to the priority rank of the violation) in "Rank" box 17 and leave the "Approval" box 17 blank on the “Compliance Status Report”, complete a new "Non-Compliance Report & Remedial Plan", then proceed to question (O).

(O) Do you maintain certification from the coating supplier/manufacturer that verifies the parameters used to determine VOC for each coating, and do you maintain purchase, usage and/or production records of the coating materials used at your f/p/o?

YES _____ NO _____

If YES, Proceed to question (P).

If NO, place an "N1", "N2", "N3" or "N4" (according to the priority rank of the violation) in "Rank" box 17 on the “Compliance Status Report”, complete a new "Non-Compliance Report & Remedial Plan", then proceed to question (P).

(P) Did your f/p/o use a surface coating with a VOC content that exceeded the VOC limits set forth in Table 17-1 or 17-2?

YES _____ NO _____

If NO, place a "C" in "Rank" box 17 and proceed to Regulation 18.

If YES, place an "N1", "N2", "N3" or "N4" (according to the priority rank of the violation) in "Rank" box 17 on the “Compliance Status Report”, complete a new "Non-Compliance Report & Remedial Plan", then proceed to Regulation 18.

REGULATION 17: **SURFACE COATING PROCESSES**

LEGAL CITATION: ECL, §§ 3-0301, 19-0301, 19-0303, ECL Article 19 and 6 NYCRR Parts 200, 201 & 228.

Note: This regulation is being revised and the revisions may become effective soon. Please contact the NYSDEC for more details.

ABSTRACT OF LAW/REGULATIONS:

Part 228 regulates the emissions of volatile organic compounds (VOC) from surface coating operations from various processes. Sources in the New York City Metropolitan Area (NYCMA), are required to meet the VOC limits for various source categories regardless of source size. Special requirements for reporting and maintenance of emission records are provided. Exemptions for various sources are allowed, as specified.

In areas other than the NYCMA, surface coating processes of the type described by the regulation are only subject to these requirements if the facility's annual potential to emit VOCs from all sources regardless of process type, but excluding combustion installations, equal or exceed 10 tons for processes in Table 17-1 and 25 tons [Lower Orange County Metropolitan Area(LOCMA)] and 50 tons (located outside NYCMA and LOCMA) for processes in Table 17-2. Special requirements for reporting and maintenance of emission records are provided. Exemptions for various sources are allowed, as specified.

Surface coating processes for the following operations are covered under this regulation as follows:

Group I sources: large appliances, magnet wire insulation, metal furniture, metal cans, fabric, vinyl, paper, automobile assembly, coil, and miscellaneous metal parts;

Group II sources: wood, tablet, glass, leather, miscellaneous plastic parts, aerospace, motor vehicle refinishing, and urethane.

REQUIRED APPROVAL:

Owners or operators of facilities, projects or operations involving these processes must have a Title V facility permit or State facility permit. With the application for a Title V facility permit or State facility permit, the owner or operator must include the method or methods that will be used to comply with the requirements of the regulation.

Control Requirements

This rule requires either the use of complying inks/adhesives or the use of Reasonably Available Control Technology (RACT) to control emissions of VOCs according to the specifics in the rule.

EXEMPTIONS:

This regulation does not apply to the following coatings:

1. research and development processes involving surface coating that produce a product for study rather than eventual sale;

2. adhesives and materials used to prepare a surface for adhesion where the coating is manually applied without the use of mechanical means;

3. sealant or filler used to seal or fill seams, joints, holes and minor imperfections of the surface where the coating is manually applied without the use of mechanical means;

4. anti-corrosive wax and heat resistant anti-corrosive coatings used in the automobile manufacturing industry to protect floor opening seam areas and floor pan areas respectively;

5. clear or translucent coatings, applied to clear or translucent plastic substrates that are utilized in the manufacture of backlighted outdoor signs;

6. coatings that are applied manually with a brush, roller or an aerosol spray can;

7. aerospace coatings that are utilized for pretreatment, adhesive bonding primers, flight testing, fuel tanks, electric/radiation effects, space vehicles and temporary mechanical maskants/high temperature heat treatment;

8. clear and pearlescent coatings applied to plastic fashion accessories used in the fashion industry;

9. coatings that are applied to an optical lens at facilities whose annual potential to emit VOCs are less than 10 tons;

10. reflective coatings applied to highway cones;

11. electromagnetic interference/radio frequency interference (EMI/RFI) coatings applied on plastic electronic equipment to provide shielding against electromagnetic interference, radio frequency interference, or static charge;

12. electric dissipating coatings that rapidly dissipate a high-voltage electric charge applied on plastic parts; or

13. low-use specialty coatings where the plant-wide total annual usage is equal to or less than 55 gallons provided that:

    a. each specialty coating must be approved by the NYSDEC prior to application;

    b. records that document the annual usage must be maintained on an as used basis in a format acceptable to the NYSDEC;

    c. the annual potential to emit from low-use specialty coatings does not exceed five percent of the facility's total annual potential to emit; and

    d. the facility's, project's or operation's permits are modified to identify any coating(s) approved by the NYSDEC that are exempt from this regulation.

DEFINITIONS:

Group I Sources - Large appliances, magnet wire insulation, metal furniture, metal cans, fabric, vinyl, paper, automobile assembly, coil, miscellaneous metal parts, and wood surfaces.

Group II Sources - Wood, tablet, glass, leather, miscellaneous plastic parts, aerospace, motor vehicle refinishing and urethane.

Lower Orange County Metropolitan Area - includes the towns of Blooming Grove, Chester, Highlands, Monroe, Tuxedo, Warwick and Woodbury.

New York City Metropolitan Area - includes the counties of Bronx, Kings (Brooklyn), New York (Manhattan), Nassau, Queens, Richmond (Staten Island), Rockland, Suffolk, and Westchester.

Potential to emit - The maximum capacity of an air contamination source to emit any air contaminant under its physical and operational design. Any physical or operational limitation on the capacity of the facility or air contamination source to emit any air contaminant, including air pollution control equipment and/or restriction on the hours of operation, or type of material combusted, stored or processed, shall be treated as part of the design only if the limitation is contained in enforceable permit conditions. Fugitive emissions, to the extent that they are quantifiable, are included in determining the potential to emit.

NOTE: See Regulation 6 for list of Hazardous Air Pollutants.

NYSDEC CONTACT: TELEPHONE NUMBER

Bureau of Stationary Sources 518/402-8403

TABLE 17-1
GROUP "I" VOLATILE ORGANIC COMPOUND (VOC) LIMITS
FOR SURFACE COATING PROCESSES

APPLIES STATEWIDE **PROCESS, EMISSION SOURCE AND DESCRIPTION OF PRODUCTS**	**MAXIMUM PERMITTED POUNDS OF VOLATILE ORGANIC COMPOUNDS PER GALLON (MINUS WATER AND EXCLUDED VOC) OF COATING AT APPLICATION**
Large appliance coating lines	
1. Residential and commercial washers, dryers, ranges, ovens, refrigerators, freezers, water heaters, dishwashers, trash compactors, air conditioners.	2.8
Magnet wire insulation coating lines	
1. Enameling or varnish of aluminum or copper wire for use in electrical machinery to create an electrical field.	1.7
Metal furniture coating lines	
1. Metal parts used in household, business and institutional furniture such as but not limited to tables, chairs, wastebaskets, beds, lamps lighting fixtures, shelves, room dividers, bathroom dividers.	3.0
Metal can coating lines	
1. Sheet basecoat -- exterior and interior over-varnish.	2.8
2. Two-piece can exterior (basecoat and over-varnish).	2.8
3. Two- and three-piece can interior body spray.	4.2
4. Two-piece can exterior end (spray or roll coat).	4.2
5. Three-piece can side-seam spray.	5.5
6. End sealing compound.	3.7
Fabric coating lines	
1. Fabric coatings, such as but not limited to: rubber, used for rainwear, tents, industrial gaskets.	2.9
Vinyl coating lines	
1. Printing, decorations or protecting coats over vinyl-coated fabric or vinyl sheets.	3.8
Paper coating lines	
1. Paper, pressure-sensitive tape regardless of substance (including paper, fabric or plastic film) and related web coating processes on plastic film such as but not limited to: typewriter ribbons, photographic film and magnetic tape. Also metal foil gift wrap and packaging.	2.9
Automobile assembly coating lines	
1. Automobiles and light-duty trucks, exterior and main body sheet metal parts excluding nonmetallic parts.	
a. Prime coat.	1.9
b. Primer-surfacer.	2.8
c. Top coats.	2.8
d. Repair coat.	4.8
Coil coating lines	
1. Flat metal sheet from a coil or roll which is coated and later used for items such as but not limited to: cans, appliances, roof decks, siding, cars, gutters.	2.6

Coating lines for miscellaneous metal parts and products

1.	Large farm machinery, small farm and garden machinery, small appliances, commercial and office machinery, computer equipment, industrial machinery, fabricated metal products and any other industrial category which coats miscellaneous metal machinery, instruments or equipment, excluding all nonmetallic parts.	
	a. Clear coatings.	4.3
	b. Coating application system is air dried or forced warm air dried at temperature up to 90° C.	3.5
	c. Extreme performance coatings designed for harsh exposure or extreme environmental conditions.	3.5
	d. All other miscellaneous metal parts and products coatings.	3.0

Coating lines for flat wood surface finishing

1.	Printed interior panels made of hardwood, plywood and thin particle board.	2.5
2.	Natural finish hardwood plywood panels.	3.3
3.	Hardboard paneling.	3.6

TABLE 17-2
GROUP "II" VOLATILE ORGANIC COMPOUND (VOC) LIMITS FOR SURFACE COATING PROCESSES
APPLIES STATEWIDE

Process, Emission Source and Description of Products	Maximum Permitted Pounds of VOCs/Gallon (Minus Water & Excluded VOC) of Coating at Application
Wood coating lines	
1. Coated room furnishings, such as but not limited to cabinets (kitchen, bath and vanity), tables, chairs, beds, sofas, shutters, art objects and any other coated product made of solid wood composition or wood material.	
a. Semi-transparent stain.	6.8
b. Wash coat.	6.1
c. Opaque stain.	4.7
d. Sealer.	5.6
e. Pigmented coat.	5.0
f. Clear topcoat.	5.6
Tablet coating lines	
1. Formed pharmaceutical products, such as but not limited to pills, capsules.	5.5
Glass coating lines	
1. Lamps, incandescent bulbs and miscellaneous glass products.	3.0
2. Fluorescent light bulbs.	4.1
Leather coating lines	
1. Leather substrates, such as but not limited to clothing, furniture, automobile components.	5.8
Miscellaneous plastic parts coating lines	
1. Plastic parts and products.	
a. Color topcoat.	3.8
b. Clear coat.	4.8
Aerospace coating lines	
1. Aerospace components, including but not limited to assembly of parts or completed unit of any aircraft, helicopter or missile.	
a. Primer.	2.9
b. Topcoat.	5.1
c. Maskant for chemical processing.	5.1
Motor vehicle refinishing	
1. Automobile, truck or bus coating, including but not limited to repair coats, repainting and touch-ups, except at automobile assembly plants.	
a. Repair/touch-ups.	6.2
b. Overall (coating entire vehicle).	5.0
Urethane coating lines	
1. Urethane substrates more than 50 micrometers (0.002 inches) thick, except for resilient floor covering and flexible packaging.	3.8

FISH, WILDLIFE AND MARINE RESOURCES SCREENING QUESTIONS

(FWM-1) Do you take or allow the taking of wildlife at your facility, project or operation (f/p/o)?

YES _____ NO _____

If YES, Regulation 18 may apply to your f/p/o. Proceed to Question (FWM-2).

If NO, proceed to Question (FWM-2).

(FWM-2) Do you operate an institution whose patients, inmates, or resident guests are authorized to fish?

YES _____ NO _____

If YES, Regulation 19 applies to your f/p/o. Proceed to Question (FWM-3).

If NO, proceed to Question (FWM-3).

(FWM-3) Do you have any wetlands or areas adjacent to wetlands on or adjacent to the property of your f/p/o?

YES _____ NO _____

If YES, Regulation 20 may apply to your f/p/o. Proceed to Question (FWM-4).

If NO, proceed to Question (FWM-4).

(FWM-4) Are, or have, any fish, fish eggs or wildlife been released at your f/p/o?

YES _____ NO _____

If YES, Regulation 21 may apply to your f/p/o. Proceed to (FWM-5).

If NO, proceed to Question (FWM-5).

(FWM-5) Did anyone take, transport, possess, or sell any endangered or threatened species of fish, shellfish, crustacea, or wildlife or parts of animals at your f/p/o? *(See Regulation 22, Table 22 for a list of endangered and threatened species).*

YES _____ NO _____

If YES, Regulation 22 may apply to your f/p/o. Proceed to Question (FWM-6).

If NO, proceed to Question (FWM-6).

(FWM-6) Have you disturbed, constructed, maintained, excavated, filled or otherwise altered in any way any streams, creeks, lakes, ponds, rivers, or other bodies of water at your f/p/o?

YES _____ NO _____

If YES, Regulation 23 may apply to your f/p/o. Proceed to Question (FWM-7).

If NO, proceed to Question (FWM-7).

(FWM-7) Did anyone obtain, collect, possess, sell for propagation, have a scientific project or an exhibit of any fish, wildlife, shellfish, crustacea, aquatic insects, birds' nests, or eggs at your f/p/o?

YES _____ NO _____

If YES, Regulation 24 may apply to your f/p/o. Proceed to Question (FWM-8).

If NO, proceed to Question (FWM-8).

(FWM-8) Did you perform any development activities to the land or modify any uses of the land in any designated wild, scenic, and recreational river system areas at your f/p/o? *(See Regulation 40 for list of wild, scenic and recreational river system areas).*

YES _____ NO _____

If YES, Regulation 40 may apply to your f/p/o. Proceed to (FWM-9).

If NO, proceed to Question (FWM-9).

(FWM-9) Is your f/p/o located in New York's Marine and Coastal District?

NOTE: The Marine and Coastal District is in the counties of Bronx, Kings (Brooklyn), Nassau, New York (Manhattan), Queens, Richmond (Staten Island), Rockland, Suffolk, or Westchester.

YES ____ NO ____

If YES, proceed to Question (FWM-10).

If NO, proceed to Question (FWM-10).

(FWM-10) Do you operate a marine hatchery and/or undertake on-bottom or off-bottom culture on or above underwater lands?

YES _____ NO _____

If YES, Regulation 41 may apply to your f/p/o. Proceed to Question (FWM-11).

If NO, proceed to Question (FWM-11).

(FWM-11) Do you take, import or transplant shellfish?

YES _____ NO _____

If YES, Regulation 42 may apply to your f/p/o. Proceed to Question (FWM-12).

If NO, proceed to Question (FWM-12).

(FWM-12) Are there any tidal wetlands or adjacent areas on any property at your f/p/o?

YES _____ NO _____

If YES, Regulation 43 may apply to your f/p/o. Proceed to Question (LF-1).

If NO, proceed to Question (LF-1).

FISH, WILDLIFE AND MARINE RESOURCES

REGULATION 18 QUESTIONS: **DESTRUCTIVE WILDLIFE - PERMIT TO TAKE**

(A) At your facility, project or operation (f/p/o), did you take or allow the taking of wildlife whenever it became a nuisance, destructive to property, or a threat to public health or welfare?

YES _____ NO _____

If NO, leave “Rank” box 18 blank on the Compliance Status Report form, proceed to Regulation 19.

(B) If YES, was the taking of wildlife exempt (for list of exemptions see Regulation 18, Table 18)? **NOTE**: The taking of wildlife listed in Table 18 is exempt only when such wildlife is destructive or menacing to human health and/or property.

YES _____ NO _____

If YES, place a "C" in “Rank” box 18 and place a check in the “Approval” box 18 on the Compliance Status Report form, then proceed to Regulation 19.

(C) If NO, did you acquire a permit from NYSDEC?

YES _____ NO _____

If YES, place a "C" in “Rank” box 18 and place a check in the “Approval” box 18 on the Compliance Status Report form, then proceed to Regulation 19.

If NO, place an"N1", "N2", "N3" or "N4" (according to the priority rank of the violation) in “Rank” box 18 and leave the “Approval” box 18 blank on the Compliance Status Report form, update or complete a new Non-Compliance Report & Remedial Plan form, then proceed to Regulation 19.

REGULATION 18: **DESTRUCTIVE WILDLIFE - PERMIT TO TAKE**

LEGAL CITATION: ECL Sections 11-0521 & 11-0523.

ABSTRACT OF LAW/REGULATIONS:

The NYSDEC may direct any Conservation Officer, or issue a permit to any person, to take any wildlife at any time the wildlife becomes a nuisance, destructive to public or private property or a threat to public health or welfare. Wildlife so taken shall be disposed of as the NYSDEC directs.

REQUIRED APPROVAL:

A permit may be required to take wildlife that become a nuisance, are destructive to public or private property, or are a threat to public health and welfare. Permits are required under this section to remove nuisance beavers, beavers so taken will be disposed of as the NYSDEC directs. Also, permits are required to take or harass other protected species under this section. Application for permits should be made to the NYSDEC Regional Offices.

TABLE 18

ANIMALS THAT MAY BE KILLED WITHOUT A PERMIT WHEN DESTRUCTIVE OR MENACING TO HUMAN HEALTH AND PROPERTY INCLUDE:

1. unprotected wildlife such as mice, voles, shrews, chipmunks, flying squirrels, red squirrels, porcupine and woodchucks;
2. starlings, common crows, and pigeons;
3. bears (only when killing livestock or destroying an apiary);
4. redwinged blackbirds, common grackles, cowbirds (only when destroying crops in June, July, August, September, and October);
5. varying hares, cottontail rabbits, and European hares;
6. skunks, raccoons, opossums, weasels;
7. black, grey or fox squirrels; and
8. coyote, red fox, gray fox.

All other wildlife species or situations require a permit prior to being taken.

NYSDEC CONTACT PERSON: TELEPHONE NUMBER

Lou Berchielli, Division of Fish, Wildlife & Marine Resources 518/402-8869

FISH, WILDLIFE AND MARINE RESOURCES

REGULATION 19 QUESTIONS: **STATE AGENCY FISHING PERMIT (INSTITUTIONAL)**

(A) Do you operate an institution whose patients, inmates, or resident guests are authorized to fish?

YES _____ NO _____

If NO, leave “Rank” box 19 blank on the Compliance Status Report form, proceed to Regulation 20.

(B) If YES, are the patients, inmates, or resident guests issued NYSDEC authorization forms that are countersigned by the institution's superintendent or his or her representative? [There are NO Exemptions.]

YES _____ NO _____

If YES, place a "C" in “Rank” box 19 and place a check in the “Approval” box 19 on the Compliance Status Report form, then proceed to Regulation 20.

If NO, place an "N1", "N2", "N3" or "N4" (according to the priority rank of the violation) in “Rank” box 19 and leave the “Approval” box 19 blank on the Compliance Status Report form, update or complete a new Non-Compliance Report & Remedial Plan form, then proceed to Regulation 20.

REGULATION 19: **STATE AGENCY FISHING PERMIT (INSTITUTIONAL)**

LEGAL CITATION: ECL Section 11-0707.

ABSTRACT OF LAW/REGULATION:

Patients of state or local tuberculosis sanitariums, institutions of the Offices of Mental Health, and Mental Retardation and Developmental Disabilities, rehabilitation hospitals of the Department of Health, rest camps maintained by the Division of Veteran's Affairs, or inmates of youth rehabilitation facilities of the Office of Children and Family Services or Department of Corrections, may take fish as if he/she had a valid fishing license (except no bait fish may be taken).

REQUIRED APPROVAL:

Eligible institutions must have in their possession a facility authorization from the NYSDEC. The institution must append to the authorization a list of resident patients, staff and volunteers who are eligible to fish. Institutional authorizations are available from NYSDEC (Sporting License Unit of the Division of Fish, Wildlife and Marine Resources) at 625 Broadway, Albany, New York 12233-4790, Telephone 518-402-8927.

NYSDEC CONTACT PERSON: TELEPHONE NUMBER

Peggy Sauer, Division of Fish, Wildlife and Marine Resources 518/402-8927

FISH, WILDLIFE AND MARINE RESOURCES

REGULATION 20 QUESTIONS: **FRESHWATER WETLANDS PROTECTION**

(A) Do you have any regulated freshwater wetlands or regulated adjacent areas on or adjacent to the property for this specific facility, project or operation f/p/o)?

YES _____ NO _____

If NO, leave “Rank” box 20 blank on the Compliance Status Report form, proceed to Regulation 21.

(B) If YES, did you conduct any regulated activities affecting the regulated wetland or regulated adjacent area?

YES _____ NO _____

If NO, leave “Rank” box 20 blank on the Compliance Status Report form, proceed to Regulation 21.

(C) If YES, did you obtain a permit before conducting any regulated activities affecting a designated wetland or adjacent area?

YES _____ NO _____

If YES, place a "C" in “Rank” box 20 and place a check in the “Approval” box 20 on the Compliance Status Report form, then proceed to Regulation 21.

If NO, proceed to Question (D).

(D) Are you exempt from obtaining a Permit from NYSDEC? [See Regulation 20 for exemptions.]

YES _____ NO _____

If YES, place a "C" in “Rank” box 20 and place a check in the “Approval” box 20 on the Compliance Status Report form, then proceed to Regulation 21.

If NO, place an "N1", "N2", "N3" or "N4" (according to the priority rank of the violation) in “Rank” box 20 and leave the “Approval” Box 20 blank on the Compliance Status Report form, update or complete a new Non-Compliance Report & Remedial Plan form, then proceed to Regulation 21.

REGULATION 20: **FRESHWATER WETLANDS PROTECTION**

LEGAL CITATION: ECL Article 24, 6NYCRR Parts 662, 663, 664, & 665; Executive Law, Article 27; and Adirondack Park Agency, 9NYCRR Part 578.

ABSTRACT OF LAW/REGULATIONS:

The Freshwater Wetland regulatory program is designed to prevent loss of wetlands acreage and the substantial benefits of wetlands that provide flood protection, fish and wildlife habitat, surface and groundwater quality protection, and open spaces.

To be protected under the Freshwater Wetlands Act, an area must be at least 12.4 acres (1 acre in the Adirondack Park) in area. Wetlands with "unusual local importance" based on standards in Article 24 are also regulated without having to meet the 12.4 acre threshold. Wetlands maps are maintained in each of NYSDEC's nine regions, at local government offices, and with the Adirondack Park Agency which is responsible for maintenance of the regulatory protection area within the Adirondack Park. Activities within these wetlands and in an adjacent area within 100 feet of a wetland boundary are subject to regulation. The Act authorizes NYSDEC to transfer jurisdiction to local governments; however, local governments may maintain their own wetlands regulatory program so long as it is at least as restrictive as NYSDEC's.

Regulated activities include:

1. construction of buildings, roadways, septic systems, bulkheads, dikes, dams or other structures;
2. placement of fill, excavation, dredging, mining, or grading;
3. modification, expansion, or extensive restoration of existing structures;
4. drainage, except for agricultural purposes;
5. introducing or storing chemicals, toxic substances, sewage or other pollutants;
6. installing utilities;
7. well drilling (except for an individual residence);
8. removing or breaching beaver dams;
9. clear-cutting timber;
10. clear-cutting other vegetation (except as part of an agricultural activity);
11. cutting or destruction of vegetation;
12. application of pesticides, and
13. any form of pollution.

REQUIRED APPROVAL:

All persons proposing to conduct, on wetlands or adjacent areas, activities which have not been specifically exempted, must obtain either a permit or a letter of permission.

NOTE: State and local agencies are not exempt from permit requirements under ECL Article 24.

EXEMPTIONS:

1. normal agricultural practices, except filling, clear-cutting of trees, or construction of non-agricultural structures;
2. harvesting natural wetland products;

3. recreational activities (fishing, hunting, hiking, swimming, or picnicking);

4. continuation of lawful existing land uses;

5. routine maintenance of existing structures; and

6. selective cutting of trees and harvesting fuelwood (not clear-cutting).

DEFINITIONS:

Adjacent areas: those areas of land or water that are outside a wetland and within 100 feet, measured horizontally, of the boundary of the wetland. However, NYSDEC may establish an adjacent area broader than 100 feet where necessary to protect and preserve a wetland.

Wetlands: transition areas between uplands and aquatic habitats. They are known by many names, such as marshes, swamps, bogs, wet meadows, and flats. Standing water is only one clue that a wetland may be present. Wetlands are identified on the basis of vegetation because certain types of plants outcompete others when they are in wet soils, and so are good indicators of wet conditions over time.

NYSDEC CONTACT PERSON: TELEPHONE NUMBER

Patricia Riexinger, Division of Fish, Wildlife & Marine Resources 518/402-8848

FISH, WILDLIFE AND MARINE RESOURCES

REGULATION 21 QUESTIONS: **LIBERATION OF FISH AND WILDLIFE**

(A) Are, or have, any live fish, fish eggs or wildlife been released at your facility, project or operation by an entity other than NYSDEC?

YES _____ NO _____

If NO, leave “Rank” box 21 blank on the Compliance Status Report form, proceed to Regulation 22.

(B) If YES, was a permit obtained from NYSDEC? [There are NO Exemptions.]

YES _____ NO _____

If YES, place a "C" in “Rank” box 21 and place a check in the “Approval” box 21 on the Compliance Status Report form, then proceed to Regulation 22.

If NO, place an "N1", "N2", "N3" or "N4" (according to the priority rank of the violation) in “Rank” box 21 and leave the “Approval” box 21 blank on the Compliance Status Report form, update or complete a new Non-Compliance Report & Remedial Plan form, then proceed to Regulation 22.

REGULATION 21: **LIBERATION OF FISH AND WILDLIFE**

LEGAL CITATION: ECL Section 11-0507.

ABSTRACT OF LAW/REGULATIONS:

This law prohibits the release of live fish, fish eggs, or wildlife in New York State without a permit from the NYSDEC.

REQUIRED APPROVAL:

A permit is required. Applications for these permits are available from regional NYSDEC offices and should be returned to those offices when completed.

NYSDEC CONTACT PERSON:	TELEPHONE NUMBER
Fisheries: Patrick Festa, Division of Fish, Wildlife & Marine Resources	518/402-8920
Wildlife: Randall Stumvoll, Division of Fish, Wildlife & Marine Resources	518/402-8919

FISH, WILDLIFE AND MARINE RESOURCES

REGULATION 22 QUESTIONS: **ENDANGERED/THREATENED SPECIES LICENSE**

(A) Did anyone at your facility, project or operation take, transport, possess, or sell any endangered or threatened species of fish, shellfish, crustacea, or wildlife or hides or other parts of animals listed in Regulation 22, Table 22?

YES _____ NO _____

If NO, leave “Rank” box 22 blank on the Compliance Status Report form, proceed to Regulation 23.

(B) If YES, was a license obtained from NYSDEC? [There are NO exemptions.]

YES _____ NO _____

If YES, place a "C" in “Rank” box 22 and place a check in the “Approval” box 22 on the Compliance Status Report form, then proceed to Regulation 23.

If NO, place an "N1", "N2", "N3" or "N4" (according to the priority rank of the violation) in “Rank” box 22 and leave the “Approval” box 22 blank on the Compliance Status Report form, update or complete a new Non-Compliance Report & Remedial Plan form, then proceed to Regulation 23.

FISH, WILDLIFE AND MARINE RESOURCES

REGULATION 22: **ENDANGERED/THREATENED SPECIES LICENSE**

LEGAL CITATION: ECL Section 11-0535.

ABSTRACT OF LAW/REGULATIONS:

The taking, importation, transportation, possession or sale of any endangered or threatened species of fish, shellfish, crustacea or wildlife, or hides or other parts thereof, or sale or possession with intent to sell any article made in whole or in part from the skin, hide or other parts of any endangered or threatened species of fish, shellfish, crustacea or wildlife is prohibited.

REQUIRED APPROVAL:

A license is required to take, import, transport, possess, or sell any endangered or threatened species of fish, shellfish, crustacea, or wildlife or hides or other parts of these animals. Tables 22-1 and 22-2 list such species as promulgated by the NYSDEC by regulation. Applications for licenses are available from the NYSDEC's Special Licenses Unit of the Division of Fish and Wildlife at 625 Broadway, Albany, New York 12233-4752.

DEFINITIONS:

Endangered species: those species of fish, shellfish, crustacea and wildlife designated by the NYSDEC as seriously threatened with extinction.

Threatened species: those species of fish and wildlife designated by NYSDEC which are likely to become endangered species within the foreseeable future throughout all or a significant portion of their range.

NYSDEC CONTACT PERSON: TELEPHONE NUMBER

Chris VonSchilgen, Division of Fish, Wildlife & Marine 518/402-8985

TABLE 22-1
LIST OF ENDANGERED FISH AND WILDLIFE SPECIES OF NEW YORK STATE

Molluscs:		
♦	Dwarf Wedgemussel	Alasmidonta heterodon
♦	Pink mucket	Lampsilis abrupta
♦	Clubshell	Pleurobema clava
♦	Fat pocketbook	Potamilus capax
	Rayed Bean	Villosa fabalis
•	Chittenango Ovate Amber Snail	Novisuccinea chittenangoensis
Insects:		
	Tomah Mayfly	Siphlonisca aerodromia
*♦	American Burying Beetle	Nicrophorus americanus
	Hessel's Hairstreak	Callophrys hesseli
♦	Karner Blue	Lycaeides melissa samuelis
	Regal Fritillary	Speyeria idalia
	Persius Duskywing	Erynnis persius
	Grizzled Skipper	Pyrgus centaureae wyandot
	Arogos Skipper	Atrytone arogos arogos
	Bog Buckmoth	Hemileuca species 1
	Pine Pinion Moth	Lithophane lepida lepida
Fishes:		
♦	Shortnose Sturgeon	Acipenser brevirostrum
*	Silver Chub	Macrhybopsis storeriana
	Pugnose Shiner	Notropis anogenus
	Round Whitefish	Prosopium cylindraceum
	Bluebreast Darter	Etheostoma camurum
*	Gilt Darter	Percina evides
*	Spoonhead Sculpin	Cottus ricei
	Deepwater Sculpin	Myoxocephalus thompsoni
Amphibians:		
	Tiger Salamander	Ambystoma tigrinum
	Northern Cricket Frog	Acris crepitans
Reptiles:		
	Mud Turtle	Kinosternon subrubrum
•	Bog Turtle	Clemmys muhlenbergii
♦	Atlantic Hawksbill Sea Turtle	Eretmochelys imbricata
♦	Atlantic Ridley Sea Turtle	Lepidochelys kempii
♦	Leatherback Sea Turtle	Dermochelys coriacea
	Queen Snake	Regina septemvittata
	Massasauga	Sistrurus catenatus
Birds:		
*	Golden Eagle	Aquila chrysaetos
	Peregrine FalconFalco peregrinus	
	Spruce Grouse	Falcipennis canadensis
	Black Rail	Laterallus jamaicensis
*♦	Piping Plover[1]	Charadrius melodus
*♦	Eskimo Curlew	Numenius borealis
♦	Roseate Tern	Sterna dougallii dougallii
	Black Tern	Chlidonias niger
	Short-eared Owl	Asio flammeus
	Loggerhead Shrike	Lanius ludovicianus
Mammals:		
♦	Indiana Bat	Myotis sodalis
*	Allegheny Woodrat	Neotoma magister
♦	Sperm Whale	Physeter catodon
♦	Sei Whale	Balaenoptera borealis
♦	Blue Whale	Balaenoptera musculus
♦	Finback Whale	Balaenoptera physalus
♦	Humpback Whale	Megaptera novaeangliae
♦	Right Whale	Eubalaena glacialis
*♦	Gray Wolf	Canis lupus
*♦	Cougar	Felis concolor

TABLE 22-2
LIST OF THREATENED FISH AND WILDLIFE SPECIES OF NEW YORK STATE

Molluscs:		
	Brook Floater	Alasmidonta varicosa
	Wavy-rayed Lampmussel	Lampsilis fasciola
	Green Floater	Lasmigona subviridis
Insects:		
	Pine Barrens Bluet	Enallagma recurvatum
	Scarlet Bluet	Enallagma pictum
	Little Bluet	Enallagma minisculum
* •	Northeastern Beach Tiger Beetle	Cicindela dorsalis dorsalis
	Frosted Elfin	Callophrys irus
Fishes:		
	Lake Sturgeon	Acipenser fulvescens
	Mooneye	Hiodon tergisus
*	Lake Chubsucker	Erimyzon sucetta
	Gravel Chub	Erimystax x-punctata
*	Mud Sunfish	Acantharchus pomotis
	Banded Sunfish	Enneacanthus obesus
	Longear Sunfish	Lepomis megalotis
	Longhead Darter	Percina macrocephala
	Eastern Sand Darter	Ammocrypta pellucida
	Swamp Darter	Etheostoma fusiforme
	Spotted Darter	Etheostoma maculatum
Amphibians:		
	None Listed	
Reptiles:		
	Blanding's Turtle	Emydoidea blandingii
•	Green Sea Turtle	Chelonia mydas
•	Loggerhead Sea Turtle	Caretta caretta
	Fence Lizard	Sceloporus undulatus
	Timber Rattlesnake	Crotalus horridus
Birds:		
	Pied-billed Grebe	Podilymbus podiceps
	Least Bittern	Ixobrychus exilis
•	Bald Eagle	Haliaeetus leucocephalus
	Northern Harrier	Circus cyaneus
	King Rail	Rallus elegans
	Upland Sandpiper	Bartramia longicauda
	Common Tern	Sterna hirundo
	Least Tern	Sterna antillarum
	Sedge Wren	Cistothorus platensis
	Henslow's Sparrow	Ammodramus henslowii
Mammals:		
	None Listed	

TABLE 22-3
LIST OF SPECIAL CONCERN FISH AND WILDLIFE SPECIES OF NEW YORK STATE

Molluscs:	
Buffalo Pebble Snail	Gillia altilis
Fringed Valvata	Valvata lewisi
Mossy Valvata	Valvata sincera
Insects:	
Unnamed Dragonfly Species	Gomphus spec. nov.
Southern Sprite	Nehalennia integricollis
Extra Striped Snaketail	Ophiogomphus anomalus
Pygmy Snaketail	Ophiogomphus howei
Common Sanddragon	Progomphus obscurus
Gray Petaltail	Tachopteryx thoreyi
Checkered White	Pontia protodice
Olympia Marble	Euchloe olympia
Henry's Elfin	Callophrys henrici
Tawny Crescent	Phyciodes batesii
Mottled Duskywing	Erynnis martialis
Barrens Buckmoth	Hemileuca maia
Herodias Underwing	Catocala herodias gerhardi
Jair Underwing	Catocala jair
A Noctuid Moth	Heterocampa varia
Fishes:	
Mountain Brook Lamprey	Ichthyomyzon greeleyi
Black Redhorse	Moxostoma duquesnei
Streamline Chub	Erymystax dissimilis
Redfin Shiner	Lythrurus umbratilis
Ironcolor Shiner	Notropis chalybaeus
Amphibians:	
Hellbender	Cryptobranchus alleganiensis
Marbled Salamander	Ambystoma opacum
Jefferson Salamander	Ambystoma jeffersonianum
Blue-spotted Salamander	Ambystoma laterale
Longtail Salamander	Eurycea longicauda
Eastern Spadefoot Toad	Scaphiopus holbrookii
Southern Leopard Frog	Rana sphenocephala utricularius
Reptiles:	
Spotted Turtle	Clemmys guttata
Wood Turtle	Clemmys insculpta
Eastern Box Turtle	Terrapene carolina
Eastern Spiny Softshell	Apalone spinifera
Eastern Hognose Snake	Heterodon platyrhinos
Worm Snake	Carphophis amoenus
Birds:	
Common Loon	Gavia immer
American Bittern	Botaurus lentiginosus
Osprey	Pandion haliaetus
Sharp-shinned Hawk	Accipiter striatus
Cooper's Hawk	Accipiter cooperii
Northern Goshawk	Accipiter gentilis
Red-shouldered Hawk	Buteo lineatus
Black Skimmer	Rynchops niger
Common Nighthawk	Chordeiles minor
Whip-poor-will	Caprimulgus vociferus
Red-headed Woodpecker	Melanerpes erythrocephalus
Horned Lark	Eremophila alpestris
Bicknell's Thrush	Catharus bicknelli
Golden-winged Warbler	Vermivora chrysoptera
Cerulean Warbler	Dendroica cerulea
Yellow-breasted Chat	Icteria virens
Vesper Sparrow	Pooecetes gramineus
Grasshopper Sparrow	Ammodramus savannarum
Seaside SparrowAmmodramus maritimus	

Mammals:

Small-footed Bat	Myotis leibii
New England Cottontail	Sylvilagus transitionalis
Harbor Porpoise	Phocoena phocoena

♦ Currently listed as "endangered" by the U.S. Department of the Interior.
• Currently listed as "threatened" by the U.S. Department of the Interior.
* Species is extirpated from New York State.
1. Piping Plover is listed as federally endangered in the Great Lakes Region, and as federally threatened in the Atlantic Coastal Region.

Definitions

Extinct - Species is no longer living or existing.

Extirpated - Species is not extinct, but no longer occurring in a wild state within New York, or no longer exhibiting patterns of use traditional for that species in New York (e.g. historical breeders no longer breeding here).

Endangered - Any native species in imminent danger of extirpation or extinction in New York State.

Threatened - Any native species likely to become an endangered species within the foreseeable future in New York State.

Special Concern - Any native species for which a welfare concern or risk of endangerment has been documented in New York State.

Authority: Environmental Conservation Law of New York, Section 11-0535 and 6 NYCRR (New York Code of Rules and Regulations) Part 182 - effective (last promulgated in state regulation) December 5, 1999.

Revision History - Effective April 24, 2000 - Canada Lynx (Lynx canadensis) was added to Threatened list.

FISH, WILDLIFE AND MARINE RESOURCES

REGULATION 23 QUESTIONS: **PROTECTION OF WATERS**

(A) Has your facility, project or operation disturbed, constructed, maintained, excavated or filled any of the applicable waters or conducted any activity that resulted in any discharge into navigable waters?

YES _____ NO _____

If NO, leave “Rank” box 23 blank on the Compliance Status Report form, proceed to Regulation 24.

(B) If YES, are you a State Department or Division?

YES _____ NO _____

If YES, proceed to Question (F).

If NO, proceed to Question (C).

(C) Did you consult with NYSDEC if you conducted any regulated activities?

YES _____ NO _____

If NO, place an "N1", "N2", "N3" or "N4" (according to the priority rank of the violation) in “Rank” box 23 and leave the “Approval” box 23 blank on the Compliance Status Report form, update or complete a new Non-Compliance Report & Remedial Plan form, then proceed to Regulation 24.

If YES, proceed to Question (D).

(D) Did you obtain a permit from NYSDEC?

YES_____ NO_____

If YES, place a "C" in “Rank” box 23 and place a check in the “Approval” box 23 on the Compliance Status Report form, then proceed to Regulation 24.

If NO, proceed to Question (E).

(E) Are you exempt from obtaining approval? [See Regulation 23 for Exemptions.]

YES _____ NO _____

If YES, place a "C" in “Rank” box 23 and place a check in the “Approval” box 23 on the Compliance Status Report form, then proceed to Regulation 24.

If NO, place an "N1", "N2", "N3" or "N4" (according to the priority rank of the violation) in “Rank” box 23 and leave the “Approval” box 23 blank on the Compliance Status Report form, update or complete a new Non-Compliance Report & Remedial Plan form, then proceed to regulation 24.

(F) Have you entered into a Memorandum of Understanding with NYSDEC for conducting regulated activities in protected waters?

YES _____ NO _____

If YES, place a "C" in “Rank” box 23 and place a check in the “Approval” box 23 on the Compliance Status Report form, then proceed to Regulation 24.

If NO, place an "N1", "N2", "N3" or "N4" (according to the priority rank of the violation) in “Rank” box 23 and leave the “Approval” box 23 blank on the Compliance Status Report form, update or complete a new Non-Compliance Report & Remedial Plan form, then proceed to Regulation 24.

FISH, WILDLIFE AND MARINE RESOURCES

REGULATION 23: **PROTECTION OF WATERS**

LEGAL CITATION: ECL Sections 15-0501, 15-0503 & 15-0505; and 6NYCRR Part 608.

ABSTRACT OF LAW/REGULATIONS:

Protection of Waters regulates these four categories of activities:

1. disturbances of the bed or banks of a PROTECTED STREAM (streams classified as AA, A, B, or C(t) or C(ts);

2. construction and maintenance of DAMS and IMPOUNDMENT STRUCTURES;

3. construction, reconstruction, or repair of DOCKS and the installation of MOORING STRUCTURES in, on or above NAVIGABLE WATERS lying above underwater lands not owned by the state; and

4. excavation and/or filling in NAVIGABLE WATERS.

REQUIRED APPROVAL:

All public authorities with the exception of the Power Authority must obtain a permit to conduct these activities. Local agencies are exempt from the requirement for a permit as long as there is a written agreement with NYSDEC and the actions are in conformance with standards for conduct of the activities, contained in 6NYCRR Part 608. State agencies may enter into written agreements as well, but are not required to obtain a permit. Entering into a Memorandum of Understanding with NYSDEC is strongly encouraged.

APPLICABILITY:

Activities covered by these regulations:

1. disturbance of bed or banks, removal of gravel or other material from a stream bank of protected water. (Banks extend up to 50 feet from the mean high water except, when the slope is greater than 45 degrees (or 1:1), they will extend to the crest or first definable break);

2. construction or alteration to a dam or similar structure (temporary or permanent) in or across a natural stream or watercourse, except when:

    a. the watershed is less than one square mile;

    b. the structure is no greater than 10 feet in height above the bed or natural ground level; and

    c. the impoundment holds no more than one million gallons;

3. excavation or placement of fill in the bed of navigable waters and in adjacent marshes and wetlands; and

4. conducting any activity, including the construction or operation of facilities that require a federal permit or license and may result in any discharge or runoff into navigable waters.

EXEMPTIONS:

The following activities are exempt from the requirements of this law:

1. Agricultural activities involving crossing and recrossing of a stream by livestock or farm equipment or the withdrawal of irrigation waters if the stream bed or bank is not altered;

2. construction of a farm pond where:

    a. the impoundment structure is an earthen embankment and is not more than 15 feet above the bed or natural ground level;

    b. the quantity of water impounded does not exceed 1.5 million gallons;

c. the surface area does not exceed 10 acres;

d. the drainage area does not exceed 200 acres; and

e. water is not diverted into the pond by an artificial obstruction in or across a natural stream or watercourse.

3. docks, piers, wharfs, platforms moorings and other structures placed on, in or above state-owned lands under water for which a lease or other appropriate conveyance of interest authorizing the use and occupancy of such lands has been obtained;

4. a docking facility providing dockage for 5 or fewer boats and encompassing within its perimeter an area of less than 4,000 square feet;

5. a mooring area providing mooring for fewer than 10 boats;

6. temporary anchoring where a boat is not attached to an in-place or fixed mooring device;

7. seasonal replacement or reinstallation of floating docks or other structures providing dockage for 5 or fewer boats and encompassing within its perimeter an area of less than 4,000 square feet that legally existed prior to May 4, 1993, or for which a permit was issued under another section of Part 608.

8. relocation, replacement and/or rearrangement of floating docks, ramps, walkways and anchoring devices within the established perimeter of a docking facility or mooring area; and

9. ordinary maintenance and repair of structures such as repainting, redriving piles or replacing boards in docks (this does NOT include substantial reconstruction of structures).

NOTE: **The dock and mooring area exemptions still require a permit for activities involving disturbance of the bed or bank of a protected stream and the excavation or placement of fill in the bed of a navigable water.**

DEFINITION:

Navigable waters: those on which a one-person vessel may operate not withstanding interruptions due to artificial structures, natural obstructions, or seasonal flow variations.

NYSDEC CONTACT PERSON: TELEPHONE NUMBER

J. Douglas Sheppard, Division of Fish, Wildlife & Marine Resources 518/402-8874

FISH, WILDLIFE AND MARINE RESOURCES

REGULATION 24 QUESTIONS: **LICENSE TO COLLECT OR POSSESS**

(A) Did your facility, project or operation obtain, collect, posses, or sell for propagation, scientific or exhibition purposes, any fish, wildlife, shellfish, crustacea, aquatic insects, bird's nest(s), or eggs?

YES _____ NO _____

If NO, leave "Rank" box 24 blank on the Compliance Status Report form, proceed to Regulation 40.

(B) If YES, was a license obtained from NYSDEC? [There are NO Exemptions.]

YES _____ NO _____

If YES, place a "C" in "Rank" box 24 and place a check in the "Approval" box 24 on the Compliance Status Report form, then proceed to Regulation 40.

If NO, place an "N1", "N2", "N3" or "N4" (according to the priority rank of the violation) in "Rank" box 24 and leave the "Approval" box 24 blank on the Compliance Status Report form, update or complete a new Non-Compliance Report & Remedial Plan form, then proceed to Regulation 40.

REGULATION 24: **LICENSE TO COLLECT OR POSSESS**

LEGAL CITATION: ECL Section 11-0515.

ABSTRACT OF LAW/REGULATIONS:

An agency may collect, possess, or sell for propagation, scientific or exhibition purposes fish, wildlife, shellfish, crustacea, aquatic insects, birds nests or eggs.

REQUIRED APPROVAL:

A license is required for an employee of any agency (or consultant retained by the agency) to collect, possess, or sell for propagation, scientific or exhibition purposes any fish, wildlife, shellfish, crustacea, aquatic insects, bird's nest(s) or eggs. Each licensee must file an annual report of activities conducted under this license by February 1 of each year. Application should be made to the NYSDEC's Special License Unit of the Division of Fish, Wildlife and Marine Resources 625 Broadway, Albany, NY 12233-4752.

NYSDEC CONTACT PERSON: TELEPHONE NUMBER

Chris VonSchilgen, Division of Fish, Wildlife & Marine Resources 518/402-8985

FISH, WILDLIFE AND MARINE RESOURCES

REGULATION 40 QUESTIONS: **WILD, SCENIC AND RECREATIONAL RIVERS SYSTEMS**

(A) Did your facility, project or operation perform any development activities to the land or modify any uses of the land in any designated wild, scenic, and recreational river system areas?

YES _____ NO _____

If NO, leave “Rank” box 40 blank and leave the “Approval” box 40 blank on the Compliance Status Report form, then proceed to Regulation 41.

(B) If YES, did you consult with NYSDEC for land uses or development requiring a river system permit within the boundaries of a Wild, Scenic and Recreational River System designated river corridor?

YES _____ NO _____

If NO, place an "N1", "N2", "N3" or "N4" (according to the priority rank of the violation) in “Rank” box 40 on the Compliance Status Report form, update or complete a new Non-Compliance Report & Remedial Plan form, then proceed to Question (D).

(C) If YES, are you required to obtain a land use or development permit, with or without a variance?

YES _____ NO _____

If NO, place a "C" in “Rank” box 40 and place a check in the “Approval” box 40 on the Compliance Status Report form, then proceed to Regulation 41.

(D) If YES, do you have a permit? [See Regulation 40 for Exemptions.]

YES _____ NO _____

If YES, place a "C" in the “Rank” box 40 and place a check in the “Approval” box 40 on the Compliance Status Report form, then proceed to Regulation 41.

If NO, place an "N1", "N2", "N3" or "N4" (according to the priority rank of the violation) in “Rank” box 40 and leave the “Approval” box 40 blank on the Compliance Status Report form, update or complete a new Non-Compliance Report & Remedial Plan form, then proceed to Regulation 41.

FISH, WILDLIFE AND MARINE RESOURCES

REGULATION 40: **WILD, SCENIC AND RECREATIONAL RIVERS SYSTEMS**

LEGAL CITATION: ECL Article 15, Title 27, and 6NYCRR Part 666.

ABSTRACT OF LAW/REGULATIONS:

The statute and regulations are for the administration of the Wild, Scenic and Recreational Rivers Systems (WSRRS) in New York State. After inclusion of the WSRRS, no structure or improvement may alter the existing natural flow of designated river segments unless expressly authorized. The regulations apply to everyone (i.e.- business, government, and individuals).

In addition to listing activities allowed pursuant to a WSRRS permit, the regulations set forth criteria pertinent to specific issues such as placement of structures, water quality, sewage disposal, and removal of vegetation. Where a proposed activity is not listed as allowed or will exceed a relevant performance criterion, it is presumed incompatible.

The county most affected by the WSRRS at the present time is Suffolk County on Long Island as there are four rivers with designated segments in the county and a large amount of development. Ulster, Rockland, Tompkins, Livingston, and Wyoming Counties also contain segments of designated rivers. The remaining designated rivers are in the Adirondack Park where the Adirondack Park Agency administers the program on private lands, and NYSDEC administers the program on state lands.

Designated river corridors include the area between the riverbanks and not more than the area one-half mile from the river bank. Land uses in effect prior to designation of a river as Wild, Scenic or Recreational may continue.

REQUIRED APPROVAL:

The regulations specify activities that may be undertaken within the boundaries of designated river corridors with and without a permit. Application for a permit is made at the appropriate NYSDEC regional office by submitting a "Joint Application for Permit" form and supplement WSR-1 that are available at the regional offices, together with the proper application fee. Compatible land uses and developments that may require a permit include:

Recreational Rivers

1. All land uses or developments requiring a permit in scenic river areas;
2. Multiple family dwellings;
3. Conversions of existing principal buildings;
4. Transient lodging facilities including campgrounds;
5. Wildlife preserves and private parks;
6. Public parks and beaches;
7. Golf courses;
8. Railroads and appurtenant facilities;
9. Commercial uses limited to retail or rental facilities which facilitate recreational use of the river; and
10. Other commercial, industrial uses, or institutional uses proposed for areas with a community designation.

Scenic Rivers

1. Resumption of a compatible land use after it is discontinued for more than one year;
2. Development of any lawfully existing lot for a compatible land use or development;
3. Water withdrawals or diversions from the river;
4. Groundwater withdrawals;

5. Water release patterns from impoundments;

6. Water-related or water-dependent land uses or developments which affect all or part of the flow;

7. Private dwellings (including mobile homes) located more than 250 feet from the river or tributary bank and expansions exceeding 500 square feet;

8. Compatible non-residential structures located within 500 feet of the river bank or 250 feet of a tributary bank but beyond other specified setbacks;

9. Lean-tos larger than 200 square feet;

10. Docks, boathouses, boat launching sites, and water access parking areas;

11. Stream improvement structures for fishery management;

12. Fences;

13. Public or private roads, trails, and private driveways more than 100 feet long;

14. Bridges over a designated river for public roads or non-motorized open space recreational use;

15. Private water supply wells;

16. Private sewage disposal systems;

17. Signs and commercial sign directories;

18. Certain public utility uses;

19. Harvesting, cutting, culling, removal, thinning, or disturbance of vegetation within 100 feet of the river bank;

20. Clear-cutting of areas exceeding 25 acres;

21. Subdividing of land; and

22. Disturbances of bed or banks of the river.

NYSDEC CONTACT PERSON: TELEPHONE NUMBER

J. Douglas Sheppard, Division of Fish, Wildlife & Marine Resources 518/402-8874

TABLE 40

WILD RIVERS

1. Cedar River: Approximately seven miles from southwest boundary of Lot 82, Township 17, Totten & Crossfield's Purchase to Hamilton County Line. Approximately seven & three-fourths miles from outlet of Cedar Lakes to a point where a road crosses the river approximately one & one-half miles upstream of Cedar River flow.

2. Cold River: Approximately 14 miles from Duck Hole to confluence w/Raquette River & entire three-mile length of Ouluska Pass Brook.

3. Hudson River: Approximately 10.5 miles from confluence of Cedar River to confluence w/ Boreas River.

4. Indian River: Approximately 13 miles from Brook Trout Lake to confluence w/south branch of the Moose River.

5. Kunjamuk River: Approximately eight miles from outlet of South Pond to a fish barrier dam near southwest boundary of Lot 9, Township 31, Gorton Tract.

6. Opalescent River: Approximately 11 miles from Flowed Lands to confluence with the Hudson River.

7. Oswegatchie River, Main Branch: Approximately 18.5 miles from Partlow Mill Dam to southernmost boundary between private & state land at Inlet.

8. Oswegatchie River, Middle Branch: Approximately 14.5 miles from north boundary of Lot 27, Watson's East Triangle to a point one mile downstream of confluence w/Wolf Creek.

9. Piseco Outlet: Approximately four & one-fifth miles from a point one-half mile east of the Route 10 bridge crossing to confluence w/West Branch of the Sacandaga River.

10. Sacandaga River, East Branch: Approximately 11.5 miles from Botheration Pond to a point one-half mile above confluence with Cook Brook.

11. Sacandaga River, West Branch: Approximately seven miles from confluence of Piseco Lake outlet to confluence w/Dugway Creek. Approximately nine miles from the source near Silver Lake Mt. to the Silver Lake wilderness boundary near Route 10 & approximately two & seven-tenths miles from confluence w/Cow Creek to confluence w/Piseco outlet.

12. West Canada Creek: Approximately eight miles from Mud Lake to Old Mitchell dam site.

13. West Canada Creek, South Branch: Approximately five & nine-tenths miles from the headwaters near T-Lake Falls to a footbridge crossing located approximately one mile upstream of the Floe.

SCENIC RIVERS

1. Ampersand Brook: Approximately eight miles from Ampersand Pond to confluence w/Raquette River.

2. Ausable River: Approximately nine miles from Marcy swamp to St. Hubert's.

3. Black River: Approximately seven & eight-tenths miles from the point where Farr Road crosses the river to the point where the river intersects the Adirondack Park boundary.

4. Blue Mountain Stream: Approximately nine miles from outlet of Clear Pond to confluence w/Pleasant Lake stream.

5. Bog River: Approximately seven & three-tenths miles from dam below Hitchens Pond to Big Tupper Lake.

6. Boreas River: Approximately 11.5 miles from Cheney Pond to Confluence w/Hudson River.

7. Bouquet River: Approximately six miles of the North Fork from the headwaters on Dial Mt. to the bridge on Route 73. Approximately five & one-half miles of the South Fork from the headwaters to the bridge on Route 73.

8. Carmens River: Approximately two & one-quarter miles from its headwaters at north boundary of Cathedral Pines Park (formerly Camp Wilderness), Suffolk County, southerly to its intersection w/southern boundary of Camp Sobaco (Girl Scout Camp). And, approximately two & one-half miles from Yaphank Avenue, Suffolk County, southerly to Concrete Wing Dam in Southhaven Park. Also, Approximately two & one-half miles from south side of Sunrise Highway, Suffolk County, southerly to mouth of the river (a line between Long Point & Sandy Point) at its confluence w/Great South Bay.

9. Cedar River: Approximately five miles from Hamilton County line to confluence w/Hudson River. And, approximately ten miles from a point where a road crosses the river one & one-half miles upstream of Cedar River flow to a point where a southerly extension of the northeast state land boundary of Lot 96, Township 33,

Totten & Crossfield's Purchase, would intersect the river.

10. Deer River: Approximately six & two-tenths miles from outlet of Deer River flow to a point where the river intersects the Adirondack Park boundary.

11. East Canada Creek: Approximately 20.9 miles from Powley Place to a point at which the creek intersects Adirondack Park boundary near Sprite Creek at southwest corner of Lot 45, Town of Oppenheim, Lott & Low's Patent.

12. Genesee River: In Letchworth St. Park.

13. Grasse River, Middle Branch: Approximately 14.5 miles from confluence of Blue Mt. stream & Pleasant Lake stream to confluence of South Branch of the Grasse River.

14. Grasse River, North Branch: Approximately 25.4 miles from outlet of Church Pond to a point where the North Branch intersects the Adirondack Park boundary.

15. Grasse River, South Branch: Approximately 35.2 miles from outlet of Center Pond to confluence w/outlet of Allen Pond, & approximately three & seven-tenths miles from the most southerly point where the South Branch of Grasse River intersects Adirondack Park boundary, north to confluence w/the Middle Branch of the Grasse River.

16. Hudson River: Approximately nine miles from hamlet of Newcomb to confluence w/Cedar River & approximately four miles from confluence w/Boreas River to a point one mile north of hamlet of North River.

17. Independence River: Approximately 26 miles from outlet of Little Independence Pond to point where the Sperryville Bridge crosses the river.

18. Jordan River: Approximately 18 miles from outlet of Marsh Pond to Carry Falls Reservoir.

19. Kunjamuk River: Approximately 10.4 miles from a fish barrier dam near southwest boundary of Lot 9, Township 31, Gorton Tract, to confluence w/the Sacandaga River.

20. Long Pond Outlet: Approximately 16 miles from outlet of Long Pond to confluence w/West Branch of St. Regis River.

21. Marion River: Approximately five miles from outlet of Utowana Lake to Raquatte Lake.

22. Moose River, Main Branch: Approximately 15 & 4/5 miles from confluence of South and Middle Branches of the Moose River to a point where the Main Branch intersects the Adirondack Park boundary.

23. Moose River, North Branch: Approximately six miles from outlet of Big Moose Lake to confluence w/outlet of Goose Pond.

24. Moose River, South Branch: Approximately 18 miles from east boundary of state land immediately west of Little Moose Lake to west boundary of State land near Rock Dam approximately six & one-half miles from east boundary of state land just north of Woodhull Mt. downstream to state land boundary near confluence w/middle branch of Moose River. And, approximately 14 & 2/5 miles from west boundary of state land near Rock Dam to east boundary of state land north of Woodhull Mt.

25. Nissequoque River: Approximately one & four-tenths miles from dam at outlet of New Mill Pond to pedestrian bridge south of Route 25/25A including its tributaries & ponds identified as P288 Phillips Millpond, P289 Willow Pond, P290 Upper Vail Pond, P291 Webster Pond, & P291A Lower Vail Pond in Suffolk County.

26. Oswegatchie River, Middle Branch: Approximately nine miles from outlet of Walker Lake to north boundary of Lot 27, Watson's East Triangle & approximately 14 & 2/5 miles from a point one mile downstream of confluence w/Wolf Creek to a point where the Middle Branch intersects Adirondack Park boundary at southeast boundary of Lot 993, Township of Diana, Macomb's Purchase, Great Tract 4.

27. Oswegatchie River, West Branch: Approximately seven miles from outlet of Buck Pond to a point approximately one mile upstream of Round Pond at the point where a foot & snowmobile bridge crosses the West Branch.

28. Otter Brook: Approximately ten miles from outlet of Lost Pond to confluence w/South Branch of the Moose River.

29. Peconic River: Approximately 10.5 miles from western boundary of Red Maple swamp to Long Island railroad bridge between Connecticut & Edwards Avenue &

approximately three miles from Middle Country Road (State Route 25) to confluence w/previously described segment of Peconic including tributaries T112-5, T112-6 & T112-7.

30. Raquette River: Approximately 20 miles from outlet of Long Lake to confluence w/a small stream from the northeast, located approximately one mile downstream from Trombley Landing, & approximately 13.8 miles from confluence w/Dead Creek to a point where the river intersects north boundary of Lot 1, Township 5, Tannery Lot near Carry Falls Reservoir.

31. Red River: Approximately nine & seven-tenths miles from headwaters of the river to confluence w/South Branch of Moose River.

32. Rock River: Approximately six & nine-tenths miles from O'Neil flow road crossing to confluence w/Cedar River.

33. Round Lake Outlet: Approximately two & seven-tenths miles from outlet of Round Lake to confluence w/Bog River.

34. St. Regis River, East Branch: Approximately 14.5 miles from a point where Route 30 crosses the East Branch near Meacham Lake, to a point one-half mile upstream from Everton Falls.

35. St. Regis River, Main Branch: Approximately 15.5 miles from a point where a private road to Bay Pond crosses the Main Branch in Lot 16, Township 17, Macomb's Purchase, Great Tract 1, to confluence w/Balsam Brook.

36. St, Regis River, West Branch: Approximately 35 miles from outlet of Little Fish Pond to a point one-half mile downstream from confluence w/Fenner Meadow Brook.

37. West Canada Creek: Approximately 17 miles from a point where the creek intersects that state land boundary approximately two miles upstream of Old Mitchell Dam site, to the Route 8 bridge crossing near Nobleboro.

38. West Stoney Creek: Approximately seven & seven-tenths miles from Tannery Road crossing to confluence w/Hatch Brook.

RECREATIONAL RIVERS

1. Ausable River, East Branch: Approximately 28.3 miles from St. Huberts to confluence w/West Branch.

2. Ausable River, Main Branch: Approximately 22 miles from confluence of East & West Branches of the Ausable River to Lake Champlain.

3. Ausable River, West Branch: Approximately five miles from state boundary along River Road east of Big Cherry Patch Pond downstream to state boundary immediately west of High Falls. And, approximately 29.5 miles from headwaters of West Branch near Heart Lake to confluence w/East Branch.

4. Black River: Approximately six & three-fifths miles from outlet of North Lake to a point where Farr Road crosses the river.

5. Bouquet River: Approximately 47.7 miles from confluence w/North Fork of the Bouquet River to Lake Champlain.

6. Carmens River: Approximately two miles from its intersection w/southern boundary of Camp Sobaco (Girl Scout Camp), southerly to Yaphank Avenue, Suffolk County. And, approximately one mile southerly from Concrete Wing Dam in Southhaven Park, Suffolk County, to Sunrise Highway.

7. Cedar River: Approximately 11 miles from a point at which a southerly extension of the northeast state land boundary parallel to the southwest boundary of Lot 96, Township 33, Totten & Crossfield's Purchase would intersect the river to the southwest boundary of Lot 82, Township 17, Totten & Crossfield's Purchase.

8. Connetquot River: Approximately five & three-fourths miles from Johnson Avenue, Suffolk County, south to Sunrise Highway.

9. Fall Creek: Approximately one and eight-tenths miles from Dam at Bebee Lake to Cayuga Lake, Tompkins County.

10. Grasse River, South Branch: Approximately five & one-fifth miles from confluence w/outlet of Allen Pond to most southerly point where the South Branch intersects the Adirondack Park boundary.

11. Hudson River: Approximately 12.7 miles from confluence w/Opalescent River to a point where Route 28N crosses the Hudson River at Newcomb &

approximately 45.9 miles from a point one mile north of North River to confluence w/the Sacandaga River.

12. Independence River: Approximately one-half mile from a point where the Sperryville bridge crosses the river to a point where the river intersects the Adirondack Park boundary.

13. Indian River: Approximately eight & three-tenths miles from outlet of Indian Lake to confluence w/the Hudson River.

14. Moose River, Middle Branch: Approximately 13.4 miles from confluence w/North Branch of Moose River to confluence w/South Branch of the Moose River.

15. Moose River, North Branch: Approximately 13 miles from confluence w/outlet of Goose Pond to confluence w/Middle Branch of the Moose River.

16. Nissequogue River: Approximately one & four-tenths miles from State Route 347 to dam at outlet of New Mill Pond including its tributaries identified as P292-1 to Brooksite Drive & two unnamed tributaries P292-2 & P292-3, & approximately five miles from pedestrian walkway & dam at outlet of Phillips Millpond to its confluence w/Long Island Sound including its tributaries & ponds connected therewith.

17. Oswegatchie River, Main Branch: Approximately two & three-tenths miles from southernmost boundary between private & state land at Inlet to Wanakena.

18. Oswegatchie River, West Branch: Approximately six & one-tenth miles from a point approximately one mile upstream of Round Pond at the point where a foot & snowmobile bridge crosses the West Branch to a point where the river intersects Adirondack Park boundary.

19. Peconic River: Approximately five & one-half miles from Long Island railroad bridge between Connecticut & Edwards Avenue to Grangabel Park dam in Riverhead & approximately two miles of the Little River (tributary T112-2) from & including Wildwood Lake to its confluence w/Peconic River.

20. Ramapo River: Approximately three & one-half miles from Orange County line to site of an abandoned power dam in hamlet of Ramapo.

21. Raquette River: Approximately 22 miles from outlet of Raquette Lake to outlet of Long Lake & approximately 17 miles from confluence of Raquette River & a small stream from the northeast, at a point approximately one mile downstream from Trombley Landing to confluence w/Dead Creek.

22. Rock River: Approximately one & one-fifth miles from outlet of Lake Durant to O'Neil flow road crossing.

23. St. Regis River, East Branch: Approximately six & one-tenth miles from a point one-half mile upstream of Everton Falls to confluence w/Main Branch of St. Regis River.

24. St. Regis River, Main Branch: Approximately seven miles from St. Regis Church to a point where a private road to Bay Pond crosses the Main Branch in Lot 16, Township 17, Macomb's Purchase, Great Tract 1, & approximately 18 miles from confluence w/Balsam Brook to a point at which the river intersects Adirondack Park boundary.

25. St. Regis River, West Branch: Approximately five & one-half miles from a point one-half mile downstream of confluence w/Fenner Meadow Brook to a point where the West Branch intersects Adirondack Park boundary.

26. Sacandaga River, East Branch: Approximately 14 miles from a point approximately one-half mile above Cook Brook to confluence w/Main Branch of the Sacandaga River.

27. Sacandaga River, Main Branch: Approximately 31 miles from outlet of Lake Pleasant to inlet of Great Sacandaga Lake.

28. Sacandaga River, West Branch: Approximately 10 & 3/5 miles from the Silver Lake wilderness boundary near the most upstream Route 10 bridge crossing to confluence w/Cow Creek & approximately seven & two-tenths miles from confluence of Dugway Creek to confluence w/Main Branch of the Sacandaga River.

29. Salmon River: Approximately 12.3 miles from outlet of Elbow Ponds to the point where the river intersects the Adirondack Park Boundary.

30. Saranac River, Main Branch: Approximately 60 & 2/5 miles from outlet of Upper Saranac Lake to the point where the

river intersects the Adirondack Park boundary.

31. Schroon River: Approximately 66.7 miles from outlet of former Dead Water Pond to confluence w/Hudson River.

32. Shawangunk Kill River: From the border of Ulster & Orange Counties to its confluence w/Wallkill River.

33. West Canada Creek: Approximately 11 miles from the Rte 8 bridge crossing near Nobleboro to Harvey Rd Bridge crossing.

34. West Canada Creek, South Branch: Approximately nine & seven-tenths miles from the footbridge crossing one mile upstream of the Floe to confluence w/Main Branch of West Canada Creek.

35. West Stony Creek: Approximately six miles from Persch Road crossing & approximately two & seven-tenths miles from confluence w/Hatch Brook to confluence w/Main Branch of the Sacandaga River.

FISH, WILDLIFE AND MARINE RESOURCES

REGULATION 41 QUESTIONS: **MARINE AQUACULTURE PERMITS**

(A) Does your facility, project or operation operate a marine hatchery and/or undertake on-bottom or off-bottom culture on or above underwater lands in New York's Marine and Coastal District?

YES _____ NO _____

If NO, leave “Rank” box 41 blank on the Compliance Status Report form, proceed to Regulation 42.

(B) If YES, do you have a permit? [There are NO Exemptions.]

YES _____ NO _____

If YES, place a "C" in “Rank” box 41 and place a check in the “Approval” box 41 on the Compliance Status Report form, then proceed to Regulation 42.

If NO, place an "N1", "N2", "N3" or "N4" (according to the priority rank of the violation) in “Rank” box 41 and leave the “Approval” box 41 blank on the Compliance Status Report form, update or complete a new Non-Compliance Report & Remedial Plan form, then proceed to Regulation 42.

REGULATION 41: **MARINE AQUACULTURE PERMITS**

LEGAL CITATION: ECL Section 13-0316.

ABSTRACT OF LAW/REGULATIONS:

This section of the ECL provides requirements for the operation of marine hatcheries and the undertaking of on-bottom and off-bottom culture on or above underwater lands of New York's Marine and Coastal District. The law allows the sale of legal and sublegal size products between appropriately permitted aquaculturists within the state, the sale of legal size products for human food purposes pursuant to law and, also provides the regulatory authority to the NYSDEC to allow, on a species specific basis, the sale of aquaculture products that are smaller than the size otherwise assigned by the ECL.

REQUIRED APPROVAL:

A permit must be obtained to operate a marine hatchery or to undertake on-bottom and off-bottom culture on or above underwater lands of New York's Marine and Coastal District. Such permits are required for the possession, raising, breeding or culturing of any marine plant or animal life in marine hatcheries (including in-shore ponds) and/or through on-bottom or off-bottom culture in the marine waters of the state.

NYSDEC CONTACT PERSON: TELEPHONE NUMBER

Kenneth Koetzner, Division of Fish, Wildlife & Marine Resources 631/444-0477

FISH, WILDLIFE AND MARINE RESOURCES

REGULATION 42 QUESTIONS: **SHELLFISH MANAGEMENT**

(A) Does your facility, project or operation take shellfish from uncertified lands for transplanting or other purposes, or do you import shellfish from outside the state for transplanting or other purposes?

YES _____ NO _____

If NO, leave “Rank” box 42 blank on the Compliance Status Report form, proceed to Regulation 43.

(B) If YES, have you obtained a permit to take or import shellfish from a specific area? [There are NO Exemptions.]

YES _____ NO _____

If YES, place a "C" in “Rank” box 42 and place a check in the “Approval” box 42 on the Compliance Status Report form, then proceed to Regulation 43.

If NO, place an "N1", "N2", "N3" or "N4" (according to the priority rank of the violation) in “Rank” box 42 and leave the “Approval” box 42 blank on the Compliance Status Report form, update or complete a new Non-Compliance Report & Remedial Plan form, then proceed to Regulation 43.

REGULATION 42: **SHELLFISH MANAGEMENT**

LEGAL CITATION: ECL Sections 13-0319 and 13-0321.

ABSTRACT OF LAW/REGULATIONS:

The two sections of the ECL collectively provide a mechanism through which, "shellfish may be taken from uncertified shellfish lands for transplanting or other purposes as the department may deem advisable..." Activities, such as the importation of shellfish from another state for introduction into New York State waters, transplanting shellfish from polluted to clean water areas for cleansing and eventual marketing, the relaying of sexually mature spawning stocks to benefit resource recruitment and the harvesting of shellfish from polluted areas to be cleansed in upland tank systems are examples of activities that may be undertaken through this law and associated regulations.

REQUIRED APPROVAL:

A permit must be obtained to undertake any importation and introduction of shellfish from outside the State into New York State waters or to undertake the transplanting of any shellfish between or from uncertified shellfish lands within the State.

NYSDEC CONTACT PERSON: TELEPHONE NUMBER

Kenneth Koetzner, Division of Fish, Wildlife & Marine Resources 631/444-0430

FISH, WILDLIFE AND MARINE RESOURCES

REGULATION 43 QUESTIONS: **TIDAL WETLANDS ACT**

(A) Is your facility, project or operation located in a marine district area in one of these counties: Bronx, Kings (Brooklyn), Nassau, New York (Manhattan), Queens, Richmond (Staten Island), Rockland, Suffolk, or Westchester?

YES _____ NO _____

If NO, leave “Rank” box 43 blank on the Compliance Status Report form, proceed to Regulation 37A.

(B) If YES, do you have any tidal wetlands on any property that you own, manage or administer (see Regulation 43 for specific areas of applicability)?

YES _____ NO _____

If NO, leave “Rank” box 43 blank on the Compliance Status Report form, proceed to Regulation 37A.

(C) If YES, did you perform any development activities in the tidal wetlands or the adjacent uplands?

YES _____ NO _____

If NO, leave “Rank” box 43 blank on the Compliance Status Report form, proceed to Regulation 37A.

(D) If YES, did you obtain a permit from NYSDEC for activities in tidal wetlands or adjacent areas? [There are NO Exemptions.]

YES _____ NO _____

If YES, place a "C" in “Rank” box 43 and place a check in the “Approval” box 43 on the Compliance Status Report form, then proceed to Regulation 37A.

If NO, place an "N1", "N2", "N3" or "N4" (according to the priority rank of the violation) in “Rank” box 43 and leave the “Approval” box 43 blank on the Compliance Status Report form, update or complete a new Non-Compliance Report & Remedial Plan form, then proceed to Regulation 37A.

REGULATION 43: **TIDAL WETLANDS ACT**

LEGAL CITATION: ECL Article 25, and 6NYCRR Part 661.

ABSTRACT OF LAW/REGULATIONS:

The law provides for the protection of tidal wetlands including those both above and below mean high water as identified on the State Tidal Wetland Inventory. The affected area includes the Marine District, including the Hudson River northward to the Tappan Zee Bridge. The law, and the land use regulations developed pursuant thereto, identify numerous values of wetlands whose functions need to be protected and are used as a basis for evaluating proposed uses.

Provision is made for public hearings where either the NYSDEC or the public voices opposition to the proposed activity.

AREA OF APPLICABILITY:

Activities in all tidal wetlands and adjacent areas in the marine district, including the Hudson River northward to the Tappan Zee Bridge, all the boroughs of the City of New York, and Suffolk, Nassau, Westchester, and Rockland counties.

REQUIRED APPROVAL:

Any type of development activity is regulated through a permit process. Applicants have the burden of demonstrating that the proposed activity will be in complete accord with the policy and provision of the act.

DEFINITIONS:

Tidal wetlands: any lands delineated by NYSDEC on a tidal wetlands inventory map.

Adjacent area: the land immediately adjacent to a tidal wetland. In most cases, the adjacent area extends 300 feet landward from the boundary of the wetland (150 feet in New York City). The extent of landward distance can vary under different circumstances (see Table 43).

Activities: include but are not limited to (see Table 43):

1. dredging and filling;
2. grading;
3. construction of structures and accessory structures;
4. driving piles; and
5. placement of any type of land stabilization material.

In most instances, these types of activities require a permit from NYSDEC.

TABLE 43

TIDAL WETLAND ACTIVITIES AND REQUIRED NYSDEC APPROVALS

ABBREVIATIONS:

Area Categories

FM = Coastal Fresh Marsh
NPN = Not Requiring Permit/Notification Letter Approval
IM = Intertidal Marsh
GCp = Generally Compatible Use - Permit Required
SM = Coastal Shoals, Bars, and Flats
LZ = Littoral Zone
HM = High Marsh or Salt Meadow
AA = Adjacent Area

Use Categories

Pip=Presumptively Incompatible-Permit Required
I =Incompatible
P =Permit Required
NA =Not Applicable

USES	AREA AND USE CATEGORIES FM, IM, HM	SM, LZ	AA
1. The continuance of lawfully existing uses (including but not limited to residential, commercial, industrial, agricultural, recreational, and public uses), the continuance does not involve expansions or significant alteration of the existing use.	NPN	NPN	NPN
2. Activities of the Department of Health or of units of local government with respect to public health, when conducted in conformance with section 25-0401 of the act.	NPN	NPN	NPN
3. Activities subject to the review jurisdiction of the public service commission or the state board on electric generation siting and the environment under article seven or article eight of the public service law, respectively. The standards and restrictions of this Part will be applied by said bodies in determining whether to issue a certificate of environmental compatibility and public need under such articles.	NPN	NPN	NPN
4. Establishing scenic, historic, wildlife, and scientific preserves, without any material alteration of the area involved.	NPN	NPN	NPN
5. Boating, hiking, swimming, camping, picnicking, and other similar non-motorized forms of outdoor activity.	NPN	NPN	NPN
6. Depositing or removing the natural products of a tidal wetland (or adjacent area) in the process of recreational or commercial fishing, shellfishing, aquaculture, hunting, or trapping, including the erection and maintenance of temporary hides or blinds.	NPN	NPN	NPN
7. Conducting educational and research activities not involving any material alteration of the area involved.	NPN	NPN	NPN
8. Establishing walking trails without material alteration of the area involved.	NPN	NPN	NPN
9. Establishing plantings.	Gcp	Gcp	NPN
10. Establishing recreational moorings.	NPN	NPN	NPN
11. Operation of motor vehicles, including but not limited to air boats and other all-terrain vehicles, for educational or scientific research purposes (provided this item shall not include operation of aircraft or mechanically propelled vessel, other than air boats).	Gcp	Gcp	NPN
12. Operation of motor vehicles, including but not limited to air boats and other all-terrain vehicles, for other than educational or scientific purposes (provided this item shall not include the use of aircraft or mechanically propelled vessels, other than air boats).	PIp	GCp	NPN
13. Operation of aircraft or mechanically propelled vessels other than air boats.	NPN	NPN	NPN
14. Constructing one open pile catwalk and/or dock not greater than four feet in width for any principal building.	Gcp	Gcp	GCp

USES	AREA AND USE CATEGORIES FM, IM, HM	SM, LZ	AA
15. Constructing open pile catwalks and docks more than four feet in width; or constructing more than one pile catwalk and/or dock not greater than four feet in width for any principal building.	Pip	Gcp	GCp
16. Installing floating dock(s) totaling less than 200 square feet in area.	Gcp	NPN	NPN
17. Installing floating dock(s) totaling 200 square feet or more in area.	Pip	Gcp	GCp
18. Relocation and/or rearrangement of floating docks, open pile docks, and similar structures within an established marina or boat basin where such activities involve no disturbance of a tidal wetland other than removing and relocating anchors or pilings.	Pip	NPN	NPN
19. Constructing solid fill docks.	Pip	Pip	GCp
20. Permanent or seasonal mooring of any vessel or structure to be used as a single family dwelling, multiple family dwelling, commercial use building, industrial use building or public or semi-public building.	Pip	GCp	GCp
21. Ordinary maintenance and repair (not involving expansion or substantial restoration, reconstruction or modification) of existing functional structures, facilities or improved areas, including but not limited to bridges, roads, highways, railroad beds, bulkheads, docks, beaches, piers, wharves, pilings, dolphins, buildings, landscaped or paved areas, lawns, and agricultural and mosquito control ditches. Including for example, replacing broken boards in docks, repainting structures, redriving pilings, resurfacing paved areas, installing and removing lawful structures on a seasonal basis.	NPN	NPN	NPN
22. In-kind and in-place replacement of existing functional bulkheads and similar structures.	Gcp	Gcp	GCp
23. Routine beach regrading and cleaning, both above and below mean high water mark.	Pip	NPN	NPN
24. Substantial restoration or reconstruction of existing functional structures or facilities of any kind, except those covered by items 22 and 26, (provided, where the installation of a new structure or facility is listed in this subdivision as GCn or NPN for a particular type of area, the substantial restoration or construction of such a structure or facility on that area shall be treated in the same manner as the installation of such a new structure or facility).	Gcp	Gcp	GCp
25. Expansion or substantial modification of existing functional facilities and structures, except those actions covered by items 26, 33, 34, or 38 (provided where the installation of a new structure or facility is listed in this subdivision as NPN, GCn or GCp, the expansion or substantial modification of such a structure or facility shall be treated in the same manner in that area).	Pip	Gcp	GCp
26. Substantial restoration, reconstruction, modification or expansion of existing functional residential structures which are and will continue to be located 75 feet or more (or 30 feet or more in New York City) from the most landward edge of any tidal wetland.	NA	NA	NPN
27. Dredging.	Pip	Pip	PIp
28. Maintenance dredging.	Gcp	Gcp	GCp
29. Construction of groins, bulkheads, and other shoreline stabilization structure.	Pip	Gcp	GCp
30. Filling.	Pip	Pip	GCp

USES	AREA AND USE CATEGORIES FM, IM, HM	SM, LZ	AA
31. Disposal of dredged material.	I	Pip	GCp
32. Construction of berms.	Pip	Pip	GCp
33. Construction or substantial modification of mosquito control ditches.	Gcp	Gcp	GCp
34. Construction or substantial modification of drainage ditches for other than agricultural or mosquito control purposes.	Pip	Pip	GCp
35. Cultivating and harvesting naturally occurring agricultural and horticultural products, other than activities covered by items 36			
36. Manual harvesting of salt hay.	NPN	NA	NA
37. Harvesting of salt hay by mechanical equipment.	Gcp	NA	NA
38. Substantial modification of agricultural ditches lawfully existing on the effective date of this Part.	GCp	Gcp	GCp
39. New agricultural activities not covered by items 35 - 38.	Pip	Pip	GCp
40. Connection of electric, gas, sewer, water or other utilities from an existing distribution utility facility to an existing structure.	Gcp	Gcp	NPN
41. Installation of underground electric, sewer, water or other utilities where such installation will involve restoration of existing ground elevation, other than activities covered by item 40.	Gcp	Gcp	NPN
42. Installation of electric, gas, sewer, water or other utilities, other than activities covered by item 40 or 41.	Pip	Pip	GCp
43. Installation of a dry well, retention basin, filter, open swale or pond.	Pip	Pip	GCp
44. New discharge of any pollutant requiring a SPDES permit pursuant to the Environmental Conservation Law and complying with the requirements for the issuance of such a permit.	P	P	P
45. Installation of a sewage disposal septic tank, cesspool, leach field, or seepage pit and discharge of any pollutant into such facilities not requiring a SPDES permit pursuant to article 17 of the Environmental Conservation Law.	Pip	Pip	GCp
46. Construction of single family dwellings and multiple family dwellings.	Pip	Pip	GCp
47. Construction of commercial and industrial use facilities requiring water access and public and semi-public buildings requiring water access; and undertaking commercial and industrial use activities requiring water access.	Pip	Pip	GCp
48. Construction of commercial and industrial use facilities not requiring water access and public or semi-public buildings not requiring water access; and undertaking commercial and industrial use activities not requiring water access.	Pip	Pip	PIp
49. Construction of accessory structures of facilities for any use listed in items 46 and 47, other than accessory structures or facilities covered by item 50 or covered specifically in the list.	Pip	Pip	GCp
50. Construction of accessory structures or facilities for existing residential structures where such accessory structures or facilities are and will be located 75 feet or more (or 30 feet or more in New York City) from the most landward edge of any tidal wetland.	NA	NA	NPN
51. Construction of accessory structures or facilities for any use listed in item 48.	Pip	Pip	PIp

USES	AREA AND USE CATEGORIES FM, IM, HM	SM, LZ	AA
52. Disposal of any chemical, petrochemical or other toxic material, including any pesticide.	I	I	I
53. The use or application of any chemical, petrochemical, or other toxic material, including any pesticide, where not authorized by law.	I	I	I
54. The storage of any chemical, petrochemical, or other toxic material, including any pesticide, for wholesale purposes or for purposes of distribution to persons other than the ultimate user of such materials.	I	I	PIp
55. The use or application of any chemical, petrochemical, or other toxic material, including any pesticide, where otherwise authorized by law, or the storage of any such material for purposes other than wholesaling or distribution to persons other than the ultimate users of such materials.	NPN	NPN	NPN
56. Disposal of solid wastes as defined in section 27-0501 of the Environmental Conservation Law.	I	I	Pip
57. Any type of regulated activity not specifically listed in this chart and any subdivision of land.	P	P	P

NYSDEC CONTACT PERSON: TELEPHONE NUMBER

Karen Chytalo, Division of Fish, Wildlife & Marine Resources 631/444-0430