

RULE REVIEW

DEPARTMENT OF ENVIRONMENTAL CONSERVATION 5-YEAR RULE REVIEW FOR THE YEAR 1999

The following rules were adopted by the NYS Department of Environmental Conservation during 1999, and pursuant to SAPA Section 207 have been reviewed. Comments on the rules that are being amended this year should be directed to the contact person listed in the main body of the Regulatory Agenda. Comments on any rules that are not being changed at this time will be accepted for 45 days from the date of publication in the State Register, and should be directed to Andrea S. Bergstrom; NYS Department of Environmental Conservation, Division of Environmental Permits, 4th Floor, 625 Broadway, Albany, NY 12233-1750; Telephone: 518-402-9159; E-mail: asbergst@gwdec.state.ny.us

DIVISION OF AIR

6NYCRR Part 200 and Subparts 217-1, 217-3 and 217-5. Motor Vehicle Enhanced Inspection and Maintenance Program Requirements, Idling Prohibition for Heavy Duty Vehicles, and Heavy Duty Inspection and Maintenance Program. Statutory Authority: Environmental Conservation Law, Sections 1-0101, 3-0301, 19-0103, 19-0105, 19-0107, 19-0301, 19-0303, 19-0305, 19-0320, 71-2103, and 71-2105. These rules were amended on September 30, 2002. Therefore, the regulatory provisions are up to date and need not be amended at this time.

6 NYCRR Part 200 and Subparts 227-1, 227-2 and 227-3, NO_x RACT and NO_x Budget Programs (consistent with Ozone Transport Commission). Statutory Authority: Environmental Conservation Law, 3-0301, 19-0103, 19-0105, 19-0301, 19-0303, 19-0305, 19-0311. Subpart 227-3 was promulgated in 1999 as a temporary NO_x Budget program. It has now been superseded by a more restrictive NO_x Budget Program, Part 204. 227-3 has been reviewed and no changes are planned since violations that occurred before the rule was superseded may still be uncovered. Subpart 227-2 was already reviewed and revised again in 2002 to fix errors. No additional changes are planned. Subpart 227-1 opacity revisions from 1999 have been reviewed and do not need to be modified at this time.

DIVISION OF FISH, WILDLIFE AND MARINE RESOURCES

These definitions and lists are revised periodically based upon species data that is collected by the Department on an on-going basis.

6 NYCRR Parts 1, 2, 6, 10, 40, 104. Statutory Authority: Environmental Conservation Law Articles 11 and 13. These parts regulate sport hunting, fishing and trapping; commercial fishing; and shellfishing. All of these parts are reviewed annually regarding season dates, take limits, manner of taking, and sanitary condition of the shellfish lands, and

amendments are made as appropriate. This year's amendments and contact persons are listed above in the main body of the Regulatory Agenda.

6 NYCRR Part 43. Statutory Authority: Environmental Conservation Law Articles 11 and 13. This part regulates the surf clam/ocean quahog fishery. This part has been reviewed and amendments will be proposed. This year's amendment and contact person is listed above in the main body of the Regulatory Agenda.

6 NYCRR Part 182. Statutory Authority: Environmental Conservation Law, Article 11. This part defines and lists endangered species, threatened species and species of special concern. Currently there are no plans to revise the definitions or lists of species.

DIVISION OF LANDS AND FORESTS

6 NYCRR Part 190-William C. Whitney Area. Statutory Authority: Environmental Conservation Law, Sections 9-0105.1, 9-0105.3, 3-0301.1(d), Executive Law, Section 816, and the Adirondack Park State Land Master Plan. This rule ensures the safety of the people using the William C. Whitney property and protects the area's natural resources from overuse. Amendments to this rule are not planned for this year. Implementation of this rule has been satisfactory. There is no need for the Department to modify this rule from its present form.

6 NYCRR Part 190-Public Use of the Massawepie Easement Lands. Statutory Authority: Environmental Conservation Law, Sections 9-0105.1 and 9-0105.3. This rule protects the natural resources of this parcel, assures the safety of visitors, and enforces the terms of the easement. Amendments to this rule are not planned for this year. Implementation of this rule has been satisfactory. There is no need for the Department to modify this rule from its present form.

6 NYCRR Part 190-Public Use of the Champion International Lands. Statutory Authority: Environmental Conservation Law, Sections 9-0105.1, 9-0105.3, 3-0301(d), 1-0101(d), Executive Law, Section 816 and the Adirondack Park State Land Master Plan. This rule ensured the safety of the people using the Champion International property, protected the area's natural resources, and protected valid private property rights. This rule was adopted as an emergency rulemaking and has since expired. Recreation plans have been developed to guide public use, thereby these regulations are not needed anymore. A new regulation will be promulgated to seasonally prohibit public use of camps on the Champion easement lands and the Long Pond easement lands.

6 NYCRR Part 190-Authorization and regulation of hunting on the Stewart Reforestation Area. Statutory Authority: Environmental Conservation Law, Sections 3-0301 and 9-0105. This regulation authorized and regulated hunting at the Stewart Reforestation Area. This regulation was adopted as an emergency rulemaking and has since expired. Regulations are not needed at this time since regulations under

Part 92, Public Use in the Stewart Airport Cooperator Area are in effect and apply to this area. A new regulation will be promulgated after a unit management plan is completed for the area.

DIVISION OF SOLID AND HAZARDOUS MATERIALS

6 NYCRR Parts 320, 321, 322, 323, 324, 327, 328, 329, 360, 362, 363, 364, 370, 371, 372, 373, 374, 376, 380, 382, 383, 422, 480, 484, 486, 502, Corrections. Statutory Authority: Environmental Conservation Law, Article 1, Article 3, 8-0113, 15-0313, 15-0317, 16-0101, 16-0111, Article 17, Article 19, 23-1713, 23-2305, 23-2307, 23-2308, 23-2715, 23-2721, Article 27, Article 29, 33-0303, 33-1301, Article 36, Article 37, 52-0107, 52-0505, 54-0505, 54-0701, 54-0709, 70-0107, 70-0109, 70-0115, 71-2201, 71-2727, 72-0201, 72-0303(1). Typographical errors and outdated statutory citations were found in the regulatory language by the State of New York Legislative Bill Drafting Commission. This rulemaking corrected these errors. No further action is planned.

6 NYCRR Part 325 - Rules and Regulations Relating to the Application of Pesticides. Statutory Authority: Article 33 of the Environmental Conservation Law, Titles 3 and 9. Sweeping amendments to the 6 NYCRR Part 325 regulations related to pesticide applicator certification, direct supervision of non-certified applicators, recertification criteria, elimination of penalties for late renewals and consolidating some certification criteria were adopted in January 2000. These amendments updated the nearly 20-year old regulations that were developed following the promulgation of the federal pesticide certification laws. Amendments to this rule are now necessary to clarify a number of areas in the current regulations and to incorporate recent amendments to the Environmental Conservation Law regarding pesticide applicator certification and business registration. A new rulemaking is anticipated to begin development in the coming year.

DIVISION OF WATER

6 NYCRR Part 700 - Definitions, Samples and Tests. Statutory Authority: Environmental Conservation Law, 3-0301[2][m], 15-0313, 17-0301, 17-0303, 17-0809. This Part provides definitions and addresses sampling and analysis related to water quality standards. The Department is amending this Part and the listing is given in the regular agenda part of the review.

6 NYCRR Part 702 - Derivation and Use of Standards and Guidance Values. Statutory Authority: Environmental Conservation Law, 3-0301[2][m], 15-0313, 17-0301, 17-0303, 17-0809. This Part provides procedures for the derivation and use of water quality standards and guidance values. The Department is amending this Part and the listing is given in the regular agenda listed above.

6 NYCRR Part 703 - Surface Water and Groundwater Quality Standards and Groundwater Effluent Limitations. Statutory Authority: Environmental Conservation Law, 3-0301[2][m], 15-0313, 17-0301, 17-0809. This Part provides surface water and groundwater standards and groundwater effluent limitations. The Department is amending this Part and the listing is given in the regular agenda listed above.