



New York State Assembly

Sheldon Silver
Speaker



2013

ANNUAL REPORT

Committee on
Environmental Conservation

Robert K. Sweeney
Chairman





ROBERT K. SWEENEY
Assemblyman 11TH District

THE ASSEMBLY
STATE OF NEW YORK
ALBANY

CHAIRMAN
Environmental Conservation

COMMITTEES
Education
Rules
Veterans' Affairs

December 15, 2013

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

Dear Speaker Silver:

I am pleased to submit to you the 2013 Annual Report of the Assembly Standing Committee on Environmental Conservation.

The Committee addressed several important issues this year including establishing a take-back program for mercury-containing thermostats, prohibiting the possession of certain invasive species and decreasing certain pollutants in heating oil. This report describes the legislative actions and major issues considered by the Committee and sets forth our goals for future legislative sessions.

Under your leadership and with your continued support of the Committee's efforts, the Assembly will continue the work of preserving and protecting New York's environmental resources during the 2014 legislative session.

Sincerely,

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

2013 ANNUAL REPORT
OF THE NEW YORK STATE ASSEMBLY
STANDING COMMITTEE ON ENVIRONMENTAL CONSERVATION

Robert K. Sweeney, Chairman

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TABLE OF CONTENTS

COMMITTEE RESPONSIBILITIES	1
MAJOR ISSUES OF 2013.....	2
A. BUDGET HIGHLIGHTS	2
B. ENVIRONMENTAL QUALITY	5
C. HAZARDOUS WASTE MANAGEMENT.....	5
D. NATURAL GAS DRILLING.....	6
E. FISH AND WILDLIFE.....	7
F. ENVIRONMENTAL ENFORCEMENT.....	8
G. SOLID WASTE MANAGEMENT	9
H. PETROLEUM MANAGEMENT.....	9
I. WATER CONSERVATION AND QUALITY	10
J. FOREST AND LAND RESOURCES	12
K. CLIMATE CHANGE	14
L. CHEMICALS	15
M. DEPARTMENTAL POWERS	17
N. BROWNFIELDS	18
OVERSIGHT AND PUBLIC HEARINGS	19
OUTLOOK AND GOALS FOR 2014.....	21
APPENDIX A	22
APPENDIX B	23

COMMITTEE RESPONSIBILITIES

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

The primary concerns of the Committee are pollution prevention and control, resource management, and environmental quality issues. The Committee also monitors the activities and enforcement of environmental laws by the New York State Department of Environmental Conservation (DEC). During the 2013 Legislative Session the Committee considered 463 bills, acting favorably on 86, with 26 becoming law.

MAJOR ISSUES OF 2013

A. BUDGET HIGHLIGHTS

The State Fiscal Year (SFY) 2013-14 Enacted Budget included over \$900 million in funding for environmental programs as well as monies for water and wastewater infrastructure and recycling programs.

Environmental Protection Fund

The Environmental Protection Fund (EPF) received \$153 million. The final EPF budget included funding for traditional EPF programs such as waterfront revitalization, municipal recycling, water quality improvement, and farmland protection. In addition, the Assembly ensured that no less than 25 percent of the EPF funds appropriated for local waterfront revitalization and municipal parks projects will be made available for projects in densely populated or low-income communities that are underserved with respect to existing recreational opportunities in the area.

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

Hunting and Fishing License Fee Decreases

The Budget lowered the fees for hunting and fishing licenses and streamlined license types, beginning in February 2014, as follows:

- Eliminated combination licenses (i.e. super sportsman, etc.)
- Combined small and big game hunting licenses into one “hunting” license. For example, bow hunting and muzzle-loading would become a “privilege” attached to the hunting license
- Replaced the existing October 1 to September 30 license period with a September 1 to August 31 license period
- Made the free saltwater fishing registry permanent and authorized all fishing licenses to be valid from one year of issuance and,
- Modified the percentage of licensing revenue to be retained by licensing issuers

License Type	Existing Fee (residents)	New Fees (residents)
Hunting	New	\$22
Fishing	\$29	\$25
Trapping	\$21	\$20
Muzzle-loading	\$21	\$15 (becomes privilege)
Bowhunting	\$21	\$15 (becomes privilege)
Turkey permit	\$10	Unchanged
Seven-day fishing	\$15	\$13
One-day fishing	\$5	Unchanged

Bottle Bill Penalties Increased for Fraudulent Activities

The Budget provided new penalties for bottle deposit-related fraud such as the redemption of containers for which no deposit has been paid. When the new anti-fraud provisions are fully implemented they are expected to generate an additional \$8 million for the Environmental Protection Fund.

Bottle Bill Expansion

The Bottle Bill Law was enacted in the 1980s to reduce the amount of roadside litter and to encourage container recycling. Currently, soda, beer and certain types of water are subject to a 5 cent deposit which is refunded when the beverage container is returned; however, the definition of water, which excludes the addition of “sugar,” has led to confusion.

The Assembly Budget would have clarified the definition of water and expanded the beverages covered by the Bottle Bill Law to include iced teas, sports and energy drinks and would have generated approximately \$10 million in additional revenue for the EPF when fully implemented. This proposal was not included in the final Budget.

EPF Funding
\$(in millions)

<u>EPF Category</u>	Enacted 2013-14
Solid Waste Account	12.655
Municipal Recycling	7.000
Pollution Prevention Institute	3.250
Secondary Markets	1.000
Natural Resource Damages	.155
Pesticide Database	1.000
Landfill Closure/Gas Management	.250
Parks, Recreation & Historic Preservation Account	57.850
Waterfront Revitalization	12.500
Municipal Parks	15.500
Hudson River Park	3.000
Stewardship	16.600
Zoos, Botanical Gardens, & Aquaria	10.250
Open Space Account	82.495
Land Acquisition	20.000
Smart Growth	.400
Farmland Protection	13.000
Agricultural Waste Management	1.000
Biodiversity	.500
Albany Pine Bush	2.000
Invasive Species	4.600
Long Island Pine Barrens Planning	1.100
Ocean and Great Lakes	4.750
Water Quality Improvement	6.945
Long Island South Shore Estuary Reserve	0.900
Non-point Source Pollution Control	18.700
Soil and Water Conservation Districts	3.500
Finger Lakes - Lake Ontario Watershed	1.300
Hudson River Estuary Management	3.800
Total	153.000

B. ENVIRONMENTAL QUALITY

Increased Use of Biofuels

(A.7906 Sweeney; Veto Memo 283)

Biodiesel is made by "refining" fats and oils such as vegetable oil, waste grease, and used cooking oils. The use of biodiesel has been shown to result in less air pollution, a more efficient fuel, and reduced dependence on foreign energy sources. In addition, biodiesel is expected to open up new markets for New York businesses and farmers as a result of the economic impact from the production, processing, and the construction of biodiesel facilities.

This bill would have required heating oil sold in New York to contain at least two percent biodiesel. The requirements would be phased in, with New York City, Nassau, Rockland, and Suffolk Counties effective October 1, 2014, and in the remainder of the State on July 1, 2015.

Environmental Impact Zone Designation

(A.3729 Peoples-Stokes; Passed the Assembly)

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

Plastic Film Recycling

(A.191-A Kavanagh; Passed the Assembly)

In 2008, the Legislature enacted a law requiring retailers to establish at-store recycling programs for plastic bags. This legislation would expand the recycling requirements to include "film plastic." Film plastic is thinner than traditional plastic bags and is typically used in items like dry cleaning bags.

C. HAZARDOUS WASTE MANAGEMENT

Mercury Thermostat Collection

(A.8084 Sweeney; Chapter 550 of the Laws of 2013)

(A.1048 Sweeney; Passed the Assembly)

Prior to 2006, most thermostats contained a mercury switch, which consists of a glass tube with mercury inside. The mercury content of thermostats varies, but typically consists of at least three grams, or an amount of mercury about the size of a pea. Mercury has been proven to cause detrimental health impacts, including impairing brain development. The Centers for Disease Control and Prevention estimate that between 300,000 and 630,000 infants each year are born in the United States with mercury levels high enough to be associated with IQ loss.

Each year, more than two million mercury-containing thermostats are discarded. Most states now ban the sale of new mercury-containing thermostats, but despite disposal limitations, only a very small percentage of old thermostats are collected and recycled. The remainder enters the waste stream and poses the potential to pollute the environment.

This law will protect the environment and public health by requiring the manufacturers of mercury-containing thermostats to establish a program to facilitate the collection of mercury-containing thermostats from consumers. The Assembly also passed legislation (A.1048) that contained stronger collection requirements, but the Senate did not pass the legislation.

Mercury Content of Light Bulbs
(A.2048 Kavanagh; Passed the Assembly)

The amount of mercury contained in compact fluorescent light bulbs varies by manufacturer. The European Union and several states have adopted laws that establish standards for the maximum amount of mercury that can be contained in light bulbs. This legislation would establish similar mercury content limits and strengthen disposal provisions.

D. NATURAL GAS DRILLING

Moratorium
(A.5424-A Sweeney; Passed the Assembly)

The potential development of natural gas drilling in low permeability natural gas reservoirs such as the Marcellus and Utica Shale formations has led to robust debate regarding the safety of the process and the protection of the environment.

This legislation would suspend, until May 15, 2015, the issuance of permits for natural gas extraction in low permeability natural gas reservoirs such as the Marcellus and Utica shale formations. It would require a School of Public Health within the State University of New York system to conduct a comprehensive health impact assessment complete with opportunities for public comment and review in order to ensure a comprehensive review of the public health and environmental impacts of high-volume hydraulic fracturing before the process is authorized in the State.

This bill would also help ensure that the Legislature has adequate time to review DEC's Supplemental Generic Environmental Impact Statement (SGEIS) on Well Permit issuance for Horizontal Drilling and High-Volume Hydraulic Fracturing in the Marcellus Shale and Other Low-Permeability Gas Reservoirs when finalized. Such a moratorium would allow for a thorough, deliberate and unrushed analysis of all of the issues involved.

E. FISH AND WILDLIFE

Restrictions on Feral Pig Possession

(A.3767-A Glick; Chapter 417 of the Laws of 2013)

Eurasian boars, often referred to as feral pigs, wild boar, razorback, and Russian boar, are typically wild boars native to Europe and Asia. These boars were introduced in New York by game breeders and hunters, but are very difficult to contain. In addition, boars are prolific breeders, maturing in six to ten months and producing up to two litters of six to eight piglets per year. As a result, the population of boars in any given year can double or triple, leading to increases in fecal coliform in streams and other water bodies.

An estimated 19 states have significant boar populations. A 2010 Clemson University study indicated that boars cause an estimated \$1.5 billion in damage to U.S. agriculture by trampling, consuming and uprooting crops. Some counties in Texas have reported that boars are the second biggest predator to sheep and goats causing millions of dollars of agricultural damage each year.

Boars also damage native species and soils, uprooting vegetation in large swaths of land in their search for food. Based on their adaptability and naturally destructive behavior such as the consumption of vast amounts of crops and livestock, rapid maturation and reproduction rates and ability to transmit diseases, boars represent a threat to the public health and welfare. This law will prohibit the possession, sale, trade and transport of Eurasian boars as part of the effort to eliminate the presence of boars in New York.

Restrictions on Shark Fin Possession

(A.1769-B Maisel; Chapter 171 of the Laws of 2013)

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

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

Extension of Authorization to Use Three Fishing Lines
(A.7101 Russell; Chapter 121 of the Laws of 2013)

This law will extend, until December 31, 2015, the authorization for individuals to fish in freshwater with up to three lines. Similar legislation has passed in Michigan and is believed to have increased the interest and involvement of recreational anglers. Prior to the enactment of the original legislation in 2011, individuals were limited to two lines.

Management of Migratory Bird Seasons
(A.6903 Sweeney; Chapter 39 of the Laws of 2013)

Annual migratory game bird hunting regulations, including the timing of hunting seasons, are established in accordance with federal regulations. Historically, the final federal regulations have not been issued until late August or early September each year. There is no expectation that this timeline will change because it is driven by the annual waterfowl breeding surveys. As a result, DEC is often forced to issue emergency regulations to conform State migratory game bird hunting regulations to the federal regulations in time for opening day.

This law will extend, until October 1, 2015, DEC's authority to set seasons automatically in New York based on the final federal regulations, rather than requiring DEC to issue emergency regulations annually to establish the migratory game bird seasons. In addition, DEC would retain the option to issue its own regulations, if it chooses to do so, provided that they are no less restrictive than the federal regulations.

Lobster Management
(A.8105 Weisenberg; Chapter 305 of the Laws of 2013)

This legislation would ensure the timely adoption of lobster management measures required by the Atlantic States Marine Fisheries Commission (ASMFC) Amendment XVII to protect the Southern New England lobster stock which is experiencing persistent failures caused both by environmental impacts, such as low oxygen in the water and warming waters, and fishing mortality. In addition, this bill would allow for the sale of large lobsters in New York State.

F. ENVIRONMENTAL ENFORCEMENT

Environmental Justice Advisory Group
(A.3569 Peoples-Stokes; Passed the Assembly)

Environmental justice is intended to help members of minority and low-income communities make their neighborhoods safer and more liveable. In 1999, DEC received a grant from the United States Environmental Protection Agency to develop a comprehensive environmental justice program. As part of this process, DEC convened an environmental justice advisory group. In January 2002, the advisory group issued its report. In March 2003, DEC adopted a policy on environmental justice and permitting but took no action on several of the advisory group's recommendations.

This legislation would establish an Environmental Justice Advisory Group and Interagency Coordinating Council to implement the recommendations of the advisory group and ensure that State agencies conduct an environmental justice review and address environmental justice.

G. SOLID WASTE MANAGEMENT

Compostable or Recyclable Food Service Ware

(A.4973-A Kavanagh; Passed the Assembly)

Styrofoam is a liquid hydrocarbon that is manufactured commercially from petroleum. Each year Americans throw away an estimated 25,000,000 Styrofoam cups. A single Styrofoam cup can take up to 500 years to disintegrate fully. Styrofoam is very difficult to recycle due to its light weight and low scrap value. It is generally not accepted in curbside programs, is seldom able to be reused, and takes up a considerable amount of space in landfills. In addition, such materials can have serious impact on human health, wildlife, and the aquatic environment because the product breaks down and can clog waterways, or be mistaken for food by wildlife.

This legislation would require State agencies and municipalities to use compostable or recyclable food service ware made from material other than polystyrene foam unless there is no viable alternative product of comparable cost.

Enhancing Statewide Recycling Efforts

(A.3754 Colton; Passed the Assembly)

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

H. PETROLEUM MANAGEMENT

Moratorium on the Development of Liquefied Natural Gas

(A.216 Cusick; Chapter 27 of the Laws of 2013)

In 1973, on Staten Island, an empty liquefied natural gas tank exploded – claiming 40 lives. In 1978, a moratorium on the issuance of environmental certificates for facilities and routes for the transportation of liquefied natural or petroleum gas was instituted. This law will extend, until April 1, 2015, the existing moratorium for New York City.

I. WATER CONSERVATION AND QUALITY

Rockland Bergen Bi-State Watershed Flood Protection Act **(A.1297 Zebrowski; Veto Memo 254)**

This bill would have created the twelve-member Rockland Bergen Bi-State River Commission to address the flood hazards along the various waterways that cross the interstate border region, including the Hackensack, Mahwah, Ramapo, Saddle Rivers, and the Sparkill Brook/Creek.

Proper Disposal of Pharmaceutical Products **(A.5465 Sweeney; Passed the Assembly)**

Expired, unwanted, or unused pharmaceutical drugs require proper disposal in order to prevent accidental ingestion and/or unintended environmental harm. An extensive water analysis conducted by the United States Geological Survey detected at least one contaminant in approximately 96 percent of the water samples taken from 74 water sources in 25 states and Puerto Rico. Although drug collection events are taking place in some communities, a more coordinated effort is required to help prevent continued contamination.

This legislation would require DEC to establish a demonstration drug disposal program in cooperation with the State Police. The State Police facilities selected would be required to be representative of rural, suburban and urban areas of the State in order to provide data that could be used to determine the most effective methods of disposal.

Jamaica Bay Dredging **(A.2074 Goldfeder; Passed the Assembly)**

Due to the increase in vessel size in recent years, waterways such as channels, berthing areas and harbors are periodically excavated in a process known as dredging to maintain sufficient depth for safe and efficient vessel operation. Jamaica Bay was dredged to supply soil for a number of construction projects and in the process borrow pits were created in the bay. These borrow pits have been identified as an attractive alternative for the disposal of dredge material.

This legislation would restrict the types of dredged materials that could be placed in the borrow pits of Jamaica Bay. Any dredged material would be required to: comply with federal unrestricted ocean dumping criteria; have been tested with test results indicating no unacceptable toxicity or bioaccumulation; demonstrate no potential short term (acute) impacts or long-term (chronic) impacts, and, require no special precautionary measures when being dumped.

Long Island Water Quality
(A.1047 Sweeney; Passed the Assembly)

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

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

This legislation would create a regional water planning board and comprehensive water conservation and management plan to help achieve regional water quality goals, management solutions and integrated regulatory programs.

Neighbor Notification of Proposed Wetland Development
(A.517 Cusick; Passed the Assembly)

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

Protecting Residents with Private Wells
(A.1040 Jaffee; Passed the Assembly)

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

J. FOREST AND LAND RESOURCES

Conveyance of Certain State Forest Land to NYCO Minerals, Inc. (A.7974 Sweeney; Constitutional Amendment – second passage)

NYCO Minerals Inc., is a producer and supplier of the mineral wollastonite (calcium metasilicate), which has commercial application as a reinforcement or additive in ceramics, paints, plastics, friction products and various building products. NYCO Mineral's existing mine in Lewis produces 60,000 tons of wollastonite annually; however, the mine is approaching the end of its pit life. The adjacent property, which may also contain wollastonite, has been designated as Forest Preserve land.

This proposed constitutional amendment, which was previously passed twice by the Legislature before being approved by the voters in November, was drafted and supported by DEC and will authorize NYCO Minerals to conduct exploratory drilling and potentially acquire the adjoining Forest Preserve land, in exchange for the designation of additional Forest Preserve lands of equal or greater value.

Conveyance of Certain State Forest Land to Settle a Title Dispute (A.7684 Sweeney; Constitutional Amendment – second passage)

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

This proposed constitutional amendment, which was previously passed twice by the Legislature before being approved by the voters in November, was drafted and supported by the Department of Environmental Conservation and will authorize the conveyance of the disputed State Forest Preserve property. However, as a condition of such settlement, land purchased without the use of State-appropriated funds, suitable for incorporation into the Forest Preserve, which provides a net benefit to the Forest Preserve, will have to be provided.

Township 40 Enabling Legislation (A.7869 Sweeney; Chapter 537 of the Laws of 2013)

The constitutional amendment authorizing the settlement of a longstanding title dispute (A.7684) was approved by the voters and authorized the removal of certain lands from the Forest Preserve under certain conditions. This law, which was drafted by the Department of Environmental Conservation, is the first step in a multi-step process, establishes the settlement process and conditions.

Expansion of the Central Pine Barrens
(A.7905 Sweeney: Chapter 240 of the Laws of 2013)

The Pine Barrens Protection Act of 1993 has successfully protected tens of thousands of acres in the Long Island Pine Barrens. This law will expand the Central Pine Barrens “core preservation” and “compatible growth” areas of the Pine Barrens Protection Act of 1993 in order to provide additional protection for the Carmans River, one of the most pristine rivers on Long Island. The Carmans River flows ten miles south from Middle Island in the Town of Brookhaven to the Great South Bay. Many of the parcels of land to be included lie between already protected parcels so their inclusion will help ensure greater contiguity. This law will help prevent contamination of the river from run-off in the watershed by putting additional protections on certain properties.

Recognition of Federal Easements
(A.5976-A Englebright: Chapter 66 of the Laws of 2013)

Prior to the passage of this law, the easement provisions of the Environmental Conservation Law did not recognize easements held by federal entities such as the National Park Service. This law will add federal entities to the list of recognized state easement holders ensuring that any such easements may be enforced and providing property owners with any easement benefits.

Flood Mitigation Council
(A.6537-A Mayer; Passed the Assembly)

The increasing frequency and severity of flooding throughout the state has underscored the need for greater coordination of efforts among levels of government, regions and State agencies in order to better address flood prevention and response.

This bill would establish an eleven-member task force within the Department of Environmental Conservation to evaluate ways of protecting New York’s communities and residents from flooding, including inland flooding, and applying the best available science and research to examine flooding-related issues and impacts.

K. CLIMATE CHANGE

Addressing Climate Risk

(A.6558 Sweeney: Passed the Assembly)

Extreme weather events are becoming more common. According to the National Oceanic and Atmospheric Administration, October marked the 344th consecutive month with above-average temperatures. This means that people 28 years old or younger have never lived through a month that was colder than average. In addition, the National Climate Assessment and Development Advisory Committee report indicates "The Northeast has experienced a greater increase in extreme precipitation over the past few decades than any other region in the United States. Since 1958, the Northeast has seen a 74 percent increase in the amount of precipitation falling in very heavy events."

Future extreme weather events will also be compounded by sea level rise. Sea level rise in the Northeast is expected to exceed the global average. As a result, the chance of what is now a 1-in-10-year coastal flood event in the Northeast could triple by 2100, occurring roughly once every three years, simply in response to higher sea levels. This means that between a half million and 2.3 million people will be at risk from flooding due only to sea level rise.

These statistics have been illustrated most recently by the devastating impacts of Hurricanes Sandy, Lee and Irene. In addition to the tragic loss of life, property and environmental damage, there is also an economic cost of extreme weather events. The financial toll of Hurricane Sandy on New York is estimated to be at least \$42 billion.

This legislation would encourage advance planning for extreme weather events and require the consideration of the effects of climate change as part of permitting and funding decisions. For example, the water and sewage treatment plants within the State sustained extensive damage as a result of Hurricane Sandy. As funding and permitting decisions are made regarding such plants in the future, decisions about the potential for damage from other extreme weather events should be considered. State funding is a limited resource and it is appropriate that consideration be given to minimizing the impacts of climate risk and extreme weather events in order to ensure the long-term viability of funded projects. The same is true for Environmental Protection Fund programs such as the Local Waterfront Revitalization Program, in which municipalities are provided with funding to help develop long-term waterfront zoning.

Greenhouse Gas Emission Limits
(A.6327 Sweeney; Passed the Assembly)

Scientific studies, including those from the Union of Concerned Scientists and Intergovernmental Panel on Climate Change (2007 Nobel Peace Prize Winner), have concluded that global warming poses a serious threat. The continued emission of greenhouse gases will increase the Earth's temperature, leading to rising sea levels, threats to public welfare, and other ecological changes, dramatically affecting fisheries, wildlife and natural resources.

This legislation would authorize DEC to establish greenhouse gas emission reporting requirements and, beginning in 2014, after a public hearing, promulgate rules and regulations setting a limit on all greenhouse gas emission sources. The limit established by DEC would be required to be less than the 1990 limit and not impose additional burdens on communities already experiencing significant levels of regulated air contaminants as compared with the county average. Beginning in 2015, the limit established by DEC would be decreased by 2.3 percent each year, resulting in an 80 percent reduction by 2050.

L. CHEMICALS

Restrictions on the Use of Harmful Chemicals in Children's Products
(A.6328 Sweeney; Passed the Assembly)

Currently, New York identifies or prohibits the use of dangerous chemicals on a chemical by chemical basis. Several other states including Washington, California, and Maine have adopted more comprehensive chemical policies after finding high levels of cadmium, lead, and other dangerous chemicals in children's products ranging from crib mattresses to toys. This legislation is modeled after those states and is intended to prevent the use of dangerous chemicals and encourage the use of safer chemical alternatives in children's products.

This legislation would require DEC to develop lists of dangerous chemicals and require manufacturers of children's products containing such chemicals to report the use of such chemicals to DEC. The sale of children's products containing hazardous chemicals would be prohibited unless DEC issues a waiver.

Restrictions on the Use of Flame Retardants in Upholstered Furniture
(A.6557 Sweeney; Passed the Assembly)

Recent studies have shown that approximately 94 percent of couches manufactured after 2005 contain chemical flame retardants – in amounts capable of being measured in pounds. The flame retardant chemicals were added in response to a 1975 California flammability standard, TB 117, which was developed in response to concerns about the large number of household fires ignited by cigarettes.

The chemical flame retardants migrate out of furniture and into household dust. Because of their tendency to put items in their mouth, toddlers typically have three times the level of flame retardants as their parents. An article in the Chicago Tribune stated, "A typical American baby is born with the highest recorded concentrations of flame retardants among infants in the world."

Many flame retardants, most notably halogenated chemical retardants, have been associated with adverse health impacts. This legislation, which was developed after Assembly hearings, would prohibit the use of chemical flame retardants in residential upholstered furniture in order to decrease adverse health impacts and to ensure that chemical fire retardant-laden furniture developed for the prior California standard does not continue to be sold in New York once California revises their standard (California has recently proposed revisions to TB 117 to reflect more accurate fire conditions and the development of the Fire Safe Cigarette Act, which has contributed to decreased cigarette-related fires). In addition, this bill would also require residential upholstered furniture manufacturers to comply with an open flame standard beginning in 2016, reflective of a similar standard for residential mattresses adopted by the Consumer Product Safety Commission.

Bisphenol A in Receipt Paper

(A.1654 Maisel; Passed the Assembly)

It has been estimated that as many as 33.5 tons of Bisphenol A (BPA) are used in thermal-paper receipts, accounting for up to 2.2 percent of the total weight of the receipt. BPA is a known endocrine disrupter. In March of this year the Federal Food and Drug Administration issued a report on BPA that indicated “both the National Toxicology Program at the National Institutes of Health and FDA have some concerns about the potential effects of BPA on the brain, behavior, and prostate gland in fetuses, infants and young children.”

In 2011, Connecticut banned the sale of receipt paper containing BPA. This legislation follows the model established in Connecticut, and would ban the sale of receipt paper containing BPA beginning October 1, 2014. However, if the U.S. EPA does not identify safe, commercially available alternatives to BPA by June 30, 2015, implementation would be delayed until July 1, 2017.

Cadmium in Children’s Products

(A.4822 Sweeney; Passed the Assembly)

Cadmium is a metal that is inexpensive, malleable, and highly resistant to corrosion, which makes it desirable for use in plastics as a stabilizer and in electroplating; however, cadmium interferes with how the body uses calcium and has been associated with harmful health impacts including cancer and kidney disease. An Associated Press story found high levels of cadmium in low-priced children’s jewelry for sale in the United States.

This legislation would prohibit the sale of cadmium-added novelty products (including children’s jewelry) containing cadmium in an amount equal to or in excess of .0075 percent by weight (a similar standard has been included by other states including California, Connecticut and Maryland).

Prohibition on the Use of Coal Tar Products
(A.630 Rosenthal; Passed the Assembly)

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

Prohibition on the Use of the Flame Retardant TRIS
(A.4741 Sweeney; Passed the Assembly)

TRIS is the common name for a family of chlorinated flame retardants. In the 1970s, TRIS (TDCPP) was used in children's sleepwear as a substitute for TRIS-BP, which was banned by the Consumer Product Safety Commission because of potential health concerns. Subsequent testing on TDCPP caused manufacturers to voluntarily stop using it in children's sleepwear; however, it is used currently in plastics, resins and polyurethane foams found in car seats and other baby products. TDCPP is not chemically bound to these products. As a result, TDCPP is present in indoor air and dust, in the environment, and in human tissue. Younger children, particularly babies, are especially vulnerable because of their smaller and developing bodies. California recently added TDCPP to its Proposition 65 list, which lists "chemicals known to the State of California to cause cancer and birth defects or other reproductive harm," because of animal studies demonstrating its adverse health effects. This legislation would prohibit the use of TDCPP in children's products. In 2011, the Legislature banned the use of TRIS (TCEP) in child care products because of the risks TCEP poses to children's health.

M. DEPARTMENTAL POWERS

Promotion of Outdoor Environmental Activities
(A.1104 Gunther; Passed the Assembly)

The average American child spends just four to seven minutes each day in unstructured play. Outdoor play has been linked to increasing fitness levels, raised levels of Vitamin D, improved vision, and improved academic performance.

This legislation would direct the commissioners of the Department of Environmental Conservation and Health to develop an outdoor environmental education and recreation plan for children that focuses on creating, developing and retaining opportunities for outdoor play and learning in New York State.

N. BROWNFIELDS

Increased Availability of Brownfield Cleanup Information **(A.5990-A Braunstein; Chapter 266 of the Laws of 2013)**

The Environmental Conservation Law establishes a Brownfield Site Contact List. Entities on this list are required to receive notice of certain information provided as part of the Brownfield Cleanup Program. This law adds New York City community boards to the Contact List in order to ensure that they receive timely and relevant information.

Waivers from Hazardous Waste Program Fees **(A.7250-A Lentol; Passed the Assembly)**

The State imposes a fee on the disposal of hazardous waste; however, waste from certain remediation programs, including the State's Brownfield Cleanup Program, are exempt. This legislation would exempt waste generated from a brownfield cleanup program administered by the municipality from the disposal fee provided that the municipal program is recognized by the State, complies with all of the requirements of the State program, and includes only projects conducted solely for the development of low-income housing.

OVERSIGHT AND PUBLIC HEARINGS

In 2013, the Assembly Standing Committee on Environmental Conservation continued its oversight of environmental issues by holding the following hearings:

Addressing Pesticide Contamination on Long Island

Long Island's population of approximately three million people receives its drinking water from sole source aquifers. Although Long Island's soil quality helps ensure a plentiful groundwater supply, this same quality helps contaminants such as pesticides to leach from the surface into the groundwater. For example, in 1979, Long Island became the site of the first detection of a pesticide in groundwater when the pesticide Aldicarb was detected despite prior laboratory studies showing it could not contaminate groundwater.

Recent water quality studies have detected increasing pesticide contamination. For example, studies conducted by the Suffolk County Department of Health Services, the Suffolk County Water Authority and the United States Geological Survey detected the pesticide Metalaxyl 1,292 times at 727 locations.

In a 1998 annual report issued pursuant to the State Pesticide Reporting Law, the Department of Environmental Conservation (DEC) recommended the development of a Long Island Pesticides Management Plan. The plan was first released in 2011 as a draft plan and indicated "With the exception of situations involving verifiable unlawful misuse of a pesticide (including unlawful disposal), and in the absence of a critical pest management need that cannot be met by alternative means, prohibiting regional use of pesticides that pose a threat to Long Island groundwater will be a first option." DEC has thus far opted not to finalize the 2011 draft proposal and instead, on January 30, 2013, released a new Long Island Pesticide Pollution Prevention Strategy for public comment.

The Assembly Standing Committee on Environmental Conservation held a hearing on April 2nd in Farmingdale to solicit input on the plan released by the Department of Environmental Conservation regarding pesticide use on Long Island.

Budget Oversight and the Need for a New Environmental Bond Act

A 2008 assessment of the costs to repair, replace, and update New York's wastewater infrastructure estimated the total funding need to be \$36.2 billion over a twenty year period. A similar assessment for drinking water infrastructure found a need of \$38.7 billion over a twenty year period. In the past, the issuance of environmental bonds has helped to provide funding for capital projects; however, the last environmental bond act was approved in 1996.

Legislation has been introduced (A.8121 Sweeney) that would establish the \$5 billion Clean Water/Clean Air/Green Jobs Bond Act of 2014. This legislation would authorize the voters to determine whether or not funding should be provided for projects that would:

- Protect, improve, and enhance the quality of drinking water and the enhancement of water bodies
- Repair, replace and/or update municipal wastewater drinking water infrastructure, and
- Include water quality related research and development

Hearings were held in Albany on September 6th and in Buffalo on October 22nd to examine the need for a new environmental bond act and to review DEC's implementation of the State Budget.

Climate Change

Long-term forecasts indicate that extreme weather events will become more frequent and severe as man-made changes impact the environment with resulting changes such as shrinking wetlands and warmer oceans. In coastal areas, extreme weather events will be compounded further by sea level rise. Hurricane Sandy provides only the most recent example of such an extreme weather event. Certain environmental infrastructure, such as wastewater treatment plants, was inundated and further worsened environmental damage. Hearings were held in New York City on January 16th and in Babylon on January 30th to solicit input on potential actions to mitigate the man-made factors that contribute to extreme weather events and thereby reduce the environmental impacts of such events.

DEC's Proposed Fracking Regulations

On September 28, 2011, the New York State Department of Environmental Conservation (DEC) released its proposed High Volume Hydraulic Fracturing regulations. On December 12, 2012, DEC released revised regulations. On January 10th a hearing was held to receive public comment on the Department of Environmental Conservation's proposed High Volume Hydraulic Fracturing regulations.

OUTLOOK AND GOALS FOR 2014

The Committee looks forward to the 2014 Legislative Session. The Committee will continue its history of environmental advocacy and achievement by working to enact sound, workable environmental policies. Also, the Committee will continue to monitor natural gas developments. The Committee will consider legislation to protect wetlands, improve water quality, and ensure safe drinking water. Finally, the Committee will continue to work to protect the State's natural resources and the long-term health and abundance of New York's fish and wildlife populations.

APPENDIX A
2013 SUMMARY SHEET

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

Final Action	<u>Assembly</u> <u>Bills</u>	<u>Senate</u> <u>Bills</u>	<u>Total</u>
<u>Bills Reported With or Without Amendment</u>			
To Floor; Not Returning to Committee (Favorable)	22	0	22
To Ways & Means	0	0	0
To Codes	19	0	19
To Rules	33	0	33
To Judiciary	0	0	0
Total	86	0	86
<u>Bills Having Committee Reference Changed</u>			
To Judiciary Committee	1	0	1
To Ways and Means	1	0	1
Total	2	0	2
<u>Senate Bills Substituted or Recalled</u>			
Substituted		15	15
Recalled		4	4
Total		19	19
<u>Bills Defeated in Committee</u>	0	0	0
<u>Bills Held for Consideration With a Roll-Call Vote</u>	36	0	36
<u>Bills Never Reported or Held in Committee</u>	280	34	314
<u>Bills Having Enacting Clause Stricken</u>	6	0	6
<u>Motion to Discharge Lost</u>	0	0	0
TOTAL BILLS IN COMMITTEE	410	53	463
TOTAL NUMBER OF COMMITTEE MEETINGS HELD		8	

APPENDIX B

ENVIRONMENTAL CONSERVATION BILLS THAT PASSED BOTH HOUSES

Assembly Bill	Sponsor	Description	Final Action
A.122	Cusick	Extends the authorization of residential property owners in high risk brush fire areas on Staten Island to remove certain reeds	Chapter 258
A.216	Cusick	Extends the New York City moratorium on the issuance of environmental safety certificates for liquefied natural or petroleum gas	Chapter 27
A.836	Ryan	Adds the Scajaquada Creek to the definition of inland waterways	Chapter 38
A.1297	Zebrowski	Enacts the “Rockland Bergen Bi-state Watershed Flood Prevention and Protection Act”	Veto 254
A.1769-B	Maisel	Prohibits the possession, sale or distribution of most shark fins	Chapter 171
A.3767-A	Glick	Prohibits the sale, distribution, transport and trade of Eurasian boars	Chapter 417
A.4579	McLaughlin	Adds the Wynantskill Creek to the definition of inland waterways	Chapter 147
A.5574	Kolb	Authorizes rifle hunting in Ontario County until October 1, 2015	Chapter 144
A.5832-A	DiPietro	Makes the authorization for rifle hunting in Wyoming County permanent	Chapter 111
A.5976-A	Englebright	Adds federal entities to the list of State-recognized conservation easement holders	Chapter 66
A.5990-A	Braunstein	Requires DEC to notify New York City Community Boards of any new Brownfield Site Cleanup Program projects	Chapter 266
A.6903	Sweeney	Extends certain provisions relating to DEC’s management of migratory game birds	Chapter 39
A.6904	Otis	Extends DEC’s authority to manage scallops	Chapter 41
A.6905	Rozic	Extends DEC’s authority to manage whelk and conch	Chapter 40
A.6906	Thiele	Extends DEC’s authority to manage squid	Chapter 62
A.6907	Colton	Extends DEC’s authority to manage winter flounder	Chapter 34

A.6908	Sweeney	Extends DEC's authority to provide youth pheasant hunting days on Long Island	Chapter 42
A.6909	Fahy	Extends DEC's authority to manage Atlantic Cod	Chapter 35
A.6910	Zebrowski	Extends DEC's authority to manage Atlantic and shortnose sturgeon	Chapter 36
A.6950-A	Goodell	Makes the authorization for rifle hunting in Chautauqua County permanent	Chapter 155
A.7101	Russell	Extends the authority for individuals to fish with up to three fishing lines	Chapter 121
A.7252	Oaks	Authorizes rifle hunting in Wayne County until October 1, 2015	Chapter 159
A.7411	Titone	Extends DEC's authority to manage sharks	Chapter 170
A.7684	Sweeney	Authorizes the settlement of a land dispute in the Adirondack Park Forest Preserve	Constitutional Amendment second passage
A.7710	Sweeney	Decreases the fee for the youth bowhunting privilege	Chapter 276
A.7869	Sweeney	Specifies the settlement conditions of a land dispute in the Adirondack Park Forest Preserve	Chapter 537
A.7905	Sweeney	Provides the protections of the Long Island Pine Barrens law to the Carmans River Watershed	Chapter 240
A.7906	Sweeney	Requires all heating oil sold in the State to contain at least two percent biodiesel	Veto 283
A.7974	Sweeney	Authorizes the conveyance of certain Adirondack Park State Forest Preserve Land to NYCO Minerals, Inc	Constitutional Amendment second passage
A.8084	Sweeney	Requires manufacturers to establish a collection program for mercury-containing thermostats	Chapter 550

APPENDIX C

ENVIRONMENTAL CONSERVATION BILLS THAT PASSED THE ASSEMBLY ONLY

Assembly Bill	Sponsor	Description
A.191-A	Kavanagh	Adds film plastic to the recycling requirements of the “Reduction, Reuse, and Recycling Act”
A.517	Cusick	Requires notice to neighboring landowners in New York City prior to development in wetland areas
A.630	Rosenthal	Prohibits the sale and use of pavement products containing coal tar
A.1040	Jaffee	Enacts the “Private Well Testing Act”
A.1047	Sweeney	Extends special ground water protections to certain surface waters near Long Island
A.1048	Sweeney	Requires manufacturers of mercury-containing thermostats to offer collection programs
A.1104	Gunther	Directs the commissioners of the Department of Health and Environmental Conservation to study and develop a long term strategy to encourage outdoor environmental education and recreation
A.1654	Maisel	Prohibits the manufacture, sale or distribution of receipt paper containing Bisphenol A
A.1768	Maisel	Requires manufacturers to establish a mercury-containing light bulb collection and recycling program
A.2048	Kavanagh	Limits the mercury content of compact fluorescent light bulbs
A.2074	Goldfeder	Prohibits the use of certain materials for the purposes of filling pits in Jamaica Bay
A.2129	Sweeney	Requires all heating oil sold in New York to contain at least two percent biodiesel fuel
A.3569	Peoples-Stokes	Creates a permanent environmental justice advisory group
A.3729	Peoples-Stokes	Requires the Department of Environmental Conservation to publish a list of high local environmental impact zones
A.3754	Colton	Modifies provisions relating to recycling requirements
A.4741	Sweeney	Expands the “TRIS-free Children and Babies Act”
A.4822	Sweeney	Restricts the amount of cadmium that may be added to novelty consumer products

A. 4973-A	Kavanagh	Requires the use of biodegradable and compostable products when not cost prohibitive
A.5424-A	Sweeney	Enacts a moratorium on the issuance of permits for natural gas drilling
A.5465	Sweeney	Requires DEC, in cooperation with the State Police, to develop a drug disposal demonstration program
A.6327	Sweeney	Requires DEC to establish limits on greenhouse gas emissions
A.6328	Sweeney	Restricts the use of certain toxic chemicals in children's products
A.6537-A	Mayer	Establishes a statewide flood mitigation and prevention task force
A.6557	Sweeney	Prohibits the use of certain chemical flame retardants in residential upholstered furniture
A.6558	Sweeney	Requires consideration of climate change and extreme weather events in the issuance of certain permits and grants
A.7250-A	Lentol	Eliminates special assessments on the disposal of hazardous wastes generated by certain municipal brownfield programs
A.7895	Sweeney	Ensures the timely adoption of lobster management measures required by the Atlantic States Marine Fisheries Commission