

# Environmental Conservation

## ARTICLE 15 WATER RESOURCES

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#### § 15-0101. Short title.

This article 15 of the Environmental Conservation Law shall be known as the Water Resources Law. However, sections of the Environmental Conservation Law falling within this article 15 may be cited either as such sections of the Environmental Conservation Law or as such sections of the Water Resources Law.

#### § 15-0103. Legislative findings.

Article 15 shall be construed and administered in the light of the following findings of fact:

1. The sovereign power to regulate and control the water resources of this state ever since its establishment has been and now is vested exclusively in the state of New York, except to the extent of any delegation of power to the United States;

2. New York State has been generously endowed with water resources which have contributed and continue to contribute greatly to the position of preeminence attained by New York in population, agriculture, commerce, trade, industry and outdoor recreation;

3. Adequate and suitable water for water supply, domestic, municipal, industrial, agricultural and commercial uses, power, irrigation, transportation, fire protection, sewage and waste assimilation, the growth of forests, maintenance of fish and wildlife, recreational enjoyment and other uses is essential to the health, safety and welfare of the people and economic growth and prosperity of the state;

4. In recent years our population growth and the development and use of new technology and processes have resulted in demands for more water and the equitable use thereof for these purposes;

5. In recent years recreational activities are making new and greater demands on lakes and streams of the state for boating, fishing, bathing and water sports, and the lands adjacent thereto for campsites, access areas and public beaches;

6. The growth of cities and urban areas and their expansion into formerly rural areas has in many cases resulted in the filling in, diversion and destruction of water courses, necessarily destroying aquatic habitat and lessening supplies of water for multiple use purposes;

7. Increased motorized highway travel and public safety are requiring the construction of new, better and larger public highways which may alter the water ways of the state and encroach upon water courses and affect their uses;

8. All fish, game, wildlife, shellfish, crustacea and protected insects in the state, except those legally acquired and held in private ownership, are owned by the state and held for the use and enjoyment of the people of the state, and the state has a responsibility to preserve, protect and conserve such terrestrial and aquatic resources from destruction and damage and to promote their natural propagation;

9. The unreasonable, uncontrolled and unnecessary interference with or defilement and disturbance of water courses create hazards to the health, safety and welfare of the people of the state causing great economic loss by erosion of soil, increased costs of water purification and treatment, the loss of crop lands and forests by flooding, the destruction and failure of natural propagation of fish and aquatic resources and the loss of water for domestic, industrial, navigational, municipal, agricultural, recreational and other beneficial uses and purposes;

10. The unreasonable and unregulated (a) interference with the channels and beds of lakes and streams by construction of dams, roads and other structures, (b) alteration of water courses and gradients, (c) impounding of water, (d) dredging and filling in of stream beds, and the unreasonable removal of sand, gravel or other materials from streams, and by other action, have resulted in pollution of such waters, increase in turbidity and the deposit of silt and debris, irregular variations of velocity, temperature and levels of water, erosion of banks and uplands and the flooding of valuable lands;

11. The department, and two of its predecessors, the Water Resources Commission and the Water Pollution Control Board, has classified substantially all of the waters of the state;

12. The department, pursuant to title 11 of article 15 of the Environmental Conservation Law, is continuing the work of its predecessor, the Water Resources Commission in undertaking comprehensive planning for the protection, conservation and development of the water resources of the state;

13. It is in the best interest of the state that provision be made for the regulation and supervision of activities that deplete, defile, damage or otherwise adversely affect the waters of the state and land resources associated therewith.

#### § 15-0105. Declaration of policy.

In recognition of its sovereign duty to conserve and control its water resources for the benefit of all inhabitants of the state, it is hereby declared to be the public policy of the state of New York that:

1. The regulation and control of the water resources of the state of New York be exercised only pursuant to the laws of this state;

2. The waters of the state be conserved and developed for all public beneficial uses;

3. Comprehensive planning be undertaken for the protection, conservation, equitable and wise use and development of the water resources of the state to the end that such water resources be not wasted and shall be adequate to meet the present and future needs for domestic, municipal, agricultural, commercial, industrial, power, recreational and other public, beneficial purposes;

4. With respect to the use of the waters of the state and the water courses thereof, due consideration shall be given to the relative importance of different uses;

5. The acquisition, storage, diversion and use of water for domestic and municipal purposes shall have priority over all other purposes;

6. Alterations in the conditions of waters and water courses be planned and carried out in such manner that the important uses will be impaired as little as possible;

7. Reasonable standards of purity and quality of the waters of the state be maintained consistent with public health, safety and welfare and the public enjoyment thereof, the propagation and protection of fish and wildlife, including birds, mammals and other terrestrial and aquatic life, and the industrial development of the state, and to that end, to require the use of all known available and reasonable methods to prevent and control pollution, wastage and unreasonable disturbance and defilement of the waters of the state;

8. In addition to other recognized public beneficial uses and control of water as provided by this article 15 or by any other statute, the regulated acquisition, storage, diversion and use of water for the supplemental irrigation of agricultural lands within the state is a public purpose and use, in the interests of the health, safety and welfare of the people of the state and for their interest.

§ 15-0107. Definitions as used in this article.

1. "Person" means any individual, firm, co-partnership, association or corporation other than the state and a "public corporation."

2. "Public corporation" means "public corporation" as defined in subdivision one of Section 3 of the General Corporation Law and includes all public authorities, except the Power Authority of the State of New York.

3. "Municipality" or "municipal corporation" includes a county, city, town and village.

4. "Waters" shall be construed to include lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic ocean within the territorial limits of the state of New York, and all other bodies of surface or underground water, natural or artificial, inland or coastal, fresh or salt, public or private, which are wholly or partially within or bordering the state or within its jurisdiction.

5. "Water power" shall be construed to mean power developed from falling or flowing water, and all electrical current and other forms of energy into which such power may be transformed.

6. The term "comprehensive planning" as used in title 11 of this article shall be deemed to mean multi-purpose planning for at least two, and as many more as may be found to be practicable and reasonable, of the purposes and uses as provided by this article 15 or by any other statute, the provisions of which and the procedures authorized thereby are to remain in full force and effect.

7. Other definitions, applicable to this article, are found in sections 15-1301, 15-1703, 15-1973 and 15-2101.

§ 15-0109. General jurisdiction.

The department shall exercise its powers and perform its duties in any matter affecting the construction of improvements to or developments of

water resources for the public health, safety or welfare, including but not limited to the supply of potable waters for the various municipalities and inhabitants thereof, the use of water for industrial and agricultural operations, the developed and undeveloped water power of the state, the facilitation of proper drainage and the regulation of flow and improvement of the rivers of the state.

§ 15-0111. Public Authorities Law and Administrative Code of the City of New York are not affected.

Nothing contained in this article shall be deemed or construed as amending, repealing, altering or otherwise modifying in whole or in part any provision of Title 1, Article 5 of the Public Authorities Law, as amended, with respect to Power Authority of the State of New York, or any provision of Title K of Chapter fifty-one and Title D of Chapter 15 of the Administrative Code of the City of New York, as amended, with respect to the City of New York, and such acts shall remain in full force and effect, except that notwithstanding the provisions of this section and title 3 of article 1 of this chapter, section 15-0103 and title 8 of this article shall apply to the city of New York, its agencies and departments. Nothing in this article shall be deemed or construed as adding to, diminishing or otherwise modifying the rights, powers, duties and obligations granted to and imposed upon Power Authority of the State of New York and the City of New York, its or their agencies and departments by such statutes or any other statutes, except that notwithstanding the provisions of this section and title 3 of article 1 of this chapter, section 15-0103 and of title 8 of this article shall apply to the city of New York, its agencies and departments.

§ 15-0113. State to be reimbursed for costs.

In the event that the department shall carry out a project paid for by the beneficiaries, as provided by various parts in this article, the department may, if such procedure shall be found to be just and reasonable, require that the state be reimbursed for costs which may have been paid from state appropriations. This reimbursement may cover costs and expenses incurred prior to the time the project funds could be made available for salaries and expenses for regular employees of any state department who may have devoted all or a part of their time to that particular project, except this is not intended to apply to the salaries of the members of the department engaged only in general administrative work in connection with the project.