

LANDS AND FORESTS SCREENING QUESTIONS

(LF-1) Are there any known occurrences of rare plants at your facility, project or operation?

NOTE: See Regulation 37A for list of rare plants.

YES _____ NO _____

If YES, Regulation 37A may apply. Proceed to Question (LF-2).

If NO, proceed to Question (LF-2).

(LF-2) Is your facility, project or operation located within the Adirondack or Catskill Parks?

YES _____ NO _____

If YES, proceed to Question (LF-3).

If NO, proceed to Question (LF-4).

(LF-3) Have you erected any advertising signs, structures or devices?

YES _____ NO _____

If YES, Regulation 38 may apply. Proceed to Question (LF-4).

If NO, proceed to Question (LF-4).

(LF-4) Did you use any State lands under the jurisdiction of NYSDEC?

YES _____ NO _____

If YES, Regulation 39 may apply. Proceed to Question (LF-5).

If NO, proceed to Question (LF-5).

(LF-5) Did you light any fires on forest land (public or private) as a vegetative management tool?

YES _____ NO _____

If YES, Regulation 40A may apply. Proceed to (MIN-1).

If NO, proceed to Question (MIN-1).

LANDS AND FORESTS

REGULATION 37A QUESTIONS:

PROTECTED NATIVE PLANTS

- (A) Are there any known occurrences of rare plants at your facility, project or operation (i.e.- have you consulted the New York Natural Heritage Program Maps or a Heritage Botanist for known occurrences of rare plants)?

YES _____ NO _____

If NO, leave "**RANK**" box 37A blank and the "Approval" Box 37A blank on the Compliance Status Sheet, then proceed to Regulation 38.

- (B) If YES, did you allow any persons to collect or destroy rare plants and/or American ginseng on your property?

YES _____ NO _____

If NO, leave "**RANK**" box 37A blank and the "Approval" Box 37A blank on the Compliance Status Sheet, then proceed to Regulation 38.

- (C) If YES, was a permit or authorization obtained to collect or destroy the rare plants?

YES _____ NO _____

If YES, place a "C" in "**RANK**" box 37A and place a check in the "Approval" Box 37A on the Compliance Status Sheet, then proceed to Regulation 38.

If NO, place an "N1", "N2", "N3" or "N4" (according to the priority rank of the violation) in the "**RANK**" box 37A and leave the "Approval" Box 37A blank on the Compliance Status Sheet, update the (or complete a new) NON-Compliance Reporting Sheet, complete a Remedial Plan Form, then proceed to Regulation 38.

LANDS AND FORESTS

REGULATION 37A:

PROTECTED NATIVE PLANTS

LEGAL CITATION: ECL Section 9-1503, and 6NYCRR Part 193.

ABSTRACT OF LAW/REGULATIONS:

New York State has given official recognition to truly rare plants. Four lists of plants are included in the regulation (see Tables 37A-1, 37A-2, 37A-3, & 37A-4). These lists identify endangered, threatened, exploitably vulnerable, and rare plants. The exploitably vulnerable list contains plants that are commercially exploited. Each list of plants has its own criteria for listing.

If a plant occurring in New York State is recognized as endangered or threatened by the U.S. Fish and Wildlife Service, it will be given protection under the State regulation.

American ginseng harvest and export from New York State are regulated. Violators are subject to civil and criminal penalties under ECL Sections 71-4001 and 71-4003. Permit modifications, suspensions or revocations are governed by 6NYCRR Part 621.13.

It is a violation for any person, anywhere in the state, to pick, pluck, sever, remove, damage by the application of herbicides or defoliant, or carry away, without the consent of the owner, any protected plant. Each protected plant so picked, plucked, severed, removed, damaged or carried away shall constitute a separate violation.

REQUIRED APPROVAL:

Landowner authorization is required to collect or destroy listed plants. Violators of the regulation are subject to a maximum fine of \$25.00 per violation.

Express Terms

6 NYCRR Part 193.3 is repealed. A new Part 193.3 is adopted to read as follows:

193.3 Protected native plants.

(a) All plants enumerated on the lists of endangered species in subdivision (b) of this section, threatened species in subdivision (c) of this section, rare species in subdivision (d) of this section, or exploitably vulnerable species in subdivision (e) of this section are protected native plants pursuant to section 9-1503 of the Environmental Conservation Law. The common names contained on these lists are included for information purposes only; the scientific name shall be used for the purpose of determining any violation. Site means a colony or colonies of plants separated from other colonies by at least one-half mile.

(b) The following are endangered native plants in danger of extirpation throughout all or a significant portion of their ranges within the state and requiring remedial action to prevent such extinction. Listed plants are those with five or fewer extant sites, or fewer than 1,000 individuals, or restricted to fewer than four U.S.G.S. 7 1/2 minute series maps, or species listed as endangered by the United States Department of Interior in *the Code of Federal Regulations*.

NYSDEC CONTACT PERSON:

Jason Denham, Division of Lands and Forests

TELEPHONE NUMBER

518/402-9425

**TABLE 37A-1
ENDANGERED NATIVE PLANTS**

Species	Common Name
<i>Acalypha virginica</i> var. <i>virginica</i>	VIRGINIA THREE-SEEDED MERCURY
<i>Adoxa moschatellina</i>	MOSCHATTEL
<i>Agalinis acuta</i>	SANDPLAIN GERARDIA
<i>Allium burdickii</i>	WILD LEEK
<i>Amaranthus pumilus</i>	SEABEACH AMARANTH
<i>Amelanchier nantucketensis</i>	NANTUCKET JUNE BERRY
<i>Ammophila champlainensis</i>	CHAMPLAIN BEACHGRASS
<i>Amphicarpum purshii</i>	PEANUT GRASS
<i>Angelica lucida</i>	ANGELICA
<i>Anthoxanthum monticulum</i> ssp. <i>orthanthum</i>	ALPINE SWEETGRASS
<i>Aplectrum hyemale</i>	PUTTYROOT
<i>Arabis drummondii</i>	DRUMMOND'S ROCK CRESS
<i>Arabis shortii</i>	TOOTHED ROCK-CRESS
<i>Aristolochia serpentaria</i>	VIRGINIA SNAKEROOT
<i>Arnica lanceolata</i>	ARNICA
<i>Artemisia campestris</i> var. <i>borealis</i>	WILD SAGE
<i>Asclepias variegata</i>	WHITE MILKWEED
<i>Asplenium bradleyi</i>	BRADLEY'S SPLEENWORT
<i>Asplenium trichomanes-ramosum</i>	GREEN SPLEENWORT
<i>Aster ciliolatus</i>	LINDLEY'S ASTER
<i>Aster concolor</i>	SILVERY ASTER
<i>Aster laevis</i> var. <i>concinus</i>	SMOOTH BLUE ASTER
<i>Aster lanceolatus</i> var. <i>interior</i>	TALL WHITE ASTER
<i>Aster lateriflorus</i> var. <i>hirsuticaulis</i>	CALICO ASTER
<i>Aster oolentangiensis</i>	SKY-BLUE ASTER
<i>Aster puniceus</i> var. <i>firmus</i>	CORNEL-LEAVED ASTER
<i>Aster radula</i>	SWAMP ASTER
<i>Astragalus neglectus</i>	COOPER'S MILKVETCH
<i>Atriplex glabriuscula</i>	SEASIDE ORACH
<i>Atriplex subspicata</i>	ORACHE
<i>Bartonia paniculata</i>	SCREW-STEM
<i>Betula glandulosa</i>	TUNDRA DWARF BIRCH
<i>Betula minor</i>	DWARF WHITE BIRCH
<i>Bidens hyperborea</i>	ESTUARY BEGGAR-TICKS
<i>Blephilia ciliata</i>	DOWNY WOOD-MINT
<i>Botrychium campestre</i>	PRAIRIE DUNE WORT
<i>Botrychium lunaria</i>	MOONWORT
<i>Botrychium minganense</i>	MINGAN MOONWORT
<i>Botrychium oneidense</i>	BLUNT-LOBE GRAPE FERN
<i>Botrychium rugulosum</i>	RUGULOSE GRAPE FERN

<i>Bouteloua curtipendula</i>	SIDE-OATS GRAMA
<i>Buchnera americana</i>	BLUE-HEARTS
<i>Cacalia suaveolens</i>	SWEET-SCENTED INDIAN-PLANTAIN
<i>Calamagrostis perplexa</i>	WOOD REEDGRASS
<i>Calamagrostis porteri</i> ssp. <i>porteri</i>	PORTER'S REEDGRASS
<i>Calamagrostis stricta</i> ssp. <i>stricta</i>	NORTHERN REEDGRASS
<i>Callitriche hermaphroditica</i>	AUTUMNAL WATER-STARWORT
<i>Calypso bulbosa</i>	CALYPSO
<i>Cardamine rotundifolia</i>	MOUNTAIN WATERCRESS
<i>Carex aggregata</i>	GLOMERATE SEDGE
<i>Carex amphibola</i> var. <i>amphibola</i>	NARROW-LEAVED SEDGE
<i>Carex arcta</i>	NORTHERN CLUSTERED SEDGE
<i>Carex atherodes</i>	AWNED SEDGE
<i>Carex atratiformis</i>	BLACK SEDGE
<i>Carex barrattii</i>	BARRATT'S SEDGE
<i>Carex bullata</i>	BUTTON SEDGE
<i>Carex capillaris</i>	HAIR-LIKE SEDGE
<i>Carex caroliniana</i>	CAROLINA SEDGE
<i>Carex collinsii</i>	COLLINS' SEDGE
<i>Carex conjuncta</i>	SOFT FOX SEDGE
<i>Carex decomposita</i>	CYPRESS-KNEE SEDGE
<i>Carex emoryi</i>	EMORY'S SEDGE
<i>Carex flaccosperma</i> var. <i>glaucodea</i>	GLAUCOUS SEDGE
<i>Carex frankii</i>	FRANK'S SEDGE
<i>Carex garberi</i>	ELK SEDGE
<i>Carex gynocrates</i>	NORTHERN BOG SEDGE
<i>Carex haydenii</i>	CLOUD SEDGE
<i>Carex laxiflora</i> var. <i>serrulata</i>	LOOSE-FLOWERED SEDGE
<i>Carex livida</i> var. <i>radicaulis</i>	LIVID SEDGE
<i>Carex meadii</i>	MEAD'S SEDGE
<i>Carex mesochorea</i>	MIDLAND SEDGE
<i>Carex nigra</i>	BLACK SEDGE
<i>Carex nigromarginata</i>	BLACK-EDGE SEDGE
<i>Carex retroflexa</i>	REFLEXED SEDGE
<i>Carex scirpoidea</i>	CANADIAN SINGLE-SPIKE SEDGE
<i>Carex shortiana</i>	SHORT'S SEDGE
<i>Carex straminea</i>	STRAW SEDGE
<i>Carex striatula</i>	LINED SEDGE
<i>Carex styloflexa</i>	BENT SEDGE
<i>Carex sychnocephala</i>	MANY-HEAD SEDGE
<i>Carex tenuiflora</i>	SPARSE-FLOWERED SEDGE
<i>Carex tinctoria</i>	TINGED SEDGE
<i>Carex vaginata</i>	SHEATHED SEDGE
<i>Carex venusta</i> var. <i>minor</i>	GRACEFUL SEDGE

<i>Carex wiegandii</i>	WIEGAND'S SEDGE
<i>Castilleja coccinea</i>	SCARLET INDIAN-PAINTBRUSH
<i>Ceanothus herbaceus</i>	PRAIRIE REDROOT
<i>Chaerophyllum procumbens</i>	SPREADING CHERVIL
<i>Chasmanthium laxum</i>	SLENDER SPIKEGRASS
<i>Cheilanthes lanosa</i>	WOOLY LIP-FERN
<i>Chenopodium album</i> var. <i>missouriense</i>	MISSOURI GOOSEFOOT
<i>Chenopodium berlandieri</i> var. <i>macrocalycium</i>	LARGE CALYX GOOSEFOOT
<i>Collinsia verna</i>	BLUE-EYED-MARY
<i>Corallorhiza striata</i>	STRIPED CORALROOT
<i>Corema conradii</i>	BROOM CROWBERRY
<i>Cornus drummondii</i>	ROUGH-LEAF DOGWOOD
<i>Crassula aquatica</i>	PIGMYWEED
<i>Crataegus berberifolia</i>	HAWTHORN
<i>Crataegus compacta</i>	COMPACT HAWTHORN
<i>Crataegus mollis</i>	DOWNY HAWTHORN
<i>Crataegus uniflora</i>	DWARF HAWTHORN
<i>Crotalaria sagittalis</i>	RATTLEBOX
<i>Cuscuta cephalanthi</i>	BUTTON-BUSH DODDER
<i>Cuscuta obtusiflora</i> var. <i>glandulosa</i>	SOUTHERN DODDER
<i>Cuscuta polygonorum</i>	SMARTWEED DODDER
<i>Cynoglossum virginianum</i> var. <i>boreale</i>	NORTHERN WILD COMFREY
<i>Cynoglossum virginianum</i> var. <i>virginianum</i>	WILD COMFREY
<i>Cyperus echinatus</i>	GLOBOSE FLATSEDGE
<i>Cyperus flavescens</i> var. <i>flavescens</i>	YELLOW FLATSEDGE
<i>Cyperus polystachyos</i> var. <i>texensis</i>	COAST FLATSEDGE
<i>Cyperus retrorsus</i>	RETROSE FLATSEDGE
<i>Cypripedium candidum</i>	SMALL WHITE LADYSLIPPER
<i>Cypripedium parviflorum</i> var. <i>parviflorum</i>	SMALL YELLOW LADYSLIPPER
<i>Cystopteris protrusa</i>	LOWLAND FRAGILE FERN
<i>Descurainia pinnata</i> ssp. <i>brachycarpa</i>	NORTHERN TANSEY-MUSTARD
<i>Desmodium humifusum</i>	SPREADING TICK-CLOVER
<i>Desmodium laevigatum</i>	SMOOTH TICK-CLOVER
<i>Desmodium nuttallii</i>	NUTTALL'S TICK-CLOVER
<i>Desmodium obtusum</i>	BEGGAR-LICE
<i>Desmodium pauciflorum</i>	SMALL-FLOWERED TICK-CLOVER
<i>Diarrhena obovata</i>	BEAKGRASS
<i>Diplachne maritima</i>	SALT-MEADOW GRASS
<i>Draba glabella</i>	ROCK-CRESS
<i>Dracocephalum parviflorum</i>	AMERICAN DRAGONHEAD
<i>Dryopteris celsa</i>	LOG FERN
<i>Dryopteris fragrans</i>	FRAGRANT CLIFF FERN
<i>Eclipta prostrata</i>	YERBA-DE-TAGO
<i>Elatine americana</i>	AMERICAN WATERWORT

<i>Eleocharis elliptica</i> var. <i>pseudoptera</i>	SLENDER SPIKERUSH
<i>Eleocharis engelmannii</i>	ENGELMANN'S SPIKERUSH
<i>Eleocharis fallax</i>	CREEPING SPIKERUSH
<i>Eleocharis obtusa</i> var. <i>ovata</i>	BLUNT SPIKERUSH
<i>Eleocharis quadrangulata</i>	ANGLED SPIKERUSH
<i>Eleocharis tricostata</i>	THREE-RIBBED SPIKERUSH
<i>Empetrum eamesii</i> ssp. <i>atropurpureum</i>	PURPLE CROWBERRY
<i>Epilobium ciliatum</i> ssp. <i>glandulosum</i>	WILLOW-HERB
<i>Epilobium hornemannii</i>	ALPINE WILLOW-HERB
<i>Equisetum laevigatum</i>	SMOOTH SCOURING RUSH
<i>Erechtites hieracifolia</i> var. <i>megalocarpa</i>	FIREWEED
<i>Erigenia bulbosa</i>	HARBINGER-OF-SPRING
<i>Erigeron hyssopifolius</i>	DAISY FLEABANE
<i>Eriophorum angustifolium</i> ssp. <i>scabriusculum</i>	NARROW-LEAF COTTONGRASS
<i>Euonymus americana</i>	AMERICAN STRAWBERRY-BUSH
<i>Eupatorium aromaticum</i>	SMALL WHITE SNAKEROOT
<i>Eupatorium leucolepis</i> var. <i>leucolepis</i>	WHITE BONESET
<i>Eupatorium rotundifolium</i> var. <i>ovatum</i>	ROUND-LEAF BONESET
<i>Eupatorium rotundifolium</i> var. <i>rotundifolium</i>	ROUND-LEAF BONESET
<i>Eupatorium serotinum</i>	LATE BONESET
<i>Euphorbia ipecacuanhae</i>	IPECAC SPURGE
<i>Festuca saximontana</i>	SHEEP FESCUE
<i>Galium concinnum</i>	SHINING BEDSTRAW
<i>Galium kamschaticum</i>	NORTHERN WILD-LICORICE
<i>Gaylussacia dumosa</i> var. <i>bigeloviana</i>	DWARF HUCKLEBERRY
<i>Gentiana saponaria</i>	SOAPWORT GENTIAN
<i>Gentianopsis procera</i>	LESSER FRINGED GENTIAN
<i>Geocaulon lividum</i>	PURPLE COMANDRA
<i>Geum vernum</i>	SPRING AVENS
<i>Geum virginianum</i>	ROUGH AVENS
<i>Gnaphalium helleri</i> var. <i>micradenium</i>	CATFOOT
<i>Gnaphalium purpureum</i>	PURPLE EVERLASTING
<i>Gnaphalium sylvaticum</i>	WOODLAND CUDWEED
<i>Gymnocladus dioica</i>	KENTUCKY COFFEE TREE
<i>Hackelia deflexa</i> var. <i>americana</i>	NORTHERN STICKSEED
<i>Halenia deflexa</i>	SPURRED GENTIAN
<i>Hippuris vulgaris</i>	MARE'S-TAIL
<i>Houstonia purpurea</i> var. <i>calycosa</i>	PURPLE BLUETS
<i>Houstonia purpurea</i> var. <i>purpurea</i>	PURPLE BLUETS
<i>Huperzia selago</i>	FIR CLUBMOSS
<i>Hydrangea arborescens</i>	WILD HYDRANGEA
<i>Hydrocotyle ranunculoides</i>	FLOATING PENNYWORT
<i>Hydrocotyle verticillata</i>	WATER-PENNYWORT
<i>Hypericum adpressum</i>	CREEPING ST. JOHN'S-WORT

<i>Hypericum densiflorum</i>	BUSHY ST. JOHN'S-WORT
<i>Hypericum denticulatum</i>	COPPERY ST. JOHN'S-WORT
<i>Hypericum hypericoides</i> ssp. <i>multicaule</i>	ST. ANDREW'S CROSS
<i>Ipomoea pandurata</i>	WILD POTATO-VINE
<i>Iris virginica</i> var. <i>schrevei</i>	SOUTHERN BLUEFLAG
<i>Isoetes riparia</i>	QUILLWORT
<i>Isotria medeoloides</i>	SMALL WHORLED POGONIA
<i>Juncus ambiguus</i>	DOUBTFUL TOAD-RUSH
<i>Juncus brachycarpus</i>	SHORT-FRUIT RUSH
<i>Juncus debilis</i>	WEAK RUSH
<i>Juncus ensifolius</i>	ENSIFORM RUSH
<i>Juncus marginatus</i> var. <i>biflorus</i>	LARGE GRASS-LEAVED RUSH
<i>Juncus scirpoides</i>	SCIRPUS-LIKE RUSH
<i>Juncus stygius</i> ssp. <i>americanus</i>	MOOR-RUSH
<i>Juncus subcaudatus</i>	WOODS-RUSH
<i>Juniperus horizontalis</i>	PROSTRATE JUNIPER
<i>Lachnanthes caroliniana</i>	CAROLINA REDROOT
<i>Lactuca floridana</i>	FALSE LETTUCE
<i>Lactuca hirsuta</i>	DOWNY LETTUCE
<i>Lathyrus venosus</i>	ROUGH VEINY VETCHLING
<i>Lechea pulchella</i> var. <i>moniliformis</i>	BEAD PINWEED
<i>Lemna perpusilla</i>	MINUTE DUCKWEED
<i>Lemna valdiviana</i>	PALE DUCKWEED
<i>Leucospora multifida</i>	LEUCOSPORA
<i>Liatris cylindracea</i>	SLENDER BLAZING-STAR
<i>Ligusticum scoticum</i>	SCOTCH LOVAGE
<i>Lilium michiganense</i>	MICHIGAN LILY
<i>Linum medium</i> var. <i>medium</i>	WILD FLAX
<i>Liparis lilifolia</i>	LARGE TWAYBLADE
<i>Lipocarpha micrantha</i>	DWARF BULRUSH
<i>Listera auriculata</i>	AURICLED TWAYBLADE
<i>Listera australis</i>	SOUTHERN TWAYBLADE
<i>Listera convallarioides</i>	BROAD-LIPPED TWAYBLADE
<i>Lithospermum carolinense</i> ssp. <i>croceum</i>	GOLDEN PUCCOON
<i>Littorella uniflora</i>	AMERICAN SHORE-GRASS
<i>Loiseleuria procumbens</i>	ALPINE AZALEA
<i>Luzula spicata</i>	SPIKED WOODTHRUSH
<i>Lycopodiella caroliniana</i>	CAROLINA CLUBMOSS
<i>Lycopodium complanatum</i>	NORTHERN RUNNING-PINE
<i>Lycopodium sitchense</i>	SITKA CLUBMOSS
<i>Lycopus rubellus</i>	GYPSY-WORT
<i>Lygodium palmatum</i>	CLIMBING FERN
<i>Lysimachia hybrida</i>	LANCE-LEAVED LOOSESTRIFE
<i>Lysimachia quadriflora</i>	FOUR-FLOWERED LOOSESTRIFE

<i>Lythrum lineare</i>	SALTMARSH LOOSESTRIFE
<i>Magnolia virginiana</i>	SWEETBAY MAGNOLIA
<i>Malaxis bayardii</i>	BAYARD'S MALAXIS
<i>Malus glaucescens</i>	AMERICAN CRAB
<i>Melanthium virginicum</i>	VIRGINIA BUNCHFLOWER
<i>Monarda clinopodia</i>	BASIL-BALM
<i>Myriophyllum pinnatum</i>	GREEN PARROT'S-FEATHER
<i>Najas guadalupensis</i> var. <i>muenscherei</i>	MUENSCHER'S NAIAD
<i>Najas guadalupensis</i> var. <i>olivacea</i>	SOUTHERN NAIAD
<i>Najas marina</i>	HOLLY-LEAVED NAIAD
<i>Oenothera laciniata</i>	CUT-LEAVED EVENING-PRIMROSE
<i>Oldenlandia uniflora</i>	CLUSTERED BLUETS
<i>Onosmodium virginianum</i>	VIRGINIA FALSE GROMWELL
<i>Oryzopsis canadensis</i>	CANADA RICEGRASS
<i>Oxypolis rigidior</i>	STIFF COWBANE
<i>Panicum leibergii</i>	LEIBERG'S PANIC GRASS
<i>Panicum oligosanthes</i> var. <i>oligosanthes</i>	FEW-FLOWERED PANIC GRASS
<i>Panicum scabriusculum</i>	PANIC GRASS
<i>Panicum scoparium</i>	VELVET PANIC GRASS
<i>Panicum stipitatum</i>	TALL FLAT PANIC GRASS
<i>Panicum wrightianum</i>	WRIGHT'S PANIC GRASS
<i>Paspalum laeve</i> var. <i>circulare</i>	ROUND FIELD BEADGRASS
<i>Paspalum laeve</i> var. <i>pilosum</i>	HAIRY FIELD BEADGRASS
<i>Paspalum setaceum</i> var. <i>psammophilum</i>	SLENDER BEADGRASS
<i>Petasites frigidus</i> var. <i>palmatus</i>	SWEET COLTSFOOT
<i>Phlox maculata</i>	WILD SWEET-WILLIAM
<i>Phlox pilosa</i>	DOWNY PHLOX
<i>Physalis pubescens</i> var. <i>integrifolia</i>	GROUND-CHERRY
<i>Physalis virginiana</i>	VIRGINIA GROUND-CHERRY
<i>Physocarpus opulifolius</i> var. <i>intermedius</i>	NINEBARK
<i>Pinus virginiana</i>	VIRGINIA PINE
<i>Platanthera ciliaris</i>	ORANGE FRINGED ORCHIS
<i>Platanthera cristata</i>	CRESTED FRINGED ORCHIS
<i>Platanthera hookeri</i>	HOOKER'S ORCHID
<i>Platanthera leucophaea</i>	PRAIRIE FRINGED ORCHID
<i>Poa cuspidata</i>	BLUEGRASS
<i>Poa fernaldiana</i>	FERNALD BLUEGRASS
<i>Poa glauca</i>	WHITE BLUEGRASS
<i>Poa interior</i>	INLAND BLUEGRASS
<i>Poa paludigena</i>	SLENDER MARSH BLUEGRASS
<i>Poa sylvestris</i>	WOODLAND BLUEGRASS
<i>Polygala lutea</i>	YELLOW MILKWORT
<i>Polygonum buxiforme</i>	SMALL'S KNOTWEED
<i>Polygonum erectum</i>	ERECT KNOTWEED

<i>Polygonum setaceum</i> var. <i>interjectum</i>	SWAMP SMARTWEED
<i>Polymnia uvedalia</i>	BEAR'S-FOOT
<i>Polystichum lonchitis</i>	NORTHERN HOLLY-FERN
<i>Potamogeton diversifolius</i>	WATER-THREAD PONDWEED
<i>Potamogeton filiformis</i> var. <i>alpinus</i>	SLENDER PONDWEED
<i>Potamogeton filiformis</i> var. <i>occidentalis</i>	SHEATHED PONDWEED
<i>Potamogeton ogdenii</i>	OGDEN'S PONDWEED
<i>Potamogeton strictifolius</i>	STRAIGHT-LEAF PONDWEED
<i>Potentilla paradoxa</i>	BUSHY CINQUEFOIL
<i>Prenanthes boottii</i>	BOOTT'S RATTLESNAKE-ROOT
<i>Prenanthes crepidinea</i>	NODDING RATTLESNAKE-ROOT
<i>Prenanthes nana</i>	DWARF RATTLESNAKE-ROOT
<i>Prunus pumila</i> var. <i>pumila</i>	LOW SAND-CHERRY
<i>Ptelea trifoliata</i>	WAFER-ASH
<i>Pterospora andromedea</i>	GIANT PINE-DROPS
<i>Pycnanthemum clinopodioides</i>	MOUNTAIN-MINT
<i>Pycnanthemum torrei</i>	TORREY'S MOUNTAIN-MINT
<i>Pycnanthemum verticillatum</i> var. <i>pilosum</i>	WHORLED MOUNTAIN-MINT
<i>Pyrola minor</i>	MOUNTAIN PYROLA
<i>Pyxidantha barbulata</i>	PIXIES
<i>Quercus phellos</i>	WILLOW OAK
<i>Ranunculus cymbalaria</i>	SEASIDE CROWFOOT
<i>Ranunculus hispidus</i> var. <i>nitidus</i>	SWAMP BUTTERCUP
<i>Rhododendron lapponicum</i>	LAPLAND ROSEBAY
<i>Rhynchospora torreyana</i>	TORREY'S BEAKRUSH
<i>Rosa acicularis</i> ssp. <i>sayi</i>	PRICKLY ROSE
<i>Rosa nitida</i>	SHINING ROSE
<i>Rubus cuneifolius</i>	SAND BLACKBERRY
<i>Rudbeckia hirta</i> var. <i>hirta</i>	BLACK-EYED-SUSAN
<i>Rumex hastatulus</i>	HEART SORREL
<i>Rumex maritimus</i> var. <i>fuiginus</i>	GOLDEN DOCK
<i>Sabatia angularis</i>	ROSE-PINK
<i>Sabatia campanulata</i>	SLENDER MARSH-PINK
<i>Sagina decumbens</i>	SMALL-FLOWERED PEARL WORT
<i>Sagittaria teres</i>	QUILL-LEAF ARROWHEAD
<i>Salix cordata</i>	SAND DUNE WILLOW
<i>Salix herbacea</i>	DWARF WILLOW
<i>Salvia lyrata</i>	LYRE-LEAF SAGE
<i>Saxifraga oppositifolia</i>	PURPLE MOUNTAIN-SAXIFRAGE
<i>Saxifraga paniculata</i>	WHITE MOUNTAIN-SAXIFRAGE
<i>Schizaea pusilla</i>	CURLYGRASS
<i>Scirpus clintonii</i>	CLINTON'S CLUBRUSH
<i>Scirpus georgianus</i>	GEORGIA BULRUSH
<i>Scirpus heterochaetus</i>	SLENDER BULRUSH

<i>Scirpus maritimus</i>	SEASIDE BULRUSH
<i>Scirpus novae-angliae</i>	SALTMARSH BULRUSH
<i>Scleria minor</i>	SLENDER NUTRUSH
<i>Scleria pauciflora</i> var. <i>caroliniana</i>	FEWFLOWER NUTRUSH
<i>Scleria reticularis</i> var. <i>pubescens</i>	RETICULATE NUTRUSH
<i>Scleria verticillata</i>	LOW NUTRUSH
<i>Scutellaria incana</i>	HOARY SKULLCAP
<i>Scutellaria integrifolia</i>	HYSSOP-SKULLCAP
<i>Sedum integrifolium</i> ssp. <i>leedyi</i>	LEEDY'S ROSEROOT
<i>Sedum rosea</i>	ROSEROOT
<i>Sedum telephioides</i>	LIVE-FOREVER
<i>Sesuvium maritimum</i>	SEA PURSLANE
<i>Sisyrinchium mucronatum</i>	MICHAUX'S BLUE-EYED-GRASS
<i>Smilax pseudo-china</i>	FALSE CHINA-ROOT
<i>Smilax pulverulenta</i>	JACOB'S-LADDER
<i>Solidago elliotii</i>	COASTAL GOLDENROD
<i>Solidago houghtonii</i>	HOUGHTON'S GOLDENROD
<i>Solidago rugosa</i> ssp. <i>aspera</i>	ROUGH GOLDENROD
<i>Solidago rugosa</i> var. <i>sphagnophila</i>	TALL HAIRY GOLDENROD
<i>Solidago sempervirens</i> var. <i>mexicana</i>	SEASIDE GOLDENROD
<i>Solidago simplex</i> var. <i>racemosa</i>	MOUNTAIN GOLDENROD
<i>Sphenopholis obtusata</i> var. <i>obtusata</i>	PRAIRIE WEDGEGRASS
<i>Sphenopholis pensylvanica</i>	SWAMP OATS
<i>Spiraea septentrionalis</i>	MOUNTAIN MEADOWSWEET
<i>Spiranthes vernalis</i>	SPRING LADIES'-TRESSES
<i>Sporobolus clandestinus</i>	ROUGH RUSH-GRASS
<i>Strophostyles umbellata</i>	PINK WILD BEAN
<i>Suaeda linearis</i>	NARROW-LEAF SEA-BLITE
<i>Suaeda rolandii</i>	ROLAND'S SEA-BLITE
<i>Subularia aquatica</i> var. <i>americana</i>	WATER AWLWORT
<i>Thalictrum venulosum</i>	VEINY MEADOW-RUE
<i>Tipularia discolor</i>	CRANEFLY ORCHID
<i>Tofieldia glutinosa</i>	STICKY FALSE ASPHODEL
<i>Trichomanes intricatum</i>	FILMY FERN
<i>Trichostema setaceum</i>	TINY BLUE-CURLS
<i>Trillium flexipes</i>	NODDING TRILLIUM
<i>Trillium sessile</i>	TOAD-SHADE
<i>Triphora trianthophora</i>	NODDING POGONIA
<i>Trisetum melicoides</i>	MELIC-OATS
<i>Utricularia inflata</i>	LARGE FLOATING BLADDERWORT
<i>Uvularia puberula</i> var. <i>nitida</i>	MOUNTAIN BELLWORT
<i>Vaccinium cespitosum</i>	DWARF BLUEBERRY
<i>Valeriana uliginosa</i>	MARSH VALERIAN
<i>Valerianella chenopodiifolia</i>	GOOSEFOOT CORN-SALAD

<i>Valerianella umbilicata</i>	CORN-SALAD
<i>Vernonia gigantea</i>	TALL IRONWEED
<i>Viburnum nudum</i> var. <i>nudum</i>	POSSUM-HAW
<i>Viola brittoniana</i> var. <i>brittoniana</i>	COASTAL VIOLET
<i>Viola hirsutula</i>	SOUTHERN WOOD VIOLET
<i>Viola nephrophylla</i>	NORTHERN BOG VIOLET
<i>Viola novae-angliae</i>	NEW ENGLAND VIOLET
<i>Vitis vulpina</i>	WINTER GRAPE
<i>Vittaria appalachiana</i>	APPALACHIAN VITTARIA
<i>Woodsia alpina</i>	ALPINE WOODSIA
<i>Woodsia glabella</i>	SMOOTH WOODSIA

TABLE 37A-2 THREATENED NATIVE PLANTS

(c) The following are threatened native plants that are likely to become endangered within the foreseeable future throughout all or a significant portion of their ranges in the state. Listed plants are those with six to fewer than 20 extant sites, or 1,000 to fewer than 3,000 individuals, or restricted to not less than four or more than seven U.S.G.S. 7 1/2 minute series maps, or species listed as threatened by the United State Department of Interior in the Code of Federal Regulations.

Species	Common Name
<i>Aconitum noveboracense</i>	NORTHERN MONK'S-HOOD
<i>Agalinis paupercula</i> var. <i>borealis</i>	NORTHERN GERARDIA
<i>Agastache nepetoides</i>	YELLOW GIANT-HYSSOP
<i>Agrimonia rostellata</i>	WOODLAND AGRIMONY
<i>Agrostis mertensii</i>	NORTHERN BENTGRASS
<i>Aletris farinosa</i>	STARGRASS
<i>Allium cernuum</i>	WILD ONION
<i>Arabis missouriensis</i>	GREEN ROCK-CRESS
<i>Arethusa bulbosa</i>	SWAMP PINK
<i>Asclepias viridiflora</i>	GREEN MILKWEED
<i>Asimina triloba</i>	PAWPAW
<i>Asplenium montanum</i>	MOUNTAIN SPLEENWORT
<i>Asplenium scolopendrium</i> var. <i>americanum</i>	HART'S-TONGUE FERN
<i>Aster borealis</i>	RUSH ASTER
<i>Aster pilosus</i> var. <i>pringlei</i>	HEATH ASTER
<i>Aster solidagineus</i>	FLAX-LEAF WHITETOP
<i>Aster spectabilis</i>	SHOWY ASTER
<i>Aster subulatus</i>	SALTMARSH ASTER
<i>Betula pumila</i>	SWAMP BIRCH
<i>Bidens laevis</i>	SMOOTH BUR-MARIGOLD

<i>Calamagrostis stricta</i> ssp. <i>inexpansa</i>	NORTHERN REEDGRASS
<i>Callitriche terrestris</i>	TERRESTRIAL STARWORT
<i>Cardamine longii</i>	LONG'S BITTERCRESS
<i>Carex abscondita</i>	THICKET SEDGE
<i>Carex backii</i>	ROCKY MOUNTAIN SEDGE
<i>Carex bicknellii</i>	BICKNELL'S SEDGE
<i>Carex bigelowii</i>	BIGELOW'S SEDGE
<i>Carex buxbaumii</i>	BROWN BOG SEDGE
<i>Carex chordorrhiza</i>	CREEPING SEDGE
<i>Carex crawei</i>	CRAWE'S SEDGE
<i>Carex cumulata</i>	CLUSTERED SEDGE
<i>Carex davisii</i>	DAVIS' SEDGE
<i>Carex formosa</i>	HANDSOME SEDGE
<i>Carex hitchcockiana</i>	HITCHCOCK'S SEDGE
<i>Carex hormathodes</i>	MARSH STRAW SEDGE
<i>Carex houghtoniana</i>	HOUGHTON'S SEDGE
<i>Carex jamesii</i>	NEBRASKA SEDGE
<i>Carex merritt-fernaldii</i>	FERNALD'S SEDGE
<i>Carex mitchelliana</i>	MITCHELL'S SEDGE
<i>Carex molesta</i>	TROUBLESOME SEDGE
<i>Carex sartwellii</i>	SARTWELL'S SEDGE
<i>Carex schweinitzii</i>	SCHWEINITZ' SEDGE
<i>Carex seorsa</i>	WEAK STELLATE SEDGE
<i>Carex typhina</i>	CAT-TAIL SEDGE
<i>Carex willdenowii</i>	WILLDENOW'S SEDGE
<i>Carya laciniosa</i>	BIG SHELLBARK HICKORY
<i>Cenchrus tribuloides</i>	DUNE SANDSPUR
<i>Ceratophyllum echinatum</i>	PRICKLY HORNWORT
<i>Chamaelirium luteum</i>	BLAZING-STAR
<i>Chenopodium rubrum</i>	RED PIGWEED
<i>Corydalis aurea</i>	GOLDEN CORYDALIS
<i>Cyperus lupulinus</i> ssp. <i>lupulinus</i>	HOP SEDGE
<i>Cypripedium arietinum</i>	RAM'S-HEAD LADYSLIPPER
<i>Desmodium ciliare</i>	LITTLE-LEAF TICK-TREFOIL
<i>Diapensia lapponica</i>	DIAPENSIA
<i>Digitaria filiformis</i>	SLENDER CRABGRASS
<i>Diospyros virginiana</i>	PERSIMMON
<i>Draba arabisans</i>	ROCK-CRESS
<i>Draba reptans</i>	CAROLINA WHITLOW-GRASS
<i>Eleocharis equisetoides</i>	KNOTTED SPIKERUSH
<i>Eleocharis halophila</i>	SALT-MARSH SPIKERUSH
<i>Eleocharis tuberculosa</i>	LONG-TUBERCLED SPIKERUSH
<i>Equisetum pratense</i>	MEADOW HORSETAIL
<i>Equisetum palustre</i>	MARSH HORSETAIL

<i>Eupatorium album</i> var. <i>subvenosum</i>	WHITE BONESET
<i>Eupatorium hyssopifolium</i> var. <i>laciniatum</i>	FRINGED BONESET
<i>Fimbristylis castanea</i>	MARSH FIMBRY
<i>Frasera caroliniensis</i>	GREEN GENTIAN
<i>Geranium carolinianum</i> var. <i>sphaerospermum</i>	CAROLINA CRANESBILL
<i>Geum triflorum</i>	PRAIRIE-SMOKE
<i>Hedeoma hispidum</i>	MOCK-PENNYROYAL
<i>Helianthemum dumosum</i>	BUSHY ROCKROSE
<i>Helianthus angustifolius</i>	SWAMP SUNFLOWER
<i>Hottonia inflata</i>	FEATHERFOIL
<i>Huperzia appalachiana</i>	APPALACHIAN FIRMOSS
<i>Hydrastis canadensis</i>	GOLDEN-SEAL
<i>Hypericum prolificum</i>	SHRUBBY ST. JOHN'S WORT
<i>Iris prismatica</i>	SLENDER BLUE FLAG
<i>Jeffersonia diphylla</i>	TWIN-LEAF
<i>Juncus trifidus</i>	ARCTIC RUSH
<i>Lechea tenuifolia</i>	SLENDER PINWEED
<i>Lespedeza stuevei</i>	VELVETY LESPEDEZA
<i>Liatris borealis</i>	NORTHERN BLAZING-STAR
<i>Lilaeopsis chinensis</i>	LILAEOPSIS
<i>Linum intercursum</i>	SANDPLAIN WILD FLAX
<i>Linum medium</i> var. <i>texanum</i>	SOUTHERN YELLOW FLAX
<i>Linum sulcatum</i>	YELLOW WILD FLAX
<i>Ludwigia sphaerocarpa</i>	GLOBE-FRUITED LUDWIGIA
<i>Megalodonta beckii</i> var. <i>beckii</i>	WATER-MARIGOLD
<i>Minuartia glabra</i>	APPALACHIAN SANDWORT
<i>Myriophyllum alterniflorum</i>	WATER MILFOIL
<i>Myriophyllum farwellii</i>	FARWELL'S WATER MILFOIL
<i>Oenothera parviflora</i> var. <i>oakesiana</i>	EVENING PRIMROSE
<i>Orontium aquaticum</i>	GOLDEN CLUB
<i>Oxalis violacea</i>	VIOLET WOOD-SORREL
<i>Panicum flexile</i>	WIRY PANIC GRASS
<i>Paspalum setaceum</i> var. <i>setaceum</i>	SLENDER BEADGRASS
<i>Pedicularis lanceolata</i>	SWAMP LOUSEWORT
<i>Pellaea glabella</i>	SMOOTH CLIFF BRAKE
<i>Pinguicula vulgaris</i>	BUTTERWORT
<i>Plantago cordata</i>	HEARTLEAF PLANTAIN
<i>Plantago maritima</i> ssp. <i>juncoides</i>	SEASIDE PLANTAIN
<i>Podostemum ceratophyllum</i>	RIVERWEED
<i>Polygonum careyi</i>	CAREY'S SMARTWEED
<i>Polygonum douglassii</i>	DOUGLAS' KNOTWEED
<i>Polygonum hydropiperoides</i> var. <i>opelousanum</i>	OPELOUSA SMARTWEED
<i>Populus heterophylla</i>	SWAMP COTTONWOOD
<i>Potamogeton alpinus</i>	NORTHERN PONDWEED

<i>Potamogeton confervoides</i>	ALGAE-LIKE PONDWEED
<i>Potamogeton hillii</i>	HILL'S PONDWEED
<i>Potamogeton pulcher</i>	SPOTTED PONDWEED
<i>Potentilla anserina</i> ssp. <i>egedii</i>	SILVERWEED
<i>Primula mistassinica</i>	BIRD'S-EYE PRIMROSE
<i>Proserpinaca pectinata</i>	COMB-LEAVED MERMAID-WEED
<i>Prunus pumila</i> var. <i>depressa</i>	DWARF SAND-CHERRY
<i>Pycnanthemum muticum</i>	BLUNT MOUNTAIN-MINT
<i>Pycnanthemum verticillatum</i> var. <i>verticillatum</i>	WHORLED MOUNTAIN-MINT
<i>Pyrola asarifolia</i>	PINK WINTERGREEN
<i>Ranunculus micranthus</i>	SMALL-FLOWERED CROWFOOT
<i>Rhododendron canadense</i>	RHODORA
<i>Rhynchospora inundata</i>	DROWNED HORNED BUSH
<i>Rhynchospora nitens</i>	SHORT-BEAKED BALD-RUSH
<i>Rorippa aquatica</i>	LAKE-CRESS
<i>Rotala ramosior</i>	TOOTH-CUP
<i>Sabatia stellaris</i>	SEA-PINK
<i>Sagittaria calycina</i> var. <i>spongiosa</i>	SPONGY ARROWHEAD
<i>Salicornia bigelovii</i>	DWARF GLASSWORT
<i>Salix pyrifolia</i>	BALSAM WILLOW
<i>Salix uva-ursi</i>	BEARBERRY WILLOW
<i>Saxifraga aizoides</i>	YELLOW MOUNTAIN-SAXIFRAGE
<i>Scirpus cespitosus</i>	DEER'S HAIR SEDGE
<i>Scleria triglomerata</i>	WHIP NUTRUSH
<i>Solidago multiradiata</i> var. <i>arctica</i>	ALPINE GOLDENROD
<i>Solidago ohioensis</i>	OHIO GOLDEROD
<i>Solidago rigida</i>	STIFF-LEAF GOLDENROD
<i>Solidago simplex</i> var. <i>randii</i>	MOUNTAIN GOLDENROD
<i>Sparganium nutans</i>	SMALL BUR-REED
<i>Sporobolus heterolepis</i>	NORTHERN DROPSEED
<i>Stachys hyssopifolia</i>	ROUGH HEDGE-NETTLE
<i>Stellaria longipes</i>	STARWORT
<i>Triglochin palustre</i>	MARSH ARROW-GRASS
<i>Tripsacum dactyloides</i>	NORTHERN GAMMA GRASS
<i>Ulmus thomasi</i>	CORK ELM
<i>Utricularia juncea</i>	RUSH BLADDERWORT
<i>Utricularia minor</i>	LESSER BLADDERWORT
<i>Utricularia radiata</i>	SMALL FLOATING BLADDERWORT
<i>Utricularia striata</i>	BLADDERWORT
<i>Vaccinium boreale</i>	HIGH-MOUNTAIN BLUEBERRY
<i>Verbesina alternifolia</i>	WINGSTEM
<i>Veronicastrum virginicum</i>	CULVER'S ROOT
<i>Viburnum dentatum</i> var. <i>venosum</i>	SOUTHERN ARROWWOOD
<i>Viburnum edule</i>	SQUASHBERRY

Viola primulifolia
Zigadenus elegans ssp. *glaucus*

PRIMROSE VIOLET
 WHITE CAMAS

TABLE 37A-3 RARE NATIVE PLANTS

(d) The following are rare native plants that have from 20 to 35 extant sites or 3,000 to 5,000 individuals statewide.

Species	Common Name
<i>Agalinis fasciculata</i>	FASCICLED GERARDIA
<i>Bidens bidentoides</i>	ESTUARY BEGGAR-TICKS
<i>Carex lupuliformis</i>	FALSE HOP SEDGE
<i>Chamaecyparis thyoides</i>	ATLANTIC WHITE CEDAR
<i>Coreopsis rosea</i>	ROSE COREOPSIS
<i>Cyperus schweinitzii</i>	SCHWEINITZ'S FLATSEDEGE
<i>Drosera filiformis</i>	DEWTHREAD
<i>Empetrum nigrum</i> ssp. <i>hermaphroditicum</i>	BLACK CROWBERRY
<i>Fuirena pumila</i>	DWARF UMBRELLA-SEDEGE
<i>Isoetes lacustris</i>	LARGE-SPORED QUILLWORT
<i>Lechea racemulosa</i>	ILLINOIS PINWEED
<i>Lespedeza angustifolia</i>	BUSH CLOVER
<i>Lespedeza repens</i>	TRAILING LESPEDEZA
<i>Lespedeza violacea</i>	VIOLET LESPEDEZA
<i>Limosella australis</i>	MUDWORT
<i>Linum striatum</i>	STIFF YELLOW FLAX
<i>Lobelia nuttallii</i>	NUTTALL'S LOBELIA
<i>Mimulus alatus</i>	WINGED MONKEYFLOWER
<i>Minuartia caroliniana</i>	PINE-BARREN SANDWORT
<i>Pinus banksiana</i>	JACK PINE
<i>Polemonium vanbruntiae</i>	JACOB'S-LADDER
<i>Polygonum glaucum</i>	SEABEACH KNOTWEED
<i>Polygonum tenue</i>	SLENDER KNOTWEED
<i>Rhynchospora scirpoides</i>	LONG-BEAKED BALD-RUSH
<i>Scheuchzeria palustris</i>	POD GRASS
<i>Trollius laxus</i> ssp. <i>laxus</i>	SPREADING GLOBEFLOWER
<i>Vaccinium uliginosum</i>	BOG BILBERRY

TABLE 37A-4 EXPLOITABLY VULNERABLE NATIVE PLANTS

(e) The following are exploitably vulnerable native plants likely to become threatened in the near future throughout all or a significant portion of their ranges within the state if causal factors continue unchecked.

<i>Species</i>	<i>Common Name</i>
<i>Actaea pachypoda</i>	WHITE BANE BERRY
<i>Actaea spicata</i> ssp. <i>rubra</i>	RED BANE BERRY
<i>Arisaema dracontium</i>	GREEN DRAGON
<i>Asclepias tuberosa</i>	BUTTERFLY-WEED
<i>Campanula rotundifolia</i>	HAREBELL
<i>Celastrus scandens</i>	AMERICAN BITTERSWEET
<i>Chelone glabra</i>	TURTLE-HEADS
<i>Chimaphila maculata</i>	SPOTTED WINTERGREEN
<i>Chimaphila umbellata</i>	PIPSISSEWA
<i>Clintonia umbellulata</i>	SPECKLED WOODLILY
<i>Conopholis americana</i>	SQUAWROOT
<i>Cornus florida</i>	FLOWERING DOGWOOD
<i>Drosera intermedia</i>	SUNDEW
<i>Drosera rotundifolia</i>	SUNDEW
<i>Epigaea repens</i>	TRAILING ARBUTUS
<i>Euonymus obovata</i>	RUNNING STRAWBERRY-BUSH
<i>Gentiana andrewsii</i>	CLOSED GENTIAN
<i>Gentiana clausa</i>	BLIND GENTIAN
<i>Gentiana linearis</i>	CLOSED GENTIAN
<i>Gentianella quinquefolia</i>	STIFF GENTIAN
<i>Gentianopsis crinita</i>	FRINGED GENTIAN
<i>Ilex glabra</i>	GALLBERRY
<i>Ilex laevigata</i>	SMOOTH WINTERBERRY
<i>Ilex montana</i>	MOUNTAIN WINTERBERRY
<i>Ilex opaca</i>	AMERICAN HOLLY
<i>Ilex verticillata</i>	BLACK ALDER
<i>Juglans cinerea</i>	BUTTERNUT
<i>Kalmia angustifolia</i>	SHEEP LAUREL
<i>Kalmia latifolia</i>	MOUNTAIN LAUREL
<i>Kalmia polifolia</i>	BOG LAUREL
<i>Lilium canadense</i>	CANADA LILY
<i>Lilium philadelphicum</i>	WOODLILY
<i>Lilium superbum</i>	TURK'S-CAP LILY
<i>Limonium carolinianum</i>	SEA LAVENDER
<i>Lobelia cardinalis</i>	CARDINAL-FLOWER
<i>Lobelia dortmanna</i>	WATER LOBELIA

<i>Lobelia siphilitica</i>	GREAT LOBELIA
<i>Mertensia virginica</i>	VIRGINIA BLUEBELLS
<i>Monarda didyma</i>	BEE-BALM
<i>Myrica pensylvanica</i>	BAYBERRY
<i>Opuntia humifusa</i>	EASTERN PRICKLY PEAR
<i>Panax quinquefolius</i>	GINSENG
<i>Parnassia glauca</i>	GRASS-OF-PARNASSUS
<i>Rhododendron arborescens</i>	SMOOTH AZALEA
<i>Rhododendron maximum</i>	GREAT LAUREL
<i>Rhododendron periclymenoides</i>	PINKSTER
<i>Rhododendron prinophyllum</i>	EARLY AZALEA
<i>Rhododendron viscosum</i>	SWAMP AZALEA
<i>Sanguinaria canadensis</i>	BLOODROOT
<i>Sarracenia purpurea</i>	PITCHER-PLANT
<i>Silene caroliniana</i>	WILD PINK
<i>Trillium cernuum</i>	NODDING TRILLIUM
<i>Trillium erectum</i>	PURPLE TRILLIUM
<i>Trillium grandiflorum</i>	WHITE TRILLIUM
<i>Trillium undulatum</i>	PAINTED TRILLIUM
<i>Viola pedata</i>	BIRD'S-FOOT VIOLET

All native clubmosses, including:

<i>Huperzia lucidula</i>	SHINING FIRMOSS
<i>Lycopodiella alopecuroides</i>	FOXTAIL CLUBMOSS
<i>Lycopodiella appressa</i>	SWAMP CLUBMOSS
<i>Lycopodiella inundata</i>	NORTHERN BOG CLUBMOSS
<i>Lycopodium annotinum</i>	BRISTLY CLUBMOSS
<i>Lycopodium clavatum</i>	RUNNING CEDAR
<i>Lycopodium dendroideum</i>	NORTHERN TREE CLUBMOSS
<i>Lycopodium digitatum</i>	RUNNING-PINE
<i>Lycopodium obscurum</i>	GROUND PINE
<i>Lycopodium tristachyum</i>	GROUND CEDAR

All native ferns, (except Bracken, *Pteridium aquilinum*, Hay-scented, *Dennstaedtia punctilobula*, and Sensitive fern, *Onoclea sensibilis*), including:

<i>Adiantum pedatum</i>	MAIDENHAIR FERN
<i>Asplenium platyneuron</i>	EBONY SPLEENWORT
<i>Asplenium rhizophyllum</i>	WALKING FERN
<i>Asplenium ruta-muraria</i>	WALL-RUE SPLEENWORT
<i>Asplenium trichomanes</i>	MAIDENHAIR SPLEENWORT
<i>Athyrium filix-femina</i>	LADY FERN
<i>Azolla caroliniana</i>	MOSQUITO-FERN
<i>Botrychium dissectum</i>	CUT-LEAF GRAPE FERN
<i>Botrychium lanceolatum</i>	LANCE-LEAF GRAPE FERN
<i>Botrychium matricariifolium</i>	MATRICARY GRAPE FERN
<i>Botrychium multifidum</i>	LEATHERY GRAPE FERN
<i>Botrychium simplex</i>	LEAST MOONWORT
<i>Botrychium virginianum</i>	RATTLESNAKE FERN
<i>Cryptogramma stelleri</i>	SLENDER CLIFF BRAKE

<i>Cystopteris bulbifera</i>	BULBLET FERN
<i>Cystopteris fragilis</i>	COMMON FRAGILE FERN
<i>Cystopteris tenuis</i>	FRAGILE FERN
<i>Deparia acrostichoides</i>	SILVERY SPLEENWORT
<i>Diplazium pycnocarpon</i>	GLADE FERN
<i>Dryopteris campyloptera</i>	MOUNTAIN WOOD FERN
<i>Dryopteris carthusiana</i>	SPINULOSE WOOD FERN
<i>Dryopteris clintoniana</i>	CLINTON'S SHIELD FERN
<i>Dryopteris cristata</i>	CRESTED WOOD FERN
<i>Dryopteris goldiana</i>	GIANT WOOD FERN
<i>Dryopteris intermedia</i>	COMMON WOOD FERN
<i>Dryopteris marginalis</i>	MARGINAL WOOD FERN
<i>Gymnocarpium dryopteris</i>	OAK FERN
<i>Matteuccia struthiopteris</i>	OSTRICH FERN
<i>Ophioglossum pusillum</i>	ADDER'S-TONGUE
<i>Osmunda cinnamomea</i>	CINNAMON FERN
<i>Osmunda claytoniana</i>	INTERRUPTED FERN
<i>Osmunda regalis</i>	ROYAL FERN
<i>Pellaea atropurpurea</i>	PURPLE CLIFF BRAKE
<i>Phegopteris connectilis</i>	NORTHERN BEECH FERN
<i>Phegopteris hexagonoptera</i>	BROAD BEECH FERN
<i>Polypodium virginianum</i>	ROCK POLYPODY
<i>Polystichum acrostichoides</i>	CHRISTMAS FERN
<i>Polystichum braunii</i>	BRAUN'S HOLLY FERN
<i>Salvinia minima</i>	WATER-FERN
<i>Thelypteris noveboracensis</i>	NEW YORK FERN
<i>Thelypteris palustris</i>	MARSH FERN
<i>Thelypteris simulata</i>	MASSACHUSETTS FERN
<i>Woodsia ilvensis</i>	RUSTY WOODSIA
<i>Woodsia obtusa</i>	BLUNT-LOBED WOODSIA
<i>Woodwardia areolata</i>	NETTED CHAIN FERN
<i>Woodwardia virginica</i>	VIRGINIA CHAIN FERN

All native orchids, including:

<i>Calopogon tuberosus</i>	GRASS PINK
<i>Coeloglossum viride</i>	LONG-BRACTED ORCHID
<i>Corallorhiza maculata</i>	SPOTTED CORALROOT
<i>Corallorhiza odontorhiza</i>	AUTUMN CORALROOT
<i>Cypripedium acaule</i>	PINK LADYSLIPPER
<i>Cypripedium parviflorum</i> var. <i>makasin</i>	SMALL YELLOW LADYSLIPPER
<i>Cypripedium parviflorum</i> var. <i>pubescens</i>	YELLOW LADYSLIPPER
<i>Cypripedium reginae</i>	SHOWY LADYSLIPPER
<i>Galearis spectabilis</i>	SHOWY ORCHIS
<i>Goodyera pubescens</i>	DOWNY RATTLESNAKE-PLANTAIN
<i>Goodyera repens</i>	DWARF RATTLESNAKE-PLANTAIN
<i>Goodyera tessellata</i>	RATTLESNAKE-PLANTAIN
<i>Isotria verticillata</i>	LARGE WHORLED POGONIA
<i>Liparis loeselii</i>	BOG TWAYBLADE
<i>Listera cordata</i>	HEARTLEAF TWAYBLADE
<i>Malaxis monophyllos</i>	WHITE ADDER'S-MOUTH
<i>Malaxis unifolia</i>	GREEN ADDER'S-MOUTH
<i>Platanthera aquilonis</i>	NORTHERN GREEN ORCHID
<i>Platanthera blephariglottis</i>	WHITE FRINGED ORCHID
<i>Platanthera clavellata</i>	GREEN WOODLAND ORCHID
<i>Platanthera dilatata</i>	BOG-CANDLE
<i>Platanthera flava</i>	TUBERCLED ORCHID
<i>Platanthera grandiflora</i>	LARGE PURPLE FRINGED ORCHID

Platanthera huronensis
Platanthera lacera
Platanthera obtusata
Platanthera orbiculata
Platanthera psycodes
Pogonia ophioglossoides
Spiranthes casei
Spiranthes cernua
Spiranthes lacera
Spiranthes lucida
Spiranthes ochroleuca
Spiranthes romanzoffiana
Spiranthes tuberosa

TALL NORTHERN GREEN ORCHID
RAGGED FRINGED ORCHID
BLUNT-LEAVED ORCHID
LARGE ROUND-LEAVED ORCHID
SMALL PURPLE FRINGED ORCHID
ROSE POGONIA
LADY'S-TRESSES
NODDING LADY'S-TRESSES
SLENDER LADY'S-TRESSES
WIDE-LEAVED LADY'S-TRESSES
CREAMY LADY'S-TRESSES
HOODED LADY'S-TRESSES
LITTLE LADY'S-TRESSES

(f) It is a violation for any person, anywhere in the state, to pick, pluck, sever, remove, damage by the application of herbicides or defoliants, or carry away, without the consent of the owner, any protected plant. Each protected plant so picked, plucked, severed, removed, damaged or carried away shall constitute a separate violation.

LANDS AND FORESTS

REGULATION 38 QUESTIONS:

OFF PREMISES SIGNS

- (A) Is your facility, project or operation located within the Adirondack Park or Catskill Park?

YES _____ NO _____

If NO, leave the "**RANK**" box 38 blank and leave the "Approval" Box blank on the Compliance Status Sheet, then proceed to Regulation 39.

- (B) If YES, have you erected any advertising sign, structure or device?

YES _____ NO _____

If NO, leave "**RANK**" box 38 blank and leave the "Approval" Box blank on the Compliance Status Sheet, then proceed to Regulation 39.

- (C) If YES, is it located within the limits of an incorporated village and/or on the parcel or real property where the principal business is being conducted?

YES _____ NO _____

If YES, leave "**RANK**" box 38 blank and leave the "Approval" Box 38 blank on the Compliance Status Sheet, then proceed to Regulation 39.

- (D) If NO, are you a State Department or Division?

YES _____ NO _____

If YES, leave "**RANK**" box 38 blank and leave the "Approval" Box 38 blank on the Compliance Status Sheet, then proceed to Regulation 39.

- (E) If NO, do you have a permit for the sign? [There are NO Exemptions]

YES _____ NO _____

If YES, place a "C" in the "**RANK**" box 38 and place a check in the "Approval" Box 38 on the Compliance Status Sheet, then proceed to Regulation 39.

If NO, place an "N1", "N2", "N3" or "N4" (according to the priority rank of the violation) in the "**RANK**" box 38 and leave the "Approval" Box 38 blank on the Compliance Status Sheet, update the (or complete a new) NON-Compliance Reporting Sheet, complete a Remedial Plan Form, then proceed to Regulation 39.

LANDS AND FORESTS

REGULATION 38:

OFF PREMISES SIGNS

LEGAL CITATION: ECL Section 9-0305; and 6NYCRR Part 195.

ABSTRACT OF LAW/REGULATIONS:

Article 9 regulates the erection of any advertising sign, advertising structure or device of any kind within the Adirondack and Catskill Parks. This requirement does not apply to the parcel of real property where the principal business is being conducted or to signs erected within the limits of an incorporated village.

Within the Adirondack Park this law applies to all of Essex and Hamilton Counties and parts of Clinton, Franklin, Fulton, Herkimer, Lewis, Oneida, Saratoga, St. Lawrence, Warren and Washington Counties. Within the Catskill Park the law is applicable to parts of Delaware, Greene, Sullivan, and Ulster Counties.

There is no fee charged for this permit and application for the permit must be made at the NYSDEC office responsible for the county where the desired sign is to be erected if the location is along a secondary highway.

If the business is located along a primary highway, application can be made either at the appropriate NYSDEC office or at the Regional Office of the Department of Transportation.

REQUIRED APPROVAL:

This regulation requires all persons to obtain a permit to erect any advertising sign, advertising structure or device within the Adirondack and Catskill Parks. The State of New York is not subject to this regulation.

NYSDEC CONTACT PERSON:

TELEPHONE NUMBER

Tom Wolfe, Division of Lands and Forests

518/402-9428

LANDS AND FORESTS

REGULATION 39 QUESTIONS:

USE OF STATE LANDS

- (A) Did your facility, project or operation use any State lands, that are under the jurisdiction of NYSDEC, for any purpose as expressed in ECL 9-0105? [See , Regulation 39, Table 39 for activities allowed.]

YES _____ NO _____

If NO, leave “**RANK**” box 39 blank and leave the “Approval” Box 39 blank on Compliance Status Sheet, then proceed to Regulation 40A.

- (B) If YES, did you obtain a permit? [There are NO Exemptions]

YES _____ NO _____

If YES, place a "C" in “**RANK**” box 39 and place a check in the “Approval” Box 39 on the Compliance Status Sheet, then proceed to Regulation 40A.

If NO, place an "N1", "N2", "N3" or "N4" (according to the priority rank of the violation) in the “**RANK**” box 39 and leave the “Approval” Box 39 blank on the Compliance Status Sheet, update the (or complete a new) NON-Compliance Reporting Sheet, complete a Remedial Plan Form, then proceed to Regulation 40A.

NYSDEC does not issue Temporary Revocable Permits to itself. These permits are solely for private concerns and municipalities.

LANDS AND FORESTS

REGULATION 39:

USE OF STATE LANDS

LEGAL CITATION: ECL Section 9-0105.

ABSTRACT OF LAW/REGULATIONS:

Title 8400 of the Policies and Procedures of the NYSDEC allow use of State lands under the jurisdiction of the NYSDEC for purposes such as:

1. transportation of materials across state land;
2. short-term ingress and egress to private property;
3. volunteer or student projects;
4. maintenance of existing utility lines;
5. training by and for military units;
6. removal of dead or hazardous trees;
7. research projects;
8. organized group recreational and/or sports activities;
9. survey projects;
10. public road maintenance;
11. installation and maintenance of recreational trails and facilities; and
12. other appropriate uses that are within applicable legal parameters, are compatible with the resource, are compatible with management objectives, and are in accordance with stated guidelines and policy.

REQUIRED APPROVAL:

A permit is required for use of State lands.

REQUIRED FEE:

A \$25.00 non-refundable inspection fee made payable to the State of New York must accompany all applications for temporary revocable permits. Educational institutions and State, County, and local governments and their political subdivisions are exempt from this fee. Not-for-profit and other organizations as approved by the Regional Land Manager are exempt from this fee if it is deemed that the project to be done by the organization is one that the State would normally otherwise undertake.

NYSDEC CONTACT PERSON:

TELEPHONE NUMBER

Tom Wolfe, Division of Lands and Forests

518/402-9428

LANDS AND FORESTS

REGULATION 40A QUESTIONS:

PRESCRIBED FIRE-PRESCRIBED BURN

- (A) Did you use a "prescribed fire" or a "prescribed burn" as a vegetative management tool or for any other use? [See Regulation 40A for description of other uses.]

YES _____ NO _____

If NO, proceed to Regulation 44.

- (B) If YES, did you obtain authorization from NYSDEC?

YES _____ NO _____

If NO, place an "N1", "N2", "N3" or "N4" (according to the priority rank of the violation) in the "**RANK**" box 40A and leave the "Approval" Box 40A blank on the Compliance Status Sheet, complete a "Non-Compliance Report & Remedial Plan" form, then proceed to Regulation 44.

- (C) If YES, did you file a report of the action within 60 days with NYSDEC?

YES _____ NO _____

If YES, place a "C" in "**RANK**" box 40A and place a check in the "Approval" Box 40A, then proceed to Regulation 44.

If NO, place an "N1", "N2", "N3" or "N4" (according to the priority rank of the violation) in the "**RANK**" box 40A and place a check in the "Approval" Box 40A, complete a "Non-Compliance Report & Remedial Plan" form, then proceed to Regulation 44.

LANDS AND FORESTS

REGULATION 40A:

PRESCRIBED FIRE-PRESCRIBED BURN

LEGAL CITATION: ECL Sections 1-0101, 3-0301, 9-0105 & 9-1105 and 6NYCRR Parts 194.1 thru 194.11.

ABSTRACT OF LAW/REGULATIONS:

This regulation allows the application of "prescribed fire" on NYSDEC lands and/or a "prescribed burn" on non-NYSDEC lands as a vegetative management tool, under authorization. A "prescribed fire/burn" may be used to accomplish goals and objectives relating to silviculture, wildlife management, habitat management, insect and/or disease control, forest fuel reduction, wildfire suppression or as an alternative use to mechanical or chemical control. A Management Plan is required to be submitted with the application for authorization to perform a prescribed fire or prescribed burn and a report is required to be submitted to NYSDEC after the prescribed fire or prescribed burn has been completed describing the results.

REQUIRED APPROVAL:

A written authorization from NYSDEC is required for the application of "prescribed fire" or "prescribed burn."

RESTRICTIONS:

1. A "prescribed fire" is not permitted to be set or allowed to burn on lands constituting the Forest Preserve or on any State land within the Adirondack or Catskill Parks for any purpose other than wildfire suppression; and
2. A "prescribed fire plan" or "prescribed burn plan" that contains notification procedures must be written and approved by NYSDEC prior to fire ignition.

PRESCRIBED FIRE OR BURN MANAGEMENT PLAN:

Application to the NYSDEC must be made that includes the submission of a "prescribed fire" or "prescribed burn" management plan that addresses these items. This plan must be submitted with the application in order to perform a "prescribed fire" or "prescribed burn":

1. Fire Unit description (including the physical and biological features of the unit);
2. Vicinity map showing the relationship of the fire unit to the surrounding area;
3. Detailed project map, to scale, showing boundaries between the project area and lands to be protected, topographic features, potential hazards, control lines, ignition

pattern, etc.;

4. Goals and objectives (including the purpose of the prescribed fire or burn, and measurable objectives);
5. Itemized cost estimate of each segment of the prescribed fire or burn (planning, ignition or firing, mop-up, patrol, and any other costs);
6. Equipment and personnel list including personnel duty titles needed on site and on standby;
7. Fire prescription: a description of the acceptable range of fire weather, fuel and soil moisture, fuel quantity and fire behavior conditions;
8. Weather information indicating the prefire desired weather conditions and procedures for obtaining spot weather information and for smoke dispersal forecasts;
9. Preparation work including a list of activities required to take place prior to ignition, including fire lines, special features to be protected, installation of monitoring equipment, etc.;
10. Protection of special features list of instructions and actions to take to protect sensitive features within and adjacent to the prescribed fire or burn project site.;
11. Smoke management plan to identify potential smoke affected areas and provide strategies to avoid such areas, and to reduce and/or disperse emissions to minimize any adverse effect on the environment, human health and welfare;
12. Prefire coordination and public involvement to establish pre-burn coordination with affected agencies, lessees and landowners;
13. Fire day notification of individuals, lessees, agencies and public groups;
14. Public and personal safety and emergency descriptions including list of pertinent people to be contacted and emergency evacuation routes and facilities;
15. Communications listing key contacts and telephone numbers;
16. Briefing and command guidelines including a "GO" and "NO GO" checklist with a description of the project procedures for all involved personnel;
17. Test fire procedure to determine whether ground and atmospheric conditions meet the requirements established in the prescribed fire plan;
18. Firing plan describing the method of ignition and ignition pattern procedures;

19. Containment plan describing the method of containment of the fire;
20. Mop-up and patrol plan describing the procedures for mop-up and patrolling the project area;
21. Contingency measures that identify potential fire escapes and specifies actions to be taken should such an event occur;
22. Monitoring and evaluation description of the variables needed to determine if the project objectives have been met;
23. Rehabilitation description of standards for site clean up and erosion control and for site restoration;
24. Support documentation for referencing all elements of the prescribed fire or burn plan; and

In addition, the "prescribed burn" management plan must include:

25. a description of the qualifications of the person conducting the "prescribed burn."

DEFINITIONS:

Agriculture means the science, art and business of cultivating the soil, producing crops (including field crops, fruits, vegetables and horticultural specialties), growing livestock feed, and raising and maintaining livestock and livestock products (including cattle, sheep, hogs, goats, horses, poultry, fur bearing animals, milk, eggs and furs) useful to humans commonly known as farming. Agriculture will not include the raising of crops, products, or livestock that are not primarily intended to be sold.

Fire unit means the land area to be treated using a prescribed fire or prescribed burn.

Forest land means land carrying forest growth or, if totally lacking it, bearing evidence of former forest growth and not now in other use. It includes not only lands that may be covered with tree growth, but also lands best adapted to forests.

Forest preserve means lands owned by the state within the county of Clinton, except the towns of Altona and Dannemora, and the counties of Delaware, Essex, Franklin, Fulton, Hamilton, Herkimer, Lewis, Oneida, Saratoga, Saint Lawrence, Warren, Washington, Greene, Ulster and Sullivan, except:

- a. Lands within the limits of any village or city;
- b. Lands not wild lands and not situated within either the Adirondack park or the Catskill park acquired by the state on foreclosure of mortgages made to loan commissioners; and
- c. Lands acquired under the provisions of ECL §§ 9-0107 and 9-0501.

Management ignited prescribed fire means the intentional setting of forest land on fire, by the NYSDEC, under carefully controlled conditions to achieve a vegetative or wildlife management goal adhering to a written and approved prescribed fire plan or prescribed burn plan.

Natural fire means a fire ignited by an act of God (e.g., lightning, spontaneous combustion, etc.). Fires started through a careless or negligent act (unattended camp fire, discarded lighted cigarette, etc.) constitutes arson, and is not a natural fire.

Non-NYSDEC lands means all lands not under the jurisdiction of the NYSDEC, including but not limited to lands under the jurisdiction of other state agencies or public authorities, lands owned by counties, towns, villages, cities or other political subdivisions of the state, and privately owned lands.

Person means for the purposes of the regulation an individual, organization, corporation, state agency other than NYSDEC, public authority, county, town, village, city, municipal agency or other private forest landowner.

Prescribed burn is a NYSDEC authorized ignition on forest land that is *not* under the jurisdiction of the NYSDEC.

Prescribed burn plan or prescribed burn management plan means a written design for the use of fire to accomplish management goals on forest land that is *not* under the jurisdiction of NYSDEC.

Prescribed fire is a NYSDEC authorized ignition on forest land that is under the jurisdiction of the NYSDEC.

Prescribed fire plan or prescribed fire management plan means a written design for the use of fire to accomplish management goals on forest land that is under the jurisdiction of the NYSDEC.

Prescribed natural fire means a fire ignited by natural causes and allowed to continue to burn to predetermined containment points as long as the characteristics of the fire remain within a pre-prepared written and approved prescribed fire plan.

Prescribed burn means the intentional setting of forest land, that is *not* under the jurisdiction of NYSDEC, on fire under carefully controlled conditions to achieve a vegetative or wildlife management goal adhering to a written and approved prescribed fire plan or prescribed burn plan.

Prescribed fire means the intentional setting of forest land, that is under the jurisdiction of the NYSDEC, on fire under carefully controlled conditions to achieve a vegetative or wildlife management goal adhering to a written and approved prescribed fire plan or prescribed burn plan.

NYSDEC CONTACT PERSON:

Tom Wolfe, Division of Lands and Forests

TELEPHONE NUMBER

518/402-9428

MINERAL RESOURCES SCREENING QUESTIONS

(MIN-1) Were any minerals removed from your facility, project or operation (f/p/o)?

Minerals include any naturally formed inorganic, solid material (including sand, gravel and shale) located on or below the surface of the earth, including peat and topsoil. A mineral is aggregate, cement rock, clay, curbing, dimension stone, dolostone, emery, flagstone, garnet, gem stones, gravel, gypsum, iron, lead, limestone, marble, marl, metallic ore, paving blocks, peat, riprap, roadstone, salt, sand, sandstone, shale, silver, slate, talc, titanium, trap rock, wollastonite, zinc, or any other solid material or substance of commercial value found in or on the earth. Overburden is considered a mineral regardless of whether it is removed from the affected land for sale, exchange or use in the regular operation of a business.

YES _____ NO _____

If YES, Regulations 44 and 44A (Regulatory Fees) may apply to your f/p/o. Proceed to Question (MIN-2).

If NO, proceed to Question (MIN-2).

(MIN-2) Is your f/p/o located on any State owned lands or on lands under the waters of Lake Ontario?

YES _____ NO _____

If YES, Regulation 45 may apply to your f/p/o. Proceed to Question (MIN-3).

If NO, proceed to Question (MIN-3).

(MIN-3) Are there any active or abandoned oil, gas and/or solution mining wells, or geothermal, brine disposal and/or stratigraphic test wells at your f/p/o? All reports must be confirmable by NYSDEC staff.

YES _____ NO _____

If YES, Regulation 46 may apply to your f/p/o. Proceed to Question (EP-1).

If NO, proceed to Question (EP-1).

MINERAL RESOURCES

REGULATION 44 QUESTIONS:

MINED LAND RECLAMATION

Note: If your facility, project or operation (f/p/o), is subject to this regulation, it is also subject to Regulation 44A.

- (A) Were more than 1,000 tons or 750 cubic yards, whichever is less, of minerals removed from an individual mine within 12 successive calendar months or more than 100 cubic yards of minerals removed from or adjacent to any body of water not subject to the jurisdiction of ECL Article 15 (Regulation 23) or the public lands law at your f/p/o? For the purposes of this title, overburden is considered a "mineral" regardless of whether it is removed from the affected land for sale, exchange or use in regular operation of a business.

YES _____ NO _____

If NO, leave "Rank" box 44 blank on the Compliance Status Report form, proceed to Regulation 45.

- (B) If YES, was a permit obtained from NYSDEC? (See Regulation 44 for exemptions.)

YES _____ NO _____

If YES, place a "C" in "Rank" box 44 and place a check in the "Approval" box 44 on the Compliance Status Report form, then proceed to Regulation 45.

If NO, place an "N1", "N2", "N3" or "N4" (according to the priority rank of the violation) in "Rank" box 44 and leave the "Approval" box 44 blank on the Compliance Status Report form, update or complete a new Non-Compliance Report & Remedial Plan form, then proceed to Regulation 45.

MINERAL RESOURCES

REGULATION 44:

MINED LAND RECLAMATION

LEGAL CITATION: ECL Article 23, Title 27, and 6NYCRR Parts 420 - 426.

ABSTRACT OF LAW/REGULATIONS:

This regulation governs any person, who mines or proposes to mine more than 1,000 tons or 750 cubic yards, whichever is less, of minerals from the earth within 12 successive months, or who mines or proposes to mine over 100 cubic yards of minerals from or adjacent to any body of water not subject to the jurisdiction of ECL Article 15 (Regulation 23) or to the public lands law.

Requirements are:

1. A mining plan must be submitted to NYSDEC that provides both a graphic and a written description of the affected lands, a description of the mine and the method of mining.
2. A reclamation plan must be submitted to NYSDEC that provides both a graphic and written description of the land-use objective after the mine has been closed, a description of the proposed method of reclaiming the affected land and a description of the treatment of haulageways, drainage, water impoundments, and revegetation.

REQUIRED APPROVAL:

A permit is required for any mining operation. A separate permit is to be obtained for each separate mine site.

Note: Applications for permits may be submitted for annual terms not to exceed five years. The complete application package that is to be submitted consists of a Mined Land Use Plan that contains a mining plan and a reclamation plan, completed applications forms and a statement that mining is not prohibited at that location by local zoning. As a condition precedent to the issuance of a permit, financial security of some approved form must be furnished to the NYSDEC to ensure that the land is reclaimed to a productive use in accordance with the reclamation plan. Political Subdivisions, municipalities, the United States and any of its agencies and agencies of the state are exempt from the requirements of obtaining financial security.

EXEMPTIONS:

The only activities exempt from requiring a permit are the excavation, removal and disposition of minerals from construction projects, exclusive of the creation of water bodies, or excavations in aid of agricultural activities.

Also, a permit is not required for mining less than 1,000 tons or 750 cubic yards of minerals within 12 successive calendar months.

DEFINITIONS:

Affected land: the area of land from which overburden or a mineral is to be or has been removed or upon which refuse or spoil is to be or has been deposited; or lands disturbed by the construction or improvement of haulageways; or lands disturbed by storage areas, repair areas, shipping areas and areas in which equipment, machinery, tools or other personal property is situated. Affected land shall also include any land disturbed by improper mining practices.

Applicant: that person making application to the NYSDEC for a permit to mine.

Haulageway: all roads utilized for mining purposes, together with that area of land over which material is transported, that are located within the permitted area.

Landowner: the person in whom the legal title to the surface rights of the affected land is vested.

Land-use objective: proposed use of the affected land as described in the mined land-use plan.

Mine: any excavation from which a mineral is to be produced for sale, or exchange, or for commercial, industrial or municipal use; all haulageways and all equipment above, on or below the surface of the ground used in connection with such excavation, and all lands included in the life of the mine approved by the NYSDEC.

Mined land-use plan: applicant's proposal for mining and reclaiming the affected land, shall consist of mining plan and reclamation plan that shall include maps and other documents as required to describe and illustrate environmental, physiographic, cultural and surface conditions at and surrounding the mine as well as the applicant's proposed mining and reclamation methods.

Minerals: include any naturally formed, usually inorganic, solid material (including sand, gravel and shale) located on or below the surface of the earth, including peat and topsoil. A mineral is aggregate, cement rock, clay, coal, curbing, dimension stone, dolostone, emery, flagstone, garnet, gem stones, gravel, gypsum, iron, lead, limestone, marble, marl, metallic ore, paving blocks, peat, riprap, roadstone, salt, sand, sandstone, shale, silver, slate, talc, titanium, trap rock, wollastonite, zinc, or any other solid material or substance of commercial value found in or on the earth.

Mining: the extraction of overburden and minerals from the earth; the preparation and processing of minerals, including any activities or processes or parts thereof for the

extraction or removal of minerals from their original location and the preparation, washing, cleaning, crushing, stockpiling or other processing of minerals at the mine location so as to make them suitable for commercial, industrial, or construction use; exclusive of manufacturing processes, at the mine location; the removal of such materials through sale or exchange, or for commercial, industrial or municipal use; and the disposition of overburden, tailings and waste at the mine location. Mining shall not include the excavation, removal and disposition of minerals from construction projects, exclusive of the creation of water bodies, or excavations in aid of agricultural activities.

Mining plan: the applicant's proposal for mining, including a graphic and written description of the mine, the affected land and the mining method.

Overburden: all the earth, vegetation and other materials that lie above or alongside mineral deposits and includes all earth, soil and other materials disturbed from their existing state in the process of mining exclusive of the mined materials.

Permittee: any person who holds a valid mining permit from the NYSDEC for the boundaries of the land identified in the mined land-use plan.

Person: any individual, public or private corporation, political subdivision, government agency, department or bureau of the State, municipality, industry, partnership, association, firm, trust, estate or any other legal entity.

Person engaged in mining: a person who is subject to this regulation, but who is mining without a mining permit issued by the NYSDEC.

Reclamation: the conditioning of the affected land to make it suitable for any productive use including but not limited to: the planting of forests, the planting of crops for harvest, the seeding of grass and legumes for grazing purposes, the protection and enhancement of wildlife and aquatic resources, the establishment of recreational, residential, commercial, industrial and historical sites or for other uses demonstrated to be consistent with the policy of NYSDEC.

Reclamation plan: the applicant's proposal for reclaiming the affected land, including a graphic and written description of the proposed use for all affected land, the method of reclamation and a schedule for performing reclamation.

Spoil: that material directly associated with a mineral deposit that is separated from the mineral in the process of mining, including material commonly known as debris, gangue, tailings or waste.

Surface consolidated mine: a mine from which such minerals as limestone, dolostone, sandstone, marble, slate, flagstone, curbing, dimension stone, riprap, abrasives, gypsum, iron, talc, titanium or other metallic or nonmetallic minerals are removed.

Surface unconsolidated mine: a mine from which such minerals as topsoil, borrow, fill, peat, humus, sand or gravel are removed.

Underground mine: a mine from which any mineral is removed from below the earth's surface by means of a shaft, adit, drift, tunnel, slope, or incline, but shall not include minerals removed by means of a well.

NYSDEC CONTACT PERSON:

TELEPHONE NUMBER

C. Bruce McGranahan, Division of Mineral Resources

518/402-8072

MINERAL RESOURCES

REGULATION 45 QUESTIONS:

OIL AND GAS LEASES ON STATE LANDS

(A) Did your facility, project or operation (f/p/o):

(1) lease sites to explore for, develop or produce natural gas underlying State owned lands that are not State Park lands or lands under the waters of Lake Ontario?

YES _____ NO _____

(2) lease sites to explore for, develop or produce oil underlying State owned lands that are not State Parks lands or lands under the waters of Lake Erie or Lake Ontario?

YES _____ NO _____

(3) lease sites to store natural gas or liquified petroleum gas beneath State owned lands?

YES _____ NO _____

If you answered "NO" to all of Questions (A1), (A2), and (A3), leave "Rank" box 45 blank on the Compliance Status Report form, then proceed to Regulation 46.

If you answered "YES" to any one or more of Questions (A1), (A2), or (A3), proceed to Question (B).

(B) Were all of your leases developed on your behalf by NYSDEC?

YES _____ NO _____

If YES, place a "C" in "Rank" box 45 on the Compliance Status Report form, proceed to Regulation 46.

If NO, place an "N1", "N2", "N3" or "N4" (according to the priority rank of the violation) in "Rank" box 45 on the Compliance Status Report form, update or complete a new Non-Compliance Report & Remedial Plan form, then proceed to Regulation 46.

MINERAL RESOURCES

REGULATION 45:

OIL AND GAS LEASES ON STATE LANDS

LEGAL CITATION: ECL Article 23, Title 11

ABSTRACT OF LAW/REGULATION:

Title 11 of the ECL, requires the NYSDEC to be responsible, with certain exceptions, for leasing for the exploration, development, and production of natural gas on State-owned lands, except State Park lands, and lands under the waters of Lake Ontario. Also, NYSDEC is responsible for leasing for the exploration, development, and production of oil on State-owned lands, except State Park lands and the lands under the waters of Lake Erie and Lake Ontario. In addition, the NYSDEC is responsible for leasing rights for the underground storage of natural gas and liquefied petroleum gas on State-owned lands.

REQUIRED APPROVAL:

The NYSDEC may not initiate the leasing process for any state lands without the prior approval of the surface managing agency (e.g., approval must be obtained from the state agency that owns or manages the land above the proposed lease area before the NYSDEC can issue approval and/or a lease for the underground storage).

NYSDEC CONTACT PERSON:

TELEPHONE NUMBER

John K. Dahl, Division of Mineral Resources

518/402-8056

MINERAL RESOURCES

REGULATION 46 QUESTIONS: OIL, GAS AND SOLUTION MINING WELL DRILLING

- (A) At your facility, project or operation(f/p/o), do you have any of the following that have not been properly plugged and abandoned: (1) inactive or abandoned oil, gas and/or solution mining wells, or (2) inactive or abandoned geothermal, brine disposal and/or stratigraphic test wells greater than 500 feet in depth? All reports must be confirmable by NYSDEC staff.

YES _____ NO _____

If NO, leave "Rank" box 46 blank on the Compliance Status Report form, proceed to Regulation 28.

- (B) If YES, are these wells registered with the NYSDEC?

YES _____ NO _____

If NO, place an "N1", "N2", "N3" or "N4" (according to the priority rank of the violation) in "Rank" box 46 on the Compliance Status Report form, leave the Approval box 46 blank, complete a "Non-Compliance Report & Remedial Plan" form, then proceed to Question (C).

- (C) If YES, have you submitted an annual well report for each well?

YES _____ NO _____

If NO, place an "N1", "N2", "N3" or "N4" (according to the priority rank of the violation) in "Rank" box 46 on the Compliance Status Report form, leave the "Approval" box 46 blank, complete a "Non-Compliance Report & Remedial Plan" form, then proceed to Question (D).

- (D) If YES, do you have any abandoned wells (wells past temporary abandonment or shut-in deadlines - See Regulations Abstract #5a)?

YES _____ NO _____

If NO, proceed to Question (F).

- (E) If YES, have all the abandoned wells been plugged?

YES _____ NO _____

If NO, place an "N1", "N2", "N3" or "N4" (according to the priority rank of the violation) in "Rank" box 46 on the Compliance Status Report form, update or complete a new Non-Compliance Report & Remedial Plan form, then proceed to Question (F).

(F) If YES, did you drill any new wells or deepen, plug back or convert any wells?

YES _____ NO _____

If NO, and you answered YES to Questions (B), (C), (D) and (E) place a "C" in "Rank" box 46, but if you answered NO to any of Questions (B), (C), (D) or (E) place an "N1", "N2", "N3" or "N4" (according to the priority rank of the violation) in "Rank" box 46 on the Compliance Status Report form, complete a new "Non-Compliance Report & Remedial Plan" form, then proceed to Regulation 28.

(G) If YES, was the necessary permit obtained for each activity?

YES _____ NO _____

If YES, place a "C" in "Rank" box 46 and place a check in the "Approval" box 46 on the Compliance Status Report form, then proceed to Regulation 28.

If NO, place an "N1", "N2", "N3" or "N4" (according to the priority rank of the violation) in "Rank" box 46, leave the Approval box 46 blank on the Compliance Status Report form, complete a new "Non-Compliance Report & Remedial Plan" form, then proceed to Regulation 28.

MINERAL RESOURCES

REGULATION 46: OIL, GAS AND SOLUTION MINING WELL DRILLING

LEGAL CITATION: ECL Article 23, Titles 1 - 23, and 6NYCRR Parts 550 - 559

ABSTRACT OF LAW/REGULATIONS:

The NYSDEC regulates oil, gas and solution mining wells and geothermal, brine disposal and stratigraphic test wells greater than 500 feet in depth. Certain operating practices must be followed, including:

1. required setback distances for location of any well from streams, ponds, roads, homes, and public buildings:
 - a. 100 feet from any inhabited private dwelling house without written consent of the owner;
 - b. 150 feet from any public building or area that may be used as a place of resort, assembly, education, entertainment, lodging, trade, manufacture, repair, storage, traffic or occupancy by the public;
 - c. 75 feet to the traveled part of any State, county, township, or municipal road or any public street, road or highway; or
 - d. 50 feet from any public stream, river or other body of water.
2. prevention of ground or surface water pollution from all mineral resource activities;
 - a. brine or salt water that is stored prior to disposal is to be stored in a watertight tank or container, including an earthen pit that is underlaid by tight soil such as heavy clay or hardpan;
3. proper disposal of drilling and production waste fluids:
 - a. although drilling muds are not considered to be polluting fluids, depending on the method of disposal, a SPDES permit for discharge and/or disposal may be required in addition to the well-drilling permit;
 - b. brine, salt water or other polluting fluids may require a SPDES permit to discharge and/or dispose.
4. filing of annual well reports for each unplugged well, giving production figures and well status; and

5. responsibility for plugging the abandoned well(s) (This responsibility remains with the original owner unless transfer of well plugging responsibility is approved by NYSDEC):
 - a. wells may be temporarily abandoned for up to 90 days or shut-in for up to one year without specific permission from NYSDEC;
 - b. a 10 day notice is required to be submitted to NYSDEC to permanently abandon a well;
 - c. a well cannot be permanently abandoned and plugged without a permit from NYSDEC;
 - d. plugging consists of filling the well bore (cased or uncased) with cement from the total depth to at least 15 feet above the top of the shallowest formation from which the production of oil or gas has ever been obtained in the vicinity; or a bridge topped with at least 15 feet of cement immediately above each formation from which the production of oil or gas has ever been obtained in the vicinity, and additional plugging, dependent on casings, casing depths and/or lengths, and potable fresh water levels;
 - e. any casing extending to the surface that is left in the ground is to be capped to prevent the migration of fluids and not interfere with normal soil cultivation;
 - f. all other holes, pits, and excavations are to be filled with earth so as to place the surface in a condition similar to the adjacent terrain; and within 30 days after the plugging of any well, a plugging report is to be submitted to NYSDEC; and
6. filing, with NYSDEC, financial security that guarantees that the well will be plugged upon abandonment (see Table 46-1).

REQUIRED APPROVAL:

Wells must be permitted by the NYSDEC prior to drilling and prior to plugging.

Title 13 of the ECL, further requires the NYSDEC to be responsible for issuing permits to store natural gas or liquefied petroleum gas in underground reservoirs and for regulating compliance with said permit.

DEFINITIONS:

Blow-out: an uncontrolled, sudden or violent escape of oil or gas from a drilling well when high formation pressure is encountered.

Bridge: an obstruction placed in a well at any specified depth.

Brine: synonymous with salt water.

Completion date: that date when a well is first capable of producing oil or gas into tanks or pipelines, or in the case of a dry hole, the date on which plugging is completed.

Condensate: liquid hydrocarbons that were originally in the gaseous phase in the reservoir and liquids recovered by surface separation from natural gas.

Converting: any operation where the status of a well is changed from producing to input or vice versa.

Day: a period of 24 consecutive hours.

Gas: all natural gas, manufactured, mixed and by-product gas, and all other hydrocarbons not defined as oil or condensate.

Input well: any well drilled, deepened, plugged back or converted in any pool, or underground stratum or horizon for the purpose of injecting, disposing or storing fluids or gaseous substances.

Lease: a tract or tracts of land that by virtue of an oil and gas lease, fee or mineral ownership, a drilling, pooling or other agreement, a rule, regulation, order or amendment by a governmental authority, or otherwise, constitutes a single tract or leasehold estate for the purpose of the development of operation for oil or gas or both.

Oil: crude petroleum oil and all other hydrocarbons, regardless of gravity, that are produced at the wellhead in liquid form by ordinary production methods and that are not the result of condensation of gas.

Oil and gas: oil or gas or both.

Operator: any person who is in charge of the development of a lease or the operation of a producing well.

Owner: any person who has the right to drill into and produce from a pool and to appropriate the oil or gas he produces either for himself or others.

Person: any natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, or other representative of any kind, and includes any department, agency, or instrumentality of the State or any government subdivision thereof.

Plugging and abandoning: the permanent abandonment of a well bore including the placing of all bridges, plugs and fluids therein and the restoration of the surface in the

immediate vicinity to a reasonable condition comparable with the adjacent terrain.

Pollution: the throwing, discharging, draining, running, flowing, or pumping of any organic or inorganic materials onto the surface lands or waters or into subsurface waters in such volume or manner as to make these lands and waters unfit for human or animal consumption or usage.

Potable fresh water: any water containing less than 250 parts per million of sodium chloride or 1,000 parts per million of total dissolved solids.

Pressure maintenance: the injection of gas, water or other fluids into oil or gas reservoirs to maintain pressure or retard pressure decline in the reservoir for the purpose of increasing the recovery of oil or other hydrocarbons.

Producer: the owner of a well or wells capable of producing oil or gas or both.

Producing well: any well capable of the production of oil or gas or both.

Salt water: any water containing more than 250 parts per million of sodium chloride or 1,000 parts per million of total dissolved solids.

Surface casing: casing extending from the surface through the potable fresh water zone.

Temporary abandonment: the discontinuation of operations on or closing in of a well not produced on a commercial basis without conducting plugging and abandoning operations.

Unit: two or more leases that have been combined in such a manner that the combined leases may be regarded as a common lease.

TABLE 46-1
FINANCIAL SECURITY AMOUNTS

Wells up to 6,000 feet deep

1. for wells less than 2,500 feet in depth:
 - a. for 1 to 25 wells: \$2,500 per well, not exceeding \$25,000.
 - b. for 26 to 50 wells: \$25,000, plus \$2,500 per well in excess of 25 wells, not exceeding \$40,000.
 - c. for 51 to 100 wells: \$40,000, plus \$2,500 per well in excess of 50 wells, not exceeding \$70,000.
 - d. for over 100 wells: \$70,000, plus \$2,500 per well in excess of 100 wells, not exceeding \$100,000.

2. for wells between 2,500 feet and 6,000 feet in depth:
 - a. for 1 to 25 wells: \$5,000 per well, not exceeding \$40,000.
 - b. for 26 to 50 wells: \$40,000, plus \$5,000 per well in excess of 25 wells, not exceeding \$60,000.
 - c. for 51 to 100 wells: \$60,000, plus \$5,000 per well in excess of 50 wells, not exceeding \$100,000.
 - d. for over 100 wells: \$100,000, plus \$5,000 per well in excess of 100 wells, not exceeding \$150,000.

NOTE: If an owner has a well or wells that are less than 2,500 feet in depth and has another well or other wells that are between 2,500 feet and 6,000 feet in depth, instead of providing financial security under the provisions of each category above, the owner may file financial security as if all of those wells were between 2,500 feet and 6,000 feet in depth.

3. for wells over 6,000 feet in depth:

The amount of financial security is based on the anticipated costs of plugging the well up to \$250,000 per well, not to exceed \$2,000,000, regardless of the number of wells.

NYSDEC CONTACT PERSON:

TELEPHONE NUMBER

John K. Dahl, Division of Mineral Resources

518/402-8056

ENVIRONMENTAL PERMITS SCREENING QUESTIONS

- (EP-1) During the environmental audit reporting period, did you undertake any planning or policy making activities, adoption of rules and regulations or procedures, or projects (capital and rehab), or physical activities (including, but not limited to: construction of new structures, removal of vegetation, changes in grade or water runoff patterns, trenches, excavations, filling, change in existing structures or features, change of permanent equipment, etc.) at your facility, project or operation?

YES _____ NO _____

If YES, Regulation 48 may apply. Proceed to Question (EP-2).

If NO, proceed to Question (EP-2).

- (EP-2) Did you engage in any activity involving discharges (including fill and dredge spoil materials) to the waters of the United States for which you are required to obtain a permit (not a SPDES Permit) from the U.S. Army Corps of Engineers, U.S. Coast Guard, or Federal Energy Regulatory Commission?

YES _____ NO _____

If YES, Regulation 49 may apply. Proceed to Question (SHM-1).

If NO, proceed to Question (SHM-1).

ENVIRONMENTAL PERMITS

REGULATION 48 QUESTIONS: STATE ENVIRONMENTAL QUALITY REVIEW ACT (SEQR)

- (A) Did you undertake any planning or policy making activities, adoption of rules and regulations or procedures, or projects or physical activities that were not exempt or Type II and which may have qualified as SEQR actions during the audit reporting period?

YES _____ NO _____

If NO, leave "Rank" box 48 blank on the Compliance Status Report form, proceed to Regulation 49.

- (B) If YES, before undertaking any of the above indicated activities, did you conduct the required environmental review according to 6NYCRR Part 617 or your own agency's SEQR regulations?

YES _____ NO _____

If YES, place a "C" in "Rank" box 48 on the Compliance Status Report form, proceed to Regulation 49.

If NO, place an "N1", "N2", "N3" or "N4" (according to the priority rank of the violation) in "Rank" box 48 on the Compliance Status Report form, update or complete a new Non-Compliance Report & Remedial Plan form, then proceed to Regulation 49.

ENVIRONMENTAL PERMITS

REGULATION 48: STATE ENVIRONMENTAL QUALITY REVIEW ACT (SEQR)

LEGAL CITATION: ECL Article 8, and 6NYCRR Part 617.

ABSTRACT OF LAW/REGULATIONS:

The New York State Environmental Quality Review Act (SEQR) is the process by which environmental factors are considered along with social and economic factors in agency decision making. SEQR applies to all agencies, public authorities, and public benefit corporations in New York State whenever they fund, approve or directly undertake a discretionary action.

Agencies are required to perform an assessment to identify any potential environmental impacts that may occur as a result of a proposed action. If the impacts will not be significant, a determination of non-significance is prepared. If the impacts may be significant, an Environmental Impact Statement (EIS) is required. The SEQR process uses the EIS to examine ways to reduce or avoid adverse environmental impacts. This includes an analysis of the reasonable alternatives to the action.

NOTE: The process of preparing the environmental audit will not trigger a SEQR review. However, any action taken to bring an existing facility into compliance or new activities undertaken by an agency may be subject under SEQR.

DEFINITIONS:

Environment. The physical conditions that will be affected by a proposed action. These include: land, air, water, minerals, flora, fauna, noise, resources of agricultural, archeological, historic, or aesthetic significance, existing patterns of population concentration, distribution or growth, existing community or neighborhood character, and human health.

SEQR actions include:

1. Projects or physical activities, changing the use, appearance, or condition of the environment that:
 - a. are directly undertaken by an agency; or
 - b. involve funding by an agency; or
 - c. require approval(s) from an agency; or
2. Agency planning and policy making activities that may affect the environment and commit the agency to a definite course of future decisions; or
3. Adoption of agency rules, regulations, or procedures.

Exempt Actions do not require SEQR review. Maintenance or repair involving no substantial changes in an existing structure or facility, and Emergency Actions that are immediately necessary on a limited and temporary basis for the protection of life, health, property or natural resources, are examples of exempt actions.

Type II Actions do not require SEQR review. Type II actions include the replacement of a facility, in kind, on the same site, the repair or construction of minor accessory structures, such as sheds or fencing in a maintenance area and the upgrading of buildings to meet fire and/or building codes.

Capital and Rehab Projects are projects identified within the budget request to the executive office. Capital projects require SEQR review before any decision is made that commits the agency to undertake the project. Rehab projects require SEQR review unless the activity is an Exempt or Type II action.

Operation and Maintenance projects (O&M) are activities undertaken at the facility as part of normal operations. Capital and rehab projects are not considered O&M projects. Some O&M projects may qualify as SEQR actions. Examples are:

1. structural changes to a building listed as eligible for the State or National Register of Historic Places;
2. replacement of a water line that requires digging of a new trench;
3. construction of a new trail or recreation staging area that requires removal of vegetation and/or changes to grade or water runoff pattern; or
4. any other significant change to existing structures, features, permanent equipment, etc.

NYSDEC CONTACT PERSON:

TELEPHONE NUMBER

Jack Nasca/Betty Ann Hughes, Division of Environmental Permits

518/402-9164

ENVIRONMENTAL PERMITS

REGULATION 49 QUESTIONS: SECTION 401 WATER QUALITY CERTIFICATION

- (A) Do you engage in any activity involving discharges to the waters of the United States for which you are required to obtain a permit (**not a SPDES Permit from NYSDEC**) from the U.S. Army Corps of Engineers? Discharges include primarily fill or dredge spoil materials. Waters of the United States includes all surface water bodies and wetlands.

NOTE: See Regulation 49 for types of permits that must be obtained from the U.S. Corps of Engineers, U.S. Coast Guard, and/or the U.S. Federal Energy Regulatory Commission prior to obtaining a Section 401 Water Quality Certification from NYSDEC.

YES _____ NO _____

If NO, leave "Rank" box 49 blank on the Compliance Status Report form, proceed to Regulation 25.

- (B) If YES, did you obtain a Section 401 Water Quality Certification from NYSDEC for the discharge? (**This is not a SPDES Permit, see Regulation 58 concerning SPDES Permit requirements for discharges to State waters.**) This certification must be obtained before any federal permit required for the discharge may be issued (e.g., Section 404 permit for filing).

YES _____ NO _____

If YES, place a "C" in "Rank" box 49 and place a check in the "Approval" box 49 on the Compliance Status Report form, then proceed to Regulation 25.

If NO, place an "N1", "N2", "N3" or "N4" (according to the priority rank of the violation) in "Rank" box 49 and leave the "Approval" box 49 blank on the Compliance Status Report form, update or complete a new Non-Compliance Report & Remedial Plan form, then proceed to Regulation 25.

ENVIRONMENTAL PERMITS

REGULATION 49:

SECTION 401 WATER QUALITY CERTIFICATION

LEGAL CITATION: ECL Article 15, Title 5; and 6NYCRR Part 608.7.

ABSTRACT OF LAW/REGULATIONS:

The Federal Clean Water Act gave the states the prerogative and the authority to regulate water quality within their borders thereby insuring that actions by federal agencies, including the issuance of permits, will not compromise water quality standards adopted by each state. This objective is accomplished by requiring applicants for federal permits that may result in a discharge to waters of the United States to first obtain a Water Quality Certification from the state. In New York State, the Water Quality Certification is often issued in conjunction with protection of waters permits (see Regulation 23) and wetlands permits, both tidal (see Regulation 43) and freshwater (see Regulation 20).

An applicant for a federal license or permit to conduct an activity generally limited to, the construction or operation of facilities that result in any discharge into navigable waters of the United States including wetlands must obtain a Water Quality Certification. The applicant must demonstrate compliance with sections 301 - 303, 306 and 307 of the Federal Water Pollution Control Act, and Parts 701, 702 and 704 of 6NYCRR.

REQUIRED APPROVAL:

Any applicant for a federal license or permit shall provide the federal licensing or permitting agency a certification from the NYSDEC that any such discharge will meet state water quality standards. The provision applies to discharges that originate in the waters of the State of New York. Areas of federal jurisdiction that most frequently involve a Water Quality Certification are:

1. dredging or constructing structures in navigable waters where a Section 10 permit is required from the U.S. Corps of Engineers;
2. filling and construction activities in any waterway or wetland where a Section 404 permit is required from the U.S. Corps of Engineers;
3. construction and repair of bridges and causeways crossing navigable water which require a permit from the U.S. Coast Guard;
4. construction of interstate pipelines where approval is granted by the Federal Energy Regulatory Commission; or

5. construction and operation of hydroelectric facilities requiring a license from the Federal Energy Regulatory Commission.

DEFINITIONS:

401 Certification: A determination by NYSDEC that a discharge into waters of the United States will meet state water quality standards.

Navigable waters of the United States: those that are subject to the ebb and flow of the tide and/or are presently used or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce. A determination of navigability, once made, applies laterally over the entire surface of the water body, and is not extinguished by later actions or events that impede or destroy navigable capacity.

Waters of the United States:

1. all waters that are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters that are subject to the ebb and flow of the tide;
2. all interstate waters including interstate wetlands;
3. all other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which would or could affect interstate or foreign commerce including any such waters;
 - a. that are or could be used by interstate or foreign travelers for recreational or other purposes; or
 - b. from which fish or shellfish could be taken and sold in interstate or foreign commerce; or
 - c. that are or could be used for industrial purposes by industries in interstate commerce. These also include waters that are or would be used as habitat by birds protected by Migratory Bird Treaties or migratory birds that cross state lines or that are or would be used as habitat for endangered species or used to irrigate crops sold in interstate commerce;
4. all impoundments of waters otherwise defined as waters of the United States under this definition;
5. tributaries of waters identified in the above four categories;
6. the territorial sea; and

7. wetlands adjacent to waters (other than waters that are themselves wetlands) identified in the above 6 categories. Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of the Clean Water Act (other than cooling ponds) are not waters of the United States.

NYSDEC CONTACT PERSON:

Tim Cooke, Division of Environmental Permits

TELEPHONE NUMBER

518/402-9152