

Environmental Conservation

ARTICLE 21 POLLUTION CONTROL COMPACTS

TITLE 1 NEW ENGLAND INTERSTATE WATER POLLUTION CONTROL COMPACT

- Section 21-0101. New England Interstate Water Pollution Control Compact.
- 21-0103. Membership on commission.
- 21-0105. Budget.
- 21-0107. State contribution.
- 21-0109. Examination of accounts.
- 21-0111. Inconsistent provisions.
- 21-0113. Appraisal.
- 21-0115. Additional powers.
- 21-0117. Water quality network.

§ 21-0101. New England Interstate Water Pollution Control Compact.

The New England Interstate Water Pollution Control Compact as first entered into pursuant to chapter 764 of the laws of 1949, and as reenacted by chapter 475 of the laws of 1961, is hereby continued. The compact is as follows:

NEW ENGLAND INTERSTATE WATER POLLUTION CONTROL COMPACT

Whereas, the growth of population and the development of the territory of the New England states has resulted in serious pollution of certain interstate streams, ponds and lakes, and of tidal waters ebbing and flowing past the boundaries of two or more states; and

Whereas, such pollution constitutes a menace to the health, welfare and economic prosperity of the people living in such areas; and

Whereas, the abatement of existing pollution and the control of future pollution in the interstate waters of the New England area are of prime importance to the people and can best be accomplished through the co-operation of the New England states in the establishment of an interstate agency to work with the states in the field of pollution abatement;

Now, therefore, the states of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont do agree and are bound as follows:

ARTICLE I

It is agreed between the signatory states that the provisions of this compact shall apply to streams, ponds and lakes which are contiguous to two or more signatory states or which flow through two or more signatory states or which have a tributary contiguous to two or more signatory states or flowing through two or more signatory states, and also shall apply to tidal waters ebbing and flowing past the boundaries of two states.

ARTICLE II

There is hereby created the New England Interstate Water Pollution Control Commission (hereinafter referred to as the commission) which shall be a body corporate and politic, having the powers, duties and jurisdiction herein enumerated and such other and additional powers as shall be conferred upon it by the act or acts of a signatory state concurred in by the others.

ARTICLE III

The commission shall consist of five commissioners, from each signatory state, each of whom shall be a resident voter of the state from which he is appointed. The commissioners shall be chosen in the manner and for the terms provided by law of the state from which they shall be appointed. For each state there shall be on the commission a member representing the state health department, a member representing the state water pollution control board (if such exists), and except where a state in its enabling legislation decides that the best interests of the state will be otherwise served, a member representing municipal interests, a member representing industrial interests, and a member representing an agency acting for fisheries or conservation.

ARTICLE IV

The commission shall annually elect from its members a chairman and vice chairman and shall appoint and at its pleasure remove or discharge such officers. It may appoint and employ a secretary who shall be a professional engineer versed in water pollution and may employ such stenographic or clerical employees as shall be necessary, and at its pleasure remove or discharge such employees. It shall adopt a seal and suitable by-laws and shall promulgate rules and regulations for its management and control. It may maintain an office for the transaction of its business and may meet at any time or place within the signatory states. Meetings shall be held at least twice each year. A majority of the members shall constitute a quorum for the transaction of business but no action of the commission imposing any obligation on any signatory state or on any municipal agency or subdivision thereof or on any person, firm or corporation therein shall be binding unless a majority of the members from such signatory state shall have voted in favor thereof. Where meetings are planned to discuss matters relevant to problems of water pollution control affecting only certain of the signatory states, the commission may vote to authorize special meetings of the commissioners of the states especially concerned. The commission shall keep accurate accounts of all receipts and disbursements and shall make an annual report to the governor, the temporary president of the senate, the speaker of the assembly, the chairpersons of the senate finance and assembly ways and means committees, and the chairpersons of the senate and assembly environmental conservation committees setting forth in detail the operations and transactions conducted by it pursuant to this compact, and shall make recommendations for any legislative action deemed by it advisable, including amendments to the statutes of the signatory states which may be necessary to carry out the intent and purpose of this compact. The commission shall not incur any obligations for salaries, office, administrative, traveling or other expenses prior to the allotment of funds by the signatory state adequate to meet the same; nor shall the commission pledge the credit of any signatory states. Each signatory state reserves the right to provide hereafter by

law for the examination and audit of the accounts of the commission. The commission shall appoint a treasurer who may be a member of the commission, and disbursements by the commission shall be valid only when authorized by the commission and when vouchers therefor have been signed by the secretary and countersigned by the treasurer. The secretary shall be custodian of the records of the commission with authority to attest to and certify such records or copies thereof.

ARTICLE V

It is recognized, owing to such variable factors as location, size, character and flow and the many varied uses of the waters subject to the terms of this compact, that no single standard of sewage and waste treatment and no single standard of quality of receiving waters is practical and that the degree of treatment of sewage and industrial wastes should take into account the classification of the receiving waters according to present and proposed highest use, such as for drinking water supply, industrial and agricultural uses, bathing and other recreational purposes, maintenance and propagation of fish life, shellfish culture, navigation and disposal of wastes.

The commission shall establish reasonable physical, chemical and bacteriological standards of water quality satisfactory for various classifications of use. It is agreed that each of the signatory states through appropriate agencies will prepare a classification of its interstate waters in entirety or by portions according to present and proposed highest use and for this purpose technical experts employed by state departments of health and state water pollution control agencies are authorized to confer on questions relating to classification of interstate waters affecting two or more states. Each signatory state agrees to submit its classification of its interstate waters to the commission for approval. It is agreed that after such approval all signatory states through their appropriate state health departments and water pollution control agencies will work to establish programs of treatment of sewage and industrial wastes which will meet standards established by the commission for classified waters. The commission may from time to time make such changes in definitions of classifications and in standards as may be required by changed conditions or as may be necessary for uniformity.

ARTICLE VI

Each of the signatory states pledges to provide for the abatement of existing pollution and for the control of future pollution of interstate inland and tidal waters as described in Article I, and to put and maintain the waters thereof in a satisfactory condition consistent with the highest classified use of each body of water.

ARTICLE VII

Nothing in this compact shall be construed to repeal or prevent the enactment of any legislation or prevent the enforcement of any requirement by any signatory state imposing any additional condition or restriction to further lessen the pollution of waters within its jurisdiction. Nothing herein contained shall affect or abate any action now pending brought by any governmental board or body created by or existing under any of the signatory states.

ARTICLE VIII

The signatory states agree to appropriate for the salaries, office, administrative, travel and other expenses such sum or sums as shall be recommended by the commission. The commonwealth of Massachusetts obligates itself only to the extent of sixty-five hundred dollars in any one year, the state of Connecticut only to the extent of three thousand dollars in any one year, the state of Rhode Island only to the extent of fifteen hundred dollars in any one year, and the states of New Hampshire, Maine, and Vermont each only to the extent of one thousand dollars in any one year.

ARTICLE IX

Should any part of this compact be held to be contrary to the constitution of any signatory state or of the United States, all other parts thereof shall continue to be in full force and effect.

ARTICLE X

The commission is authorized to discuss with appropriate state agencies in New York state questions of pollution of waters which flow into the New England area from New York state or vice versa and to further the establishment of agreements on pollution abatement to promote the interests of the New York and New England areas.

Whenever the commission by majority vote of the members of each signatory state shall have given its approval and the state of New York shall have taken the necessary action to do so, the state of New York shall be a party to this compact for the purpose of controlling and abating the pollution of waterways common to New York and the New England states signatory to this compact but excluding the waters under the jurisdiction of the Interstate Sanitation Commission (New York, New Jersey, and Connecticut).

ARTICLE XI

This compact shall become effective immediately upon the adoption of the compact by any two contiguous states of New England but only insofar as applies to those states upon approval by Federal law. Thereafter upon ratification by other contiguous states, it shall also become effective as to those states.

§ 21-0103. Membership on commission.

The state shall be represented on the New England Interstate Water Pollution Control Commission by five commissioners to be appointed by the Governor. One shall be the Commissioner of Environmental Conservation, one shall be an officer of the Department of Environmental Conservation and the others shall be such persons as the Governor shall determine will serve the best interests of the state. The commissioners shall serve during the pleasure of the Governor. They shall have all the powers and duties enjoined by the compact; shall serve without compensation, but shall be reimbursed for their expenses actually and necessarily incurred by them in the performance of their duties. The traveling expenses of the commissioners in attending meetings of the commission shall be paid on the audit and warrant of the Comptroller

upon vouchers approved by the Department of Environmental Conservation from funds appropriated to the Department of Environmental Conservation for such purposes. The Commissioner of Environmental Conservation and the officer of the Department of Environmental Conservation may designate, from time to time, a deputy or other subordinate in his department to attend and participate in any meeting of or hearing by or other proceeding of the commission, with authority to vote as a representative of or substitute for said commissioner or officer of the Department of Environmental Conservation.

§ 21-0105. Budget.

The New England Interstate Water Pollution Control Commission shall submit annually, in accordance with the laws and practice of this state, to the Commissioner of Environmental Conservation for study and consideration by such commissioner, an estimate of moneys required to administer, manage and support the commission during the ensuing fiscal year. Such estimate shall include any request for appropriation of funds by New York and shall be accompanied by a tabulation of similar requests which the commission expects to make to each other member state and the formula or factors upon which such respective requests are based. The Commissioner of Environmental Conservation shall include a suitable item or items of estimated expenditures in the budget estimates of his department.

§ 21-0107. State contribution.

The state agrees to contribute to the commission such annual amount as may be required for its several purposes under the terms of such compact, within appropriations therefor.

§ 21-0109. Examination of accounts.

The state Comptroller is hereby authorized and empowered from time to time to examine the accounts and books of the commission, including its receipts, disbursements and such other items referring to its financial standing as such Comptroller may deem proper and to report the results of such examination to the Governor.

§ 21-0111. Inconsistent provisions.

No provision of the Public Health Law and no provision of the Environmental Conservation Law, if such provision of the Environmental Conservation Law was derived from a provision of the Public Health Law, which is inconsistent with the provisions of the New England Interstate Water Pollution Control Compact shall be applicable to the New England Interstate Water Pollution Control Commission or to any matter governed by the New England Interstate Water Pollution Control Compact.

§ 21-0113. Appraisal.

On August 15, 1964, and at intervals of four years thereafter, the Commissioner of Environmental Conservation shall evaluate the role of the New England Interstate Water Pollution Control Commission with respect to the interstate waters of concern to New York, and to which

the compact applies, and shall report to the commission thereon. The Commissioner of Environmental Conservation shall transmit a copy of such report to the Governor. The Commissioner of Environmental Conservation may make such additional reports to the New England Interstate Water Pollution Control Commission and the Governor as he deems appropriate.

§ 21-0115. Additional powers.

1. The state reaffirms its support of the cooperative approach to the abatement and control of water pollution as embodied in the New England Interstate Water Pollution Control Compact. In view of the increases in population concentrations, the growing need of industry and agriculture for water of reasonable quality and the quality requirements of water based recreation and other uses, the New England Interstate Water Pollution Control Commission shall develop and maintain its programs, including research on water quality problems at such levels as may be appropriate including, to the extent necessary, levels above those originally provided when the state first enacted the compact.

2. In addition to the minimal personnel authorizations contained in article IV of the New England Interstate Water Pollution Control Compact, the commission may employ such engineering, technical and other professional, secretarial and clerical personnel as the proper administration and functioning of the commission may require.

3. a. This state hereby concurs in the conferring of any powers or duties on the New England Interstate Water Pollution Control Commission by other states in addition to those conferred by provision of the New England Interstate Water Pollution Control Compact. This concurrence is pursuant to article II of said compact.

b. The concurrence is subject to the following limitations:

(1) Unless this state specifically confers a power or duty on the commission, other than one conferred by the compact itself, no financial or other burden or duties shall be placed upon this state, or any agency, officer or subdivision thereof, by reason of the conferring or exercise of the power or duty. At any time, the Governor, the Attorney General, or the State Comptroller shall have the power to make inquiry of the commission and to examine its books and records in order to ascertain the state of compliance with this act.

(2) The rights, privileges and responsibilities of the state with respect to the New England Interstate Water Pollution Control Compact and the commission established thereby shall not be limited or impaired.

(3) The commission shall include in its reports to the Governor a full account of any additional powers or duties exercised or performed by it.

§ 21-0117. Water quality network.

1. The New England Interstate Water Pollution Control Commission, in cooperation with the state and such other states signatory to the New England Interstate Water Pollution Control Compact as may participate, shall establish and maintain a water quality sampling and testing network. The network shall, to the fullest extent practicable, rely upon the sampling and testing programs of the state and other participating states and upon information available from agencies of the federal government, and shall not duplicate any of their activities. However, if the sampling and testing programs of the state and other states and the information available from agencies of the federal government are insufficient to provide the commission with records of water quality

adequate for its needs, the commission may supplement the sampling and testing otherwise available to it.

2. Sampling pursuant to this section shall be at points at or near the places where waters cross a boundary of the state and the samples shall be tested in order to determine their quality. The sampling and testing provided for herein shall be scheduled by the commission or in accordance with its requests and shall include such factors or elements as the commission shall request. Any sampling and testing done by the Department of Environmental Conservation as part of the activities of the commission's network shall be reported fully and promptly by the department to the commission together with the results thereof.

3. a. If the commission ascertains that particular waters at or near a boundary of the state do not comply with the standards of the commission made pursuant to article V of the New England Interstate Water Pollution Control Compact, or are not otherwise of a quality complying with state law, the commission shall inform the Department of Environmental Conservation and the water pollution control agency of any other state concerned and shall afford such agencies an opportunity to verify, explain, supplement or correct the information in the possession of the commission and, if the facts warrant, to take or secure the taking of any necessary remedial action.

b. If such remedial action is not taken or secured in timely fashion, the commission may hold a public hearing on due notice, as provided in its rules and regulations, in order to ascertain all the relevant facts and circumstances. Following public hearing, the commission may issue an order directed to the source or sources of waste discharge causing or contributing to the deteriorated water quality. Such order or orders may require reduction or cessation of waste discharges or the improvement of their quality. An order shall not be valid unless supported by substantial evidence adduced at the public hearing. Such order shall prescribe the date or dates by which discharges of waste are to be reduced, discontinued or treated, and may contain timetables or schedules for specific steps to be taken in order to comply therewith. An order made pursuant to this section may be enforced in any court of competent jurisdiction. Proceedings shall be only on the record made before the commission.

4. Unless otherwise conferred by law, the commission shall not have power to issue permits or licenses in connection with the discharge or treatment of wastes, or pass upon plans or specifications for particular waste treatment or collection equipment or facilities.