

NEW YORK STATE ASSEMBLY • SHELDON SILVER, SPEAKER



2014 ANNUAL REPORT



Committee on
Environmental Conservation
Robert K. Sweeney, Chairman



ROBERT K. SWEENEY
Assemblyman 11TH District

THE ASSEMBLY
STATE OF NEW YORK
ALBANY

CHAIRMAN
Environmental Conservation

COMMITTEES
Education
Rules
Veterans' Affairs

December 15, 2014

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

Dear Speaker Silver:

I am pleased to submit to you the 2014 Annual Report of the Assembly Standing Committee on Environmental Conservation.

The Committee addressed several important issues this year including: increased penalties for the sale of certain endangered species, consideration of extreme weather events as part of certain state permits, and prohibitions on the use of harmful chemicals in children's products. This report describes the legislative actions and major issues considered by the Committee and sets forth our goals for future legislative sessions.

Under your leadership and with your continued support of the Committee's efforts, the Assembly will continue the work of preserving and protecting New York's environmental resources during the 2015 legislative session.

Sincerely,

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

2014 ANNUAL REPORT
OF THE NEW YORK STATE ASSEMBLY
STANDING COMMITTEE ON ENVIRONMENTAL CONSERVATION

Robert K. Sweeney, Chairman

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COMMITTEE RESPONSIBILITIES

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

The primary concerns of the Committee are pollution prevention and control, resource management, and environmental quality issues. The Committee also monitors the activities and enforcement of environmental laws by the New York State Department of Environmental Conservation (DEC). During the 2014 Legislative Session the Committee considered 471 bills, acting favorably on 94, with 39 becoming law.

MAJOR ISSUES OF 2014

A. BUDGET HIGHLIGHTS

The State Fiscal Year (SFY) 2014-15 Enacted Budget included over \$1 billion in funding for environmental programs as well as monies for water and wastewater infrastructure and recycling programs.

Environmental Protection Fund

The Environmental Protection Fund (EPF) received \$162 million. The final EPF budget included funding for traditional EPF programs such as waterfront revitalization, municipal recycling, water quality improvement, and farmland protection. In addition, the Assembly ensured that no less than 25 percent of the EPF funds appropriated for local waterfront revitalization and municipal parks projects will be made available for projects in densely populated or low-income communities that are underserved with respect to existing recreational opportunities in the area.

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

The Budget also contained:

Modifications to Hunting Provisions:

- discounts for certain sporting licenses;
- authorization for crossbow use, subject to minimum age requirements, training classes and the continued presence of an archery-only season;
- authorization for the issuance of distinctive I Love NY hunting and fishing license plates; and
- increased number of available free fishing days.

Extension of Pesticide Fees:

- A three-year extension of the existing pesticide registration fees was authorized.

EPF Funding
\$(in millions)

<u>EPF Category</u>	Enacted 2014-15
Solid Waste Account	13.700
Municipal Recycling	7.000
Pollution Prevention Institute	3.250
Secondary Markets	1.000
Natural Resource Damages	1.000
Pesticide Database	1.200
Landfill Closure/Gas Management	.250
Parks, Recreation & Historic Preservation Account	59.700
Waterfront Revitalization	12.500
Municipal Parks	15.500
Hudson River Park	3.000
Stewardship	17.350
Zoos, Botanical Gardens, & Aquaria	11.350
Open Space Account	88.600
Land Acquisition	21.650
Smart Growth	.400
Farmland Protection	14.000
Agricultural Waste Management	1.500
Biodiversity	.500
Albany Pine Bush	2.125
Invasive Species	4.700
Long Island Pine Barrens Planning	1.250
Ocean and Great Lakes	5.050
Water Quality Improvement	7.800
Long Island South Shore Estuary Reserve	0.900
Non-point Source Pollution Control	18.700
Soil and Water Conservation Districts	4.725
Finger Lakes - Lake Ontario Watershed	1.500
Hudson River Estuary Management	3.800
Total	162.000

B. ENVIRONMENTAL QUALITY

Plastic Film Recycling

(A.191-B Kavanagh; Chapter 481 of the Laws of 2014)

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

Environmental Impact Zone Designation

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

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

Enhancing Environmental Quality Review

(A.2334-A Paulin; Passed the Assembly)

This legislation would ensure the consideration of emerging environmental science issues in determining the significance of a project or action under the State Environmental Quality Review (SEQR) process. DEC would be required to update annually any forms or documentation designed to assist applicants and lead agencies in determining whether a proposed project may have a significant impact on the environment. When updating such forms, DEC would be required to consider changes in science and emerging issues in environmental protection, including impacts on sensitive populations, such as children.

C. HAZARDOUS WASTE MANAGEMENT

Mercury Content of Light Bulbs

(A.2048-A Kavanagh; Passed the Assembly)

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

Mercury Balancing Products
(A.9143-A Rosenthal; Passed the Assembly)

Wheel weights are after market, rotational balancing products used in cars, trucks, and other devices to provide balance and longevity. In recent years, some balancing devices have used mercury; however, aluminum, steel and zinc represent equally effective alternatives without the negative health and environmental side effects of mercury. Several states including Connecticut, Louisiana and Rhode Island have begun to phase out mercury wheel weights. This bill would prohibit the use of mercury in balancing products.

D. NATURAL GAS DRILLING

Natural Gas Drilling Moratorium
(A.5424-B Sweeney; Passed the Assembly)

The potential development of natural gas drilling in low permeability natural gas reservoirs such as the Marcellus and Utica Shale formations has led to robust debate regarding the safety of the process and the protection of the environment. High volume horizontal hydraulic fracturing (HVHF) is a method of extracting natural gas from underground shale formations. The HVHF process typically includes the introduction of millions of gallons of fracturing fluid - a mixture of water, proppants and chemicals – under high pressure into a previously drilled wellbore.

Several recently-published scientific papers relating to the potential health impacts associated with oil and gas development utilizing HVHF suggest reason for concern. For example, studies in Colorado and Pennsylvania have identified the potential for increased risk of birth defects for children born to mothers living in close proximity to natural gas wells. In addition, researchers in Colorado have identified a potential increased risk of cancer and endocrinological disorders within close proximity to gas wells.

This legislation would suspend, for three years, the issuance of permits for natural gas extraction involving high volume hydraulic fracturing. Delaying DEC's ability to issue permits will provide the Legislature with additional time to assess the true public health and environmental impacts of hydraulic fracturing. This bill will also help ensure the Legislature has adequate time to review DEC's Supplemental Generic Environmental Impact Statement (SGEIS) once it is produced.

E. FISH AND WILDLIFE

Management of Mute Swans
(A.8790-A Cymbrowitz; Veto Memo 543)

In December 2013, DEC issued a management plan for New York's mute swans. Mute swans were first brought to the United States in the 1800's and New York is home to approximately 2,200 mute swans concentrated primarily in the lower Hudson Valley, Lake Ontario and Long Island. DEC's management plan included the goal of eliminating free-ranging mute swans in New York by 2025.

This legislation would establish additional criteria for the adoption of a mute swan management plan including: requiring public hearings and comment periods, prioritizing non-lethal management techniques, and documenting the scientific basis for current and projected environmental damages attributed to mute swans.

Definition of Immediate Family

(A.8561-A Thiele; Chapter 264 of the Laws of 2014)

The Environmental Conservation Law allows DEC to transfer certain commercial fishing licenses to immediate family members in cases where a license holder dies prior to transferring his or her license. Currently, the definition of “immediate family” means that licenses may only be transferred to immediate family members who live in the house of the license holder. This law will allow family members, such as children and parents, to be eligible to receive a transferred commercial fishing license even though they do not live in the same household.

Suffolk County Hunting

(A.8822-B Thiele; Chapter 266 of the Laws of 2014)

The white-tailed deer population on Long Island has increased dramatically. This law will allow bow hunting and hunting on Saturdays and Sundays during the special January hunting season, and also authorize towns in Suffolk County to waive the issuance of the additional town hunting permit presently required.

Issuance of Hunting and Fishing Gift Cards

(A.1627-A Gunther; Veto Memo 529)

This bill would require the DEC Commissioner to promulgate rules and regulations for the issuance of hunting and fishing license gift cards. Gift cards are already allowed in the state for camping permits, golf reservations, boat rentals, and New York State Parks passports.

Recreational Spearfishing

(A.5179-C Thiele; Chapter 435 of the Laws of 2014)

Existing DEC regulations currently allow the use of spear guns for the recreational taking of striped bass. This law will permit fish to be taken recreationally by spear or spear gun in the marine and coastal district, but will prohibit the use of spear guns within 100 yards of a public bathing area. This law also provides a clear definition of "spear gun" based on the definition developed by the Underwater Society of America.

Shark Fishing Requirements

(A.5421-A Thiele; Chapter 378 of the Laws of 2014)

This law will require the use of non-stainless steel non-offset circle hooks for recreational and commercial shark fishing. Scientific studies suggest higher survival rates for released fish when circle hooks are used since circle hooks are more likely to hook a fish in the mouth rather than the gut. In addition, circle hooks are easier to remove than the typically used “J” hook and can further

reduce the potential harm to fish. Non-stainless hooks further enhance survival rates since they dissolve in the digestive system, especially in large predator fish like sharks.

Development of Deer Management Plans
(A.5906 Thiele; Veto Memo 489)

This legislation would require DEC to update the New York State Deer Management Plan not less than every five years. This requirement will ensure that current scientific research, studies, and findings are appropriately incorporated into recommendations for controlling deer population throughout the State.

Issuance of Replacement Hunting Documentation
(A.2350-A Ryan; Veto Memo 486)

In order to get a hunting license in New York an individual must produce a valid hunter safety course certificate or a previous hunting license. This legislation would allow hunters who have previously completed a DEC-approved hunter safety course to get a replacement certificate if the original certificate has been lost or accidentally destroyed, without having to retake the hunter safety course. The replacement would be issued in the same manner as other lost or accidentally-destroyed hunting documents, once DEC is satisfied that the application has been made in good faith.

Restrictions on Public Contact with Big Cats
(A.9004-C Rosenthal; Chapter 307 of the Laws of 2014)

Members of the public are sometimes permitted to hold, take photos with, and otherwise interact with wild animals in roadside zoos, fairgrounds, malls and other public areas. Other states, including Kansas, Mississippi, and Arizona have strengthened existing laws to address public contact issues.

This law will prohibit direct physical contact between members of the public and big cats such as lions, tigers, leopards, jaguars and mountain lions. This law will not impact exhibition of captive animals or restrict veterinary examination, treatment and care.

License Revocation Process
(A.4002 Cook; Passed the Assembly)

New York State joined the Interstate Wildlife Violator's Compact (IWVC) in 2005 in order to streamline the prosecution of fishing, hunting and trapping violations for the 40 participating states. The IWVC requires that all participating states recognize the revocation or suspension of license privileges of any person by any participating state as though the violation resulting in the revocation or suspension had occurred in their state and could have been the basis for suspension of license privileges in their state. The purpose of the IWVC is to prevent offenders from "shopping" around for sporting privileges when they have been revoked in another state. It is also intended to prevent member States from becoming a dumping ground for all the violators that cannot get a sporting license anywhere else. This legislation is intended to make all license revocations and suspensions in other states eligible for revocation in New York State.

F. ENVIRONMENTAL ENFORCEMENT

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

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

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

G. SOLID WASTE MANAGEMENT

Compostable or Recyclable Food Service Ware **(A.4973-A Kavanagh; Passed the Assembly)**

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

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

Enhancing Statewide Recycling Efforts **(A.3754-A Colton; Passed the Assembly)**

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

H. PETROLEUM MANAGEMENT

Increased Financial Security Requirements for Oil Storage Facilities

(A.9926 Rules [Fahy]; Passed the Assembly)

The transport of crude oil by rail has increased exponentially nationwide over the past five years, from over 9,000 carloads of crude oil in 2008 to over 400,000 in 2013, and the need for storage facilities has expanded accordingly. Events such as the Lac-Megantic train derailment in Quebec have heightened the awareness of safety issues related to the transportation and storage of crude oil and the negative impacts of mishandling crude oil.

This legislation was drafted in response to such accidents and the resulting substantial financial losses to both public and private entities due to injuries, loss of life, damages and clean-up costs, all as a result of explosions and spills from improper handling of volatile and toxic crude oil shipments. This legislation would apply to crude oil stored at bulk storage facilities in New York State and require sufficient financial security to meet all responsibilities for cleanup and decontamination costs associated with the release of such oil.

Increased Use of Biodiesel

(A.8435 Sweeney; Passed the Assembly)

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

This bill would require heating oil sold in New York to contain at least two percent biodiesel. The requirements would be phased in, with New York City, Nassau, Rockland, and Suffolk Counties effective October 1, 2014, and in the remainder of the state on July 1, 2015. In addition, the bill would modify the existing tax credit provisions to represent the 2013 chapter amendment proposed by the Executive prior to his veto of A.7906.

Installation of Spill Detection Equipment

(A.1352 Lentol; Passed the Assembly)

This legislation would require operators of major petroleum facilities to implement plans and to install equipment for the prompt detection of petroleum discharges.

I. WATER CONSERVATION AND QUALITY

Environmental Facilities Corporation Financing **(A.9425 Rozic; Chapter 70 of the Laws of 2014)**

The Environmental Facilities Corporation (EFC) provides municipalities with grants and low cost loans to finance drinking and wastewater infrastructure. In 2005, EFC received authority to expand the direct investment of Clean Water State Revolving Loan Funds (CWSRLF) monies to include any security obligation available to municipalities under the General Municipal Law. This law extends, until September 30, 2017, the CWSRLF investment power of the Environmental Facilities Corporation.

Proper Disposal of Pharmaceutical Products **(A.5465-A Sweeney; Veto Memo 488)**

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

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

Jamaica Bay Dredging **(A.2074-A Goldfeder; Chapter 288 of the Laws of 2014)**

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

Water Quality Education by Conservation Districts **(A.9131-A Russell; Chapter 292 of the Laws of 2014)**

Currently, twenty percent of the State's Soil and Water Conservation Districts (SWCD) have environmental educators on staff. This law recognizes the importance of conservation education and adds conservation education to the powers of SWCD.

Long Island Water Quality
(A.9788-A Sweeney; Passed the Assembly)

Long Island's water resources are unique in the region, unusual in the nation, and of exceptional importance to the state of New York because of the economic, environmental and public health values that Long Island's water resources provide to the millions of people who live and recreate on Long Island. Unfortunately, Long Island's water resources have continued to be impacted by increasing quantities of nutrients, pathogens, pesticides, volatile organic contaminants and saltwater intrusion, as well as a number of emerging threats such as prescription drugs and sea level rise.

The region has already experienced an increasing number of harmful algal blooms and other documented declines in key biological indicators that demonstrate continued and increasing stress on the region's groundwater resources and coastal ecosystems. Continued water quality and coastal habitat decline will result in more harmful algal blooms, shellfishing closures, beach closures, and fishing restrictions, along with the further contamination of private and public wells. These impacts will inevitably have significant negative effects on the tourism economy of Long Island and on the quality of life and public health for the millions of residents of the region. This legislation would implement pollution control measures and planning provisions to stem the tide of Long Island's declining water quality.

Microbeads
(A.8744-A Sweeney; Passed the Assembly)

Recently, microbeads, a plastic product often as small as a grain of sand, have been found in the Great Lakes. The source of the pollution appears to be consumers using personal cosmetics such as shampoos, soaps and toothpastes that contain microbeads. Once washed down the drain, the microbeads flow into waterbodies because most wastewater treatment plants are unable to filter out the tiny plastics. This legislation, drafted by State Attorney General Eric T. Schneiderman, would prohibit the distribution and sale of personal cosmetic products that contain microbeads as of January 1, 2016.

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

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

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

Over one million residents of New York State get their drinking water from private wells. Currently, municipal water suppliers test their water and send residents an annual report on the quality of that water, but there are no similar protections for private wells. As a result, people using private wells around the State are often unaware that there may be problems with their drinking water.

This legislation would establish a private well testing program in New York State and require testing of private drinking water wells at the time of property transfer. Testing would include: bacteria (total coliform), nitrates, iron, manganese, pH, and all volatile organic compounds for which a maximum contaminant level has been established pursuant to public health regulations.

J. FOREST AND LAND RESOURCES

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

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

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

K. CLIMATE CHANGE

Consideration of Extreme Weather Events

(A.6558-B Sweeney; Chapter 355 of the Laws of 2014)

According to the National Climate Assessment, “the Northeast has experienced a greater recent increase in extreme precipitation than any other region in the U.S.; between 1958 and 2010, the Northeast saw more than a 70% increase in the amount of precipitation falling in very heavy events (defined as the heaviest 1% of all daily events).” These statistics have been illustrated most recently by the devastating impacts of named storms such as Sandy, Lee and Irene. In addition to the tragic loss of life, property and environmental damage, there is also an economic cost of extreme weather events. For example, the financial toll of Superstorm Sandy on New York is estimated to be at least \$42 billion.

This law is intended to encourage advance planning for severe weather events and to encourage the consideration of the effects of climate change by requiring certain environmental funding and permitting decisions to include consideration of the potential for damage from extreme weather events.

Greenhouse Gas Emission Limits

(A.6327-A Sweeney; Passed the Assembly)

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

This legislation would authorize DEC to establish greenhouse gas emission reporting requirements and, beginning in 2017, after a public hearing, promulgate rules and regulations setting a limit on all greenhouse gas emission sources. The limit established by DEC would be required to be less than the 1990 limit and not impose additional burdens on communities already experiencing significant levels of regulated air contaminants as compared with the county average. Beginning in 2020, the limit established by DEC would be decreased each year, resulting in an eighty percent reduction by 2050.

L. CHEMICALS

Prohibition on the Use of the Flame Retardant TRIS **(A.4741 Sweeney; Chapter 354 of the Laws of 2014)**

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

Repair of Damaged Pesticide Containers **(A.8439 Sweeney; Chapter 10 of the Laws of 2014)**

The EPA released its "Pesticide Container Repair Interim Policy" in October 2009, to address the environmental concerns associated with the unnecessary disposal of consumer pesticide products. According to the EPA, approximately five million pounds of consumer pesticide products may become waste each year in the United States due to damage to the containers before the pesticides can be sold by retailers.

This law will extend, until July 1, 2016, the authority for New York retailers to implement a "minor repair program" for damaged pesticide containers. Such programs would need to be approved by the EPA and demonstrate that product integrity is ensured. Repaired containers would be prohibited from having any appreciable loss of contents or change in the net contents as indicated on the label, and the physical characteristics of the product would be required to remain unchanged, with no dampening or hardening as a result of contact with water or other liquids.

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

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

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

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

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

The chemical flame retardants migrate out of furniture and into household dust. Because of their tendency to put items in their mouth, toddlers typically have three times the level of flame retardants as their parents. An article in the Chicago Tribune stated, "A typical American baby is born with the highest recorded concentrations of flame retardants among infants in the world." Many flame retardants, most notably halogenated chemical retardants, have been associated with adverse health impacts. This legislation, which was developed after Assembly hearings, would prohibit the use of chemical flame retardants in residential upholstered furniture in order to decrease adverse health impacts and to ensure that chemical fire retardant-laden furniture developed for the prior California standard does not continue to be sold in New York once California revises their standard (California has recently proposed revisions to TB 117 to reflect more accurate fire conditions and the development of the Fire Safe Cigarette Act, which has contributed to decreased cigarette-related fires). In addition, this bill would also require residential upholstered furniture manufacturers to comply with an open flame standard beginning in 2016, reflective of a similar standard for residential mattresses adopted by the United States Consumer Product Safety Commission.

Cadmium in Children’s Products
(A.4822 Sweeney; Passed the Assembly)

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

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

Use of Formaldehyde in Children’s Products
(A.8886-B Kavanagh; Passed the Assembly)

Formaldehyde is an environmental pollutant. A 2010 report by the National Toxicology Program showed that formaldehyde is present in indoor and outdoor air, soil, food, treated and untreated drinking water, surface water and groundwater. One of the major sources of airborne formaldehyde is off-gassing from consumer goods. Formaldehyde was added to the list of human carcinogens by the U.S. Department of Health and Human Services in 2011; however, it continues to be used in many household products, including those intended for children. A 2011 report by the Washington Toxins Coalition and Safer States found formaldehyde was frequently used in children's blankets, clothing, and toys. Children are more susceptible to the dangers of formaldehyde, which can cause serious nervous system damage and asthma. This legislation, which is based on a Minnesota law, would restrict the use of intentionally-added formaldehyde in children’s products.

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

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

M. DEPARTMENTAL POWERS

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

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

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

N. BROWNFIELDS

Extension of Brownfield Cleanup Tax Credits and Superfund Program **(A.10135 Rules [Sweeney]; Veto Memo 578 of 2014)**

The Brownfield Cleanup Program tax credits are set to expire on March 31, 2015, and a portion of the funding authorization for the State Superfund program expired March 31, 2013. This bill would authorize \$100 million in Superfund financing, and extend Superfund refinancing and Brownfield Cleanup Program tax credits until March 31, 2017.

O. ENDANGERED SPECIES

Restrictions on the Sale of Ivory and Rhino Horns **(A.10143 Rules [Sweeney]; Chapter 326 of the Laws of 2014)** **(A.10153 Rules [Sweeney]; Chapter 327 of the Laws of 2014)**

The Wildlife Conservation Society estimates that 96 elephants are killed each day in Africa, translating into one elephant death every fifteen minutes and a 76 percent population decline since 2002. A September report issued by The United Nations Office on Drugs and Crime estimates that as many as 60 percent of dead elephants in Africa were killed illegally, generating 154 metric tons of illegally-harvested ivory valued at more than \$30 million dollars. The report also indicates that ivory poaching in recent years reflects the increased involvement of organized crime. As evidence, the report refers to the professional poaching gang that killed more than 200 elephants in Cameroon. In addition, Al Shabaab, a group which has been linked to Al Qaeda, and was designated by the United States as a foreign terrorist organization and has been implicated in the recent attacks on a shopping mall in Kenya, is also mentioned in the report as being involved in ivory poaching.

The elephants are killed primarily for their ivory tusks, which are used predominantly in carved art and jewelry. Ivory sales are regulated by a complex web of international, federal and state laws and treaties. Despite the existing legal protections, New York has become one of the leading destinations in the United States for illegal ivory. In 2012, the New York State Department of Environmental Conservation, in conjunction with the United States Fish and Wildlife Service, seized more than \$2 million worth of elephant ivory in New York City.

This legislation is in response to testimony provided at an Assembly Environmental Conservation hearing held in January to examine New York's ivory laws and regulations. At the hearing, representatives from the nations of Tanzania and Botswana expressed support for an ivory sales ban, citing their efforts to decrease poaching in the face of increased demand for ivory. The Ambassador and Permanent Representative of the United Republic of Tanzania to the United Nations testified "Efforts such as those being expended by this Committee and the State Assembly are important and necessary in our global effort to save the African elephant population from extinction. The scale of the problem is such that the President of the United Republic of Tanzania, H.E. Jakaya Mrisho Kikwete, in September 2013, at the United Nations, here in the city, called for the international community to close down ivory markets."

The Ambassador also cited the link between terrorism and illegal ivory sales, citing the murder of park rangers and also saying "Wildlife trafficking is increasingly associated with rebel and terrorist groups such as the Lord's Resistance Army (LRA) and Al Shabaab, an Al Qaeda terrorist cell in East Africa." He went on to add that President Kikwete "regrettably noted that elephants have become the latest conflict resource."

Law enforcement officers at the hearing, including representatives from the United States Fish and Wildlife Service, testified about the difficulties, and in some cases, the impossibility, associated with determining the age and origin of ivory products. This testimony made clear that an imposition of a specific year, or antique provision would be virtually impossible to impose with accuracy. In addition, DEC law enforcement officials testified about the flaws in the existing penalty provisions regarding illegal ivory sales, expressing the need for stricter penalties. As a result, this law further restricts the sale of ivory and rhino horns and includes significantly stronger penalties aimed at addressing large-scale ivory sales.

P. INVASIVE SPECIES

Prevention of Aquatic Invasive Species **(A.9619-B Lifton; Chapter 330 of the Laws of 2014)**

Aquatic invasive species present a serious threat to New York's environment and economically important industries such as tourism, and commercial and recreational fishing. Invasive species kill native plants and animals by carrying harmful diseases or out-competing natural habitat, and represent one of the greatest threats to the State's biodiversity. Once introduced, invasive species are nearly impossible to eradicate, and expensive to manage. Nationally, the annual cost to the economy is estimated at \$120 billion a year and in New York, managing invasive species has become a significant drain on local economies. It is far more cost-effective to prevent the spread of these species than attempt to control them once they have already been introduced. This law is

aimed at preventing the introduction of invasive species and will require reasonable precautions such as the removal of any visible plant or animal matter, and washing, draining or drying as defined by DEC in regulations.

Posting of Universal Invasive Species Signs
(A.9927-A Sweeney; Chapter 375 of the Laws of 2014)

Aquatic invasive species pose a serious threat to the ecosystems and economies of the communities around our lakes, rivers and other bodies of waters. From zebra mussels, which are particularly abundant in the Great Lakes, Lake Champlain, and Chautauqua Lake, to hydrilla on Long Island, Caygua Lake, and Upper Niagara River, aquatic invasive species are prevalent throughout the State.

Management of aquatic invasive species through the use of mechanical, physical, chemical or biological means is very costly. The best defense against invasive species is prevention, which begins with education. This law will require the posting of universal signage at public boat launch sites, informing the public not only of the threat of aquatic invasive species, but also of their role in prevention.

Involvement of Districts in Invasive Species Management
(A.9132-A Russell; Chapter 293 of the Laws of 2014)

Invasive species pose a serious threat to the state's natural resources because they can displace or eradicate native species, and contaminate waters, forests and farms. The State's 58 Soil and Water Conservation districts (SWCD), have strong relationships with municipalities and farmers. This law will authorize SWCDs to use those relationships to carry out preventative and control measures for invasive species, providing another important tool in the efforts to preserve and protect New York's soil, water and other natural resources.

OVERSIGHT AND PUBLIC HEARINGS

In 2014, the Assembly Standing Committee on Environmental Conservation continued its oversight of environmental issues by holding the following hearings and roundtables:

Hearing on the Effectiveness of New York's Restrictions on the Sale of Ivory

The Committee held a hearing on January 6th in New York City to examine the effectiveness of New York's restrictions on the sale of ivory. The Wildlife Conservation Society estimates that 96 elephants are killed each day in Africa, translating into one elephant death every fifteen minutes and a 76 percent population decline since 2002. A September report issued by The United Nations Office on Drugs and Crime estimates that as many as 60 percent of dead elephants in Africa were killed illegally, generating 154 metric tons of illegally-harvested ivory valued at more than \$30 million dollars. The report also indicates that ivory poaching in recent years reflects the increased involvement of organized crime. As evidence, the report refers to the professional poaching gang that killed more than 200 elephants in Cameroon. In addition, Al Shabaab, a group which has been designated by the United States as a foreign terrorist organization and has been implicated in the recent attacks on a shopping mall in Kenya, is also mentioned in the report as being involved in ivory poaching.

Despite the existing legal protections, New York has become one of the leading destinations in the United States for illegal ivory. In 2012, the New York State Department of Environmental Conservation, in conjunction with the United States Fish and Wildlife Service, seized more than \$2 million worth of elephant ivory in New York City. The hearing was held to examine ways to improve the State's laws protecting endangered species and restricting the sale of illegal ivory.

Pesticide Sales and Use Reporting Hearing

The Committee held a hearing on June 5th in New York City to examine issues related to pesticide sales and use reporting. Chapter 279 of the Laws of 1996 established State pesticide sales and use recordkeeping and reporting requirements and created the Health Research Science Board that has a variety of pesticide-related responsibilities, including reviewing requests for access to location-specific pesticide information. Chapter 279 also required the Department of Environmental Conservation (DEC) to prepare an annual report summarizing pesticide sales and use.

There have been various criticisms of pesticide sales and use reporting including: the absence of a pesticide reporting law annual report since 2005; difficulties of researchers in accessing location-specific pesticide information; and inaccurate data reporting. The proposed 2014-15 State Budget included significant revisions to pesticide sales and use reporting requirements, but the enacted State Budget did not contain any reporting revisions. The purpose of the hearing was to examine ways to improve the effectiveness of the State's existing pesticide reporting laws, including the public availability of pesticide data and the role of the Health Research Science Board.

Impacts of Radon from Natural Gas on Indoor Air Quality Hearing

The Assembly Committees on Health, Environmental Conservation, Corporations, Authorities and Corporations, and Energy, as well as the Assembly Legislative Commission on Science and Technology, held a hearing in New York City on May 9th to examine the impacts of radon from natural gas on indoor air quality.

The United States Environmental Protection Agency (EPA) describes radon as a naturally-occurring radioactive gas released in rock, soil and water. The EPA also indicates that radon is a carcinogen that is the second leading cause of lung cancer in the United States, after smoking.

Radon is prevalent in the environment. Recent research has indicated that shale gas contains higher levels of radon than conventional natural gas sources. While the EPA indicates that there is no "safe" level of exposure to radon, historically the gas delivered to New York has contained low levels of radon due to the half-life of radon and the geographic location of suppliers. This hearing seeks to solicit information regarding scientific research and data on the potential impacts on public health and safety linked to elevated radon levels in natural gas, and to solicit comment on Assembly bill A.6863-B, which amends the Public Health Law and the Public Service Law in relation to the protection of public health from exposure to radon in natural gas.

Minimizing Food Waste Roundtable

The Assembly Committees on Environmental Conservation and Agriculture, as well as the Assembly Legislative Commission on Government Administration and the Assembly Task Force on Food, Farm and Nutrition Policy held two roundtables in Albany and New York City. The roundtables examined current best practices and programs to optimize procurement, promote sustainability, manage excess, and reduce waste from state and local government food service operations, including food donation and recovery, and other alternative uses of organic or inorganic residual materials and to solicit feedback on the proposed "State and Local Government Food Waste Reduction Act (A.9959-A)."

OUTLOOK AND GOALS FOR 2015

The Committee looks forward to the 2015 Legislative Session. The Committee will continue its history of environmental advocacy and achievement by working to enact sound, workable environmental policies. Also, the Committee will continue to monitor natural gas developments. The Committee will consider legislation to protect wetlands, improve water quality, and ensure safe drinking water. Finally, the Committee will continue to work to protect the state's natural resources and the long-term health and abundance of New York's fish and wildlife populations.

APPENDIX A
2014 SUMMARY SHEET

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

Final Action	<u>Assembly</u> <u>Bills</u>	<u>Senate</u> <u>Bills</u>	<u>Total</u>
<u>Bills Reported With or Without Amendment</u>			
To Floor; Not Returning to Committee (Favorable)	18	0	18
To Ways & Means	31	0	31
To Codes	43	0	43
To Rules	2	0	2
To Judiciary	0	0	0
Total	94	0	94
<u>Bills Having Committee Reference Changed</u>			
To Ways and Means	1	0	1
Total	1	0	1
<u>Senate Bills Substituted or Recalled</u>			
Substituted		14	14
Recalled		3	3
Total		17	17
<u>Bills Defeated in Committee</u>	0	0	0
<u>Bills Held for Consideration With a Roll-Call Vote</u>	36	0	36
<u>Bills Never Reported or Held in Committee</u>	280	34	314
<u>Bills Having Enacting Clause Stricken</u>	27	0	27
<u>Motion to Discharge Lost</u>	0	0	0
TOTAL BILLS IN COMMITTEE	426	45	471
TOTAL NUMBER OF COMMITTEE MEETINGS HELD		8	

APPENDIX B

ENVIRONMENTAL CONSERVATION BILLS THAT PASSED BOTH HOUSES

Assembly Bill	Sponsor	Description	Final Action
A.191-B	Kavanagh	Adds film plastic to the recycling requirements of the "Reduction, Reuse, and Recycling Act"	Chapter 481
A.1627-A	Gunther	Directs the DEC commissioner to create hunting and fishing license gift cards	Veto Memo 529
A.2074-A	Goldfeder	Restricts the types of materials that can be used as fill in Jamaica Bay	Chapter 288
A.2350-A	Ryan	Relates to DEC's issuance of hunter safety course documentation	Veto Memo 486
A.4741	Sweeney	Expands the "TRIS-Free Children and Babies Act"	Chapter 354
A.5179-C	Thiele	Allows recreational spearfishing in marine and coastal waters	Chapter 435
A.5421-A	Thiele	Requires the use of non-stainless non-offset circle hooks for the taking of sharks	Chapter 378
A.5465-A	Sweeney	Requires DEC, in consultation with the State Police, to implement a drug disposal demonstration program	Veto Memo 488
A.5906	Thiele	Requires DEC to prepare a state deer management plan periodically	Veto Memo 489
A.6558-B	Sweeney	Requires consideration of climate change in certain applications and funding decisions	Chapter 355
A.7880-B	Fahy	Authorizes rifle hunting in Albany County	Chapter 141
A.8315	Barrett	Designates Wappinger Creek as an inland waterway.	Chapter 27
A.8439	Sweeney	Extends, until July 1, 2016, the authorization for the repair of damaged pesticide containers	Chapter 10
A.8446-A	Duprey	Designates Chateaugay Lake as an inland waterway	Chapter 300
A.8561-A	Thiele	Modifies the definition of immediate family for the transfer of certain fishing licenses	Chapter 264
A.8703	Stec	Designates the Battenkill River as an inland waterway	Chapter 265
A.8704	Stec	Designates the Schroon River as an inland waterway	Chapter 298

A.8790-A	Cymbrowitz	Establishes criteria for DEC's development of a mute swan management plan	Veto Memo 543
A.8822-B	Thiele	Modifies certain hunting provisions in Suffolk County	Chapter 266
A.8862	Cusick	Extends, until December 2015, authorization for property owners in high risk brush fire areas on Staten Island to remove certain weeds	Chapter 267
A.9004-C	Rosenthal	Prohibits direct contact between the general public and certain big cat species	Chapter 307
A.9131-A	Russell	Authorizes soil and water conservation districts to undertake certain public information and education programs	Chapter 292
A.9132-A	Russell	Authorizes soil and water conservation districts to implement preventative and control measures for the spread of invasive species	Chapter 293
A.9149-B	McLaughlin	Designates the Hoosic River as an inland waterway	Chapter 311
A.9190	Tedisco	Designates Ballston Lake as a major inland lake	Chapter 308
A.9201-A	Nojay	Authorizes rifle hunting in Livingston County	Chapter 142
A.9242	Duprey	Designates the Little Ausable River as an inland waterway	Chapter 272
A.9301	Duprey	Designates the Great Chazy River as an inland waterway	Chapter 310
A.9425	Rozic	Extends, until September 30, 2017, certain investment authority of the Environmental Facilities Corporation	Chapter 159
A.9429	Jaffee	Extends DEC's authority to manage American eel	Chapter 160
A.9430	Schimel	Extends DEC's authority to manage clams	Chapter 121
A.9431	Fahy	Extends DEC's authority to manage hickory shad	Chapter 157
A.9432	Sweeney	Extends DEC's authority to manage blackfish	Chapter 162
A.9433	Zebrowski	Extends DEC's authority to manage American shad	Chapter 165

A.9434	Peoples-Stokes	Extends DEC's authority to manage fish	Chapter 163
A.9450	Zebrowski	Extends DEC's authority to manage alewife	Chapter 164
A.9451	Otis	Extends DEC's authority to manage oysters	Chapter 171
A.9452	Sweeney	Extends DEC's authority to manage weakfish	Chapter 161
A.9492	Saladino	Directs DEC to create a report to hydraulically contain and remediate the Navy Grumman plume	Chapter 543
A.9508	Weisenberg	Extends DEC's authority to manage bluefish	Chapter 166
A.9619-B	Lifton	Relates to aquatic invasive species prevention	Chapter 330
A.9927-A	Rules (Sweeney)	Directs DEC's to develop and post signs regarding the threat of invasive species	Chapter 375
A.10135	Rules (Sweeney)	Extends provisions related to Brownfield Cleanup Program tax credits and Superfund	Veto Memo 578
A.10143	Rules (Sweeney)	Restricts the sale of elephant ivory and rhino horns	Chapter 326
A.10153	Rules (Sweeney)	Provides a technical amendment to restrictions on the sale of elephant ivory and rhino horns	Chapter 327

APPENDIX C

ENVIRONMENTAL CONSERVATION BILLS THAT PASSED THE ASSEMBLY ONLY

Assembly Bill	Sponsor	Description
A.517	Cusick	Requires notice to neighboring landowners in New York City prior to development in wetland areas
A.630-A	Rosenthal	Prohibits the sale and use of pavement products containing coal tar
A.1040	Jaffee	Enacts the “Private Well Testing Act”
A.1104	Gunther	Directs the commissioners of the Department of Health and Environmental Conservation to study and develop a long term strategy to encourage outdoor environmental education and recreation
A.1352	Lentol	Requires major petroleum facilities to install leak detection equipment
A.2048-A	Kavanagh	Limits the mercury content of compact fluorescent light bulbs
A.2334-A	Paulin	Requires DEC to update model environmental impact assessment forms
A.3569	Peoples-Stokes	Creates a permanent environmental justice advisory group
A.3729	Peoples-Stokes	Requires the Department of Environmental Conservation to publish a list of high local environmental impact zones
A.3754-A	Colton	Modifies provisions relating to recycling requirements
A.4002	Cook	Relates to the suspension of hunting and fishing licenses pursuant to the interstate wildlife violator compact
A.4822	Sweeney	Restricts the amount of cadmium that may be added to novelty consumer products
A. 4973-A	Kavanagh	Requires the use of biodegradable and compostable products when not cost prohibitive
A.5424-B	Sweeney	Enacts a moratorium on the issuance of permits for natural gas drilling
A.6327-A	Sweeney	Requires DEC to establish limits on greenhouse gas emissions
A.6328	Sweeney	Restricts the use of certain toxic chemicals in children’s products
A.6537-B	Mayer	Establishes a statewide flood mitigation and prevention task force

A.6557	Sweeney	Prohibits the use of certain chemical flame retardants in residential upholstered furniture
A.7250-B	Lentol	Eliminates special assessments on the disposal of hazardous wastes generated by certain municipal brownfield programs
A.8435	Sweeney	Requires heating oil to contain at least two percent biodiesel
A.8744-A	Sweeney	Enacts the “Microbead-free Waters Act” to prohibit the sale of personal cosmetic products containing microbeads
A.8824-A	Sweeney	Prohibits the sale, purchase, trade, barter and distribution of certain ivory articles and rhino horns
A.8886-B	Kavanagh	Restricts the use of formaldehyde in children’s products
A.9143-A	Rosenthal	Prohibits the use of mercury in wheel balancing products
A.9788-A	Sweeney	Establishes the “Long Island Water Quality Control Act” and the Long Island Commission on Aquifer Protection
A.9926	Rules (Fahy)	Requires petroleum bulk storage facilities to provide increased financial surety