4. New York no longer has any real Stormwater Education program- something vital to both addressing current problems as well as preventing new ones from occurring. Our previous educator, Don Lake, was renowned not only in New York, but throughout the country. The DEC supported his efforts by letting him drive his Volkswagen beetle throughout the state, establishing educational seminars, and carrying the blue books and other materials in his own car. He was given no secretary or office space (which fortunately Syracuse University did provide him with). He notified the state of his intent to retire two years before the event, and yet when he did finally leave, his position was eliminated to ostensibly "SAVE" money. I myself took several courses from Don, including field trips, and was amazed at how ignorant I was in not seeing, anticipating and properly planning to mitigate Stormwater impacts from various types of development. When I now go out and inspect new construction, I see mistakes I would not otherwise have noted without Don's training. The decision to not replace him was penny wise and pound foolish. This loss will eventually cost New Yorkers millions of dollars in anticipated damages that will occur from the failure to properly design, construct, and monitor Stormwater devices.

New York State's Soil & Water Districts have been and are in a position to assist the state in making the Stormwater program far more effective than it has been. We prepared, and I have copies of our Stormwater Vision Statement that discussed the various ways Districts might be used to help the State.

Three years ago we supported the increase in Stormwater permit fees with the understanding Districts would receive some of the funds to help them in implementing these local programs. We never saw a dime. When we met with former Assemblyman En-Con Chair Thomas DiNapoli 2 years ago, he stated to us, "It's easier for us to move money around that is already coming into the state than it would be to create a new funding source." But nothing ever happened. This money, we are told, goes into the State's general fund. The local Districts will gravitate to where the money is, and presently there are more opportunities presenting themselves by developers who are concerned about meeting the new regulations and using Districts for technical assistance. You have an opportunity to change that and re-allocate funds from the Stormwater

permit fees or money from the EPF to give Districts the financial support they need to help you administer this program.

I have one final comment to make regarding an issue specific to Long Island. We recently completed having LiDar maps prepared for the entire island. I have recommended to both SC Fire and Emergency Rescue and to SEMO, that an agreement should be entered into with the State University of NY at Stony Brook, specifically the Marine Sciences Research Center, to use those new maps in conjunction with their new oceanographic models to help predict more accurately what areas will flood under various rainfall events. So far, neither agency has responded back. Specific problems I related included: identifying auxiliary diesel pumps for public water supplies that might be under water in the south shore area; having sewerage pumping stations underwater in these areas; identifying first responders facilities that might be at risk of flooding. We are failing to use GIS technology, laser guided mapping and sophisticated computer modeling to help mitigate the impacts from what most scientists are certain will happen—a moderate to sever hurricane hitting the Island. And lacking the proper Stormwater conveyances will only add to the problems caused by such an event. Hindsight is 20/20. Government always seems to have the money to address a major disaster after it has occurred, but unwilling to spend the money to mitigate the problems. Whether it's faulty dams, levees, or bridges, you seem reluctant to spend the necessary resources to help prevent or at least mitigate and lessen the impact of mother nature. I urge you to not make the same mistakes history has already taught us. Our statewide organizations stand ready to assist you.

KEUKA WATERSHED IMPROVEMENT COOPERATIVE

POLICY AND PROCEDURES MANUAL

UNIFORM WASTEWATER ENFORCEMENT PROGRAM

KWIC

UNIFORM WASTEWATER ENFORCEMENT PROGRAM

Purpose: To ensure coordinated and uniform enforcement of uniform wastewater regulations adopted by the eight municipalities in the Keuka Lake Watershed.

Background: Uniform enforcement of wastewater regulations requires a coordinated and cooperative approach among municipalities in the watershed. Understanding this need, the Supervisors and Mayors (KWIC committee) have developed an intermunicipal agreement to form cooperative program called the KWIC. To ensure an efficient and effective program, the KWIC committee asked that a policy and procedure manual be developed by the watershed inspectors and the Keuka Lake Watershed Project Director. The manual describes the role and responsibilities of the KWIC, KWIC Watershed Manager, and the Watershed Inspectors to assure uniform enforcement of the wastewater law. The following people worked on the development of this draft:

Charlie Egresi-Town of Pulteney Watershed Department
Jim Howell-Town of Wayne, Watershed Inspector
Ron Kenville-Town of Jerusalem, Watershed Inspector
Peter Landre-Keuka Lake Watershed Project
Merton Plaisted-Town of Wayne, Supervisor
Bill Mahrt-Penn Yan Municipal Utility Board
Terry Debuck-Town of Urbana, Wastewater Inspector

Review Committee
The review committee met on March 12, 2007 and May 14, 2007. They agreed that the policy and procedures manual needed to updated. The committee felt that the first draft should be a rewritten draft with the policy amendments included in the main text for clarity and ease in locating pertinent amendments.

Green colored text will indicate additional verbiage.
Important items to reviewed are in bold in the draft version.
References to items or placement are in ( ).

Members of the committee are:

Daryl Jones-Town of Jerusalem
Eileen Farnan-Town of Barrington
William Weber-Town of Pulteney
Paul Bauter-KWIC Watershed Manager

PROGRAM MANAGER AND TOWN/VILLAGE BOARDS

The Watershed Inspector shall be hired/fired and paid by each town or village. Municipalities may choose to have their own Watershed Inspector or share with one or more other towns. If a town is in the position to hire a new Watershed Inspector, they may wish to seek the assistance of the Watershed Program Manager since he has wastewater expertise and will be working with the Inspector on a day-to-day basis.

The Manager will be hired by the Keuka Watershed Improvement Cooperative (KWIC) Board of Directors, who will consist of Town and Village Supervisors and Mayors or other elected Board members acting as Alternates. The Manager will be paid by the KWIC, with revenues generated from equal shares from each municipality and fees collected from wastewater services.

The Manager will have overall responsibility for effective and uniform implementation of the model law including **1) site evaluations; 2) review and approval of septic system designs for new and replacement systems; 3) issuing Notice of Violations; 4) assisting homeowners to bring systems into compliance; 5) issuing summons; 6) coordinating 5 year inspection program to ensure systems are inspected in a uniform and professional manner; 7) provide fiscal and administrative support for KWIC; 8) coordinate uniform approaches to solve additional threats to Keuka Lake; and 9) promote a positive public image of the KWIC program.** See Job Description and Personnel Responsibilities for details.

Watershed Inspectors will primarily be responsible for implementing the field inspection portions of the wastewater law including: **1) 5 year sanitary inspections; 2) 5 year septic tank inspections; 3) complaint inspections; 4) property transfer inspections; 5) yearly holding tank inspections; 6) aerobic tank inspections; and 7) assist in site-evaluations. If directed by the Manager, the watershed inspector may assist with issuing Notices of Violation and supervising proper installation of septic systems.** See Job Description and Personnel Responsibilities for details.

The Manager will oversee the day-to-day activities of the wastewater program. He will directly manage the office staff and the watershed inspectors on behalf of the Boards and KWIC. The Manager will work closely with the Inspectors to ensure that the wastewater program is effective and uniform. **The Manager will also be involved with Inspector training and evaluation.**

The Municipal Boards are ultimately responsible for the success of the program since they hire/fire the Inspectors and the Manager through the KWIC. As problems arise, Board Members can contact the Manager or the Inspector, since both work for the municipality. Depending on the nature of the problem, the Manager and/or Inspector may be involved in solving the problem, depending on their responsibilities as outlined above. Good communication between the Boards, Manager, and the Inspectors will be very important. Serious health violations may require the municipal board to convene as a Board of Health to consider condemnation of the property.

Performance evaluations of the Manager and the Inspectors will be done at least on a bi-annual basis. The Manager will be evaluated by the KWIC with input from the Municipal Boards. The Inspectors will be evaluated by the Municipal Boards with input from the Manager and the KWIC. If the KWIC determines that the Manager is performing poorly, they will be responsible for ensuring improvement. If a Municipal Board determines that a Inspector is performing poorly, they likewise are responsible for ensuring improvement. Other situations may arise where the Manager has a problem with an individual Inspector doing their duties. **The Manager should try to work out the problem directly with the Inspector. If this does not work, he should contact the Supervisor or Mayor directly. If this does not work, the Manager can bring the issue to the attention of the KWIC for discussion and further action. The KWIC can recommend action to the local board concerning the matter.**

Job Description

Watershed Program Manager

Responsibilities: The Manager shall be responsible for all activities assigned to him by the KWIC including, but not limited to:

1) Supervise the wastewater management program as outlined in uniform wastewater law adopted by the local municipalities in the Keuka Lake Watershed.

a) Evaluate site conditions for wastewater system installation.
b) Review designs for new or replacement wastewater systems, in compliance with wastewater law, and where applicable 10NYCRR 157.1.
c) Supervise the Watershed Inspectors to ensure proper installation of wastewater systems by means of quality control inspections.
d) Certify the operation of newly installed wastewater systems as inspected by watershed inspectors and design professionals.
e) Notify homeowners of inadequate wastewater systems and provide technical assistance to bring the system into compliance.
f) Coordinate regular maintenance and inspection program with local watershed inspectors to ensure all systems within Zone I are inspected every 5 years.
g) Ensure that uniform and professional standards for inspection and evaluation of wastewater systems are used by local watershed inspectors.
h) Communicate progress of the wastewater system program to the KWIC on a regular basis, or more often if requested.
i) Communicate progress of the wastewater system program to the public on a regular basis.
j) Develop and implement a wastewater system education program for residents in the watershed to enhance their understanding and appreciation of KWIC's effort to protect Keuka Lake.

2) Ensure uniform enforcement of violations of wastewater law.

a) Issue Notice of Violations for wastewater systems out of compliance with wastewater law and/or out of compliance with 10NYCRR 157.1.
b) Issue Summons as a last resort to correct wastewater systems out of compliance with wastewater law and/or out of compliance with 10NYCRR 157.1.
c) Communicate significant health violations to Municipal Boards for Board of Health action.

2) Provide fiscal and administrative support for KWIC as directed by the Board of Directors including, but not limited to:

a) Supervise the collection and expenditure of money, keeping of adequate books and records and preparation of vouchers.
b) Prepare the KWIC preliminary budget and three-year forecast as directed by the Board.
c) Supervise office staff and day-to-day operations in order to accomplish the goals of the KWIC.
d) Prepare a schedule of uniform fees as directed by the KWIC.

3) Coordinate uniform approaches to solve additional water quality problems facing Keuka Lake Watershed as directed by the KWIC, including but not limited to:

a) Work cooperatively with KWIC and their Local Boards to address any serious problem in the watershed. As directed by KWIC the Manager may also work with Yates and Steuben County Water Quality Strategy Committees or other groups to scientifically document significant threats to Keuka Lake watershed water quality and beneficial uses.
b) Work cooperatively with the above committees to develop a uniform strategy to solve the identified problems. If the KWIC determines regulations are needed, the manager will coordinate the development of such regulations. If the KWIC determine education or other programs are needed, the manager will coordinate the development of these programs as well.

4) Promote a positive public image of the KWIC program.

a) Answer calls regarding KWIC, wastewater program or any other problem regarding Keuka Lake water management, or be able to direct the caller to the appropriate agency/person.
b) The manager will be positive, courteous, professional and honest in all communications with the public.
c) The manager will direct all staff to act in accordance with 4b above.

Job Description

Watershed Inspector

Responsibilities: The Watershed Inspector shall be responsible for all activities assigned to him by the Municipal Board and the Manager, including, but not limited to:

1) Wastewater system sanitary inspections and documentation. Inspector shall respond to all septic system complaints and implement the five year sanitary inspection program.

a) Sanitary Inspection and Appraisal

1) Interview homeowner on system use
2) Interior plumbing appraisal
3) Dye testing to confirm problems
4) Visual inspection of ground
5) Map system components

b) Communicate results of sanitary inspections to Manager
c) Prepare Notice of Violation for failed systems
d) Communicate all significant health violations to Manager.
e) Deliver Notice of Violations or other enforcement documents as requested by the Manager.

2) Assist the Manager in providing appropriate wastewater system installations for new and replacement systems. The inspectors duties shall include:

a) Assist in site evaluation and documentation of wastewater system if required.
b) Tank replacement recommendations, subject to Manager review.
c) Supervision of the installation of the wastewater system according to permit specifications.

3) Assist the Manager in solving additional water quality problems facing the Keuka Lake Watershed, including but not limited to:

a) Provide field assistance where necessary to document problems.
b) Provide assistance to implement program endorsed by KWIC and adopted by municipal boards.

3) Promote a positive public image of the KWIC program.

a) Answer calls regarding wastewater program or any other problem regarding Keuka Lake water management, or be able to direct the caller to the appropriate agency/person.
b) The watershed inspector will be positive, courteous, professional and honest in all communications with the public.

KEUKA WATERSHED IMPROVEMENT COOPERATIVE

Policy and Procedure For Implementing The Cooperative Program

The Keuka Watershed Improvement Cooperative is composed of the towns of Barrington, Jerusalem, Milo, Pulteney, Urbana and Wayne and the villages of Hammondsport and Penn Yan. The Cooperative is the vehicle through which member municipalities establish a uniform wastewater program. Towards this end, each member municipality has adopted a uniform local law that addresses construction, replacement, repair and inspection of on-site wastewater systems. The Cooperative's program utilizes watershed inspectors employed by each municipality, and a watershed manager hired by the Cooperative. Under the agreement entered into by each member municipality, authority for design, specification and/or review of wastewater treatment systems, and the issuance of construction permits is vested with the watershed manager. Local watershed inspectors are charged with enforcement of standards, regulations and the local wastewater law through inspection activities. In addition to inspection of construction, local inspectors shall perform Zone One, holding tank, complaint and real property transfer inspections.

Inspection

Regulatory Officer – The regulatory officer for enforcement of the local wastewater laws shall be each municipality's watershed inspector. The Keuka Watershed Improvement Cooperative's Manager may act as the regulatory officer at the request of the town or in the absence of the watershed inspector.
(Amendment Number 5)

All Inspections – The following represents the minimum standard for inspection of wastewater and septic systems in the towns of Barrington, Jerusalem, Milo, Pulteney, Urbana, and Wayne, and the villages of Hammondsport and Penn Yan. These standards are applicable to inspections performed for reasons of real property transfer certification and Zone One requirements as defined by local wastewater management law.

1) The owner or owner's agent is responsible for uncovering septic tanks, holding tanks, and pump stations.
2) The owner or owner's agent will make provisions for water so that a flow test of the system can be performed. The inspector may choose to perform the flow test before the septic tank is pumped out to assess the flow of wastewater through the tank and into the absorption area. Access must be provided to allow the inspector to assure that all appropriate plumbing fixtures, including bathroom, kitchen, laundry and wash basin fixtures drain to the wastewater treatment systems.
3) Pump out of a septic tank or holding tank is required at the time of real property transfer inspection. It may be required at the time of a regularly scheduled Zone One inspection. Pump out will begin only after the arrival and concurrence of the inspector.
4) Tanks must be found to be water tight, free of cracks, corrosion or other structural defect. Tops, lids or covers must also be in a satisfactory condition. Baffles must be in place and securely fastened. If a tank is found to be in unsatisfactory condition, the replacement tank shall meet the standard for size established by the NYS sanitary code. Local law in the municipalities of Barrington, Hammondsport, Jerusalem, Milo, Pulteney, Urbana and Wayne allows the regulatory officer to require additional tank volume to meet system use and capacity standards.
5) Pump stations shall be inspected where applicable. Pump tanks shall meet the same standards concerning integrity and suitability as other tanks. Adequate function of the pump station shall be demonstrated at the time of inspection.
6) A surface inspection of the leach field or absorption area will be made to determine its apparent function. Drainage pipes or other features found during inspection may require additional investigation to address any potential surface discharge of sewage or septic system effluent. Dye tests may be required by the regulatory officer at the time of initial inspection, and sufficient follow-up visits performed as a means of investigating suspect conditions.
7) A certificate of inspection will be issued by the regulatory officer. Where systems are found to be unsatisfactory, a written Notice of Violation will be issued by the regulatory officer providing the property owner with instructions on corrective action and date by which such action must be undertaken. Any repair or modification will require a permit issued by the Keuka Watershed Improvement Cooperative.

(Septic system inspection policy amendments as adopted by the Keuka Watershed Improvement Cooperative Board of Directors at the November 24, 1997 board meeting.)

All failed systems with effluent surfacing – A protective barrier, such as barricade fencing, shall be erected to prohibit ingress of pets and people of the contaminated area.
(Amendment Number 7)

Real Property Transfer - Requests from the public for real property transfer inspections shall be made to the local Watershed Inspector. The public is advised to make this request through a pump out contractor to reduce scheduling and communication delays. Local law requires that 48 hours notice be given to the inspector in requesting an inspection. Local law also requires that inspections be requested so as to be completed a minimum of 10 days in advance of closing. **Inspection requests should be made early in the realty transfer process, so as to facilitate the closing process.**

Procedure Requirements for Real Property Transfer Inspections

All distribution boxes or seepage pit covers will be uncovered and inspected. Those systems with a manifold system will be operated and flow back checked for proper level. Real Property Transfer inspections shall be valid for a period of one year unless a failure occurs between the inspection and the property transfer.
(Amendment Number 3)

Absorption Area Criteria for Real Property Transfer Inspection

Recognizing that the absorption area of an onsite wastewater treatment system is a critical component of the system, KWIC has adopted the policy of inspecting the absorption areas in Real Property Transfer Inspections. The present inspection method of visually inspecting the absorption area for effluent surfacing and inspecting the septic tank, investigating the absorption area further only if conditions warrant, does not always provide enough information about the absorption area to give a fair appraisal of the system. The public is relying on the Real Property Transfer Inspection Reports to provide an appraisal of the onsite wastewater treatment system at the time of inspection. While the inspector has no knowledge of past or future use and may not have knowledge as to the soil parameters of the absorption system, visual observations of an absorption area can be made and documented in an inspection report.

Pass or fail situations and uniformity in the KWIC area dictate a need for criteria that can be documented. Other observations need to be noted on an inspection report as well. The type of absorption area further complicates the inspection criteria that are needed. The basic types of absorption areas to be inspected include seepage pits (drywells), absorption lines with gravity distribution (those having distribution boxes), pressurized distribution systems (effluent is pressurized into the bed or mound) and sometimes a combination of two of these systems.

Effluent surfacing is a failure for any type of absorption area

Uncovering the seepage pit (drywell) or distribution box of boxes requires additional criteria. The pressurized system is the most difficult to appraise, to uncover the absorption area could effect the integrity of the system and also needs criteria.

Seepage Pit (Drywell) Criteria

A failed system would include one or all of the following:

1. Visible groundwater entering pit
2. Surface water entering pit
3. Effluent levels within 6 inches of inlet of pit
4. Structurally unsound (caving in)
5. Pit cover structurally unsound
    a. Corrective action-concrete cover with inspection hole to standards
    b. Wood Cover corrective action required
        i. Option to consider – if wood is structurally sound and does not require any replacement timbers and has an inspection hole (to standards) allow to remain until failure

Items to be noted on inspection report

1. Effluent levels above 50% of capacity
2. Undersized seepage pits (based on a percolation rate of 11 to 15 minutes per inch)
3. Solids in the pit
4. Previous high effluent level marks

Absorption Lines with Gravity Distribution (distribution box or boxes)

A failed system would include one or all of the following:

1. Effluent levels elevated in all distribution lines
2. Distribution boxes structurally unsound
   a. Corrective action required – replacement
3. Surface water entering distribution box
   a. Corrective action required – decision by KWIC Manager
4. Groundwater entering distribution
5. Effluent level high some maybe not all of laterals
   a. Corrective action required - releveling the box or boxes (shall be noted on the report)

Items to be noted on inspection report

1. Undersized absorption area
2. Solids in the distribution box or boxes
3. Previous high effluent levels from high water marks

Pressurized Distribution System

A failed system would include one or all of the following:

1. Excessive amounts of effluent draining back into the pump station
   a. Corrective action required – as indcated by further investigation
2. Broken effluent line
   a. Corrective action required – repair

Items to note on inspection report

1. Less than 160 psi pipe
2. Previous high effluent level marks in pump station
3. Excessive pump running times (Amendment Number 3)

Zone One Inspections - Local law requires inspection of all wastewater systems within 200 feet of a lake, or watercourse to a lake, a minimum of once in five years. The schedule for these inspections is established by the Watershed Inspectors and the Watershed Manager.

Procedure Requirements Regarding Septic Tank Size, Condition and Frequency of Inspection (applies to zone one inspections only)

All septic **tanks 500 gallons or less and those septic tanks in weaken condition** shall be pumped and **inspected every 3 years**. All other septic tanks shall be pumped and inspected every 5 years. (Amendment Number 2)

Definition for Land as Described in Local Law as it refers to Wastewater System Inspections and Zone One

The interpretation of land as referred to in the description of zone one of the uniform wastewater management regulations, being that physical land occupying the area from the high water mark or top of streambank for a distance of 200 feet. For inspection of wastewater treatment systems, the system or a component of the system shall be within the defined land area, 200 feet from the top of streambank or high water mark. (Amendment Number 4)

Policy for Initial Zone One Inspections (applies to those systems that have not been inspected since KWIC started)

After June 30, 2001 initial zone one inspections shall include uncovering the distribution boxes or seepage pit covers for inspection. (Amendment Number 6)

Construction and Tank Replacements –

Structural Requirements for Onsite Wastewater Treatment Systems

A. All new and replacement septic tanks shall be concrete with two compartments unless otherwise approved. (Watershed Inspectors shall have authority to approve plastic two compartment tanks under their tank replacement authority if deemed necessary for the site. All other approvals shall be the authority of the Watershed Manager.)

B. All new and replacement septic tanks and aerobic units shall have an effluent filter and septic tanks shall have a gas-deflecting device.

C. All distribution boxes shall be concrete with baffle.

D. All replacement components shall comply with Appendix 75-A of Wastewater Treatment Standards and KWIC policies.

E. Inlet and Outlet pipes from the septic tank or aerobic unit shall be sch. 40 or equivalent. (Amendment Number 1)

Site Evaluation for Existing Onsite Wastewater Treatment System Protocols

(Formerly KWIC Policy Amendment Number 9 Revised to comply with NYSDOH Fact Sheet dated 1/13/04; A failed system is a system where a component or all of the components of the system fail to function properly)

The purpose of this protocol is to uniformly address the issue concerning a properly functioning existing onsite wastewater treatment system relating to conversions (refers to alterations, repairs that exceed 50% of the replacement cost and additions that do not require additional demand on the existing onsite wastewater treatment system). Where this protocol conflicts with any state, federal, or local standard the stricter standard shall govern. All present forms and sketches shall be used in the evaluation.

Local Wastewater Management Regulations state "No person shall build, erect, construct, expand, enlarge, add bedrooms or convert to another use any structure or system that is subject to the provisions of this law and involves wastewater discharge without first obtaining a Wastewater System Construction Permit." The New York Department of State, Codes Division has indicated that an existing onsite wastewater treatment system shall be upgraded upon additional wastewater demand or system failure. The Plumbing Code of New York State, Section 102.2, states "Plumbing systems lawfully in existence at the time of the adoption of this code shall be permitted to have their use and maintenance continued if the use, maintenance or repair is in accordance with the original design and no hazard to life, health or property is created by such plumbing system." To comply with these provisions in a uniform manner throughout the cooperative it is necessary to define a failed system (functioning adequately or properly).

A failed system is a system where a component or all of the components of the system fail to function properly. A properly functioning septic tank or treatment unit will reduce pollutant levels and produce an effluent of fairly uniform quality. For a soil absorption system to function properly it must:

1. Provide enough application area. The application area is the amount of surface area provided by the particular drainage system (side areas of absorption units) where sewage effluent is applied to the soil. The amount of application area needed for a given house depends on the characteristics of the soils on the property and the daily flows (in gallons) generated from the house. The anticipated flow from a house is usually based upon the number of bedrooms in the dwelling.
2. The SAS must be surrounded by natural soil conditions that will treat and disperse the effluent discharge without becoming saturated or organically overloaded. The current standard separation distances are those of Appendix 75-A, "Wastewater Treatment Standards – Individual Household Systems", contained in Title 10, chapter 2, part 75 of the Official Compilation of Codes, Rules and Regulations of the State of New York.

To adequately determine the functional condition, an inspection of an existing onsite wastewater treatment system shall consist of, but not be limited to the following:

1. Interior plumbing check- visual, flow checks
2. Septic tank or primary treatment unit
   a. Located and uncovered
   b. Amount of cover checked
   c. Level check
   d. Baffle check
   e. Capacity check
   f. Pumped and checked for groundwater contamination
   g. If treatment unit, check operation as per manufacturer

3. Pump station, if equipped
   a. Capacity check
   b. Location
   c. Amount of cover checked
   d. Pump operating within planned range
   e. High water alarm-satisfactory
   f. Flow back checked

4. SAS uncovered (seepage pit cover, drop boxes, or distribution box)
   a. Fluid levels checked
   b. Condition of box or pit
   c. Location
   d. Size of SAS
   e. Surface condition checked
   f. Previous high water stains checked
   g. Groundwater condition checked

5. Locations of wells, surface water bodies and drainage ways check

In order to simplify the evaluation a section of definitions is the next step in the protocol.

Definitions:

Current standard separation distance (Appendix 75-A) refers to Table 2 of Appendix 75-A, Wastewater Treatment Standards – Individual Household Systems (Statutory Authority: Public

Health Law, 201(1)(1)). Any revision or update by New York State shall replace these standards from that time on.

Dye tests involve flushing a special florescent dye down a toilet or other drain. If wastewater is coming to the surface (an unsanitary condition indicating serious septic failure) one may see dye in that water, provided the septic system is flowing at common rates. When suspect wet areas are observed we strongly recommend that the inspector perform a dye test. A sufficient volume and concentration of dye shall be used to fully stain the capacity of the septic tank. The owner shall furnish sufficient amount of water to duplicate the hydraulic loading of the system.

Encroachments are structures or land uses that impede the planned function of the soil absorption system (SAS).

Excessive amounts of effluent draining back refer to a pressurized system that is pumping effluent to a SAS. The amount of drain back that is satisfactory is the amount the effluent line from the pump to the SAS contains.

Groundwater subsurface water occupying the saturation zone from which wells and springs are fed.

Groundwater contamination for site evaluations that do not include a deep hole soil investigation, shall include the following: visible groundwater entering the pit or absorption trench above the static fluid level or if a clear water current can be detected visibly.
Groundwater levels for site evaluations that include a deep hole soil investigation can be detected by the excavation if done during the wet season or by the presence of mottled soils.

Inadequate refers to the condition **(unsatisfactory)** of a system or component that is defective and not functioning as planned. This may refer to undersized, cracked, plugged, not fitting within the range for intended operation, and/or limiting the operation of the system or component.

One day's storage refers to the volume of wastewater generated by the household based on the number of bedrooms and the plumbing fixtures. For structures other than households refer to the DEC Design Standards for Wastewater Treatment Works 1988.

Open pipe discharge refers to any pipe discharging to the surface, either direct fixture discharge or acting as an overflow pipe.

SAS is the soil absorption system such as conventional trenches, absorption beds, raised fills, and seepage pits.

Satisfactory is the condition of a system or component of the system that is operating as planned, handling the intended hydraulic load in safe and proper manner for the protection of the environment and the public health.

Static effluent level is a sustained level.

Structurally unsatisfactory is rotted, weathered to a weak condition, disfigured from original shape, brittle from age, chemical reaction damages severe, or similar conditions that may effect the safety or operation of the component. Seepage pits with wood, metal or stone pits are unsatisfactory.

Holding Tanks - The Watershed Inspector shall inspect holding tanks annually to assure integrity and appropriate use.

Complaints - Complaints received by the KWIC office, supervisor/mayor, town/village clerk or other person shall be referred to the Watershed Inspector and Manager. Investigation will be conducted jointly by the Inspector and Manager.

Activity Responsibility

A) Scheduling:	
Real Property Transfer. Request made to Watershed Inspector.	Homeowner/Agent
Zone One. Homeowner contacted to schedule inspection appointment.	Inspector
Holding Tanks. Inspector notified of upcoming pump out.	Homeowner/Agent
Complaint. Manager/Inspector notified, home owner contacted.	Inspect. & Mgr.
B) Appointment set for inspection	Inspector
C) Inspection performed according to adopted standards	
1) System passes inspection, certificate issued, copy to Manager	Inspector
2) System fails due to septic tank integrity only, certificate issued as Notice of Violation and Permit to Replace Tank, copy to Manager.	Inspector
3) System failure beyond septic tank, certificate issued as Notice of Violation, owner directed to contact manager in 5 days to secure construction permit, copy to Manager.	Inspector
4) Applicant, Manager and Inspector follow procedure for Design and Construction.	All
D) Enforcement	
1) Appearance ticket issued as needed for unabated violations, subsequent action through local court, local health officer and/or NYS Department of Health.	Inspector/Manager

Wastewater System Design and Construction

Construction of wastewater treatment systems requires a permit that is issued by the Keuka Watershed Improvement Cooperative on behalf of the member municipalities. Requests for permits will commonly be generated by new construction plans, system failures found during inspections, or direct homeowner requests.

New Construction Projects - New York State Public Health Law requires that wastewater systems for new residential construction be designed, approved and installed in accordance with Appendix 75-A, "Wastewater Treatment Standards - Individual Household Systems", contained in Title 10, Chapter 2, part 75 of the Official Compilation of Codes, Rules and Regulations of the State of New York.

all this out

POLICY ON WINTER CONSTRUCTION OF SOIL ABSORPTION SYSTEMS ([redacted]

- Winter Weather Season is defined as the time period between December 1st and April 1st.
- As exposed soil, stone, and pipes freeze, they can heave and resettle which may result in unacceptable slopes and damage to system components. This can also create inspection difficulties.
- **Winter Weather Season construction for new soil absorption systems will <u>not</u> be approved nor will we conduct site evaluations for prospective building parcels during the winter weather season.** However special exceptions could be considered on a case by case basis if weather conditions allow.
- Construction of new soil absorption systems outside the stated Winter Weather Season but during times of freezing weather conditions will be at the contractor's risk. Snow and ice on roads, driveways, and on the ground at SAS construction sites may make access for inspection dangerous if not impossible and damage to systems could occur.
- Replacement of failing SAS's will be permitted as long as compensation is made for the negative impact of freezing weather conditions.

POLICY ON BEDROOM DEFINITION FOR ALL INSPECTION PURPOSES ([redacted]

There are three (3) specific categories for defining a bedroom; (1) New construction, (2) Existing Rental, and (3) Existing, each having certain characteristics or requirements.

New construction

- A minimum seventy (70) square feet in size
- Two egresses as defined by the New York Building Code
- Smoke alarms wired in the electrical system with battery backup
- Private entrance from a hallway not through another private room
- Closet

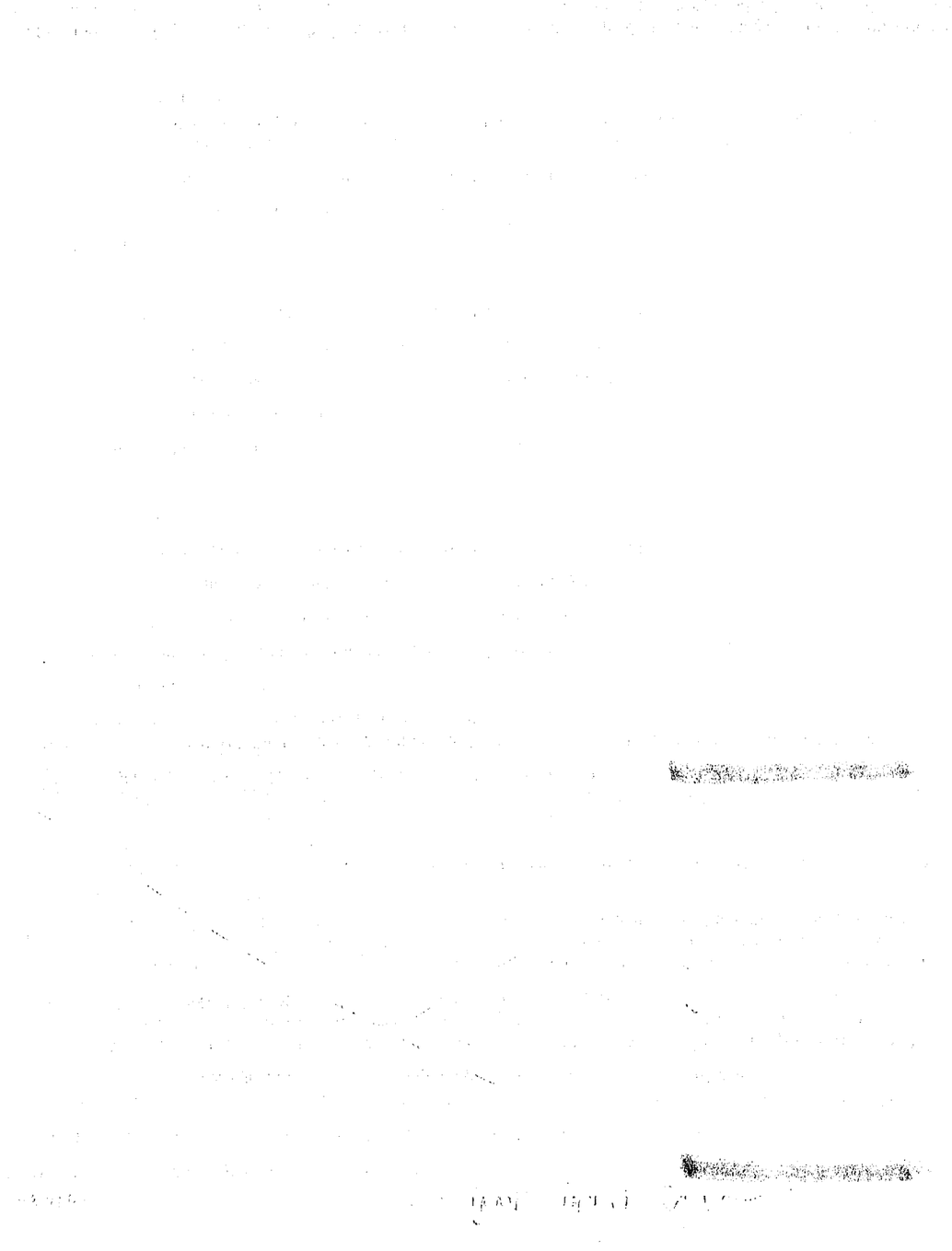
Existing Rental Properties

- A minimum seventy (70) square feet in size
- Two (2) egresses as defined by the New York Building Code
- Smoke alarms wired in the electrical system with battery backup
- Private entrance from a hallway not through another private room

Existing

- A minimum seventy (70) square feet in size
- Private entrance from a hallway not through another private room
- Any room or space used or intended to be used for sleeping purposes. (The final decision regarding whether a room shall be deemed a bedroom for system design purposes shall be by the Watershed Manager.)

Replacement and Repair Projects - The local wastewater treatment law adopted by each municipality in the Cooperative requires that systems for replacement work be designed and installed in accordance with Appendix 75-A if possible. On those



sites where this standard cannot be met, the regulatory officer shall require the best available technology that meets the intent of Appendix 75-A and protects the interests of the property owners and community at large.

Activity Responsibility

A) Scheduling: Manager contacted to request site evaluation and permit application after referral by the watershed inspector, contractor, Realtor etc.	Applicant
B) Appointment for site evaluation set with applicant, inspector updated on status.	Manager
C) Site Evaluation performed including assessment of soils, separation distances from water sources, useable area, slope and applicable methods. Permit prepared or other appropriate response to applicant in five work days.	Manager & Design Professional

***Where new construction work is proposed on a site that cannot meet the standards in Appendix 75-A for conventional septic systems, a specific waiver must be obtained from the District office of the NYS Department of Health. Guidance on waiver application will be given to applicants by the Watershed Manager. Appendix 75-A requires the NYS DOH to consider only those waiver applications prepared by NYS licensed engineer.**

D) Permit issued, copy to Watershed Inspector. Applicant instructed to schedule construction inspection with Watershed Inspector.	Manager
E) System constructed, Certificate of Completion issued, copy to Manager. Design Profession shall furnish as built drawings and approve construction	Inspector & Design Professional

Use and Protection of Waters

Proposed Additions and Amendments to Rules and Regulations

6 NYCRR PART 608

PART 608
USE AND PROTECTION OF WATERS

(Statutory authority: Environmental Conservation Law, §§ 3-0301 [2][m],15-0501, 15-0503, 15-0505,17-0303[3])

Sec.

§ 608.1 Definitions.

Part 608.1 is amended as follows to be consistent with Part 673.

(a) *Banks* means that land area immediately adjacent to, and which slopes toward, the bed of a watercourse, and which is necessary to maintain the integrity of a watercourse. For purposes of this Part, a bank will not be considered to extend more than 50 feet horizontally from the mean high water line; with the following exception: where a generally uniform slope of 45 degrees (100 percent) or greater adjoins the bed of the watercourse, the bank is extended to the crest of the slope or the first definable break in slope, either a natural or constructed (i.e., road or railroad grade) feature, lying generally parallel to the watercourse.

(b) *Bed* means that land area of a watercourse covered by water at mean high water.

(c) *Breach* means to construct a channel through or around a dam.

(d) *Commissioner* means the Commissioner of Environmental Conservation or a duly authorized representative.

(e) *Construct* means to build. Dam construction includes erection, repairs, reconstruction, breaching, and removal but does not include ordinary maintenance activities.

(f) *Dam [or impoundment structure]* means any artificial barrier, including any earthen barrier, together with its appurtenant works, which impounds or will impound waters. [together with its appurtenant works, that impounds or will impound waters, and includes but is not limited to earth fills, with or without controllable gates, and roads, bridges or fords that unduly impede the flow of water.]

(g) *Dam Height* is the vertical dimension from the downstream toe of a dam at its lowest point to the top of a dam at its highest point.

(h) *Dam owner* means any person or local public corporation who owns, erects, reconstructs, repairs, maintains, operates, or uses a dam.

(i) *Department* means the Department of Environmental Conservation.

(j) *Docking facility* means any marina, boat basin, marine terminal, and any other areas on navigable waters containing a single structure or a collection or related structures, such as docks, piers, platforms, bulkheads, breakwaters, and pilings, used for the reception, securing, and protection of boats, ships, barges or other water craft.

(k) *Emergency Action Plan* means a written plan of procedures to prevent or mitigate the adverse consequences of a dam failure. The Emergency Action Plan shall include but not be limited to a notification plan; emergency detection and evaluation; preparedness; inundation maps or other acceptable description of the potential inundation area; provisions for exercising and updating the plan; and other provisions the department deems necessary.

(l) *Engineer* means an individual who:

(1) is a professional engineer currently licensed to practice in New York State;

(2) is competent in areas related to dam investigation, design, construction, and operation for the type of dam being investigated, designed, constructed or operated;

(3) understands adverse dam incidents, failures and the potential causes and consequences of failures; and

(4) for any project involving a Class C dam, as described in Part 673.5(b), has at least 10 years of relevant experience in areas such as investigation, design, construction, reconstruction, repair, maintenance, operation, breach, or removal of dams.

(m) *Environmental Conservation Law (ECL)* means the New York State Environmental Conservation Law.

(n) *Erect* means to construct a new dam.

(o) *Fill* means any solid or semi-solid, organic or inorganic material including. but not limited to, earth, clay, silt, sand, gravel, stone, rock, shale, concrete, ashes, cinder, slag, metal, stumps, solid waste as defined in Part 360 of this Title, or any other similar material, whether or not enclosed or contained by a structure.

(p) *Financial security* means a demonstration by a dam owner that dam reconstruction, repair, breach or removal can be accomplished when necessary, as determined by the department, to protect life, property or natural resources. Financial security shall include a means or combination of means such as a bond, trust, letter of credit, personal guarantee, insurance, undertaking, certificate of deposit, or other form of financial security acceptable to the department in order to ensure that the requisite activity can be performed.

(q) *Indirect placement of fill* means positioning material landward and in close proximity to the mean high water elevation of a waterbody such that the material is introduced into the waterbody by natural erosive forces thereby creating a fill below the mean high water elevation.

(r) *Local public corporation* means any "municipal corporation" or "district corporation."

(s) *Maximum impoundment capacity* is the volume of water that is impounded when the water level is at the top of a dam.

(t) *Mean low water* or *mean high water* means, respectively, the approximate average low water level or high water level for a given body of water at a given location, that distinguishes between predominantly aquatic and predominantly terrestrial habitat as determined, in order of use by the following:

(1) available hydrologic data, calculations, and other relevant information concerning water levels *(e.g.,* discharge, storage, tidal, and other recurrent water elevation data); (mean high water elevations are established, using this method, for certain waterbodies as presented in section 608.11 of this Part);

(2) vegetative characteristics *(e.g.,* location, presence, absence or destruction of terrestrial or aquatic vegetation);

(3) physical characteristics *(e.g.,* clear natural line impressed on a bank, scouring, shelving, or the presence of sediments, litter or debris); and

(4) other appropriate means that consider the characteristics of the surrounding area.

(u) *Moorings* means a float, buoy, chain, cable, rope, pile, spar, dolphin or any other device or combination of devices that are anchored or fixed in navigable waters of the State to which a vessel can be made fast.

(v) *Mooring area* means a collection of individual moorings located within a definable area of navigable waters of the State and under single private ownership or control.

(ẇ) *Navigable waters of the State* means all lakes, rivers, streams and other bodies of water in the State that are navigable in fact or upon which vessels with a capacity of one or more persons can be operated notwithstanding interruptions to navigation by artificial structures, shallows, rapids or other obstructions, or by seasonal variations in capacity to support navigation. It does not include waters that are surrounded by land held in single private ownership at every point in their total area.

(x) *Ordinary maintenance* of a dam includes activities such as debris removal, mowing grass, cleaning trash racks and exercising valves.

(y) *Perimeter* means a boundary of a docking facility or mooring area consisting of a series of connected imaginary lines on a plan or map, encompassing all related structures such as docks, bulkheads, breakwaters, pilings, piers, platforms or moorings and the travel lanes and berthing areas that function together to create a facility or area at which vessels may be docked or moored.

(z) *Person* means any individual, firm, [co]partnership, association or corporation, other than the State or a public corporation.

(aa) *Platform* means a generally horizontal, flat surface located in, on or over a waterbody, on which structures can be constructed or any activities can be conducted.

(bb) *Protected stream* means any stream or particular portion of a stream for which there has been adopted by the department or any of its predecessors any of the following classifications or standards: AA, AA(t), A, A(t), B, B(t), or C(t). Streams designated (t)(trout) also include those more specifically designated (ts)(trout spawning).

(cc) *Public corporation* means a municipal or district corporation, a city, town, village or school district or a public benefit corporation.

(dd) *Reconstruction of a dam* means the removal of an existing or breached dam, and construction of a new dam in essentially the same location.

(ee) *Removal of a dam* means completely eliminating a dam embankment or structure to the approximate original topographic contours.

(ff) *Repairs to a dam* means only such alterations or changes to existing dam and appurtenant structures as may directly affect the safety of the dam. Repairs may include such work that may affect structural integrity or function, change the spillway elevations, or modify the spillway capacity. Repairs are beyond ordinary maintenance.

[(r) *Reconstruction or repair of a dam or impoundment structure* means work that may affect structural integrity or function; changing the spillway elevation; modifying the spillway capacity; and breaching or removal of a dam.]

(gg) *Single private ownership* means the ownership by a person, joint ownership by more than one person or a single nongovernmental entity such as an association, corporation, trust or estate. It does not include ownership by any unit of government, including a village, town, county, city or the State or the United States or any subdivision, department, agency or authority thereof or by any public corporation.

(hh) *Stream* means a watercourse or portion thereof, including the bed and banks thereof. Small ponds or lakes with a surface area at mean low water level of 10 acres or less and located in the course of a stream shall be considered part of a stream and subject to regulation under this Part. A stream does not include a pond or lake having a surface area of greater than 10 acres at mean low water level.

(ii) *Substantial reconstruction of structures other than dams* means restoration or rebuilding involving 50 percent or more of an existing fixed structure's surface area.

(jj) *Watercourse* means that area of land within which or upon which the flow of water is ordinarily confined due to existing topography.

(kk) *Water-dependent use* means an activity that can only be conducted on, in, over or adjacent to a waterbody because such activity requires access to water, and involves the use of water as an integral part of the activity.

§ 608.2 Disturbance of protected streams.

Subpart 608.2 remains unchanged.

(a) *Permit required.* Except as provided in subdivision (b) of this section, no person or local public corporation may change, modify or disturb any protected stream, its bed or banks, nor remove from its bed or banks sand, gravel or other material, without a permit issued pursuant to this Part.

(b) *Exceptions.* The requirement of a permit pursuant to subdivision (a) of this section does not apply to the following:

(1) a local public corporation that has entered into a written memorandum of understanding with the department establishing the plan of operation that will be followed in conducting any activity described in subdivision (a) of this section that will afford proper protection to the public beneficial uses of protected streams and navigable waters of the State; or

(2) any person actively cultivating land devoted to agriculture, whether or not such land is along a protected stream, provided that this exception shall be limited to agricultural activities consisting only of the crossing and recrossing of a protected stream by livestock or

wheeled farming equipment normally used for traditional agricultural purposes or of withdrawing irrigation water in a manner which does not otherwise alter the stream.

§ 608.3 Dams [and Impoundment Structures]

Subpart 608.3 is amended as follows to provide greater specificity on applicability and dam permit application submittals.

(a) *Applicability.* Dams meeting the following height or capacity thresholds are required to obtain a permit for construction, reconstruction, repair, breach, or removal:

(1) a height equal to or greater than 15 feet, or

(2) a maximum impoundment capacity equal to or greater than three million gallons.

(3) Exempt from this section are:

(i) any dam with a height of less than 15 feet and a maximum impoundment capacity less than three million gallons, and

(ii) any dam with a height equal to or less than six feet, regardless of capacity;

(iii) any dam with an impoundment capacity less than or equal to one million gallons, regardless of height; and

(iv) ordinary maintenance activities for a dam or its appurtenant works.

[or alteration of dams with or alteration of dams or similar structures that permanently or temporarily impound water. Impounded waters may be directly intercepted from overland drainage, or as a result of structure placement in or across watercourses, or may be exclusively or partially diverted or pumped from external sources.] The regulation of these structures [serves] includes serving to reduce the threat of flooding, associated environmental damage and threat to life and property caused by the improper impounding of water. Impounded waters may be directly intercepted from overland drainage, or as a result of structure placement in or across watercourses, or may be exclusively or partially diverted or pumped from external sources. Lagoons and storage facilities with impoundment structures used for waste storage, treatment, disposal or the containment of materials, other than water, are not subject to regulation pursuant to this Part.

(b) *Permit required.* Except as provided in subdivision (a)(3) of this section, no person or local public corporation may construct, reconstruct, repair, breach, or remove any dam without a permit issued pursuant to this Part. [Except as provided in subdivision (c) of this section, no person or public corporation may: (1)construct, reconstruct or repair any dam or impoundment

structure; including any artificial obstruction, temporary or permanent, in or across a natural stream or watercourse; without a permit issued pursuant to this Part.

(c) *Exceptions.* The requirement of a permit pursuant to subdivision (b) of this section does not apply to the following:

(1) A dam or impoundment structure where:

(i) the area draining into the impoundment does not exceed one square mile;

(ii) the structure does not exceed 10 feet in height above the bed of a watercourse or natural ground level at any point; and

(iii) the quantity of water that the structure impounds does not exceed 1,000,000 gallons.

(2) A dam or impoundment structure creating a farm pond for the purpose of soil conservation, propagation of fish, irrigation, watering of livestock, maintenance of wildlife or general farm use and erected upon lands devoted to farming where:

(i) the impoundment is formed by an earthen embankment with an all earth vegetated spillway and other accessory structures;

(ii) the height of the earth embankment, does not exceed 15 feet above the bed of a watercourse or natural ground level at any point;

(iii) the quantity of water that the structure impounds does not exceed 1,500,000 gallons when the surface of the water is at the level of the spillway;

(iv) the area draining into the farm pond does not exceed 200 acres;

(v) the pond does not comprise more than 10 acres of surface water when full; and

(vi) water is not diverted into the farm pond by an artificial obstruction in or across a natural stream or watercourse.]

(c) Permit application requirements and design criteria for dams are dependent upon a dam's hazard classification, as determined by the department in accordance with Part 673.5. The hazard classifications are as follows:

(1) Class A dams are located in areas where failure will damage nothing more than isolated buildings, undeveloped lands, or town or county roads and/or will cause no substantial economic loss or substantial environmental damage. Class A dams are considered to be Low Hazard dams.

(2) Class B dams are located in areas where failure may damage isolated homes, main highways, minor railroads, interrupt the use of relatively important public utilities and/or will cause substantial economic loss or substantial environmental damage. Class B dams are considered to be Intermediate Hazard dams.

(3) Class C dams are located in areas where failure may cause loss of human life, substantial damage to homes, industrial or commercial buildings, important public utilities, main highways or railroads and/or will cause extensive economic loss. Class C dams are considered to be High Hazard dams.

PART 608
USE AND PROTECTION OF WATERS

§ 608.4 Docks and moorings.

Subpart 608.4 remains unchanged.

(a) *Applicability.* This section applies to the construction, reconstruction or repair of docks, piers, wharfs, platforms, breakwaters and the installation of moorings, in on or above the navigable waters of the State lying above underwater lands not owned by the State. Use of State owned lands under water generally required a lease, easement, permit or other interest from the Commissioner of the New York State Office of General Services, pursuant to regulations implementing the Public Lands Law. The department will review any application for a lease, easement, permit or other interest submitted to the Office of General Services, except lawful facilities in existence on June 17, 1992, utilizing the criteria set forth in this Part, including consideration of the degree to which the activity is water-dependent. The Office of General Services will incorporate as conditions on any lease, easement, permit or other interest, any specific recommendation made by the department.

(b) *Permit required.* Except as provided in subdivision (c) of this section, no person or local public corporation may:

(1) construct, reconstruct, modify, repair or change the use of any dock, pier, wharf, platform, breakwater or other structure in on or above the navigable waters of the State; or

(2) install or modify any mooring area; without a permit issued pursuant to this Part.

(c) *Exceptions.* A permit pursuant to subdivision (b) of this section is not required for the following:

(1) docks, piers, wharfs, platforms, moorings and other structures placed on, in or above State-owned lands under water for which a lease or other appropriate conveyance of interest authorizing the use and occupancy of such lands has been obtained from the Commissioner of General Services;

(2) a docking facility providing dockage for five or fewer boats and encompassing within its perimeter an area of less than 4000 square feet;

(3) a mooring area providing mooring for fewer than 10 boats;

(4) temporary anchoring where a boat is not attached to an in-place or fixed mooring device;

(5) seasonal replacement or reinstallation of floating docks and other structures exceeding the criteria in paragraph (2) of this subdivision, legally existing prior to May 4, 1993, or for which a permit has been obtained under this Part;

(6) the relocation, replacement, and/or rearrangement of floating docks, ramps, walkways and anchoring devices within the established perimeter of a docking facility or mooring area; and

(7) ordinary maintenance and repair of structures such as repainting, redriving piles or replacing boards in docks. Maintenance and repair does not include substantial reconstruction of structures.

(d) The department may issue permits that authorize the permittee to reconfigure, rearrange or change the dimensions of floating structures, fixed structures supported by piles or open supports, and moorings, within an approved perimeter, provided such changes are within the limits of authorized activities regarding numbers of boats, surface area of structures and approved uses of the facility.

§ 608.5 Excavation or placement of fill in navigable waters.

Subpart 608.5 remains unchanged.

Permit required. No person, local public corporation or interstate authority may excavate from or place fill, either directly or indirectly, in any of the navigable waters of the State or in marshes, estuaries, tidal marshes and wetlands that are adjacent to and contiguous at any point to any of the navigable waters of the State, and that are inundated at mean high water level or tide, without a permit issued pursuant to this Part.

§ 608.6 Permit application procedures.

Subpart 608.6 is amended as follows to provide greater specificity on dam permit application submittals.

(a) An application for a permit under this Part must be submitted to the appropriate Regional Permit Administrator. Applications must be made on [a] forms prescribed by the department and must be accompanied by:

(1) a plan of the proposed project; [and]

(2) a map showing its location; and

[(5)] (3) other information that the department deems necessary to properly review and assess the effects of a proposed project.

[(3)] (b) In addition to 608.6(a), permit applications for all dam[s] projects shall include [and impoundment structures]:

[(i) a supplemental form, prescribed by the department, providing hydrological, hydraulic, and soils information;
(ii) a design report that includes an evaluation of the foundation conditions, a hydrologic investigation of the watershed, the hydraulic design of the spillway and a structural stability analysis of the dam, including calculations, in sufficient detail to accurately define the design of the dam as represented in the construction plans; and
(iii) construction plans that are sufficiently detailed for department evaluation of the safety aspects of the dam:
(a) the design and preparation of plans estimates and specifications, and the supervision of the construction, reconstruction and repair of all dams or impoundment structures must be done by a New York State licensed professional engineer; or
(b) in the case of farm ponds, by an engineer or conservationist employed by a government agency, cooperating with a soil conservation district;]

(1) a narrative description of the proposed project;

(2) an engineering design report sufficiently detailed for department evaluation of the safety aspects of the dam that include:

(i) an evaluation of the foundation conditions, and materials involved in the construction of the dam, and where necessary, geotechnical or geophysical reports and soil boring logs and test pit logs;

(ii) the hydrologic investigation of the watershed, including any readily obtainable rainfall, stream flow, and flood flow records and estimates;

(iii) the hydraulic design of the spillway;

(iv) the structural stability analysis of the dam;

(v) structural and hydraulic design studies and calculations. Structural and hydraulic design procedures should be used as established by one of the following: the U.S. Army Corps of Engineers, the U.S. Bureau of Reclamation, the U.S. Natural Resources Conservation Service, the Federal Energy Regulatory Commission or other procedures generally accepted as sound engineering practice;

(vi) a description of any proposed permanent instrument installations in the dam;

(vii) construction plans and specifications that are sufficiently detailed for department evaluation of the safety aspects of the dam; and

(viii) any other information the department deems necessary.

(3) The design and preparation of plans, estimates, and specifications must be performed by an engineer as defined in 608.1(l).

(4) The name of the engineer.

(5) For Class A dams the department may, in lieu of reviewing submitted engineering reports, plans and specifications, accept a certification from an engineer that the design of the dam conforms to current dam safety criteria.

(6) In addition to the requirements in (c)(1) through (4) all Class B and C dam permit applicants shall submit an Emergency Action Plan.

(7) In addition to the requirements in (c) (1) through (5) all Class C dam permit applicants shall provide for and demonstrate financial assurance acceptable to the department, to assure that funds will be available to allow any necessary actions to be taken to protect life, property or natural resources. If the dam provides a public benefit such as: public drinking water supply; flood protection; hydroelectric power generation; navigational necessity; or recreational necessity, then necessary actions will mean repairs to the dam. Otherwise, necessary actions will mean breaching or removal of the dam. The financial assurance shall include the following costs:

(i) all labor and materials;

(ii) preliminary investigations and surveys;

(iii) construction plans;

(iv) environmental mitigation associated with dam breach or removal; and

(v) any other appropriate costs as determined by the department.

[4] (c) In addition to 608.6 (a) all permit applications for docking and mooring facilities shall include:

(1) a supplemental form, prescribed by the department, providing information about the type, size, and use of structures, including docks, piers, wharfs, platforms, breakwaters, moorings and associated docking facility and mooring area amenities; and

(2) a plan, drawn to scale, depicting structures, and where appropriate, delineated perimeters that include a reference point tied to a permanent structure or significant natural feature.

(d) The procedures of Part 621 of this Title govern the processing and review of permit applications under this Part and the modification, renewal, suspension and revocation of permits issued pursuant to this Part.

PART 608
USE AND PROTECTION OF WATERS

§ 608.7 Permit application review.

Subpart 608.7 is amended to correct a typographical error in 608.7(b)(1), changing the semicolon to a colon.

(a) The department will review applications, plans, and other supporting information submitted and may:

(1) grant a permit approving the manner and extent to which alterations are proposed to be made to water resources of the State;

(2) grant a permit with conditions as necessary to protect the health, safety, or welfare of the people of the State, and its natural resources; or

(3) deny a permit.

(b) The department's review will determine if proposed alterations to water resources of the State are consistent with standards contained in section 608.8 of this Part, considering issues such as:

(1) the environmental impacts of a proposal, including effects on[;]:

(i) aquatic, wetland, and terrestrial habitats; unique and significant habitats; rare, threatened and endangered species habitats;

(ii) water quality, including such criteria as temperature, dissolved oxygen, suspended solids;

(iii) hydrology, including such criteria as water velocity, depth, discharge volume, flooding potential; and

(iv) water course and waterbody integrity, including such criteria as erosion, turbidity, and sedimentation.

(2) the adequacy of design and construction techniques for structures;

(3) operational and maintenance characteristics;

(4) the safe commercial and recreational use of water resources;

(5) the water dependent nature of a use;

(6) the safeguarding of life and property; and

(7) natural resource management objectives and values.

PART 608
USE AND PROTECTION OF WATERS

§ 608.8 Standards.

Subpart 608.8 remains unchanged.

The basis for the issuance or modification of a permit will be a determination that the proposal is in the public interest, in that:

(a) the proposal is reasonable and necessary;

(b) the proposal will not endanger the health, safety or welfare of the people of the State of New York; and

(c) the proposal will not cause unreasonable, uncontrolled or unnecessary damage to the natural resources of the State, including soil, forests, water, fish, shellfish. crustaceans and aquatic and land-related environment.

§ 608.9 Water quality certifications.

Subpart 608.9 remains unchanged.

(a) *Water quality certifications required by section 401 of the Federal Water Pollution Control Act, Title* 33 *United States Code* 1341 *(see subdivision [c] of this section).* Any applicant for a Federal license or permit to conduct any activity, including but not limited to the construction or operation of facilities that may result in any discharge into navigable waters as defined in section 502 of the Federal Water Pollution Control Act (33 USC 1362), must apply for and obtain a water quality certification from the department. The applicant must demonstrate compliance with sections 301-303, 306 and 307 of the Federal Water Pollution Control Act, as implemented by the following provisions:

(1) effluent limitations and water quality-related effluent limitations set forth in section 754. 1 of this Title;

(2) water quality standards and thermal discharge criteria set forth in Parts 701, 702, 703 and 704 of this Title;

(3) standards of performance for new sources set forth in section 754.1 of this Title;

(4) effluent limitations, effluent prohibitions and pretreatment standards set forth in section 754.1 of this Title;

(5) prohibited discharges set forth in section 751.2 of this Title; and

(6) State statutes, regulations and criteria otherwise applicable to such activities.

(b) The department may issue Statewide water quality certifications for certain types or sizes of activities that it deems to have an insignificant effect on water quality. Projects meeting criteria so established will not require individual water quality certifications.

(c) The Federal Water Pollution Control Act (33 USC 1251 *et seq.),* as amended effective October 1, 1984, is available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. This document was filed with the New York State Department of State on November 5, 1984 and is available for inspection and copying at the New York State Department of Environmental Conservation, 625 Broadway, Albany, NY 12233.

§ 608.10 Special provisions.

Subpart 608.10 is amended such that the legal citation and use of the abbreviated ECL is consistent with the remainder of this Part.

(a) *Projects requiring more than one permit under this Part.* The provisions of one section of this Part do not affect or replace the provisions of other applicable sections of this Part requiring a permit. The department will require the submission of only one permit application if it is determined that the proposed project requires a permit pursuant to more than one section of this Part

(b) *Emergency authorization.* The department may issue an emergency authorization for activities requiring a permit under the provisions of this Part pursuant to the provisions of [article 70, section] ECL §70-0116[of the Environmental Conservation Law].

PART 608
USE AND PROTECTION OF WATERS

§ 608.11 Mean high water elevations.

Subpart 608.11 remains unchanged.

(a) Mean high water elevations are established for the waters listed in the following table (expressed in feet above mean sea level).

Waters Index Number	Watershed Drainage Basin Waterbody	U.S.G.S. Gaging Station Number	Mean High Water Elevation
Allegheny River Drainage Basin			
P 122	Chautauqua Lake	03013946	1309.40{a}
Black River Drainage Basin			
O-19-40-P 493	Stillwater Reservoir	04256500	1679.30{c}
O-19-81-18-P 782a	First Lake	04253400	1707.26{a}
O-19-81-18-P 782d-10P	Sixth Lake	04253300	1786.10{a}
Chemung River Drainage Basin			
PA 3-57-5	Arkport Reservoir	01521000	1304.00{c}
PA 3-57-5-47-P 29c	Almond Lake	01523000	1300.00{c}
PA 3-58-15-P 47	Waneta and Lamoka Lakes		1099.00{c}
Delaware River Drainage Basin			
D-1-P 58b	Neversink Reservoir	01435900	1440.00{c}
D-10-P 79a	Rio Reservoir		820.00{c}
D-10-12-P 96a	Mongaup Falls Reservoir		940.00{c}
D-10-15-P 100	Cliff Lake	01433200	1072.00{c}
D-10-15-P 100a	Toronto Reservoir	01433100	1220.00{c}
D-10-P 108a	Swinging Bridge Reservoir	01433000	1071.20{c}
D-70-P 358a	Pepacton Reservoir	01416900	1280.00{c}
Genesee River Drainage Basin			
Ont. 117-27-34-11-P 43	Canadice Lake	04228950	1097.20{c}
Ont. 117-27-P 57	Honeoye Lake	04228845	804.50{c}
Ont. 117-40-P 67	Conesus Lake	04227980	819.40{c}
Ont. 117-P 110A	Mount Morris Dam Reservoir	04224000	760.00{c}
Ont. 117-136-P 146	Rushford Lake	04221990	1440.00{c}
Lake Champlain Drainage Basin			
C	Lake Champlain	04294500	99.80{a}
C	Richelieu River	04295000	99.80{a}
C-25-26-35-5-P 254	Lake Placid	04273900	1858.94{a}
C-101-P	Lake George	04278000	320.20{d}
Lake Erie-Niagara River Drainage Basin			

E	Lake Erie		573.40{b}
	Lake Ontario Drainage Basin		
Ont. O	Lake Ontario		247.30{b}
	Lower Hudson River Drainage Basin		
H-139-14-P 815a	Roundout Reservoir	01366400	840.00{c}
H-171-P 848	Ashokan Reservoir West	01363400	591.18{a}
H-171-P 848	Ashokan Reservoir East	01363400	587.10{c}
	Mohawk River Drainage Basin		
H-240-82-P 630 a,b	Blenheim Gilboa Reservoir		
H-240-82-P 638a	Schoharie Reservoir	01350100	1130.70{a}
H-240-180-P 799	Hinckley Reservoir	01343900	1226.41{c}
H-240-P 1059	Delta Reservoir	01335900	551.50{a}
	Oswego River Drainage Basin		
P 154	Onondaga Reservoir	04238500	504.40{c}
Ont. 66-12-29-P 193	Skaneateles Lake	04236000	863.77{a}
Ont. 66-12-43-P 212	Owasco Lake	04235396	713.90{a}
Ont. 66-12-52-P 286	Canadaigua Lake	04234500	689.40{a}
Ont. 66-12-P 296	Cayuga Lake	04233500	383.50{a}
Ont. 66-12-P 369	Seneca Lake	04232400	445.90{a}
Ont. 66-12-P 369-115-P 388	Keuka Lake	04232450	715.30{a}
	St. Lawrence River Drainage Basin		
SL-1	Carry Falls Reservoir	04266700	1386.00{c}
SL-25-P 309	Cranberry Lake	04260990	1486.43{a}
	Susquehanna River Drainage Basin		
SR-44-14-27-P 35	Whitney Point Lake	01511000	1010.00{c}
SR-155-P 262	East Sidney Lake	01499500	1203.00{c}
SR-204-P 392	Canadarago Lake	01496450	1282.03{a}
	Upper Hudson River Drainage Basin		
H-369-P 127	Great Sacandaga Lake	01321000	771.00{c}
H-461-P 597	Indian Lake	01314500	1651.74{a}

Footnote:

{a} 1929 National Geodetic Vertical Datum

{b} Corps of Engineers determinations based on 1985 International Great Lakes Datum

{c} Spillway or Flashboard Crest Elevation

{d} 1912 National Geodetic Vertical Drum